

# **Report of the Strategic Director (Service Delivery)**

## **Section 1: Planning Applications**

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

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## 1. Planning Applications

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

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

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

## Glossary of terms

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

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

Item No. 1.1

Ref. No. [DMPA/2022/1547](#)

Valid date: 12 December 2022

Applicant: Mr & Mrs Warden

Agent: David Richards

Proposal: Conversion of barn to residential accommodation including the reconstruction of existing stable block. Barn within land at SK 40868 31804, Broad Lane Thulston Derby.

Ward: Aston

### Reason for committee determination

This item is presented to the Committee at Councillor Watson's request as local concern has been expressed about a particular issue.

### Site Description

The site is an existing field that has a stables and barn located in the north-west corner of the site. The site is located south of the residential dwellings of The Pinfold, outside of the Thulston settlement boundary within the countryside and the green belt. Access to the site is taken from Broad Lane. There are no existing trees at the site.

### The proposal

The application seeks consent to convert an existing barn to a 2 bedroomed dwelling. A small single storey extension to the barn is also proposed that would link the existing barn and stables building, and a modest area of walled formal garden space is directly in front of the dwelling.

### Applicant's supporting information

The documents submitted with the application include;

Michael Evans & Associates LTD Structural Statement Job No. 23-206 (1 August 2023)  
ML-Ecology Preliminary Bat Survey Report (11 August 2023)  
GRT Architecture Design & Access Statement  
Proposed Site Plan Drawing No. 001  
Existing Site Plan Drawing No. DLB2214-01  
Existing Floor Plans Drawing No. DLB2214-02  
Existing Elevations Drawing No. DLB2214-03  
Existing Elevations (2) Drawing No. DLB2214-04  
Proposed Elevations Drawing No. 002  
Proposed Floor Plans Drawing No. 003

### Relevant planning history

**9/2015/0232** – *proposed erection of stable and tack room at land at SK4031 9075 Broad Lane, Thulston Derby. Approved* (15.05.15)

**9/2000/0223** – *The erection of a stable on land at the rear of 15 The Pinfold, Thulston Derby. Approved* (06.06.00)

### Responses to consultations and publicity

The County Highways Authority

**DMPA/2022/1547 – Barn within land at SK 40868 31804, Broad Lane, Thulston, Derby**



**THE SITE**



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South Derbyshire District Council. LA 100019461.2020

No objections subject to conditions relating to the provision, material and retention of off-road car parking spaces and storage for recycling of refuse to be contained within the site boundary.

### **Derbyshire Wildlife Trust**

No objections

### **Public Representations**

One letter of objection has been received by the Local Planning Authority in connection with this application. The representation objects on the following grounds:

- The barn was never intended for agricultural use,
- A house in this location would make access from the main road more hazardous with cars turning on a busy road.
- Approving this application may set a precedent of building on the field in which it sits.

### **Relevant policy, guidance and/or legislation**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity & Environmental Quality), BNE1 (Design Excellence), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport) and S8 (Greenbelt)
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in the Countryside) and H28 (Residential Conversions)

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

### **Planning considerations**

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

- The principle of development within the green belt and within the countryside.
- The effect of the design proposal on the visual amenity of the site and surrounding area;
- The effect on residential amenity;
- The effect on highway safety.

### **Planning assessment**

The Principle of Development within the Green Belt

Development Plan Policy S8 states that development within the Green Belt will be assessed against national policy. Paragraph 147 of the NPPF states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 150(d) of the NPPF advises that the re-use of buildings, provided that they are of a permanent and substantial construction are not considered to be inappropriate development provided they preserve the Green Belt's openness. Additionally, paragraph 149(c) advises that the construction

of new buildings is inappropriate within the Green Belt but extensions or alterations of a building provided that it does not result in disproportionate additions over and above the size of the original building would be an exception.

Paragraph 37 of the NPPF states that the fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open. The barn and stable building are already in situ and the extension proposed to link the buildings would be minimal. Overall, the footprint of the proposed dwelling would be smaller than the existing buildings at the site and the curtilage of the dwelling appears modest to the front of the dwellinghouse, maintaining the open and spacious character of the area visually.

On balance it is considered that re-use of the existing barn and stable buildings at the site is considered acceptable in this location. The proposed extension given its scale, form and massing would not represent a disproportionate addition over and above the size of the original building and as such does not represent inappropriate development and overall, the proposal would have no greater impact upon the openness of the Green Belt than that which already exists. Consequently, it is considered that the proposal accords with national policy provided within the NPPF and Policy S8 and S2 of South Derbyshire Local Plan.

### The Principle of Development within the Countryside

The application site is located just outside of the Thulston settlement boundary. As defined in Policy SDT1, land outside of the settlement boundary will be considered as countryside. Policy BNE5 advises that planning permission will be granted in the countryside where it is appropriate for its location in the countryside and Policy H28 of the South Deryshire Local Plan – Part 2, advises that that outside settlement boundaries the conversion of buildings to provide residential accommodation will be permitted provided that the buildings are of a permanent and substantial construction and suitable for conversion without extensive alterations and that any conversion would lead to the enhancement of the buildings immediate setting.

The existing barn building was erected in 2016 with the stable block built sometime before that, both of the existing buildings have formal planning consent from the local planning authority and as such have been considered to be appropriate forms of development within the countryside, in accordance with Policy BNE5. The applicant has submitted a structural survey to further demonstrate that the existing buildings are of a permanent and substantial construction and suitable for conversion without extensive alteration.

The existing barn is a two-storey structure with steel frame, a concrete ground floor with a brick plinth and a pitched roof. The existing stable building is single storey. The structural survey confirms that both buildings are of a substantial construction and suitable of conversion, in accordance with Policy H28. As the application is located outside of the settlement boundary, a modest amount of land surrounding the barn is proposed to be used for the residential curtilage of the dwelling, that would be used for garden space, bin storage and off-road vehicle parking. The area of land around the barns is proposed is considered to be sufficient to service the proposed dwelling adequately whilst being respectful of the countryside setting and not appearing out of place. In principle the development is considered to comply with Policy H28, BNE5 and S2 of the South Derbyshire Local Plan.

Public representations have been received which object to the proposal on the grounds that the barn was supposedly never intended for agricultural use and that approving this application may set a precedent of building on the field in which it sits. Each application is assessed on its own merits against the current local and national policies. The granting of planning consent in this instance would not alter the local and national policy requirements necessary to be met for potential development to be considered within this location. There is a strong policy conflict with new dwellings (as opposed to conversions) in the green belt which the approval of this application will not change.

### Design

The existing two storey barn building is to house the majority of the proposed living space of the dwelling; providing a lounge, utility room and water closet at ground floor level and two bedrooms and a

shower room at first floor. A kitchen-dinner is proposed within the single storey extension that would link the main body of the dwelling house/existing barn to the existing stables building. Beyond the extension within the body of the existing single storey stables building a single garage would be located off the kitchen-dinner and a stable with space for two horses would be retained beyond the attached garage.

New habitable room windows are proposed at first floor level within the front elevation of the main dwelling house (former barn); as well as new habitable room windows in both the front and rear elevations to service the kitchen dinner.

The design seeks to replace the existing light green cladding on the barn with a corrugated metal sheet in a dark recessive colour. For the single storey element of the existing stables a timber board cladding is proposed with a shallow mono-pitched roof featuring a metal sheet covering to tie in with the cladding of the former barn. Both the dark metal and timber cladding are considered to be materials commonly used and seen within countryside development and as such the choice of external materials are considered to have no unduly detrimental impact on the visual amenity of the area or the character of the landscape.

Photo-voltaic panels are proposed on the east and west facing roof planes which are considered to compliment the dark metal sheeting to be used for the roofs.

Overall, the form and the massing of the existing agricultural buildings are to be mostly retained, with the loss of some of the existing stables to facilitate the proposed link extension between the building. The choice of facing materials is considered to be appropriate within the rural landscape. Resultantly, the proposal is considered to be in accordance with Policies SD1, BNE1 and BNE4 of the South Derbyshire Local Plan.

#### Residential Amenity

New habitable room windows are to be located within both the front and rear elevations of the proposed dwelling house, however given the countryside setting of the application site there are no residential dwellings to the front or rear to be affected. Some overlooking could be experienced from the proposed first floor, habitable room windows, located within the front elevation of the dwelling to the rear gardens of No.9, 11 and 15 The Pinfold. Given that the neighbouring dwellings are sited on at a differing orientation to the proposed dwelling house any overlooking would be viewed from an obtuse angle and likely to be no greater than that which the properties already experience from the first-floor habitable windows of the existing neighbouring dwelling which are sited in much closer proximity.

There is an existing first floor window within the barn that is to be retained and would service a bedroom. The northern side elevation within which the window is located would face the rear elevation of No. 15 The Pinfold. There is more than 20m between the side elevation of the barn and the rear elevation of No. 15 The Pinfold. A condition could be attached to any subsequent planning approval that requires this window to have obscured glazing to protect the amenity of the occupiers of both dwellings.

Resultantly it is considered that the proposed conversion of the existing outbuildings to a residential dwelling would have no significantly detrimental impact on the residential amenity of the occupiers of the neighbouring dwelling. As such the proposal is considered to comply with Policies SD1 and BNE1 of the South Derbyshire Local Plan.

#### Highway safety

Public representation has been received which expresses concern that a house in this location would make access from the main road more hazardous with cars turning on a busy road. The Highway Authority has raised no concerns with regards to the proposal; the existing access to the site is to be retained and will continue to be taken from Broad Lane, which is of a good standard.

The area to the front of the dwelling is proposed to be used as its curtilage and can accommodate at least two off road vehicle parking spaces. The proposal would have no detrimental impact on the safety

of the highways network and as such is considered to accord with Policy INF2 of the development plan and guidance pertaining to Appendix A of the Council's Design SPD.

### Conclusion and planning balance

There will be some additional vehicle trips to this countryside location, there will be a change to the appearance of the building as a result of the conversion works, the domestic curtilage will have some effect on altering the character of the rural environment and there is some impact on nearby residential amenity. These points are addressed in the main report and are considered to be within acceptable limits and are therefore consistent with policy on these issues.

The proposed conversion of existing buildings to a residential dwelling is considered to be appropriate development within the Green Belt, with no greater harm to its openness than that which currently exists to the site. It is considered that the development would have no unacceptably detrimental impact on the local distinctiveness of the area, the residential amenity of near by residential dwellings or on the safety of the local highway's networks.

Taking these main issues into account, the proposal would not result in a conflict with the policy requirements of the Local Plan and is considered to be acceptable. Therefore, the application is recommended for approval.

### **Recommendation**

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

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

2. The development hereby permitted shall be carried out in accordance with the plans/ drawings listed below unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of The Town and Country Planning Act 1990.

Michael Evans & Associates LTD Structural Statement Job No. 23-206 (1 August 2023)  
ML-Ecology Preliminary Bat Survey Report (11 August 2023)  
GRT Architecture Design & Access Statement  
Proposed Site Plan Drawing No. 001  
Existing Site Plan Drawing No. DLB2214-01  
Existing Floor Plans Drawing No. DLB2214-02  
Existing Elevations Drawing No. DLB2214-03  
Existing Elevations (2) Drawing No. DLB2214-04  
Proposed Elevations Drawing No. 002  
Proposed Floor Plans Drawing No. 003

Reason: For the avoidance of doubt.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the garage/parking spaces to be provided in connection with the development shall not be used other than the parking of vehicles except with the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

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

4. The development hereby permitted shall not be occupied until such time as the access drive has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 meters behind the highway boundary and, once provided shall be so maintained in perpetuity.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highways safety and in accordance with the National Planning Policy Framework (2019).

5. No development shall take place until details of the provisions for the storage and recycling of refuse have been submitted to and approved in writing by the Local Planning Authority. Such provisions shall be made/constructed prior to the first occupation of the building and shall thereafter be made permanently available for the occupants of the building.

Reason: To ensure safe and suitable conditions are maintained on the public highway, in the interests of highways safety, and to ensure appropriate waste/refuse facilities are provided for the occupiers of the development.

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

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

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

Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and the size of the development, the proximity to existing features on or adjacent to the site, and the effect upon neighbouring properties and the street scene.

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

Reason: To safeguard the amenity of nearby occupiers.

9. No works to the existing barn shall take place between 1<sup>st</sup> March and 31<sup>st</sup> August inclusive, unless a survey to assess the nesting bird activity on site during this period has been undertaken by a competent ecologist not more than 48 hours prior to clearance has first been submitted to and approved in writing by the Local Planning Authority. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within the exclusion zone(s) while nesting birds are present.

Reason: In order to safeguard protected and/or priority species from undue disturbance and impact.

10. Prior to building works commencing, a Biodiversity Mitigation and Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. Measures shall include (but are not limited to) the following:
  - a. 2 x swallow cups/bespoke swallow nest boxes
  - b. 1x external universal nest box (avoiding southern elevations)
  - c. 1x external bat box (favouring southern elevations)

All approved measures shall be implemented in full and maintained in perpetuity.

Reason: In order to safeguard and enhance habitat on or adjacent to the site in order to secure an overall biodiversity gain.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the window hereby serving the first-floor bedroom in the northern side elevation shall be glazed in obscured glass and non-opening (except in an emergency) and permanently maintained thereafter as such.

Reason: To maintain control in the interest of the effect upon the neighbouring properties.

12. All external materials used in the development shall match in colour, coursing and texture the materials specified on the following approved plans/drawings:  
Proposed Elevations Drawing No. 002 and the Design and Access Statement;  
unless alternative details are first submitted to and approved in writing by the Local Planning Authority pursuant to an application made in that regard, whereafter the approved alternative details shall be incorporated into the development.

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

### Informatives

1. Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

**Item No.** 1.2

**Ref. No.** [DMPA/2023/1243](#)

**Valid date:** 2809/2023

**Applicant:** T Ranking

**Agent:** SG Design Studio

**Proposal:** Approval of reserved matters for plot 3 (appearance, landscaping, biodiversity enhancement, layout, car parking and scale) pursuant to outline permission ref. DMPA/2021/0983 at land to the rear of 69a and 69b, Repton Road, Hartshorne, Swadlincote, DE11 7AF

**Ward:** Hartshorne

### **Reason for committee determination**

This item is presented to the Committee as the applicant is related to Councillor Neil Tilley.

### **Site Description**

The application site is located to the south of Repton Road, Hartshorne and to the immediate west of a public right of way. There are a number of trees within the site and the land slopes away towards Repton Road and towards the south. The application relates specifically to plot 3 which is currently occupied by a single storey kennels building.

### **The proposal**

Outline planning permission was granted in June 2022 for the erection of three dwellings. The current planning application seeks approval for matters that were reserved as part of the outline planning permission, as secured by planning conditions 2, 12, 13, 14 and 16. The application seeks to secure approval specifically for plot 3 of the site, with matters related to plots 1 and 2 to be brought forward under separate applications.

The proposal for plot 3 comprises a 1.5 storey dwelling with detached garage, which would be accessed from the existing point of access on Repton Road. The dwelling would have a mansard roof incorporating dormers. The elevation identified as the 'rear' would face towards the south and would in reality comprise the primary elevation with 2no. gables and feature glazing.

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

The application includes the following plans:

- Existing Site Survey 223-29-01, Rev A
- Proposed Site Plan 223-29-02, Rev B
- Proposed Dwelling, Plot 3, 223-29-03, Rev D
- Proposed Garage, Plot 3, 223-29-04, Rev C
- Location Plan, 223-29-05
- Cross Sections through Site, 223-29-06, Rev B
- Simplified Block Plan, 223-29-07, Rev A
- Proposed Landscaping Layout, 223-29-08, Rev B

**DMPA/2023/1243 – Land to the rear of 69a and 69b, Repton Road, Hartshorne, Swadlincote, DE11 7AF**



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A Supporting Statement prepared by SG Design Studio (June 2023) has also been submitted that highlights the matters for which approval is sought and incorporates additional detail on matters such as materials.

### **Relevant planning history**

DMPA/2021/0983 Outline application (matters of access to be considered now with matters of layout, scale, appearance and landscaping reserved for later consideration) for the erection of three dwellings – approved 07/06/2022

An earlier reserved matters application was withdrawn (ref. DMPA/2023/0844) on the request of Officers as changes were considered necessary in relation to design and clarity of plans.

### **Responses to consultations and publicity**

#### Hartshorne Parish Council

Hartshorne PC have raised concerns that there is only one exit, which surely is a fire risk in the above planning application. (30/10/2023)

#### County Highways Authority

Having reviewed the submitted plans the highway authority has no objections to the application. (23/10/2023)

#### Derbyshire Wildlife Trust

No response received; however comments were provided on application DMPA/2023/0844 which highlighted a preference for swift bricks to be incorporated into each of the buildings. No other comments were made.

#### Tree Officer

The landscape scheme consists of planting 11 broadleaved trees to the south of plot 3 and 95sqm of wild flower planting with 26 species of wildflowers.

Acer rubrum (Canadian maple) is a large growing tree 17m-22m and will only thrive on acid soils as it is dependent on accessing the trace element manganese. I suggest that native field maple (Acer campestre) would be a more reliable tree to plant in this location.

Silver birch (Betula pendula), Wild cherry (Prunus avium) and rowan (Sorbus aucuparia) are suitable to plant in this location.

The wild flower sowing area appears to have been used for storing manure and straw it is likely that this area is rich in phosphate and nitrogen. It is likely that any wild flowers sown in this area will be out competed by the vigorous growth of grass. I suggest the area is allowed to revert to grass and cut and collected. This will gradually reduce the phosphate in the soil and native wild flowers will colonise the sward. (06/11/2023)

### **Relevant policy, guidance and/or legislation**

The relevant Development Plan policies are:

- Local Plan Parts 1 and 2: BNE1, INF2, BNE3.

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

## Planning considerations

The principle of the development was accepted as part of outline planning permission DMPA/2021/0983. Conditions 2, 12, 13, 14 and 16 required that matters reserved at the outline stage be subject to further information as part subsequent planning applications. Specifically:

Condition 2 states: Before any development is commenced the further approval of the local planning authority is required with respect to the following matters (herein referred to as the reserved matters) on an application made in that regard: (a) appearance, (b) landscaping, (c) layout, and (d) scale. *Reason: This permission is granted in outline under the provisions of Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015 and section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004)*

Condition 12 states: As part of a Reserved Matters application, the number, size, layout, and location of car parking spaces must be submitted to, and approved in writing by the local planning authority. Before the first occupation or use of the development, these parking spaces shall be provided in accordance with the approved details and thereafter retained for the sole use of parking for the development hereby approved for the lifetime of the development. *Reason: To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway and to ensure that the facilities provided are reserved for the benefit of the development for which they are specifically required.*

Condition 13 states: As part of the reserved matters, a scheme of biodiversity enhancement to include, as a minimum, features incorporated within the new buildings for roosting bats and nesting swifts along with hedgehog gaps and native planting within the details of landscaping shall be submitted to and approved in writing by the local planning authority. The enhancement scheme shall be implemented in accordance with the agreed details as construction proceeds and completed prior to the first occupation of the development. *Reason: In the interests of the biodiversity of the site and the surrounding area.*

Condition 14 states: Notwithstanding any details on the submitted illustrative plans, the height of the most southerly dwelling when submitted as part of the Reserved Matters application shall be limited to an eaves height of 3m and ridge height of 6m. *Reason: To reduce the visual impact on the countryside of this dwelling when viewed from the nearby public footpath in the interests of the visual amenity of the site and surrounding area.*

Condition 16 states: Notwithstanding the details on the submitted illustrative scheme, the reserved matters layout should show that the most southerly of the dwellings proposed is at least 9m from the boundary of the site. No new buildings, including out buildings or the garage shall encroach within this area. *Reason: To protect the visual amenity of the site and surrounding area, and protect the interests of the character of the countryside and to allow a landscape buffer to develop along the southern boundary to reduce the visual impact of the new dwelling.*

The determining issues related to the reserved matters application for plot 3 are therefore:

- Design and Impact on the Character of the Surrounding Area;
- Residential Amenity;
- Highways and Parking;

- Landscaping and Biodiversity; and
- Other Considerations

## **Planning assessment**

### Design and Impact on Character of the Surrounding Area

Policy BNE1 sets out principles for design excellence, which is supported by the detail within the South Derbyshire Design Guide SPD. This policy requires that new development responds to its context and has regard to valued landscape characteristics. Also that it is visually attractive, appropriate and possesses a high standard of architectural design.

Condition 2 of planning permission reserved matters of appearance, layout and scale for later consideration. Condition 14 imposed specific restriction on the height of the plot 3 dwelling, whilst condition 16 required an offset of 9m from the site's southernly boundary.

In review of the matters of appearance, layout and scale it is noted that the plot 3 dwelling would be prominent from the public right of way to the rear (south) and east. The proposed dwelling may be viewed in context with the rear of the modern dwellings on Adams Close, albeit it would have limited relationship with these dwellings which are distanced and set back. The dwelling would not be visible from the streetscene along Repton Road (where there is broad a variety of dwelling types), nor would the western and front (north) elevations be particularly visible within the public realm due to the tree coverage within the site. In terms of design responding to its context therefore, the main issue relates to that of impact on the landscape and the general acceptability of the design/appearance.

The application plans show that the requirements for conditions 14 and 16 related to heights and positioning of the building would be met, as the dwelling would be limited to a ridge height of 6m and eaves height of 3m; and the southern elevation of the dwelling would be at least 9m from the southern site boundary. These parameters limit the impact of the proposal on the landscape and also ensure that the scale of the building and layout of the site would be appropriate.

In terms of appearance, Officers requested some design changes under application DMPA/2023/0844, which were adopted in the current scheme (notably the provision of box dormers to provide more uniformity in the roofline design, and some repositioning of windows). The dwelling would replace the existing kennel block that is in poor state of repair, with a modern building that would be modest in scale and appropriate within its context. The facing materials put forward in the application supporting statement and application plans comprise buff coloured brickwork with grey roof tiles and cedar cladding to the gables on the rear (southern) elevation of the dwelling. The cladding would help to reduce the impact of the proposal on the landscape, together with the overall modest scale of the building. The detached garage would be set further to the north and would comprise buff coloured brickwork to match the main dwelling.

Overall, it is considered that the appearance, layout and scale of the proposed dwelling and garage are acceptable and in accordance with the requirements of policy BNE1 related to design.

### Residential Amenity

With respect to the requirements of policy BNE1 h) and residential amenity, the block plan shows that the dwellinghouse would be approximately 19m away from the dwellinghouse of no. 11 Adams Close when measured corner to corner. Unlike the other elevations, the northern (front) elevation that would be directed towards no. 11 Adams Close would not have a dormer window except on the eastern side. The existing boundary treatments and mature vegetation would intervene between any ground floor windows, thus protecting the privacy of habitable rooms. It is considered that there would not be a material impact on the daylight received internally or in terms of overbearing impact, particularly as the proposal would replace the existing kennels building. Overall, it is considered that the proposal would

not materially affect neighbouring amenity and would be acceptable within the parameters of BNE1 and the Design Guide SPD.

### Highways and Parking

Policy INF2 sets the policy framework for sustainable transport and states that planning permission will be granted for development where appropriate provision is made for safe and convenient access to and within the development for users of the private car and other modes of transport. Access to the site was approved as part of the outline planning permission, however condition 12 required details to be submitted related to the number, size, layout, and location of car parking spaces. The County Highways Authority was consulted as part of the planning process and raised no objections. The Design Guide SPD states that the Council '*strongly encourages developers to provide at least two spaces for dwelling*'. This provision would be achieved through provision of the double garage.

### Landscaping and Biodiversity

Policy BNE1 g) includes requirement for development to possess a high standard of landscaping quality. Policy BNE3 supports development which contributes to the protection, enhancement, management and restoration of biodiversity and delivers net gains in biodiversity wherever possible.

The proposed landscaping plan shows detailed specification of tree and shrub planting, and an area of wildflower meadow was initially incorporated into the scheme, although removed following the comments from the Tree Officer (that the ground would be better to be left for local species to colonise naturally). Some species of tree were also swapped as recommended in the comments from the Council's Tree Officer.

With respect to the requirement for biodiversity enhancement, condition 13 required features to be incorporated within the new buildings for roosting bats and nesting swifts along with hedgehog gaps and native planting. The proposal includes 4no. integrated swift boxes and 2no. bat access tiles that would be incorporated within the dwelling, together with 4 no. bird boxes and 2no. bat boxes to be placed on trees within the site. The swift boxes were initially shown on the southern elevation; however, they were subsequently repositioned on request of Officers to avoid the boxes from overheating. There would be no close board fencing incorporated into the scheme and therefore no requirement for hedgehog gaps. These provisions, together with the detailed planting scheme, would be sufficient to provide a net gain proportionate to the scale of the plot and proposal.

It is considered that the requirements of conditions 2 and 13 would be met with respect to biodiversity and landscaping, with the details in accordance with policies BNE1 and BNE3.

### Other Considerations

The Parish Council raised concern that there would only be one access point into the proposed dwelling. There would however be doors on the front, rear and side elevations.

It is noted that the only conditions which can be imposed when the reserved matters are approved are conditions which directly relate to those reserved matters. Conditions relating to anything other than the matters to be reserved can only be imposed when outline planning permission is granted. It is recommended that an informative be attached to any forthcoming planning permission to highlight to the applicant/developer that the decision notice should be read together with the outline planning permission DMPA/2021/0983.

It is also noted that an application has been submitted concurrently (ref. DMOT/2023/1270) for the approval of details reserved by conditions 4 (CEMP), 5 (levels plot 3 only) and 10 (drainage plot 3 only). These matters are separate from the approval of the reserved matters and the case is pending determination.

## Conclusion and planning balance

There will be some additional impact on neighbour amenity and on the character and appearance of the area. These points are addressed in the main report and are considered to be consistent with the principles established as part of the outline permission particularly with regard to the scale and location of the dwelling proposed.

Outline planning permission was approved in 2022 for the erection of three dwellings on the application site, with all matters reserved except means of access. The principle of the development has therefore been accepted, and the current application seeks approval only for the details previously reserved including appearance, layout, scale, landscaping, parking arrangement and biodiversity enhancement. The application relates only to plot 3. The design of the proposed dwelling would have limited impact on the surrounding landscape, due to restrictions in scale and position of built form imposed by the outline permission and is considered to accord with the requirements of policy BNE1 and the Design Guide SPD. The requirements of conditions 2, 12, 13, 14 and 16 are considered to be met. Accordingly, the reserved matters application for plot 3 is recommended for approval, subject to conditions.

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

### **Recommendation**

Approve with conditions.

1. The plot 3 development hereby permitted shall be carried out in accordance with the following approved plans: Existing Site Survey 223-29-01, Rev A; Proposed Site Plan 223-29-02, Rev B; Proposed Dwelling, Plot 3, 223-29-03, Rev D; Proposed Garage, Plot 3, 223-29-04, Rev C; Location Plan, 223-29-05; Cross Sections through Site, 223-29-06, Rev B; Simplified Block Plan, 223-29-07, Rev A; Proposed Landscaping Layout, 223-29-08, Rev B; and the Supporting Statement prepared by SG Design Studio (June 2023); unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

2. All hard and soft landscaping shall be carried out in accordance with the approved details prior to occupation of any dwelling; and any plants which within a period of five years (ten years in the case of trees) from the completion of the phase die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

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

### Informatives:

- a. This planning permission approves matters reserved by planning permission DMPA/2021/0983 and relates to the development of plot 3 only. The applicant and/or developer is therefore advised to read this decision notice together with the conditions of the planning permission DMPA/2021/0983.

**Item No.** 1.3

**Ref. No.** [DMPA/2020/1094](#)

**Valid date:** 27/11/2020

**Applicant:** Michele Bates

**Agent:**

**Proposal:** **Outline application including access, layout and scale (matters of appearance and landscaping reserved for later consideration) for the erection of 2 dwellinghouses on Land to the rear and north-west of The Cottage and 2 Sapperton Lane, Church Broughton, Derby, DE65 5AU**

**Ward:** Hilton

### **Reason for committee determination**

The application was called in by Councillor Brown in July 2022.

### **Site Description**

The application site lies within a small cluster of residential dwellings just under half a mile west outside of the Church Broughton settlement boundary (as defined within the Local Plan Part 2). The site lies between 1 Sapperton Lane and Tunstall Cottage, 2 Sapperton Lane (and to the rear of The Cottage, Sapperton Lane). The wider area is rural in character and the site lies in the context of agricultural fields to the north, a farmstead and agricultural fields to the south, and small clusters of residential cottages to the east and west. The site is bordered by hedgerow on all sides, with mature trees present particularly on the north western boundary.

### **The proposal**

The proposal is for outline consent for the erection of two dwellinghouses. This application therefore considers the principle of the development only, and the detail of access, layout, design, and landscaping are reserved for later consideration. However the application include information relating to the access proposals, car parking layouts and visibility splays that were sufficient for the County Highways Authority to comment on and suggest conditions.

Indicative drawings for the proposal, including a Site Plan and elevations, show that a pair of semi-detached houses could be located fronting on to Sapperton Lane in between Tunstall Cottage and 1 Sapperton Cottages, with parking to the side and garden to the rear of each plot. Indicative design drawings show that the dwellings would be two and a half storey in nature and of a relatively modest cottage design with small windows and no projecting features such as projecting gables or porches.

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

The application has been supported by:

Planning Statement (received by the LPA 12 October 2020)

Design and Access Statement (received by the LPA 27 November 2020)

Phase I Contaminated Land Assessment (received by the LPA 22 June 2022)

Sustainable Drainage Assessment (received by the LPA 22 June 2022)

Flood Risk Assessment (received by the LPA 22 June 2022)

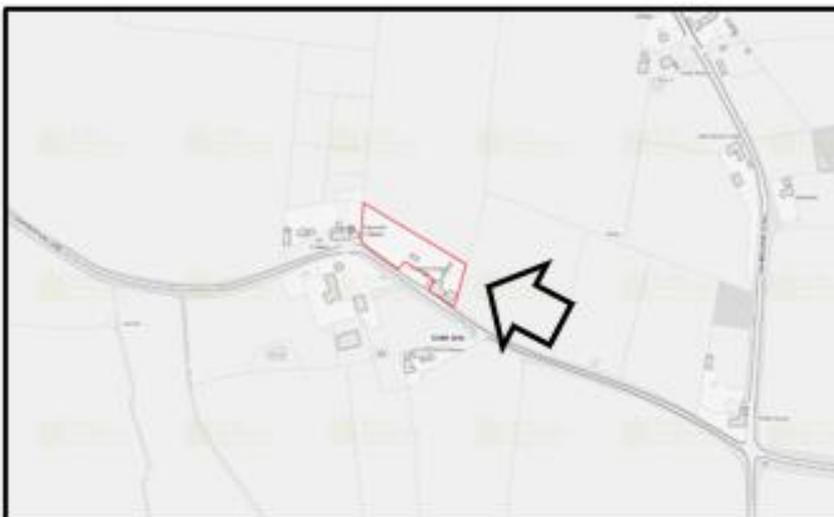
Catchment and Culvert Capacity Assessment version 1 (received by the LPA 24 October 2022)

Catchment and Culvert Capacity Assessment version 2 (received by the LPA 2nd February 2023)

### **Relevant planning history**

No relevant planning history

**DMPA/2020/1094 – Land to the rear and North-West of The Cottage and 2  
Sapperton Lane, Church Broughton, DE65 5AU**



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South Derbyshire District Council. LA 100019461.2020

## **Responses to consultations and publicity**

The LLFA raises no objections, following provision of additional information that was requested during the determination period.

County Highways raise no objections.

Environmental Health raise no objections.

Derbyshire Wildlife Trust raises no objection.

Church Broughton Parish Council object to the proposal on the grounds of: unacceptable risk to highway safety, lack of cohesion with the existing character of the surrounding area.

A total of 16 representations were received from 8 individual parties. All representations object to the proposal on the grounds of:

- a) unacceptable impact on highway safety,
- b) flood risk,
- c) insufficient drainage strategy,
- d) inappropriate development in the countryside.

## **Relevant policy, guidance and/or legislation**

The relevant Development Plan policies are:

- Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierachy), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE3 (Biodiversity), and INF2 (Sustainable Transport).
- Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas).

The relevant national policy and guidance is:

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

Additional local guidance is provided within the following:

- South Derbyshire Design Guide Supplementary Planning Document.

## **Planning considerations**

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

- Principle of development;
- Layout and scale;
- Access and highways safety;
- Flood risk.

## **Planning assessment**

### Principle of development

Church Broughton is identified as a rural village under Policy H1, whereby development should be located in or within immediate proximity to the settlement boundary or limited to infill or conversion of

existing buildings. The application site is located outside of the Church Broughton settlement boundary, within a somewhat isolated cluster of development to the northwest of the village. The site comprises a parcel of land bookended to the east and west by linear development along Sapperton Lane. The application site and associated proposal is considered to be commensurate with infill development as per Policy H1. In relation to rural development, the relevant criteria of Policy BNE5 must also be satisfied.

Under Policy BNE5, infill development is required to be in keeping with the character of the locality and be not normally more than two dwellings within small groups of housing. The proposal is sited within an existing cluster of development and enclosed to the east and west by existing dwellings. The existing pattern of development is primarily linear along Sapperton Lane and as such, the addition of two dwellings in this location and that follow this identified pattern of development is considered to be in keeping with the character of the locality.

The site forms part of the residential curtilage of 2 Sapperton Lane, which through its development would not result in any loss of agricultural land. Rather, the addition of two dwellings in this location along Sapperton Lane would be in keeping with the character of linear development along the road and would have no undue impact of the landscape character of the area.

The relevant criteria of Policy H1 and BNE5 have therefore been met and the principle of development is considered to be acceptable.

#### Layout and scale

Two semi-detached three bedroom dwellings are proposed, two and a half storeys in height. Two storey terraced properties and cottages are prevalent within this cluster of development along Sapperton Lane. Dwellings typically front the public highway, particularly those that do not benefit from off-road parking. The proposed dwellings are sited to align with existing building lines, whilst still providing a high level of occupier amenity by way of garden and off-road parking. The layout and scale of the proposed dwellings is considered to meet the requirements of Policy BNE1 in this respect, subject to further considerations at reserved matters stage.

#### Access and highways safety

Access is proposed via a single shared access point from Sapperton Lane. Each dwelling benefits from off-road parking for two vehicles, as well as sufficient turning space to enable vehicles to enter and leave in a forward direction. Adequate vehicular visibility splays have been demonstrated by the Applicant. County Highways consider that the use of the existing access is acceptable in terms of access, parking and turning arrangements. As such, the proposal is considered to be in accordance with the requirements of Policy INF2.

#### Flood risk

Following request from the LLFA to provide additional information by way of a Catchment and Culvert Capacity Assessment, the Applicant has provided the required assessment. The site is located in Flood Zone 1, however concerns were raised with regard to surface water. Following further consultation with the LLFA, they have confirmed that the proposal will not increase the risk of flooding elsewhere. From the information provided the finished floor levels will be 220 mm above the 76.18 mAOD level of 396 m<sup>3</sup> of flooding from the exceedance flows from the culvert during the 1% (+40% climate change) event in the culvert's catchment. The proposed properties will displace 25.69 m<sup>3</sup> and there will be 84.60 m<sup>3</sup> additional storage from lowering a section of ground on site. This leaves (within the property boundary), additional storage of 58.91 m<sup>3</sup> from lowering a section of the site. To further secure the drainage strategy, the LLFA have requested an appropriately worded condition to secure the increase in onsite storage. In the planning balance, and as confirmed from a technical perspective by the LLFA, the proposal is considered to be in accordance with Policies SD2 and SD3.

#### Conclusion and planning balance

There will be additional vehicle trips to this rural location with concerns from the Parish Council and some residents with regard to highway safety. The application will result in additional residential development in the countryside with some impact on the character and appearance of the area and the

rural landscape. It is also noted that there are some drainage concerns in relation to the application. Taking the main issues into account, on balance it is considered that the proposal would not result in a conflict with the policy requirements of the Local Plan and is therefore considered to be acceptable. The relevant constraints have been considered in the planning balance and no material harms have been identified that are considered to warrant refusal of the application.

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

## **Recommendation**

The application is recommended for approval subject to conditions as it is considered it complies with Policies H1 and BNE5 of the adopted Local Plan and the principles of the NPPF.

1. A) An application for approval of the reserved matters listed at Condition 2 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 commenced before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

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

2. Before any development is commenced the further approval of the Local Planning Authority is required with respect to the following matters (herein referred to as 'the reserved matters') on an application made in that regard:
  - (a) appearance;
  - (b) landscaping.

Reason: This permission is granted in outline under the provisions of Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015 and section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

3. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site, in accordance with the principles outlined within:
  - a. the Flood Risk Assessment dated 21-06-22 ref:76671.1R2; the Sustainable Drainage Assessment dated 21-06-22 ref: 76671.02R3; and, the Catchment and Culvert Capacity Assessment dated 23-01-23 ref 76671.04.02R2 prepared by Geosmart consultants,
  - b. DEFRA non-statutory technical standards for sustainable drainage systems (March 2015) (or any successor technical standards), and
  - c. the CIRIA C753 SuDS Manual (or any equivalent guidance that may supersede or replace it) have been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the use of the building commencing.

Reason: In the interests minimising the likelihood of flooding incidents and damage to the environment, property or life.

4. The development hereby permitted shall be carried out in accordance with the Outline Planning Drawing (ref: 26360\_08\_020\_02 Rev B) as submitted with this application in respect of access; unless as otherwise agreed by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

5. Before any other operations are commenced a new vehicular and pedestrian access shall be formed to Sapperton Lane in accordance with the revised application drawing No. 26360\_08\_020\_02 Rev B and provided with visibility sightlines extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the access, for a distance of 36 metres in each direction measured along the nearside carriageway edge. The land in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

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

6. No dwelling shall be occupied until space has been laid out within the site in accordance with drawing No 26360\_08\_020\_02 Rev B for 4 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and maintained throughout the life of the development free from any impediment to its designated use.

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

7. No development shall take place including any works of demolition until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for: temporary construction access, parking of vehicles of site operatives and visitors, routes for construction traffic, hours of operation, method of prevention of debris being carried onto highway, pedestrian and cyclist protection, proposed temporary traffic restrictions, areas for standing plant and materials clear of the highway, arrangements for turning vehicles.

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

8. No part of the development shall be occupied until details of arrangements for storage of bins and collection of waste have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the facilities retained for their designated purposes at all times thereafter.

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

9. The proposed access drive to Sapperton Lane shall be no steeper than 1:20 for the first 5 metres from the nearside highway boundary and 1:12 thereafter.

Reason: To ensure safe and suitable conditions are maintained on the public highway, in the interests of highway safety.

10. Prior to the commencement of the development details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of water from the development onto the highway. The approved scheme shall be undertaken and completed prior to the first use of the access and retained as such thereafter.

Reason: In order to ensure that the works do not affect the structural integrity of the public highway.

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

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

Informatives:

- b. Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

**Item No.** 1.4

**Ref. No.** [DMPA/2023/0523](#)

**Valid date:** 23/05/2023

**Applicant:** Simon Moore

**Agent:** George Henshaw

**Proposal:** The erection of a dwelling on Land at The Mandarin, Astley Gardens, Egginton lane, Hilton, DE65 5FJ

**Ward:** Hilton

### **Reason for committee determination**

This item is presented to the Committee at the request of Councillor Andrew as local concern has been expressed about a particular issue alongside DMPA/2023/0528.

### **Site Description**

The site is the southern part of the former Mandarin Restaurant car park adjacent to Egginton Road to the east of Hilton. The site is relatively flat and between Egginton Road and a recent housing development accessed from Astley Gardens. The site is predominantly open but there are some trees on site as well as a small pond to the southern end of the site. Currently the site has a mixture of boundary treatments including 1m high 'picket' fencing and also newer close boarded fencing associated with the recent housing development.

### **The proposal**

This application is for the erection of a single dwelling double garage and driveway and associated garden.

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

Planning Design and Access Statement - sets out the issues stating why the proposal is considered to be in accordance with the National Planning Policy Framework, in particular the presumption in favour of sustainable development and concluding that the proposal would provide a dwelling of high quality re-using a redundant brown field site in keeping with the adjacent residential development.

Preliminary Ecological Appraisal - covers the whole site, the location of the Mandarin Restaurant which has been split in two with separate applications for one dwelling and the other being for the retail units. The report concluded that a Bat survey is required, and that clearance of the site should avoid bird nesting season.

Land Contamination Assessment - The report concludes that there is a low level of contamination at the site considered to be acceptable. In addition, it concludes that there is a moderate to high level of surface water flooding.

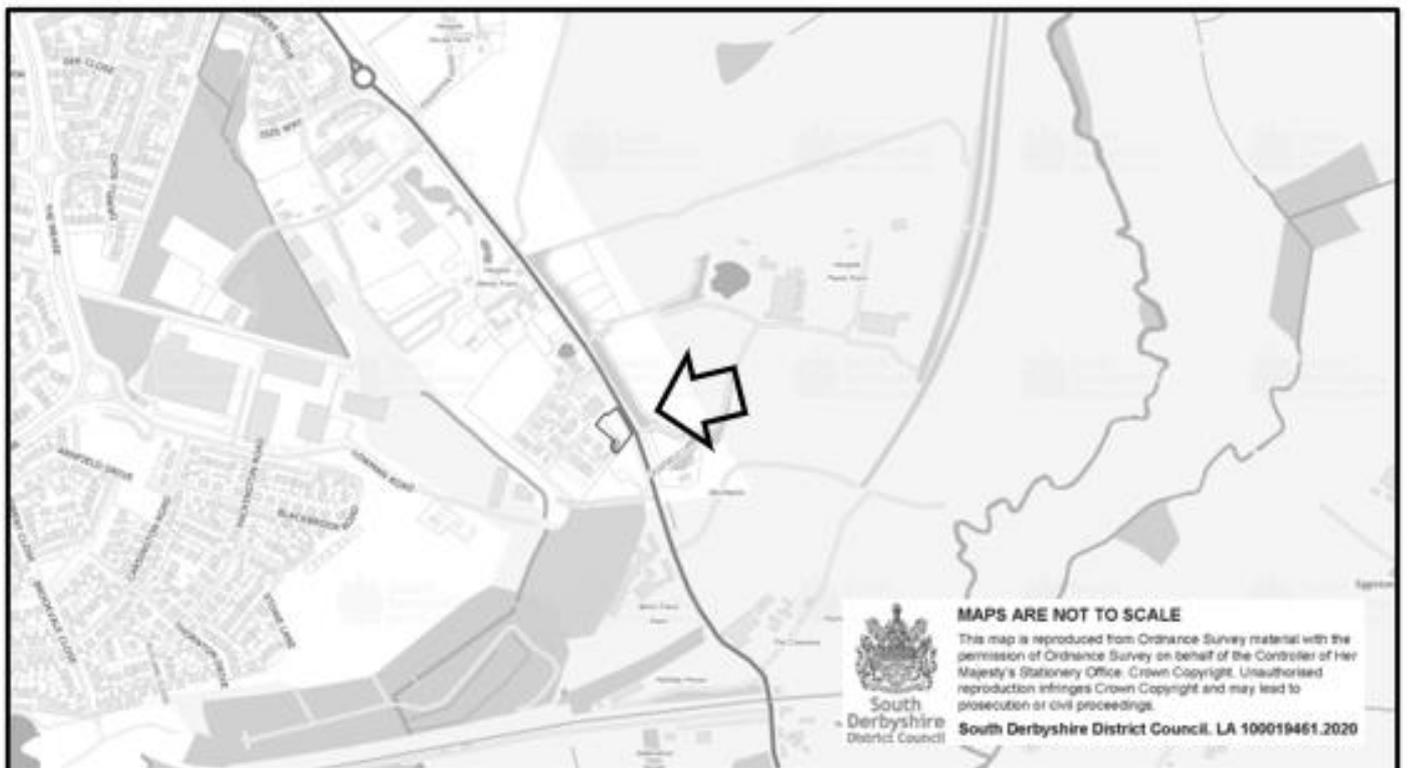
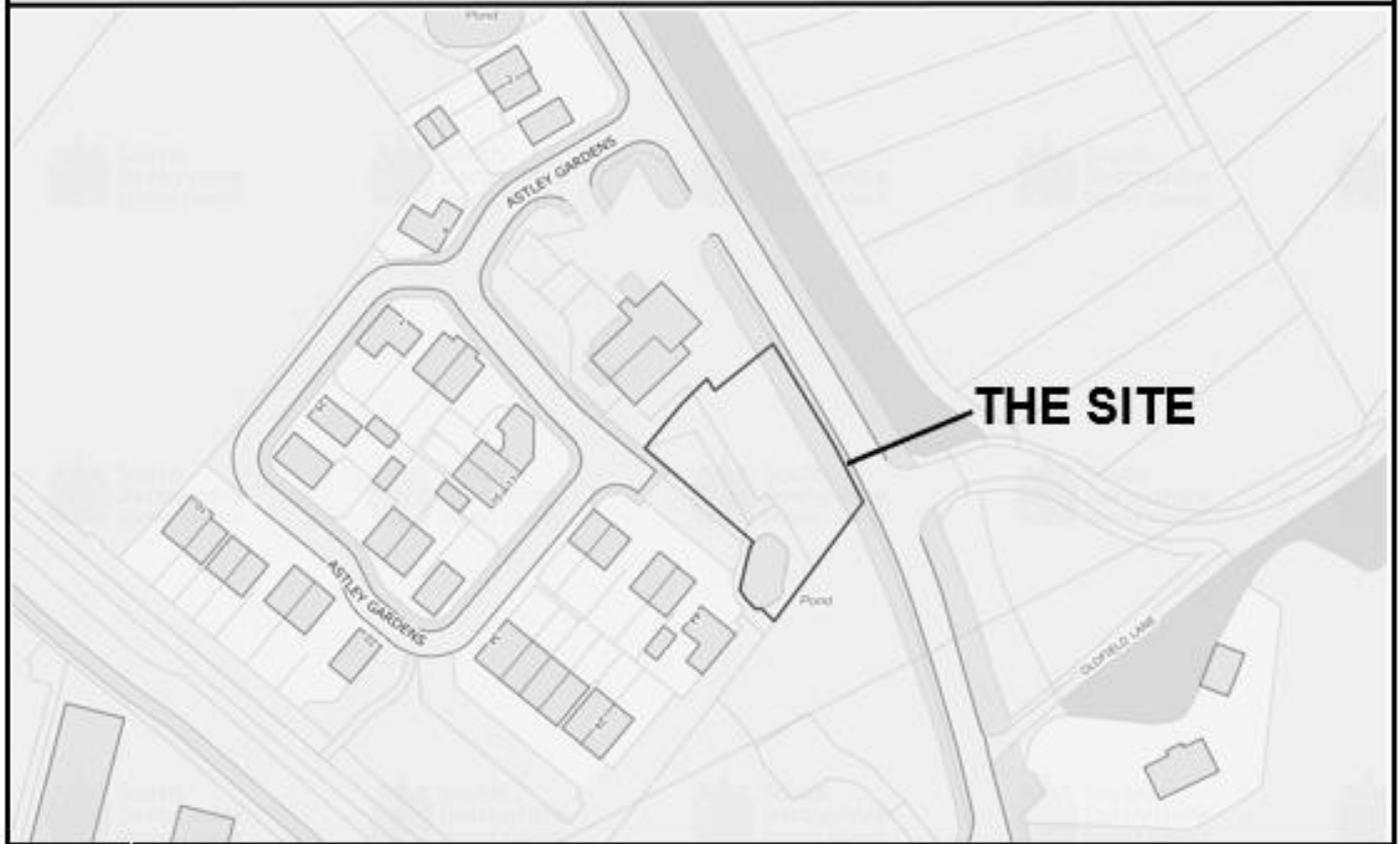
Bat Survey Report - The report concludes that no roosts were found as a result of these surveys but bats were mobile in the area. As such it makes recommendations relating to timing and lighting.

Topographical Survey - A plan identifying existing trees, hedgerow and pond.

### **Relevant planning history**

9/2016/0162 - Outline application (all matters to be reserved) for the residential development of up to 34 dwellings with associated access, public open space, sustainable drainage and landscaping - Refused 20/07/2016

**DMPA/2023/0523 – Land at The Mandarin, Astley Gardens, Egginton Lane, Hilton, DE65 5FJ**



APP/F1040/W/16/3160135 - Outline application (all matters to be reserved) for the residential development of up to 34 dwellings with associated access, public open space, sustainable drainage and landscaping - Allowed on appeal 06/02/2017

9/2019/0379 - Approval of reserved matters for access, layout, scale, appearance and landscaping of outline permission ref. 9/2016/0162 (as allowed by appeal ref. App/f1040/w/16/3160135) for the erection of 34 dwellings - Approved 25/09/2019

There are also a number of applications relating to discharge of conditions of 9/2016/0162 and 9/2019/0379.

### **Responses to consultations and publicity**

County Highway Authority - The highway authority requested additional information in respect to the proposed access arrangements. The applicant has now submitted an amended site plan which following review is considered to be acceptable. Taking the above into account the highway authority has no objections to the application subject to conditions relating to access, parking and turning facilities; pedestrian visibility splays of 2m x 2m measured perpendicularly back from the back of footway; and access gates have been set back 5 metres from the adjoining carriageway edge.

Environmental Health Officer - No objection subject to conditions relating to noise during construction and air quality - burning of rubbish during construction.

Derbyshire County Council (Archaeology) - The proposal site has entries on Derbyshire HER for a WW2 military depot (MDR14140), and earthwork ridge and furrow (MDR14598). The site was subject to desk-based assessment and geophysical survey during a previous application (9/2016/0162), and no significant remains were identified. I therefore recommend that no archaeological response is needed in relation to the current proposals.

Derbyshire Wildlife Trust - confirm that sufficient information has been provided in relation to assessing impacts on ecology / biodiversity. The PEA report (Ramm Sanderson, April 2023) was based on a survey of land that is now being dealt with as two separate planning applications and therefore the recommendation for nocturnal bat surveys of the existing building does not need to be followed up for this application.

A BNG calculation has not been prepared for the site; however, while it is not currently mandatory to use the BNG Metrics it is still a planning policy requirement that all developments strive to achieve a net gain for biodiversity. To this end, it is recommended that existing habitat features such as trees, hedgerows and pond are retained and protected during construction, albeit at reduced size for the pond due to the overlap with footprint of the new building. The proposed new tree and hedgerow planting should include a diverse range of native species such as hawthorn, hazel, holly, blackthorn, field maple, dog rose, crab apple etc. Integrated bird and bat bricks should be incorporated into the fabric of new buildings, with swift bricks being the preferred option for birds as they are known to be used by a wide range of species including swifts, house martin, house sparrow, starling and tits. Conditions relating to nesting birds; trees and hedgerows; and a Landscape and biodiversity Plan to be submitted prior to the commencement of the development.

15 Neighbour objections were received raising the following issues:

- a) Proposed property too large/poor design and not in keeping with existing estate;
- b) The access is across land not in the ownership of the applicant;
- c) Access is in the location of the Astley Gardens bin collection point;
- d) Filling in of balancing pond surely against environmental issues going forward;
- e) Two storey dwelling close to boundary will affect light to neighbouring properties;
- f) Don't need any more housing, little shop more useful;
- g) Proposal appears to overlook the residents that already live there;
- h) Filling in of Flood prevention pond which is there for a reason;
- i) Access would be via a shared driveway - I do not wish to share this driveway with anyone else;

- j) New dwelling would need to contribute to estate maintenance;
- k) Increased traffic on road which is currently quiet;
- l) Increased noise and disruption to quiet estate;
- m) Driveway will need to cross third party land that is public open space maintained at a cost to residents;
- n) The proposed additional unit should be part of this application as they are linked and should be contingent on the demolition of the Mandarin.
- o) Why build new units here?
- p) pollution of the environment/wild parking;
- q) We've got an Aldi, 3 pubs, doctors, post, in the centre of Hilton, there is nothing else to bring;
- r) How can this site be proposed when the number of dwellings was capped at 34;
- s) No drainage plan;
- t) Boundary/privacy fencing a concern;
- u) Proposal not compliant with the S106 for 2016/0162;
- v) Insufficient parking.

### **Relevant policy, guidance and/or legislation**

The relevant Development Plan policies are:

(2016) Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S4 (Housing), S6 (Sustainable Access), H1 (Settlement Hierarchy), H20 (Housing Balance), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions) and INF2 (Sustainable Transport)

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

Hilton, Marston on Dove and and Hoon Neighbourhood Development Plan: H3 (Residential Car Parking), H4 (Requirements for Housing Homes Designed for Energy Efficiency), H5 (Gardens), H6 (Housing Design).

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

### **Planning considerations**

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

- Principle of development;
- Character, design and residential amenity;
- Ecology, trees and biodiversity;
- Drainage
- Highway safety and parking; and
- Energy Efficiency.

## **Planning assessment**

### Principle of development

The Council has adopted both parts of its Local Plan and the Council currently is able to demonstrate a housing land supply for a period in excess of 5 years, the adopted Local Plan is considered to be up to date; residential development must therefore either fall to be assessed against the Development Plan or must carry particular merits (material considerations) which justify a deviation in line with statute.

The application site is outside the settlement confines of Hilton, a key service village. The site is not an allocation site under the Local Plan Part 1 (LP1) or LP2, nor is it an allocation in the Hilton Neighbourhood Plan and thus conflicts with the development plan strategy of directing housing to sustainable locations, as set out by Policies S1, S4 and H1 of the Local Plan Part 1. As the proposal is outside the settlement boundary the application falls to be assessed under BNE5. The proposal is not one of the policies covered by criterion i) nor is it covered by criterion ii to v. However, the site does lie close to adjacent dwellings and is a brownfield site - the car park of the former Mandarin Restaurant. Given the proximity of the site to the settlement boundary and the recently approved and constructed 34 dwellings of Astley Gardens which was approved on appeal, the site is considered to be a sustainable location and is therefore considered to be appropriate for the development of the single dwelling proposed. The proposal takes up only part of the site - a separate application being made for two retail units in place of the Mandarin Restaurant itself immediately to the north of this site (DMPA/2023/0528).

Whilst the application site is part of the larger site associated with the recent housing development (9/2016/0162) granted on appeal and limited the development to 34 dwellings, it is not considered necessary to re-open the Section 106 agreement, given the time lapse, extent of land within the applicants ownership and the scale of development. For the reasons set out above the principle of the dwelling in this location is considered acceptable.

### Character, design and residential amenity

The most applicable policies to consider in this assessment are BNE1 and SD1 of the LP1 supported by the Design SPD which seek to ensure that new development is of an appropriate size, siting, scale, material componentry and character with regards to characteristics of the area in which they are located. In addition, policies H3, H4, H5 and H6 of the Neighbourhood Plan are relevant.

The proposal is for a large family home of traditional appearance with traditional features such as stone headers and footers and construction on the former car park to the south of the now closed Mandarin Restaurant. Overall, the appearance is of a relatively grand double fronted dwelling but orientated side on to Eggington Road and Astley Gardens which, whilst not ideal in presenting itself to either highway, it does minimise overlooking of the dwellings on Astley Gardens, the western elevation only having secondary windows on this elevation. The large dwelling is significantly larger than the dwellings on Astley Gardens, but the dwelling is separate from this development and more akin to a dwelling that you would expect to see on the outskirts of a village, if perhaps set in a larger plot. The proposed dwelling, whilst outside the settlement boundary, will be seen in the context of the existing built development and as such is not considered to have an adverse impact on the rural character of the area. Whilst the plot size is relatively small for a large dwelling of this nature, there is sufficient outdoor amenity space to satisfy H5 of the Neighbourhood Plan and the dwelling is not considered to be overly constrained within the plot. The design, character and residential amenity of the proposal are considered to comply with the relevant policies referred to above.

### Ecology, trees and biodiversity

The site was well used as a restaurant until relatively recently and was predominantly built development and car parking. The site does have a pond located in the south western corner and a number of trees and hedgerows on site. Derbyshire Wildlife Trust was consulted, and the application information was reviewed. DWT note that sufficient information has been provided in relation to assessing impacts on ecology/biodiversity.

A Biodiversity Net Gain (BNG) calculation has not been prepared for the site; however, while it is not

currently mandatory to use the BNG Metrics it is still a planning policy requirement that all developments strive to achieve a net gain for biodiversity. To achieve a net gain DWT recommend that existing habitat features such as trees, hedgerows and the pond are retained and protected during construction, albeit at reduced size for the pond due to the overlap with footprint of the new building. The proposed new tree and hedgerow planting should include a diverse range of native species such as hawthorn, hazel, holly, blackthorn, field maple, dog rose and crab apple. These matters can be addressed through the inclusion of suitably worded conditions in addition to a condition relating to bat and bird bricks/boxes. Subject to these conditions it is considered that the proposal would comply with BNE3.

#### Drainage

No drainage proposal was provided with the application which is not unusual on a small proposals of this nature, and it is not necessary to consult the Lead Local Flood Authority on minor applications. The site is within flood Zone 1 and therefore least likely to flood. The site is a brownfield site with an existing building and large area of tarmac which can cause surface water run off. Building Regulations will provide sufficient control to minimise surface water run off. One objector raised the issue of the existing drainage from the Astley Gardens drainage entering into the pond within the application site. The land falls to the south east and the SUDs scheme related to the Astley Gardens housing is located to the south east, within the area of POS to the front and side of 24-34 and 44 and is therefore not related to this application site. The proposal is considered to comply with SD2.

#### Highway safety and parking

Access for the proposed dwelling is proposed from Astley Gardens from the access to a private driveway serving nos. 36 to 44. Following additional information relating to these access arrangements the Highway Authority raised no objection to the proposal subject to conditions relating to access, parking and turning and gates to be set back 5m. However, the proposed access appears to be directly adjacent to where the residents of 36 to 44 Astley Gardens have their Bin Presentation Point. Subject to the inclusion of conditions proposed by the CHA and clarification of the relationship between the bin presentation point and the driveway access the proposal is considered to comply with INF2.

#### Energy Efficiency

Neighbourhood Plan policy H4 seeks new development should demonstrate high levels of energy efficiency. New development is required to comply with current Building Regulations, in particular Part L which was updated in 2021 and took effect in June 2022. This part of the Regs introduces a higher level of conservation of fuel and power through higher performance standards. The dwelling is orientated in a way that would allow solar panels to take advantage of the sun having eaves facing in a south/east/west direction. No response has been received from the Parish Council. The policy sets out a list of requirements but only states that the proposal should address these issues. Electric charging points fitted for every new dwelling is also a requirement of Building Regulations. Given that the proposal benefits, or could benefit from these energy efficiency measures, it is considered to comply with H4 of the Neighbourhood Plan.

#### Conclusion and planning balance

The proposal is contrary to SDT1 and BNE5 being located outside of the defined settlement limits of Hilton. In addition, there will be some impact on the character and appearance of the area, highway safety and there is local concern with regard to the drainage arrangements. Taking these points into account the proposal is considered to be in a sustainable location being close to the Hilton Settlement boundary to the north, west and south and part of a 'brownfield' site not currently in use. The proposal would therefore contribute to the regeneration of a redundant site by assisting in the delivery of housing and would not unduly impact on landscape character and quality and deliver a modest biodiversity net gain, on balance the proposal is therefore considered to be acceptable. The CHA are content with the highway safety issues and drainage matters will properly be addressed as part of the Building Control process.

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

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

## **Recommendation**

**Approve** subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with drawing refs. 03001 (Location Plan)  
03003 Rev P2 (Proposed Site Layout)  
03004 Rev P1 (Proposed Plans and Elevations)  
unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. The Development hereby approved shall not be occupied until the access, parking and turning facilities have been provided as shown on the approved drawings.

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

4. The development hereby approved shall not be occupied until pedestrian visibility splays of 2m x 2m measured perpendicularly back from the back of footway shall be provided on both sides of the access. These splays shall thereafter be permanently kept free of all obstructions to visibility over 0.6m in height above the adjoining ground level

Reason: To ensure motorists have clear and unrestricted views of approaching pedestrians when pulling out onto the adopted highway, in the interest of highway safety.

5. The development hereby approved shall not be occupied until the proposed access gates have been set back 5 metres from the adjoining carriageway edge and made to open inwards only.

Reason: In the interests of highway safety.

6. Notwithstanding the approved drawings referred to in conditions 2 and 3 prior to the commencement of the development the applicant shall submit amended details of the access including annotating the bin presentation point to and these shall be approved in writing by the local planning authority.

Reason: To ensure safe and suitable access for all users, in the interests of highway safety and to ensure continued provision of a bin presentation point for the existing residents.

7. No development, including preparatory works, shall commence until a check for nesting birds has been carried out prior to clearance of any tree/shrub/hedgerow vegetation during the typical bird nesting season (March to August inclusive). Any active nests shall be left undisturbed until the young have fledged.

Reason: In order to safeguard protected and/or priority species from undue disturbance and impacts, noting that initial preparatory works could have unacceptable impacts; and in order to secure an overall biodiversity gain.

8. Existing trees and hedgerows shall be retained and protected from damage during construction in line with BS5837 - trees in relation to design, demolition & construction.

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

9. A landscape/biodiversity plan shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The plan shall include the following key points:

- Locations of integrated swift and bat bricks (at least 1 of each on the new building)
- Hedgehog holes in any boundary fencing
- Locations of any other habitat features such as invertebrate boxes
- Locations of retained habitat features such as trees, hedgerow and pond
- Planting strategy for new trees and hedgerow, incorporating at least 5 native woody species.

The approved scheme shall be implemented so that physical measures are incorporated before the first occupation of the dwelling and thereafter retained and maintained in situ.

Reason: In order to safeguard and enhance habitat on or adjacent to the site in order to secure an overall biodiversity gain.

10. During the period of construction, no ground, construction or fitting out works shall take place and no deliveries shall be taken at or dispatched from the site other than between 0800 and 1800 hours Monday to Friday and 0800 and 1300 hours on Saturdays. There shall be no construction works (except for works to address an emergency) or deliveries on Sundays or Bank Holidays.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers, recognising that initial preparatory works could cause unacceptable impacts.

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

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

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

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

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

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

14. All verges shall be finished in a mortar finish. There shall be no use of dry verge (cloaking tile) systems. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, there shall be no later installation of a dry verge system.

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

15. Prior to the occupation of the dwelling a unit a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. Details of soft landscaping

should evidence compliance with British Standard (BS) 3936: 'Part 1 - Specification for trees and shrubs', BS3969 - 'Recommendations for turf for general purposes' and BS4428 - 'Code of practice for general landscape operations (excluding hard surfaces)'. All hard landscaping shall be carried out in accordance with the approved details prior to occupation of the unit, whilst all planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of the dwelling or the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

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

16. Notwithstanding the plans hereby approved, prior to the construction of a boundary wall, fence or gate, details of the position, appearance and materials of such boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the dwelling is first occupied.

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

#### Informatives:

- c. The construction of the new access requires the provision of a footway crossing from the carriageway under the Highways Act 1980 - Section 184 and the Applicant is required to obtain the permission of Derbyshire Highways details can be found at [www.derbyshire.gov.uk/transport-roads/roads-traffic/licences-enforcements/vehicular-acces/vehicle-accesses-crossovers-and-dropped-kerbs.aspx](http://www.derbyshire.gov.uk/transport-roads/roads-traffic/licences-enforcements/vehicular-acces/vehicle-accesses-crossovers-and-dropped-kerbs.aspx) or email [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk) before commencing any works on the highway.
- d. Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.
- e. It is expected that contractors are registered with the Considerate Constructors scheme and comply with the code of conduct in full, but particularly reference is made to "respecting the community" this says: Constructors should give utmost consideration to their impact on neighbours and the public
- Informing, respecting and showing courtesy to those affected by the work;
  - Minimising the impact of deliveries, parking and work on the public highway;
  - Contributing to and supporting the local community and economy; and
  - Working to create a positive and enduring impression, and promoting the Code.
- f. Contractors should ensure that courtesy boards are provided, and information shared with the local community relating to the timing of operations and contact details for the site coordinator in the event of any difficulties. This does not offer any relief to obligations under existing Legislation.

**Item No.** 1.5  
**Ref. No.** [DMPA/2023/0528](#)  
**Valid date:** 08/06/2023  
**Applicant:** Simon Moore **Agent:** George Henshaw  
**Proposal:** **Demolition of restaurant (Use Class E) and erection of retail/commercial unit (Use Class E) at The Mandarin Chinese Restaurant, Egginton road, Hilton, Derbyshire, DE65 5FJ**  
**Ward:** Hilton

### **Reason for committee determination**

This item is presented to the Committee at the request of Councillor Andrew as local concern has been expressed about a particular issue alongside DMPA/2023/0523.

### **Site Description**

The site is the northern part of the former Mandarin Restaurant car park site and building adjacent to Egginton Road to the east of Hilton. The site is relatively flat and between Egginton Road and a recent housing development accessed from Astley Gardens. The site is predominantly open but contains some trees. Currently the site has a mixture of boundary treatments including 1m high 'picket' fencing and also newer close boarded fencing associated with the recent housing development.

### **The proposal**

The proposal includes the demolition of the vacant restaurant (Use Class E) and erection of retail/commercial unit (Use Class E) providing 520 Sq m of floorspace for new units. The new building would effectively replace the former restaurant building.

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

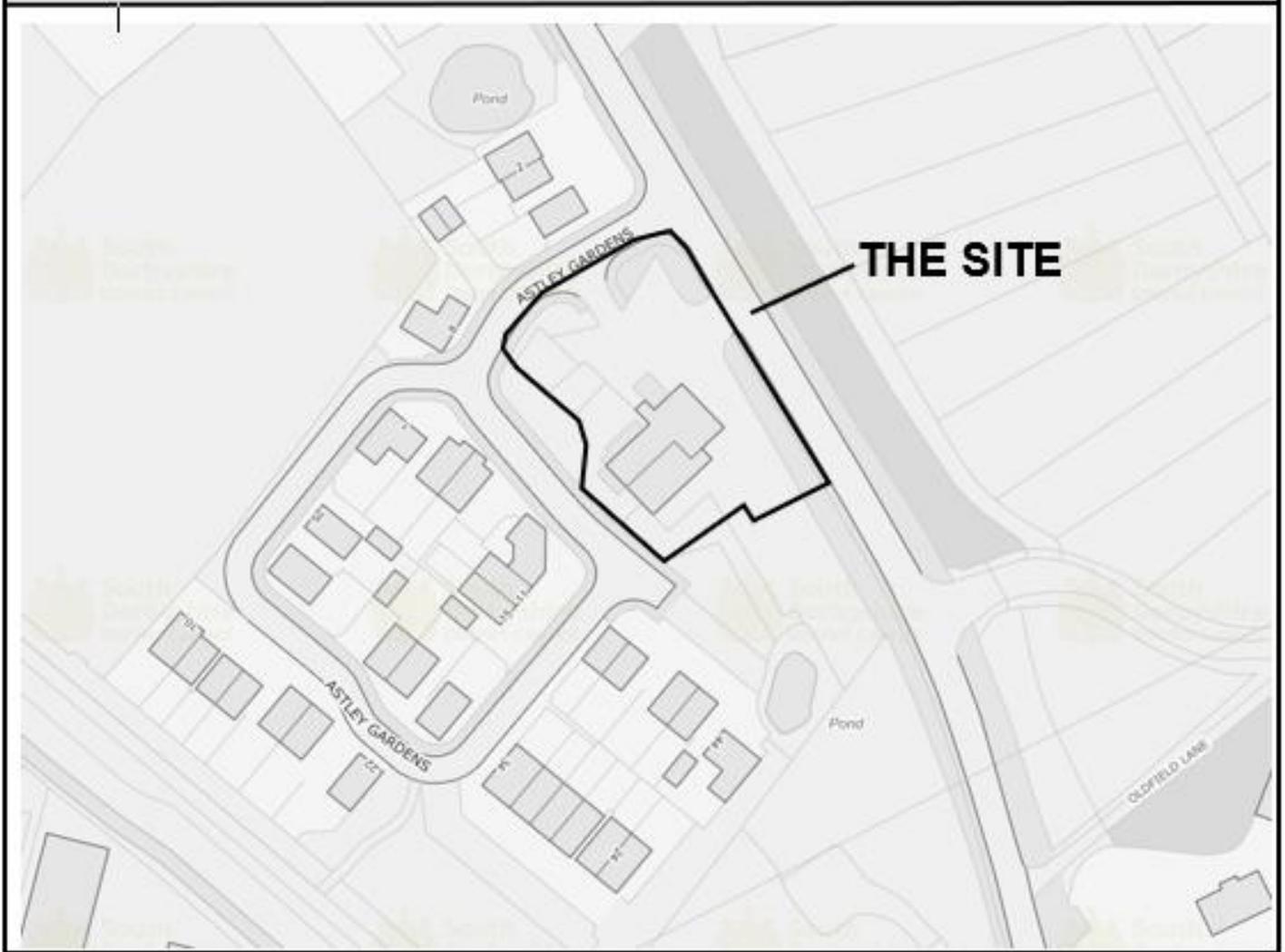
Planning Design and Access Statement - sets out the issues stating why the proposal is considered to be in accordance with the National Planning Policy Framework, in particular the presumption in favour of sustainable development and concluding that the proposal would provide local facilities which will diversify and expand the range of sustainable employment activities on land on the edge of Hilton where existing facilities are sparse in an area which has grown significantly over the past twenty years and the units have been designed to a high standard and the proposal will not result in significant loss of amenity for the occupants of neighbouring properties and safe and suitable access can be achieved via the existing access.

Retail Sequential Assessment - The report sought to complete a sequential assessment of available commercial sites in and around the Hilton area. A thorough search of sites both for sale and to let, and that would suit the needs of the client was conducted and concludes that there are no sequentially preferable sites that are capable of accommodating the proposed development and the sequential test is 'passed'.

Preliminary Ecological Appraisal - covers the whole site, the location of the Mandarin Restaurant which has been split in two with separate applications for one dwelling and the other being for the retail units. The report concluded that a Bat survey was required and that clearance of the site should avoid bird nesting season.

Land Contamination Assessment - The report concludes that there is a low level of contamination at the site considered to be acceptable.

**DMPA/2023/0528 – The Mandarin Chinese Restaurant, Eggington Road, Hilton,  
DE65 5FJ**



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Bat Survey Report - The report concludes that no roosts were found to be roosting as a result of these surveys but bats were mobile in the area. As such it makes recommendations relating to timing and lighting and enhancement recommendations relating to tree planting.

Topographical Survey - A plan identifying existing trees, hedgerow and pond - the pond being within the site area but not within the red line of this application.

### **Relevant planning history**

9/2016/0162 - Outline application (all matters to be reserved) for the residential development of up to 34 dwellings with associated access, public open space, sustainable drainage and landscaping - Refused 20/07/2016

APP/F1040/W/16/3160135 - Outline application (all matters to be reserved) for the residential development of up to 34 dwellings with associated access, public open space, sustainable drainage and landscaping - Allowed on appeal 06/02/2017

9/2019/0379 - Approval of reserved matters for access, layout, scale, appearance and landscaping of outline permission ref. 9/2016/0162 (as allowed by appeal ref. App/f1040/w/16/3160135) for the erection of 34 dwellings - Approved 25/09/2019

DMPA/2021/1789 - Retention of existing Restaurant (Class E) and the creation of a Gastro Pub (Sui Generis) to provide a flexible Class E/ Sui Generis Use - Withdrawn

DMPA/2022/0390 - The erection of two commercial units - Application Withdrawn 25 May 2022

DMPA/2022/0409 - Change of Use from Restaurant (Class E) to Restaurant (Class E) / Public House (Sui Generis)(Flexible Use) - Approved with conditions 1/07/2022

There are also a number of applications relating to discharge of conditions of 9/2016/0162 and 9/2019/0379.

### **Responses to consultations and publicity**

County Highway Authority Following the submission of additional information relating to parking and servicing the CHA has no objections to the application subject to conditions relating to parking and turning within the site; provision of secure sheltered cycle parking; submission of an EV infrastructure Strategy and construction management plan.

Environmental Health Officer - No objections subject to conditions relating to construction noise and no clearance of vegetation or other materials by burning. In addition, an informative relating to the premises if used as a food business.

Derbyshire Wildlife Trust - No response received.

Derbyshire County Council - Archaeology - No response received.

One representation received from a member of the public in of support stating:

- a) Commercial units is a great idea;
- b) Existing building is an eyesore;
- c) Hilton needs some more shops.

Thirty six representations received from members of the public objecting to the proposal raising the following issues:

- a) Previous application was for two units, now four?
- b) vacant retail units in the village;
- c) Willington has empty units;
- d) No need for the units;

- e) If Aldi moves to Derby Road there will be a vacant unit in the village;
- f) Concerns for litter, noise and smells;
- g) Impact on traffic on Eggington Road a concern;
- h) Not in keeping with the character of the area;
- i) Inappropriate location;
- j) vacant unit in the centre of the village (Pharmacy);
- k) Poor design;
- l) Poor location;
- m) No long term plan for the village;
- n) Possible anti-social behaviour as a result of the development;
- o) Loss of existing building;
- p) Not enough car parking for proposed use and narrow access;
- q) Loss of wildlife/ecology;
- r) Will the owners pay annual maintenance to the management company;
- s) Entrance only suitable for a single vehicle;
- t) Will affect resale value of dwellings;
- u) Better sites in the village for this type of development;
- v) Unlit road and narrow pavement makes location unsafe;
- w) Loss of view for existing houses;
- x) Unknown disruption during construction;
- y) Opening hours of 6.30am to 11pm a concern.
- z) Additional cars will block equine centre access
- aa) Proposal is confused in that it does not seem to know what the units will be for but rules out alternative sites;
- bb) Waste provision not catered for;
- cc) Parking of disabled a long way from units;
- dd) Removal of existing boundary treatment to be replaced by native hedgerow - how long will this take to mature;
- ee) Owl Homes still to complete conservation measures - how will this be completed?
- ff) Poor energy efficiency not a reason to demolish building;

### **Relevant policy, guidance and/or legislation**

The relevant Development Plan policies are:

(2016) Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S4 (Housing), S6 (Sustainable Access), E7 (Rural Employment), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport)

(2017) Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas) and BNE7 (Trees, Woodland and Hedgerows); RTL1 (Retail Hierarchy).

Hilton, Marston on Dove and and Hoon Neighbourhood Development Plan: T1 (Active Travel); L3 (Hilton Village shopping Centre Development).

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

## Planning considerations

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

- Principle of development;
- Character, design and residential amenity;
- Ecology, trees and biodiversity;
- Highway safety and parking; and
- Drainage.

## Planning assessment

### Principle of development;

The proposed development is outside the Hilton Settlement boundary and the proposal therefore falls to be considered under BNE5 and E7. Policy E7 of the Local Plan states that development proposals which diversify and expand the range of sustainable employment activities on land outside settlement boundaries will be supported by the Council, provided they support the social and economic needs of the rural communities in the District. Such development in rural areas is specifically supported under policy BNE5 criterion i).

It should also be noted that the application site is the location of the former Mandarin Restaurant. The most recent Planning History (DMPA/2022/0409) shows that consent was granted at committee for the change of use from a Restaurant (class E) to a Restaurant and Public House (Sui Generis)(Flexible uses). The applicant has not provided a separate business case but has stated in the planning design and access statement that the growth of Hilton has been significant over the last twenty years and quotes the Neighbourhood Plan to compare the level of growth with other settlements in South Derbyshire. The NP quotes Hilton as having grown by 114% since 2001. The proposed form of employment development is considered by the applicant to be appropriate given the existing established use and '*would represent an opportunity to create much needed rural employment opportunities within the countryside.*' It is acknowledged that E7 supports employment proposals in rural areas, but the business case is weak and the proposal concentrates on demonstrating that the site is a sustainable location due to the recent development of the Astley Gardens development surrounding the Mandarin which also links with the southern expansion of Hilton. The applicant does state that the Mandarin is an attractive building but has been neglected over a long period of time and various schemes were considered to retain the building, but the internal layout did not lend itself to adaptation without significant refurbishment costs. The applicant also states that the adaptations required to make the building more usable would have altered the building's appearance '*such that it would be unrecognisable*'. This leads the applicant to the conclusion that '*rebuilding is essential*' to provide the high-quality commercial units which the site warrants. The agent advises this approach is supported by the selling agent who stated that the only interested parties in the sale were developers and none looking to retain the Mandarin.

Whilst the applicant has built the case for the redevelopment around policy E7 which allows for the re-use, conversion and replacement of existing buildings and development of new buildings, RTL1 is also relevant. The LPA requested the submission of a sequential assessment as the proposal is for over 500 sq m of retail floor space. The NPPF states at para 89 that the sequential approach should not be applied to small scale rural offices or other small scale rural development. No threshold is mentioned nor is retail specifically mentioned in the NPPF, but the sequential assessment applies to 'town centre' uses which includes retail. In addition, the proposal is for two units of 520 sqm in total and whilst this is relatively small in retail terms, it is more than a modest rural office or retail proposal and the requirement of a sequential assessment is considered necessary to demonstrate that no more central locations are available.

The sequential assessment submitted identifies a search area of just Hilton stretching to the north to the A50 and to the south almost to Marston on Dove and almost to Hatton to the west and just east of Egginton Rd to the east. The assessment identifies the key requirements and how sites were identified

as being available. It is noted that the applicant does not have an end user secured. The search yielded no available sites of comparable size or similar. Whilst two sites were suggested by objectors, the current Aldi store and the former Chemists in the centre of Hilton, the former is not available, and the latter is too small for the proposed use being only just over 100 sqm. The assessment concludes that the only currently available site is the application site.

As there are no alternative available sites at this time and E7 allows for new buildings to provide employment related development outside settlement boundaries, including new buildings, the proposal is considered to comply with E7, BNE5 and RTL1 in relation to principle.

#### Character, design and residential amenity:

The existing building is not listed, nor is it within a Conservation Area. Whilst of traditional construction and of a certain vintage with traditional brick and clay tile construction, it has had several more modern extensions. The proposed retail units would be a dramatic modern box located in the northwestern corner of the site, set back from the boundary behind a new native hedgerow boundary treatment to Astley Gardens. This is further to the north than the existing Mandarin Pub/Restaurant as it avoids building on the same footprint and allows sufficient space for parking and turning within the site for delivery vehicles. The existing Mandarin building is approximately 7.5m to ridge and the new commercial building is 7.2m to eaves but is a flat roof building so although lower overall, it will be more prominent, particularly when it will be closer to the new dwellings of Astley Gardens. Changes to the design were requested but no amendments were made. However, materials can be controlled by condition and whilst the location is closer in proximity to the dwellings, they are separated by the access road and therefore impact on residential amenity is negligible. The new building clearly fronts Egginton Road with a largely glazed frontage. The side elevations continue a similar appearance with the use of brick and timber cladding. The rear elevation is proposed to be predominantly metal cladding which is not unusual for modern retail units.

Whilst the application refers to several different uses proposed the application is for two retail class E retail units. This does not include fast food takeaways as these are sui generis. In addition, the applicant seeks broad opening times of 06:30 until 23:00. Given that the units are in close proximity to residential dwellings a condition has been recommended to restrict the hours of operation to 07:30 and 22:00. Subject to conditions relating to hours of operation, materials and boundary treatment, the proposal is considered to comply with BNE1 and SD1.

#### Ecology, trees and biodiversity

The site was well used as a restaurant until relatively recently and was predominantly built development and car parking. The site does have a pond located in the southwestern corner of the adjacent site which is the subject of a separate application and there are a number of trees and hedgerow on site. Derbyshire Wildlife Trust was consulted but did not respond directly to this application but did respond to the application relating to the dwelling.

A Biodiversity Net Gain (BNG) calculation has not been prepared for the site; however, while it is not currently mandatory to use the BNG Metrics it is still a planning policy requirement that all developments strive to achieve a net gain for biodiversity. A condition has been added to the recommendation as well as an informative to assist in achieving a net gain. Subject to these the proposal is considered to comply with BNE3.

#### Highway safety and parking:

Access for the proposed dwelling is proposed from Astley Gardens using the existing access created when the new housing estate was constructed. The previous access was directly onto Egginton Road. Following additional information relating to parking and servicing arrangements the Highway Authority raised no objection to the proposal subject to conditions relating to parking and turning facilities, secure accessible sheltered cycle parking and the submission of an EV vehicle infrastructure strategy plan the proposal is considered to comply with INF2.

#### Drainage

No drainage proposal was provided with the application which is not unusual on a small proposal of this

nature and it is not necessary to consult the Lead Local Flood Authority on minor applications. The site is within flood Zone 1 and therefore least likely to flood. The site is a brownfield site with an existing building and large area of tarmac which can cause surface water run off. Building Regulations will provide sufficient control to minimise surface water run off. The land falls to the south west and the SUDs scheme related to the Astley Gardens housing is located to the south west and is therefore not related to this application site. The proposal is considered to comply with SD2.

### Conclusion and planning balance

The application proposes main town centre uses outside of a defined centre. However, the location has been demonstrated to be the only available site for retail units in Hilton of the proposed scale and the site, whilst outside the Hilton Settlement boundary, is considered a sustainable location. The proposal is considered to comply with E7, BNE5 and RTL1 as the proposal would enhance local facilities and expand the range of sustainable employment activities on land outside of settlement boundaries.

The development will have some impact on the character and appearance of the area and the amenities of neighbours being just over 7m in height and with a flat roof design. There have also been concerns raised on highway safety grounds. On balance it is considered that the appearance of the building is not considered to adversely affect the character of the area and it is considered that the impact on neighbouring properties and traffic levels would not be significantly greater than the previously approved use. The CHA has no objections subject to conditions. It is therefore recommended that the application is approved.

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

### **Recommendation**

**Approve** subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with plans/drawings ref. 02003 Rev P2 (Commercial Unit Proposed Site Layout)  
02005 Rev P1 (Commercial Unit Plans and Elevations)  
F23022-01 (Refuse Vehicle Swept Path)  
F23022-02 (Rigid Vehicle Swept Path)  
unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

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

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

4. Gutters and downpipes shall have a black finish. No fascia boards shall be used.

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

5. The Development hereby approved shall not be brought into use until the parking and turning facilities have been provided as shown on the approved drawings.

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

6. The development hereby approved shall not be brought into use until sheltered, secure and accessible bicycle parking has been provided at the location shown on the approved drawings. The storage area shall be maintained for this purpose thereafter.

Reason: To promote sustainable travel and healthy communities.

7. An electric vehicle infrastructure strategy and implementation plan shall be submitted to and approved in writing by the Local Planning Authority prior to the first use of any building hereby permitted. The plan shall contain details of the number and location of all electric vehicle charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851, and Derbyshire Highway Design Guide. Buildings and parking spaces that are to be provided with charging points shall not be brought into use until associated charging points are installed in strict accordance with approved details and are operational. The charging point installed shall be retained thereafter unless replaced or upgraded to an equal or higher specification.

Reason: To promote sustainable travel and healthy communities.

8. Prior to commencement of the development hereby permitted details of a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the demolition/construction period. The plan/statement shall include but not be restricted to:

- Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- Advisory routes for construction traffic;
- Any temporary access to the site;
- Locations for loading/unloading and storage of plant, waste and construction materials;
- Method of preventing mud and dust being carried onto the highway;
- Arrangements for turning vehicles;
- Arrangements to receive abnormal loads or unusually large vehicles;
- Highway Condition survey;
- Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

Reason: In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development.

9. During the period of demolition and construction, no ground, construction or fitting out works shall take place and no deliveries shall be taken at or dispatched from the site other than between 0800 and 1800 hours Monday to Friday and 0800 and 1300 hours on Saturdays. There shall be no demolition/construction works (except for works to address an emergency) or deliveries on Sundays or Bank Holidays.

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

10. The premises shall not be open to the public other than between 07:30 hours and 22:00 hours Mondays to Saturdays, and between 08:00 hours and 18:00 hours on Sundays and bank holidays.

Reason: To safeguard the amenities of nearby occupiers.

11. The development shall be carried out in strict accordance with the enhancement recommendations detailed in the conclusions of the Preliminary Ecological Appraisal prepared by Ramm Sanderson dated May 2023. Prior to their installation, the location and type of bird boxes and bat boxes/bricks shall be submitted to and approved in writing by the Local Planning Authority. The ecological enhancement measures shall be retained and maintained as such thereafter.

Reason: In order to safeguard and enhance habitat on or adjacent to the site in order to secure an overall biodiversity gain.

12. Prior to the occupation of a unit a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. Details of soft landscaping should evidence compliance with British Standard (BS) 3936: 'Part 1 - Specification for trees and shrubs', BS3969 - 'Recommendations for turf for general purposes' and BS4428 - 'Code of practice for general landscape operations (excluding hard surfaces)'. Where areas of public open space are included in the proposals, the details shall be supplemented with details of play equipment, seating, litter and dog waste bins, signage and other ancillary structures (as necessary). All hard landscaping shall be carried out in accordance with the approved details prior to occupation of the unit, whilst all planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of the unit or the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

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

13. Notwithstanding the plans hereby approved, prior to the construction of a boundary wall, fence or gate, details of the position, appearance and materials of such boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the respective building to which they serve is first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

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

#### Informatives:

- g. Premises that are to be used as a food business and have not already registered with the Council, then:
- The developer should contact the Environmental Health Section on all matters relating to food hygiene and health and safety.
  - Food businesses must register with the local authority at least 28 days prior to opening for business.
- h. The applicant/developer is reminded that it is an offence to damage or destroy species protected under separate legislation, which includes, but is not limited to, nesting birds which may be present in hedgerows, trees or ground habitats on the site. Planning permission for a development does not provide a defence against prosecution under wildlife protection legislation. You are advised that it may be necessary, shortly before development commences, to commission an ecological survey from suitably qualified and experienced professionals to determine the presence or otherwise of such protected species. If protected species are found to be present, reference should be made to Natural England's standing advice and/or the Derbyshire Wildlife Trust should be consulted for advice.



**Item No.** 1.6

**Ref. No.** [DMPA/2023/1272](#)

**Valid date:** 05/10/2023

**Applicant:** Andrew Bennett (SDDC) **Agent:**

**Proposal:** **The erection of an single storey side extension at 316 Burton Road, Midway, Swadlincote, DE11 7LY**

**Ward:** Midway

### **Reason for committee determination**

South Derbyshire District Council Local Authority is both the applicant and owner of the proposed site.

### **Site Description**

The application site consists of a semi detached local authority dwelling built approximately 1948. It is built in red brick and sits on a corner plot. It is set back from the main road and has an area of open space immediately to the north. It has different style fencing around the front and side and has off road parking provision for two vehicles.

Within the immediate area there is a mixture of semi detached and detached red brick built and rendered properties. There are both local authority and privately owned dwellings mixed together along the main road (A511). The properties are mostly set back from the road with frontage boundaries of small brick walls and hedges with trees.

### **The proposal**

The proposal is for the erection of a single storey side extension measuring approximately 2.25m in width by 3.365m in length with a pitched roof to provide a wc and shower facilities on the ground floor of the property.

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

The applicant has submitted plans setting out the proposals for approval.

### **Relevant planning history**

No relevant planning history.

### **Responses to consultations and publicity**

No comments received.

### **Relevant policy, guidance and/or legislation**

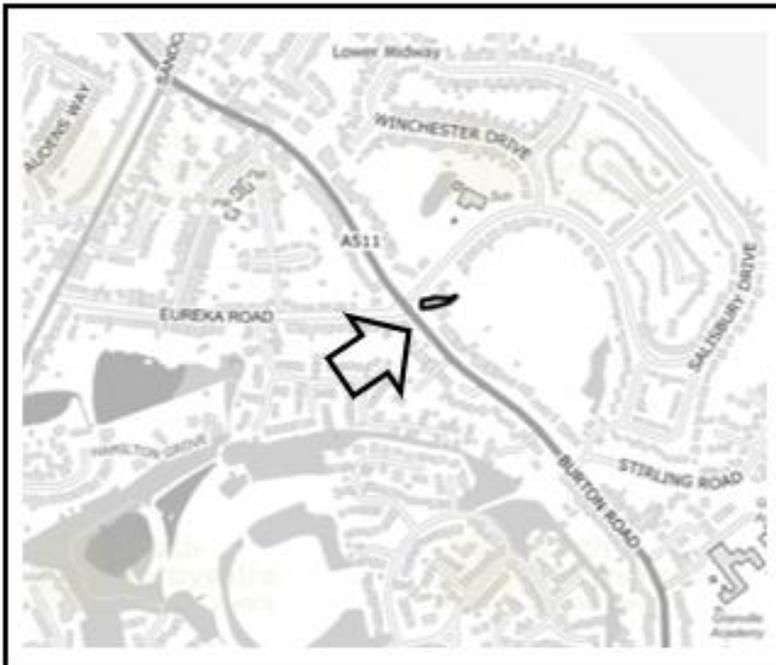
The relevant local plan policies are:

2016 South Derbyshire Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development); SD1 (Amenity and Environmental Quality); SD4 (Contaminated Land and Mining Legacy Issues); BNE1 (Design Excellence); INF8 (National Forest)  
2017 South Derbyshire Local Plan Part 2: SDT1 (Settlement Boundaries and Development); H27 (Residential Extensions and other Householder Development)

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD) (2017)

**DMPA/2023/1272 – 316 Burton Road, Midway, Swadlincote, DE11 7LY**



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The relevant National Policy and Guidance is:  
National Planning Policy Framework (NPPF)  
Planning Practice Guidance (PPG)

## **Planning considerations**

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

- Design;
- Amenity

## **Planning assessment**

### Design

The proposal is for the erection of a single storey side extension to facilitate a shower room.

The property is a semi detached brick built and tiled property. The property is a local authority property and was built around 1948, and is set back off the main road the A511. The property is on a corner plot, and has a good size front garden which has provision for two off road parking spaces. The side of the property where the proposed extension will be positioned is screened by fencing to the side and rear and is accessed through a gate off the front garden.

The character of the area is a mixture of detached and semi detached properties. Most of the properties are set back from the road with small fences or boundary walls to the front. There are different style properties built of both brick and some render within the surrounding area.

The single storey side extension on the corner plot has existing boundary fencing in place. The extension is subordinate to the original dwelling the pitched roof will match the roof form of the existing host. The front elevation of the extension is set back from the existing host and the window will be screened by the existing boundary treatment. The extension is proposed to be built in matching materials to the existing and this is considered acceptable and will retain the character of the property and the surrounding area.

The extension will improve living conditions for the occupants, providing ground level w/c and wash facilities.

### Amenity

The proposal is considered to comply with the space around dwellings requirements of the SPD, neither of a size or situation as to unduly overshadow or cause a reduction in privacy.

The proposed extension is contained to the North of the host property and as such there will be no impact on the adjoining property at no. 314.

The proposed extension is to be built on the side elevation of the property, there is a window to the front elevation. As the extension is set back from the existing host the window will be facing the front garden, it will be screened by the boundary fencing in place from the public realm and also provide privacy to the occupants of the property.

In relation to the occupants of the neighbouring properties at no's 2 and 4 Dunsmore Way, there is considered to be good separation between the extension and the properties and as these properties are set back and are slightly elevated to the host property, the views of the extension will be minimal and would not result in any significant loss of amenity through being overbearing or loss of privacy.

In terms of visual amenity, it is considered that there will be no significant impact on the street scene as the application property is set back from the road frontage and has existing fencing around the boundary and this would afford a level of screening. In addition the extension is considered to be well-

designed and subordinate to the property.

Overall due to the scale and siting of the proposed extension it is considered that the proposal would not cause any undue harm to any of the surrounding properties.

#### Mining Legacy Issues

The Site is within a low risk former coal mining area and an informative to this effect will be placed on any forthcoming grant of planning permission.

#### Conclusion and planning balance

The proposal introduces a small single storey element to the side of the dwelling. Whilst this will be largely screened from neighbours and any public vantage points there will be some visibility which will alter the way the application property is viewed. However, given the scale, siting and design of the extension it is considered to be acceptable in terms of its impact on the character of the area and street scene, with no unreasonable impact on the neighbouring amenity or highway safety. As such, the proposal is considered to be in accordance with the requirements of Policies S2, SD1, SD4, BNE1, INF8, H27, SDT1 together with the Council's Design Guide SPD and 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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

#### **Recommendation**

Approve subject to the following conditions:-

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

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

2. The development hereby permitted shall be carried out in accordance with the plans reference Proposed elevation and floor plans (dwg no AMB-CA004786) received 5th October 2023; unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason: For the avoidance of doubt.

#### Informatives:

- a. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is also available on the Coal Authority website at [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority).

**Item No:** 1.7  
**Ref. No:** [DMPA/2023/0583](#)  
**Valid date:** 09/05/2023  
**Applicant:** Robbie Locke (Cora)  
**Proposal:** The variation of condition no. 3b (Biodiversity Net Gain) of permission ref. DMPA/2019/0931 on Land North of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote.  
**Ward:** Woodville

### **Reason for committee determination**

This planning submission is being reported to Planning Committee in conjunction with the planning application referenced DMPA/2022/1159 which covers Phase 1 of the wider site.

### **Update Report 28/11/2023**

This application was deferred at the previous meeting on 14 November 2023 to allow members to attend Biodiversity Net Gain Training which is due to take place on 21 November 2023.

### **Update Report 14/11/2023**

The application was previously considered at the committee meetings held on 08 August 2023 and 22 August 2023 but was deferred on both occasions to allow further details and clarifications to be provided with regards to Biodiversity Net Gain (BNG) delivery on site. Further details and clarifications are presented within this report below. The previous reports are attached as an appendix.

- Appendix 1: Committee Report for DMPA/2023/0583. Originally presented 08 August 2023.
- Appendix 2: Committee Report Addition for DMPA/2023/0583. Originally presented 22 August 2023.

Further to the details of the above-mentioned reports further details and clarifications have been submitted for consideration in the following documentation:

- Ecology Enhancements Briefing Note - pdf doc - Received by the LPA: 18 October 2023
- Biodiversity Net Gain Assessment - pdf doc - Received by the LPA: 18 October 2023
- Outline Area Biodiversity Metric - excel doc - Received by the LPA: 18 October 2023

### **Updated Details/ Clarifications**

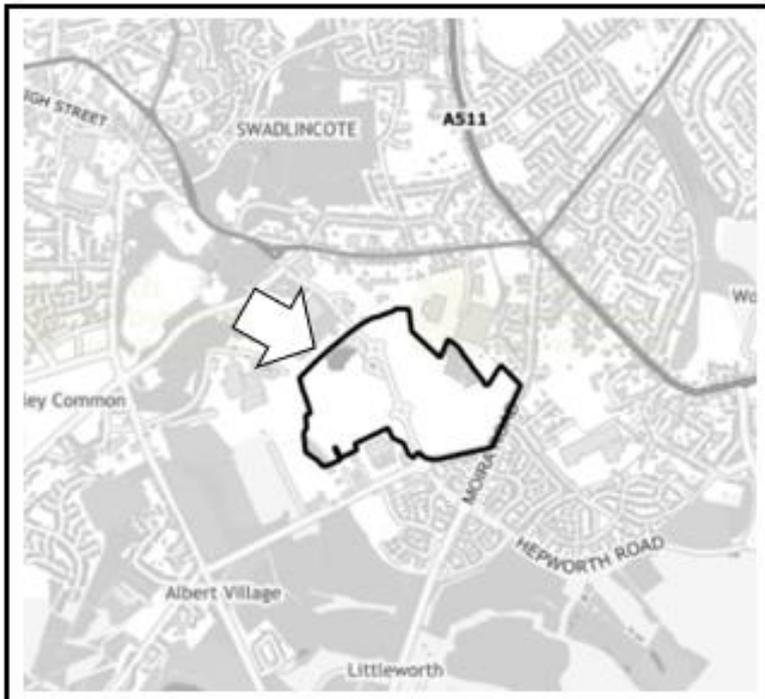
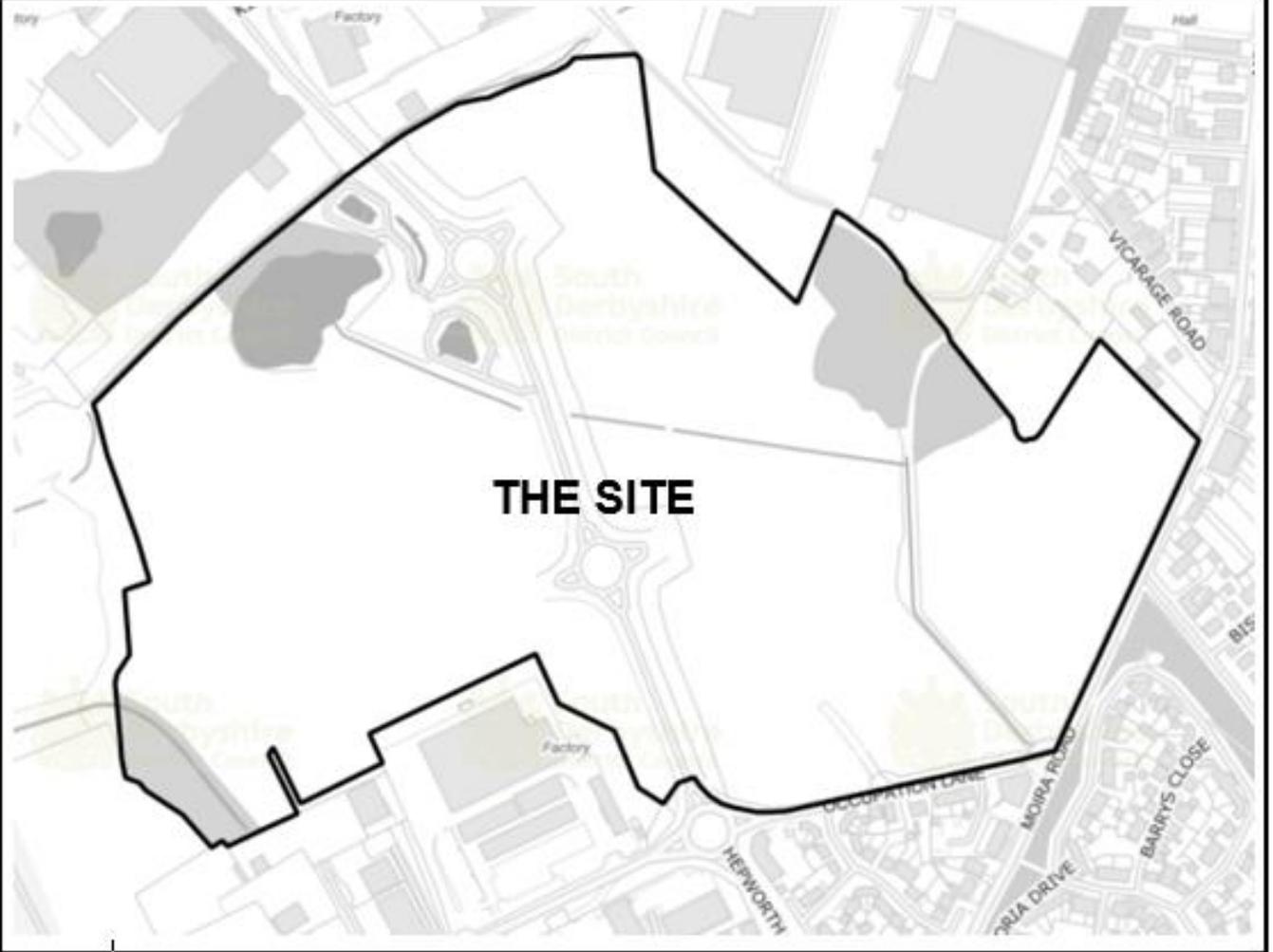
In response to the latest deferral, the applicant has provided an Ecology Enhancement Briefing Note, a Biodiversity Net Gain Assessment, and an Outline Area Biodiversity Metric covering the entire site in support of this planning submission referenced DMPA/2023/0583.

DMPA/2023/0583 seeks to amend Condition 3b attached to DMPA/2019/0931, which seeks BNG on site.

For clarity there are three applications relevant to this report and they are set out below:

**App Ref:** DMPA/2019/0931

**DMPA/2023/0583 – Land North of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote**



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**Proposal:** Outline application with all matters reserved, except for part access into the site from Moira Road, for the residential development of up to 300 dwellings, a local centre comprising a 1,600sqm food store (Class A1 Use), 700sqm restaurant/fast food (Class A3 Use) and 550sqm pub (Class A4 Use), together with employment land consisting of 2,000sqm Class B1(b) research and development and/or B1(c) light industrial uses, 4,000sqm Class B2 general industrial uses and 8,000sqm Class B8 storage and distribution uses, together with access from the Woodville Regeneration Route (to be delivered by others), and public open space, landscaping and associated drainage infrastructure on  
**Address:** Land north of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote  
**Status:** Approved - 28 August 2019

**App Ref:** DMPA/2023/0583

**Proposal:** The variation of condition no. 3b (Biodiversity Net Gain) of permission ref. DMPA/2019/0931 on

**Address:** Land North of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote

**Status:** Pending Consideration

**App Ref:** DMPA/2022/1159

**Proposal:** Approval of Reserved Matters (Landscaping, Layout, Scale and Appearance) pursuant to phase 1 (residential development of up to 75 dwellings) of outline application DMPA/2019/0931 for the residential development of up to 300 dwellings, a local centre comprising a 1,600sqm food store (Class A1 Use), 700sqm restaurant/fast food (Class A3 Use) and 550sqm pub (Class A4 Use), together with employment land consisting of 2,000sqm Class B1(b) research and development and/or B1(c) light industrial uses, 4,000sqm Class B2 general industrial uses and 8,000sqm Class B8 storage and distribution uses, together with access from the Woodville Regeneration Route (to be delivered by others), and public open space, landscaping and associated drainage infrastructure on

**Address:** Land north of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote

**Status:** Pending Consideration

In order for the application referenced DMPA/2022/1159 to be determined, it requires application referenced DMPA/2023/0583 to be approved to allow the off-site delivery of BNG.

For background, the application referenced DMPA/2022/1159 is the 'Reserved Matters' application for Phase 1 of the large mixed use 'Woodville Regeneration' development referenced DMPA/2019/0931.

The Woodville Regeneration development was approved in outline and allows comprehensive development across some 21.5ha for:

- up to 300 homes
- 14000sqm of employment space; and,
- 2850sqm of retail space.

The impact of such a development on biodiversity and ecology was considered at the time of approving DMPA/2019/0931. The Committee report notes -

*"The response of the Wildlife Trust indicates there would be impacts on protected and priority species... it is noted that suitable off site compensatory habitat for ground nesting species including Skylark would need to be provided and this can be conditioned accordingly".*

Subsequently, there were conditions attached to the decision. Specifically, Condition 3 which outlines the following relevant matters:

*3. The reserved matters shall be designed broadly in accordance with the illustrative plan ref. P16-1422\_004 revision B and section 5 of the Design & Access Statement ref. P18-0670\_200B dated August 2019 with the exception of pages 44 to 45 where the principle and extent of 3 and 4 storey dwellings would need to be justified through detailed design analysis, and include the following specific requirements and/or be supported by the following documents in so far as relevant to that matter:*

*3(b) a Biodiversity Metric Calculation to confirm the extent by which mitigation measures proposed through the LEMP contribute to the achievement of a biodiversity net gain (ideally a 10% gain)*

*compared with the existing site conditions in compliance with policy BNE3 of the Local Plan and paragraph 175 of the National Planning Policy Framework;*

It is this element (3b) of the planning condition which this application referenced DMPA/2023/0583 is subject to. The application seeks to amend the wording to enable off-site provision of BNG. It should be noted that off-site provision is allowed by the Environment Act subject to on-site provision being maximised.

The further information in support of this application referenced DMPA/2023/0583 shows that a significant amount of the regeneration proposed in terms of housing delivery, employment and town centre amenities for residents would be lost if a 10% BNG was to be delivered on-site. This would in turn make the scheme unviable and likely result in no development.

Derbyshire Wildlife Trust have confirmed that the application referenced DMPA/2022/1159 for Phase 1 has maximised its on-site BNG delivery and therefore in accordance with the Environment Act it is permissible to consider off-site provision. The applicant has outlined how there would be the loss of approximately 20 dwellings if the 3 BNG units (which will currently be lost on-site through the proposed development) were to be provided on-site, this is due to the large land take that delivering BNG can often require. Officers have worked with the applicant and have agreed that it would be necessary for a legal agreement to secure an off-site contribution resulting in an overall 10% net gain in BNG.

Members are reminded that it is not currently SDDC planning policy to require a 10% biodiversity net gain, and the Environment Act, whilst a consideration, is not fully enacted at this time and the wording of the condition also does not require a 10% net gain. The delivery of an overall 10% net gain is therefore considered to be a positive outcome on this scheme.

Overall, there is an approach to secure a Biodiversity Net Gain via the retention of the important habitats, trees and supplementary enhancements across the site, and then a further gain of 3 habitat units off-site. Derbyshire Wildlife Trust has considered the supporting Ecological Impact Assessment and approach to securing Biodiversity Net Gain and raises no objection subject to conditions and legal agreement during which Officers will be in correspondence with Derbyshire Wildlife Trust.

The proposed variation of Condition no. 3b (Biodiversity Net Gain) of the Outline planning permission referenced DMPA/2019/0931 at the site under the address of Land North of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote is considered to be acceptable, and is considered to be in accordance with the relevant local and national level planning policy. None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition.

## **Conclusion**

For the reasons set out above and in the two prior reports the applicant has demonstrated that on-site delivery of BNG has been maximised. The provision of off-site mitigation will ensure the scheme achieves and exceeds the future requirements regarding BNG. Off-site delivery of BNG can be stringently controlled. The scheme follows the mitigation hierarchy and is providing additional features that go beyond the minimum legal and policy requirements and will ensure that the site mitigates and enhances biodiversity. This will result in a 10% BNG overall which Derbyshire Wildlife Trust raises no objection to. Further to matters set out above, that wider elements of Condition 3 attached to DMPA/2019/0931 are met, the Planning Committee is asked to resolve that planning permission be granted in accordance with the recommendations in the previous report.

Appendix 1: Committee Report for DMPA/2023/0583. Originally presented 08 August 2023.

Appendix 2: Committee Report Addition for DMPA/2023/0583. Originally presented 22 August 2023.

## APPENDIX 1

08/08/2023

Item No. 1.3

Ref. No. DMPA/2023/0583

Valid date: 12/05/2023

Applicant: Barwood Homes

Proposal: The variation of condition no. 3b (Biodiversity Net Gain) of permission ref. DMPA/2019/0931

Ward: Woodville

### Reason for committee determination

This planning submission is being reported to Planning Committee in conjunction with the planning application referenced DMPA/2022/1159 which covers Phase 1 of the wider site.

### Site Description

The application site is addressed as Land North of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote. The site comprises of some 21.5ha of open land associated with the former Dyson coal and clay workings site. The site is located to the south-west of Woodville and south-east of Swadlincote town centre.

The site adjoins existing residential and employment development off the A514 Swadlincote Road and Woodhouse Street/ Kiln Way to the north, existing housing off Moira Road to the east, employment development off Bridge Street/ John Street to the west, and residential dwellings and employment development off Occupation Lane/ Hepworth Road to the south.

The site falls within the settlement confines for Woodville and the wider Swadlincote Urban Area.

### The proposal

The applicant is seeking the approval of the variation of Condition no. 3b (Biodiversity Net Gain) of the outline planning permission referenced DMPA/2019/0931 at the site under the address of Land North of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote.

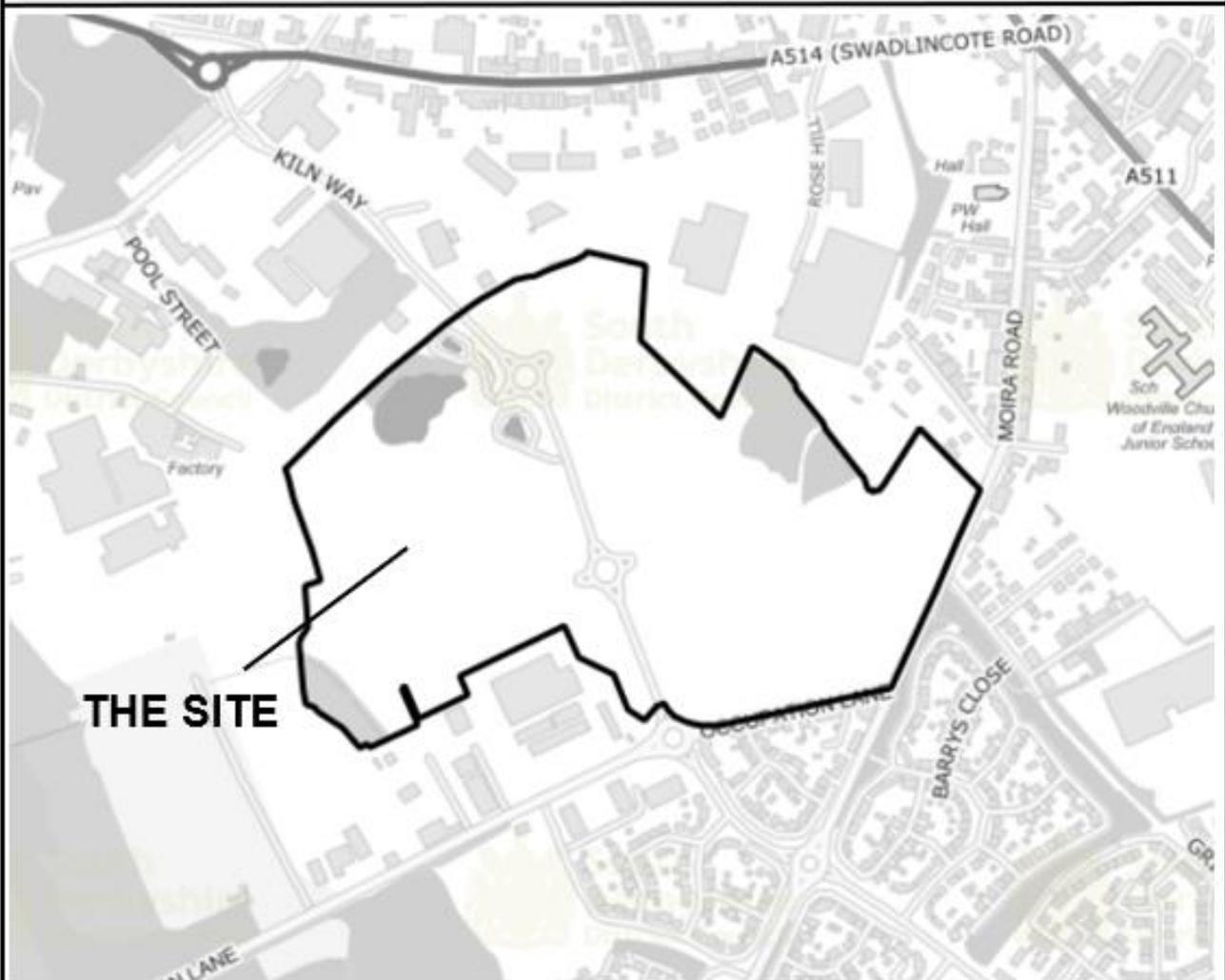
This application seeks to amend the wording of Condition no. 3b (Biodiversity Net Gain) to enable the delivery of biodiversity net-gain to off-site locations, through either a financial contribution or off-site biodiversity improvements. To facilitate this an amendment to the wording of Condition no. 3b (Biodiversity Net Gain) would therefore be required.

Condition no. 3b (Biodiversity Net Gain) of the permission referenced DMPA/2019/0931 reads as follows:

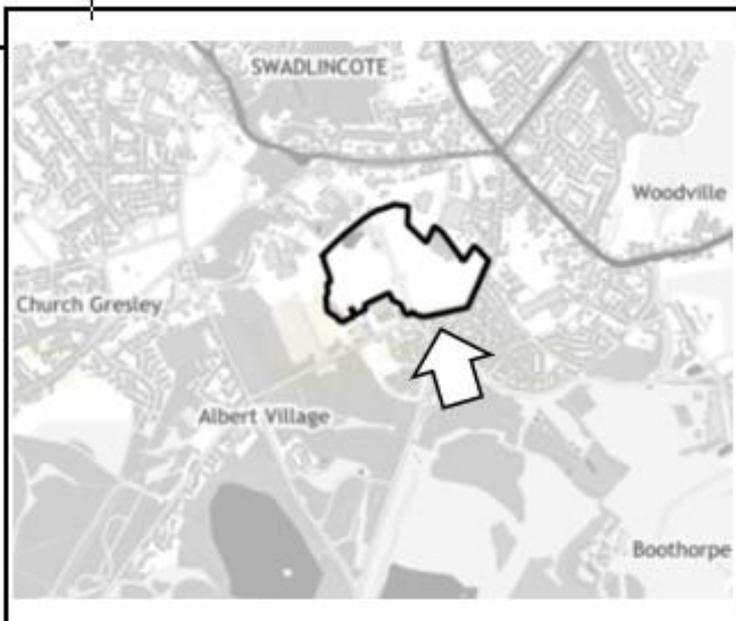
*Condition 3 - The reserved matters shall be designed broadly in accordance with the illustrative plan ref. P16-1422\_004 revision B and section 5 of the Design & Access Statement ref. P18-0670\_200B dated August 2019 with the exception of pages 44 to 45 where the principle and extent of 3 and 4 storey dwellings would need to be justified through detailed design analysis, and include the following specific requirements and/or be supported by the following documents in so far as relevant to that matter:*

*Part b - a Biodiversity Metric Calculation to confirm the extent by which mitigation measures proposed through the LEMP contribute to the achievement of a biodiversity net gain (ideally a 10% gain) compared with the existing site conditions in compliance with policy BNE3 of the Local Plan and paragraph 175 of the National Planning Policy Framework;*

**DMPA/2023/0583 – Land north of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote**



**THE SITE**



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The applicant is proposing to alter the wording of Part b of this condition to read as follows:

*Part b - a Biodiversity Metric Calculation to confirm the extent by which mitigation measures proposed through the LEMP contribute to the achievement of a biodiversity net gain (ideally a 10% gain), which in the first instance should be provided on site as part of any phase of the development, or subject to agreement with the LPA and Derbyshire Wildlife Trust on a suitable off-site location or via a financial contribution, compared with the existing site conditions in compliance with policy BNE3 of the Local Plan and paragraph 175 of the National Planning Policy Framework. For the avoidance of doubt, each phase should positively contribute to the delivery of a biodiversity net gain;*

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

The applicant has submitted documentation setting out the proposals for approval.

### **Relevant planning history**

DMPA/2019/0931 – Outline application with all matters reserved, except for part access into the site from Moira Road, for the residential development of up to 300 dwellings, a local centre comprising a 1,600sqm food store (Class A1 Use), 700sqm restaurant/fast food (Class A3 Use) and 550sqm pub (Class A4 Use), together with employment land consisting of 2,000sqm Class B1(b) research and development and/or B1(c) light industrial uses, 4,000sqm Class B2 general industrial uses and 8,000sqm Class B8 storage and distribution uses, together with access from the Woodville Regeneration Route (to be delivered by others), and public open space, landscaping and associated drainage infrastructure on Land north of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote – Approved 8<sup>th</sup> April 2022.

DMPA/2022/1159 - Approval of Reserved Matters (Landscaping, Layout, Scale and Appearance) pursuant to phase 1 (residential development of up to 75 dwellings) of outline application DMPA/2019/0931 for the residential development of up to 300 dwellings, a local centre comprising a 1,600sqm food store (Class A1 Use), 700sqm restaurant/fast food (Class A3 Use) and 550sqm pub (Class A4 Use), together with employment land consisting of 2,000sqm Class B1(b) research and development and/or B1(c) light industrial uses, 4,000sqm Class B2 general industrial uses and 8,000sqm Class B8 storage and distribution uses, together with access from the Woodville Regeneration Route (to be delivered by others), and public open space, landscaping and associated drainage infrastructure on Land north of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote – Pending consideration.

### **Responses to consultations and publicity**

Woodville Ward - No comments received.

Woodville Parish - Woodville Parish Council requests hedgerows are retained and the footpath from Vicarage Road to Swadlincote Road is maintained as an important wildlife corridor. (14 June 2023)

Derbyshire Wildlife Trust - No fundamental objections to the variation of the condition as proposed. Key points of consideration highlighted. (19 July 2023)

SDDC Open Spaces/ Facilities/ Landscape - No comments received.

Responses to publicity - Following the formal consultation which included Neighbour Notification letters of 23 May 2023, a Site Notice displayed 26 May 2023, and a Press Advert published 02 June 2023, no formal comments of representation have been received in response to such.

### **Relevant policy, guidance and/or legislation**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications shall be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan for the purposes of this application comprises the South Derbyshire Local Plan Part 1 (LP1) adopted in June 2016 and the South Derbyshire Local Plan Part 2 (LP2) adopted in November 2017. Material considerations include, albeit not limited to, the National Planning Policy Framework (NPPF) Planning Practice Guidance (PPG), together with the South Derbyshire Design Guide Supplementary Planning Document (SPD).

The relevant Development Plan policies are:

2016 Local Plan Part 1: S1 (Sustainable Growth Strategy); S2 (Presumption in Favour of Sustainable Development); S3 (Environmental Performance); S4 (Housing Strategy); S5 (Employment Land Need); S6 (Sustainable Access); S7 (Retail); H1 (Settlement Hierarchy); H20 (Housing Balance); H21 (Affordable Housing); E1 (Strategic Employment Land Allocation); E6 (Woodville Regeneration Area); SD1 (Amenity and Environmental Quality); SD2 (Flood Risk); SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure); SD4 (Contaminated Land and Mining Legacy Issues); SD5 (Minerals Safeguarding); BNE1 (Design Excellence); BNE2 (Heritage Assets); BNE3 (Biodiversity); BNE4 (Landscape Character and Local Distinctiveness); INF1 (Infrastructure and Developer Contributions); INF2 (Sustainable Transport); INF4 (Transport Infrastructure Improvement Scheme), INF6 (Community Facilities), INF8 (The National Forest), INF9 (Open Space, Sport and Recreation); INF7 (Green Infrastructure).

2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development); BNE7 (Trees, Woodland and Hedgerows); BNE10 (Heritage) and RTL1 (Retail Hierarchy)

The relevant local guidance is:

South Derbyshire Design Guide SPD

South Derbyshire District Council Strategic Housing Market Assessment January 2020 (SHMA)

South Derbyshire Affordable Housing SPD

Section 106 - A Guide for Developers

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF) (as updated)

Planning Practice Guidance (NPPG)

The relevant Development Plan policies are:

The relevant legislation is:

The Community Infrastructure Levy (CIL) Regulations 2010 (as amended)

The Conservation of Habitats and Species Regulations 2017 ('the Habitat Regulations')

## **Planning considerations**

In taking account of the application documents submitted and the site and its environs; the main issues central to the determination of this application are:

- Principle of the Development
- Ecology and Biodiversity
- Other Matters

## **Planning assessment**

### Principle of the Development

The principle of the overall proposed scheme of development has already been established. As referenced above the Outline planning permission under the reference of DMPA/2019/0931 was on 08 April 2022 granted. The assessment of this Variation of Condition planning submission will now consider only the matters regarding the variation of Condition no. 3b (Biodiversity Net Gain).

### Ecology and Biodiversity

Policy BNE3 seeks to protect, enhance, manage, restore and deliver net gains in biodiversity. Policy BNE7 states development proposals having a detrimental effect on important trees, woodland or hedgerows must satisfactorily demonstrate how the impact on biodiversity has been minimised and, wherever possible, a net biodiversity gain delivered through appropriate mitigation, compensation or offsetting. The NPPF has been updated since the adoption of these policies and requires net gains in biodiversity, and this forms a Corporate Plan objective. Policy BNE3 also aims to develop and maintain a District-wide ecological Network, support and contribute to the targets set out in the National Forest Biodiversity Action Plan (BAP) for priority habitats and species, and protect ancient woodland and veteran

trees from loss (unless the need for and benefits of the development clearly outweigh the loss). Proposals that could have a direct or indirect effect on sites with potential or actual ecological importance, including protected and priority habitats and species, must be supported by appropriate surveys or assessments, and where mitigation measures, or exceptionally, compensation cannot sufficiently offset the significant resulting harm, planning permission should be refused.

Policy BNE7 states where development that could affect trees, woodland and/or hedgerows which are important in terms of their amenity, ecological, landscape or historic value, developers will be expected to demonstrate that the layout and form of development have been informed by appropriate surveys, development would not suffer from undue shading either now or in the future, and appropriate measures are secured to ensure adequate root protection and buffers.

The applicant has noted within the submitted supporting documentation that Phase 1 of the proposed development, which broadly reflected the Illustrative Masterplan approved as part of the outline application, was unable to deliver biodiversity net-gain on-site. The proposed development was shown to result with the loss of 2.91 units (22.95% loss). Moreover, an assessment to calculate the land take required to deliver a net-gain was submitted to the Council and confirmed that a loss of 1.03 hectares of developable area is required. This would represent a loss of 33% in developable area and a loss of 25 of the 70 proposed dwellings for Phase 1. It is therefore clear that biodiversity net-gain cannot be delivered as part of this development as previously suggested. Alternative measures to secure net-gain are therefore required hence the re-wording of Condition no. 3b (Biodiversity Net Gain) of the permission referenced DMPA/2019/0931.

Local Plan Policy BNE3 does not require biodiversity net-gain to be delivered on-site and refers to wider ecological networks and corridors. Further to this, the biodiversity net-gain provisions within the Environment Act (2021) allow for biodiversity net-gain to be delivered via a combination of on-site habitat measures and off-site contributions. Off-site habitat gains can be secured either via habitat creation and enhancements to an off-site area or via a financial contribution to purchase biodiversity credits. The amended wording for Condition no. 3b (Biodiversity Net Gain) would enable the delivery of biodiversity net-gain for each phase of development at off-site locations. The primary intention of Condition no. 3b (Biodiversity Net Gain) would be on-site delivery, albeit with a greater flexibility for the route of delivery should on-site delivery not be possible.

Technical consultation input on this variation of condition planning application has been requested and received from the Derbyshire Wildlife Trust with regards to the proposed amendment to the wording of Condition no. 3b (Biodiversity Net Gain) to enable the delivery of biodiversity net-gain to off-site locations, through either a financial contribution or off-site biodiversity improvements.

The Derbyshire Wildlife Trust have advised that there are no fundamental objections to the variation of the condition as proposed. The development would need to follow the mitigation hierarchy as far as possible. Clearly the avoidance and retention of features of biodiversity value within the site is preferable to the provision of off-site compensation which should be a last resort only. A Biodiversity Metric assessment has not been completed for the site and the extent of net loss on-site is not clear. However, given the size of the site, it could be quite substantial requiring significant compensation.

The site is predominantly grassland so the likelihood is that grassland habitat creation will be a central feature of any off-site measures. If a suitable receptor site is found, the Biodiversity metric should include an assessment of the existing (baseline) value of the receptor site and the 'uplift' from whatever habitat creation and enhancement measures are employed. This should aim to provide a measurable net gain in line with the NPPF guidance set out under paragraph 174 and 180.

The submission and approval of these details would be required at the discharge of condition stage when the applicant comes to discharge details with regards to Condition no. 3b (Biodiversity Net Gain) as amended.

#### Other Matters

Should planning approval be recommended the wording of Condition no. 3b (Biodiversity Net Gain) of the original Outline planning decision notice will be updated together with any conditions which have been addressed since the permission was granted. A full and up to date decision notice would then be formally issued.

### Conclusion

The proposed variation of Condition no. 3b (Biodiversity Net Gain) of the Outline planning permission referenced DMPA/2019/0931 at the site under the address of Land North of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote is considered to be acceptable, and is considered to be in accordance with the relevant local and national level planning policy. None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

### **Recommendation**

**Approve** subject to the following conditions:

Condition no. 3b (Biodiversity Net Gain) of the Outline permission referenced DMPA/2019/0931 has been amended to read as follows:

*Condition 3 - The reserved matters shall be designed broadly in accordance with the illustrative plan ref. P16-1422\_004 revision B and section 5 of the Design & Access Statement ref. P18-0670\_200B dated August 2019 with the exception of pages 44 to 45 where the principle and extent of 3 and 4 storey dwellings would need to be justified through detailed design analysis, and include the following specific requirements and/or be supported by the following documents in so far as relevant to that matter:*

*Part b - a Biodiversity Metric Calculation to confirm the extent by which mitigation measures proposed through the LEMP contribute to the achievement of a biodiversity net gain (ideally a 10% gain), which in the first instance should be provided on site as part of any phase of the development, or subject to agreement with the LPA and Derbyshire Wildlife Trust on a suitable off-site location or via a financial contribution, compared with the existing site conditions in compliance with policy BNE3 of the Local Plan and paragraph 175 of the National Planning Policy Framework. For the avoidance of doubt, each phase should positively contribute to the delivery of a biodiversity net gain;*

### **Updated Conditions of the Outline planning consent under the reference of DMPA/2019/0931...**

1. (a) Application for the first approval of the reserved matters listed at condition 2 shall be made to the Local Planning Authority before the expiration of two years from the date of this permission, whilst application for all subsequent approvals of the reserved matters shall be made to the Local Planning Authority before the expiration of eight years from the date of this permission; and  
(b) The development hereby permitted shall be commenced before the expiration of two years from the date of approval of the first of the reserved matters to be approved, whilst in respect of all subsequent approvals the development subject of those approvals shall be commenced before the expiration of one year from the relevant date of approval of those reserved matters.

Reason: To conform with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004), noting that a timely commencement on site is required to capture existing land value and bring forward employment opportunities at an early stage, whilst also allowing adequate time for detailed approval of and delivery of the site in phases.

2. Before any development is commenced the further approval of the Local Planning Authority is required with respect to the following matters (herein referred to as 'the reserved matters') on an application made in that regard, with the exception of matters of access to phase 1 (which shall serve no more than 75 dwellings from Moira Road and be constructed in accordance with the 1:250 tracking detail on drawing ref. 067895-CUR-00-00-DR-TP-05001-P01, having a 5.5 metre wide carriageway, two 2 metre wide footways and 8 metre radii):

- (a) access,
- (b) appearance,
- (c) landscaping,
- (d) layout, and
- (e) scale.

Reason: With the exception of the matter of access to phase 1, this permission is granted in outline under the provisions of Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015 and section 92 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 shall be designed broadly in accordance with the illustrative plan ref. P16-1422\_004 revision B and section 5 of the Design & Access Statement ref. P18-0670\_200B dated August 2019 with the exception of pages 44 to 45 where the principle and extent of 3 and 4 storey dwellings would need to be justified through detailed design analysis, and include the following specific requirements and/or be supported by the following documents in so far as relevant to that matter:

- (a) a Landscape and Ecological Management Plan (LEMP) for all retained and created habitats demonstrating provision for the establishment of the approved landscaping scheme for a period of no less than thirty years and details of the legal and funding mechanism(s) by which the long-term implementation of the LEMP will be secured by the developer with the management body(ies) responsible for its delivery;
- (b) *a Biodiversity Metric Calculation to confirm the extent by which mitigation measures proposed through the LEMP contribute to the achievement of a biodiversity net gain (ideally a 10% gain), which in the first instance should be provided on site as part of any phase of the development, or subject to agreement with the LPA and Derbyshire Wildlife Trust on a suitable off-site location or via a financial contribution, compared with the existing site conditions in compliance with policy BNE3 of the Local Plan and paragraph 175 of the National Planning Policy Framework. For the avoidance of doubt, each phase should positively contribute to the delivery of a biodiversity net gain;*
- (c) a suitable off-site compensatory habitat scheme for ground nesting priority bird species, including skylark;
- (d) details of enhancement measures for bats and birds in the form of incorporated bat boxes/bat bricks and nesting boxes both on existing mature and early-mature trees and within the fabric of the new buildings, as appropriate, set out in paragraph 6.2 of the Ecological Appraisal dated July 2019 (revision A);
- (e) details of hedgehog holes/tunnels within boundary fences and walls at ground level to residential gardens;
- (f) the layout shall accord with the Highway Authority's 6C's Design Guide (or equivalent guidance that may update or replace it); and national guidance laid out in Manual for Streets issued by the Departments for Transport and Environment and Local Government (or equivalent guidance that may update or replace it);
- (g) the gradient of any access shall not exceed 1:30 for the first 10m into the site from the existing highway boundary and/or the Woodville to Swadlincote Regeneration Route (WSRR) and 1:20 thereafter;
- (h) pedestrian and cycle links between residential cul-de-sacs and Occupation Lane, Moira Road and the WSRR, as well as pedestrian and cycle links between the local centre car parking/pedestrian circulation areas and the WSRR;
- (i) each dwelling to be provided with designated space for the parking of 1.5 vehicles per 1 bedroom dwelling, two vehicles per 2-3 bedroom dwelling and three vehicles per 4+ bedroom dwelling. Parking spaces shall be no less than 5.5m in depth and 2.4m in width, increasing to 3m in width where the space is abutted by a building or boundary treatment. Where a garage or car port is counted as a parking space, the internal dimensions shall not be less than 3m x 6m, whilst

further spaces in front of garage doors shall be no less than 6m in depth;

(j) domestic bin collection points, sufficient for holding no less than 2 bins per dwelling on collection days, at the entrance to shared private accesses to prevent refuse bins and collection vehicles standing on the new estate street(s) for longer than necessary causing an obstruction or inconvenience for other road users;

(k) commercial bin stores, positioned discretely within the curtilage of the proposed premises so to allow refuse vehicles to enter, collect and leave in a forward gear;

(l) the provision of an employment estate road up to and including the western site boundary so to facilitate a contiguous adoptable highway into the remaining land forming part of the policy E6 allocation in the Local Plan Part 1;

(m) a revised Travel Plan for that phase or premises, as the case may be, based upon the Framework Travel Plan submitted in support of this application;

(n) bike stores/racks with weather shelters located close to the pedestrian entrances to employment and retail, café/restaurant and public house premises;

(o) a Local Area for Play (LAP) as part of the phase 1 residential scheme and a Local Equipped Area for Play (LEAP) as part of the phase 2 residential scheme;

(p) public footpaths to be retained on their existing line where practicable and complimented by new routes through areas of public open space, with a compacted and/or bound surface applied for the length of these routes (supplemented by root protection measures/techniques where these routes pass through woodland);

(q) position, cross-sections and construction details of no less than three footbridges to span the existing watercourse running through the residential element of the site;

(r) a green corridor and new pond designed specifically for Common toad to the east of the WSRR as part of the Common Toad mitigation strategy required under the WSRR permission so to allow unimpeded movement of common toads across the site from the scrub/woodland areas alongside the public footpath on the eastern boundary of the site to the existing breeding pond;

(s) a landscape management plan (LMP) for all non-domestic areas of landscaping created on the site (i.e. public open spaces, shared gardens and landscaped areas to non-domestic premises), including the location and type of litter and dog waste bins along with benches throughout the areas of public open spaces within the site;

(t) retained hedgerows and trees shall not form boundaries to gardens to proposed dwellings and be incorporated into public spaces/green infrastructure;

(u) details of subterranean tree and hedgerow root growth facilitation measures, including use of subterranean cage methods in or adjoining areas of hardstanding; and

(v) details of the proposed glazing and ventilation specifications to proposed dwellings and the specification and location of any noise/acoustic barriers.

Reason: In the interests of achieving sustainable development, having particular regard to the potential impact of the development on the character of the surrounding area, biodiversity protection and net gain, highway safety and sustainable modes of transport and site connectivity.

4. No development, including preparatory works, shall commence until a site-wide phasing programme including the proposed sequence of providing:

(a) housing phases including associated parking and boundary treatments,

(b) employment units including associated parking and landscaping,

(c) the local centre including associated parking and landscaping,

(d) public and private highways including street lighting, including those provided by others,

(e) sustainable drainage systems and associated infrastructure, and

(f) public open space including play areas and footpath links,

has been first submitted to and approved in writing by the Local Planning Authority. The details shall be provided cognisant of the delivery of the WSRR (timing and location of junctions/access points) and with reference to plan(s) and a Gantt chart.

Other than applications for enabling works, each Reserved Matters application made pursuant to this permission shall be accompanied with an update to any previously approved phasing programme(s) with the same details, as relevant, and define the extent and location of individual development phases or sub-phases and any associated interim arrangements for access, drainage, etc. The development relevant to that reserved matters approval shall not be carried out other than in accordance with the approved programme for that development.

Reason: To ensure that the impacts of the development are appropriately mitigated at all stages of the construction phase, and so occupiers of the development are able to reach and access services and facilities at an appropriate time, in the interests of achieving sustainable development.

5. No development involving the construction of a dwelling shall commence until a marketing scheme to market the availability of the employment land/plots has been submitted to and approved in writing by the Local Planning Authority. The approved marketing scheme shall thereafter be implemented and carried out for a period of no less than 5 years unless all employment land/plots has been transferred for development. The owner of any undeveloped employment land/plots shall submit to the Local Planning Authority quarterly updates on all remaining employment land/plots for a period of up to 5 years outlining the range and scale of interest in said land/plots.

Reason: To secure the continual promotion of employment land and timely delivery of the employment units in accordance with policy E6 of the Local Plan Part 1.

6. During the period of construction, no ground, construction or fitting out works shall take place and no deliveries shall be taken at or dispatched from the site other than between 0800 and 1800 hours Monday to Friday and 0800 and 1300 hours on Saturdays. There shall be no construction works (except for works to address an emergency) or deliveries on Sundays or Bank Holidays.

Reason: In the interests of protecting the living conditions of prospective occupiers and the amenity of the area and adjoining occupiers, recognising that initial preparatory works could also cause unacceptable impacts.

7. The mitigation measures described in Table 7.1 of the Air Quality Assessment submitted in support of the application (WYG Air Quality Assessment July 2019 ref. A112309 Issue 1) shall be adopted for the duration of the construction phase of the development.

Reason: In the interests of protecting the living conditions of prospective occupiers and the amenity of the area and adjoining occupiers, recognising that initial preparatory works could also cause unacceptable impacts.

8. a) No development shall commence within a phase or sub-phase until a remediation scheme to control all forms of contamination identified in the Ground Investigation Report (ref. 067895.101-CUR-00-XX-RP-GE-001) dated 23 July 2019 has been submitted to and approved in writing by the Local Planning Authority. The measures approved in the remediation scheme shall be implemented in full unless the Local Planning Authority dispenses with any such requirement specifically and in writing.

b) Prior to occupation of the development (or parts thereof) an independent verification report which meets the requirements given in Box 2 of Section 3.1 of Council's 'Guidance on submitting planning applications for land that may be contaminated' (herein referred to as 'the Guidance') shall be submitted to and approved in writing by the Local Planning Authority. With the prior written agreement of the Local Planning Authority pursuant to part (a) of this condition, this may be carried out on a plot-by-plot basis.

c) In the event that it is proposed to import soil onto site in connection with the development, this shall comply with the specifications given in Box 3 of Section 3.1 of the Guidance.

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

9. The mitigation strategy as detailed in Section 10 of Ground Investigation Report (ref. 067895.101-CUR-00-XX-RP-GE-001) dated 23 July 2019 shall be implemented as set out therein unless an alternative mitigation strategy is first submitted to and approved in writing by the Local Planning Authority, whereafter that approved mitigation strategy shall be implemented.

Reason: To protect the health of the public and the environment from hazards arising from coal mining legacy, recognising that failure to address such matters prior to construction of buildings and subsequent occupation/use could lead to unacceptable impacts.

10. If during development of a phase or sub-phase any contamination or evidence of likely

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

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

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

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

12. No construction of a building or hard surface, setting of site levels or installation of drainage services/utilities within a phase or sub-phase shall take place until a detailed design of, and associated management and maintenance plan for, surface water drainage of the phase or subphase, in accordance with the technical notes and principles outlined within:

- a) the Flood Risk Assessment and Outline Drainage Strategy (06785-CUR-00-XX-RP-D-001 Revision 4) dated 24th July 2019 and the Technical Note (067895-CUR-00-XX-RP-D-72901-P01) dated 2nd April 2020, including any subsequent amendments or updates to those documents as approved by the Lead Local Flood Authority;
- b) Defra non-statutory technical standards for sustainable drainage systems; and
- c) Development Proposals within the River Mease Catchment: Standing Advice for Local Planning Authorities (LPAs) - Third Issue Including Detailed Advice on Sustainable Urban Drainage Systems (SuDS)

has been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that, as a minimum, suitable capacity is proposed to attenuate peak flows from the phase or sub-phase, making allowance for climate change and urban creep, and where necessary include measures to capture overland flows between proposed and existing properties.

The scheme shall also include drawings and details, including the colour and appearance of safety railings, of all inlet and outfall structures to attenuation ponds, as well as details of any management company, responsible person(s), the mechanism of funding of the management company (including the details of any proposed service charge payable by the owners of the dwellings, justification for any amount proposed and the mechanism for calculating future increases in the service charge) so that the management company will be capable of carrying out the inspection, management and maintenance of the retained surface water drainage features. Attenuation ponds shall be fully designed and constructed in line with CIRIA SuDS manual C753. The surface water drainage infrastructure shall be installed in conformity with the approved details prior to the first occupation/use of each respective building/road/hard surface served by the surface water drainage system within that phase or sub-phase or in accordance with a phasing plan first submitted to and approved in writing by the Local Planning Authority. Those elements of the surface water drainage system not adopted by a statutory undertaker shall thereafter be maintained and managed in accordance with the approved management and maintenance plan.

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

13. Upon completion of the surface water drainage system, in part or in whole, including any attenuation ponds and swales, and prior to their adoption by a statutory undertaker or management company; a survey and report from an independent surveyor shall be submitted to and approved in writing by the Local Planning Authority. The survey and report shall be carried out by an appropriately qualified Chartered Surveyor or Chartered Engineer and demonstrate that the surface water drainage system has been constructed in accordance with the details approved pursuant to condition 12. Where necessary, details of corrective works to be carried out along with a timetable for their completion, shall be included for approval in writing by the Local Planning Authority. Any corrective works required shall be carried out in accordance with the approved timetable and subsequently re-surveyed by an independent surveyor, with their findings submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the effective operation of the surface water drainage scheme following construction of the development.

14. No construction of a building or hard surface, setting of site levels or installation of drainage services/utilities shall take place within a phase or sub-phase until details of the finished floor levels of the building(s) or hard surface(s), and of the proposed ground levels of the site relative to the finished floor levels and adjoining land levels, for that phase or sub-phase has been submitted to and approved in writing by the Local Planning Authority. Such details shall be supplemented with locations, cross-sections and appearance of any retaining features required to facilitate the proposed levels. The development shall be constructed in accordance with the approved details.

Reason: To protect the amenities of adjoining properties and the appearance of the area generally, recognising that site levels across the site as a whole are crucial to establishing infrastructure routing/positions.

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

Reason: To ensure that future water resource needs, wastewater treatment and drainage infrastructure are managed effectively, so to satisfy the requirements of policy SD3 of the Local Plan Part 1.

16. No removal of trees, hedges, shrubs, buildings or structures shall take place between 1st March and 31st August inclusive unless a survey to assess the nesting bird activity on the site during this period and a scheme to protect the nesting birds has first been submitted to and approved in writing by the Local Planning Authority. No trees, hedges, shrubs, buildings or structures shall be removed between 1st March and 31st August inclusive other than in accordance with the approved bird nesting protection scheme.

Reason: In order to safeguard protected and/or priority species from undue disturbance and impacts.

17. No development, including preparatory works, shall commence within a phase or sub-phase until a Construction Environmental Management Plan for biodiversity (CEMP) for that phase or sub-phase has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:

- (a) a risk assessment of potentially damaging construction activities;
- (b) identification of biodiversity protection zones (e.g. buffers to trees and hedges or to protected wildlife habitat);
- (c) practical measures (both physical measures and sensitive working practices, such as protective fencing, exclusion barriers and warning signs) to avoid or reduce impacts during construction (particularly in relation to works within canopy and root protection areas for hedgerows or protected trees);
- (d) the location and timing of sensitive works to avoid harm to biodiversity features (in relation to breeding birds in particular);
- (e) the times during construction when specialist ecologists need to be present on site to oversee

works (as required);

(f) responsible persons and lines of communication; and

(g) the role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person (as necessary).

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless the ECoW otherwise sets out alternative details which are subsequently agreed by the Local Planning Authority.

Reason: In order to safeguard protected and/or priority species from undue disturbance and impacts, noting that initial preparatory works could have unacceptable impacts; and in order to secure an overall biodiversity gain.

18. No development, including preparatory works, shall commence within a phase or sub-phase until a scheme for the protection of trees and hedgerows for that phase or sub-phase has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be based on best practice as set out in British Standard 5837:2012 (or equivalent document which may update or supersede that Standard) and ensure that no vehicles can access, and no storage of materials or equipment can take place within, the root and canopy protection areas. The approved scheme of protection shall be implemented prior to any works commencing on site and thereafter retained throughout the construction period.

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

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

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

20. No development, excluding demolition and site clearance, shall take place within a phase or subphase 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 detailed design shall include measures for warning other highway users of construction traffic entering or emerging from the access. The access shall be retained in accordance with the approved scheme throughout the construction period free from any impediment to its designated use until it is either replaced/completed pursuant to an approval of reserved matters or the requirements of condition 2 (as the case may be).

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

21. The access to Moira Road hereby approved shall be provided with visibility sightlines of 100 metres in a northerly direction and 108 metres in a southerly direction, both measured to the nearside edge of the carriageway, as measured from a point located centrally and 2.4 metres back into the access, the area forward of which shall be levelled and constructed as footway/verge and put forward for adoption as part of the public highway and thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level, unless a scheme to reduce vehicle speed limits along Moira Road can first be agreed with the Local Highway Authority by way of first submitting details to the Local Planning Authority for their approval in writing and first implemented in full including relocation of associated signage, etc., allowing for visibility splays of 43 metres in both northerly and southerly directions. The area within the approved sightlines shall be levelled and constructed as footway/verge and put forward for adoption as part of the public highway and thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level.

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

22. No development shall commence on site, excluding site clearance, remediation and other such preparatory works necessary for the future development of the land, relating to phase 2 of the development hereby permitted (as described in paragraph 3.3 of the Planning Statement ref. P18-0670 dated July 2019) until the new link road, permitted under County planning permission ref. CD9/0519/20 (or any subsequent variation to or equivalent of that permission) has been constructed and taken into use.

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

23. Prior to the first occupation of each dwelling or employment/commercial premises, the new street(s) between each respective plot/unit and the existing public highway shall be laid out in accordance with the plan(s) approved under condition 2, constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageway and footway(s) in front of each respective plot/unit shall be completed with the final surface course within 12 months (or 3 months in the case of a shared surface road) from the first occupation of that plot/unit.

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

24. Prior to the first occupation of a dwelling or employment/commercial premises of a phase or subphase, a revised Travel Plan comprising immediate, continuing and long-term measures to promote and encourage alternatives to single-occupancy car use shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall then be implemented, monitored and reviewed in accordance with the agreed travel Plan Targets.

Reason: In the interests of encouraging sustainable modes of transport.

25. Prior to the first occupation of each employment unit, a Low Emissions Strategy providing full details of controls from fleet transport emissions shall be submitted to and approved in writing by the Local Planning Authority. The Strategy shall include details about the mix of the vehicle engine and fuel types and fleet management measures which will be taken to minimise the emissions of respirable particulate (PM) and nitrogen dioxide (NO<sub>2</sub>). The Strategy shall include specific targets and timescales. The measures in the agreed Strategy shall be delivered in accordance with the agreed timescales and maintained throughout the life of the development.

Reason: In order to safeguard the amenities of the occupiers of the proposed development and wider area in respect of atmospheric pollution.

26. Prior to the first occupation of a dwelling within Zone A as identified in Figure 7 of the Odour Assessment (ref. A112309 dated July 2019) until at least 1 of the 3 requirements below has been satisfied:

- i) a mitigation scheme for the control of odour within or to the proposed dwellings and/or external residential amenity spaces has been submitted to and approved by the Local Planning Authority and subsequently implemented;
- ii) a mitigation scheme for the control of odour at the has been submitted to and approved by the Local Planning Authority and subsequently implemented; or
- iii) updated assessments or surveys can satisfactorily prove that average odour levels within Zone A have fallen to below 3 OUE/m<sup>3</sup>.

Where mitigation is applied, such measures shall be subsequently retained in situ and maintained in working order.

Reason: In order to safeguard the amenities of the occupiers of the proposed development in respect of atmospheric pollution.

27. Prior to the first occupation of each respective dwelling, the glazing and ventilation as approved pursuant to the requirements of condition 3 shall be installed. Such glazing and ventilation shall be retained as approved and maintained accordingly and thereafter, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, where replacement windows

or means of ventilation are required these shall achieve the same or better in terms of noise attenuation. Where complimentary noise/acoustic barriers are required and also approved pursuant to the requirements of condition 3, then these barriers shall be installed in accordance with the approved details prior to the first occupation of any dwelling they are intended to attenuate noise to and thereafter, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, maintained accordingly.

Reason: In order to safeguard the amenities of the occupiers of the proposed development in respect of noise pollution.

28. The rating level of sound emitted from any fixed plant and/or machinery associated with the A1, A3, A4, B2 and B8 elements of the development shall not exceed the following noise levels at the façade of any noise sensitive residential receptor location:

- 07:00 – 23:00 hours: 40dBA Measured as LAeq(15mins)
- 23:00 – 07:00 hours: 35dBA Measured as LAeq(5mins)

All measurements shall be made in accordance with the methodology of BS4142:2014 Methods for rating and assessing industrial and commercial sound and/or its subsequent amendments. Where access to the nearest sound sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound sensitive property.

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

29. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, as amended, or any order revoking and re-enacting that Order with or without modification, the B1(b), B1(c), B2 and B8 units shall be used only for B1(b), B1(c), B2 and B8 uses of the Town and Country Planning (Use Classes) Order 1987, as amended, or any order revoking and re-enacting that Order with or without modification, and for no other purpose in Class B of the schedule to that Order.

Reason: In recognition of the purpose of the employment allocation at this location and that any main town centre uses hereby permitted have been established by way of a Sequential Test, their presence otherwise contrary to the Development Plan and sustainable delivery of growth.

30. The retail unit hereby permitted (use class A1) shall not exceed 1,600 sq m gross internal area floorspace and the net sales area (defined as all internal areas to which customers have access) shall not exceed 1,280 sq m. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, as amended, or any order revoking and re-enacting that Order with or without modification, the retail unit shall be used primarily for the sale of convenience goods, with a maximum of 320 sq m of the net sales area being devoted to the sale and display of comparison goods.

Reason: In recognition that this main town centre use has been established by way of a Sequential Test and Retail Impact Assessment, so to ensure that the projected impact on existing town/local centres remains acceptable.

31. Recharge points for electric vehicles shall be provided within the development to comply with the following criteria:

- Residential: 1 charging point dwelling with dedicated parking and 1 charging point per 10 spaces where the individual units have no allocated parking;
- Non-residential: 1 charging point for every 10 parking spaces (this may be phased with 5% provision initially and a further 5% trigger).

Residential charging points shall be provided with an IP65 rated domestic socket 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. This socket should be located where it can later be changed to a 32amp EVCP. Non-residential charging points shall be supplied by an independent 32 amp radial circuit and equipped with a type 2, mode 3, 7-pin socket conforming to IEC62196-2.

Alternative provision to the above specification must first be submitted to and approved in writing by the Local Planning Authority. To prepare for increased demand in future years suitable and appropriate cable provision shall be included in the scheme design in accordance with details first

submitted to and approved in writing by the Local Planning Authority.

The electric vehicle charging points shall be provided in accordance with the stated criteria and approved details prior to the first occupation or use of the respective premises and shall thereafter be maintained in working order and remain available for use throughout the life of the development.

Reason: In the interests of protecting and enhancing air quality through reducing and minimising emissions from vehicles.

**Item No.** 1.2

**Ref. No.** DMPA/2023/0583

**Valid date:** 12/05/2023

**Applicant:** Robbie Locke (Cora)

**Proposal:** The variation of condition no. 3b (Biodiversity Net Gain) of permission ref. DMPA/2019/0931

**Ward:** Woodville

### Reason for committee determination

This planning submission is being reported to Planning Committee in conjunction with the planning application referenced DMPA/2022/1159 which covers Phase 1 of the wider site.

### Update Report

The application was previously considered at the meeting held on 08 August 2023 but was deferred to allow further details and clarifications with regard to Biodiversity Net Gain and these are presented below. The previous report is attached as an appendix.

### Updated Details/ Clarifications

#### 1. Land Area for Phase 1.

Phase 1 of the Wider Woodville Regeneration Area is a parcel of land measuring 3.14 hectares. The wider site, excluding the relief road measures 19.74 hectares. Phase 1 therefore represents circa 16% of the total site area. In its existing form, the site is predominantly comprised of grassland, hedgerows and a small area of woodland to the north-west of the site.

The biodiversity metric confirms that the grassland accounts for 87% of the site, with 4% woodland and the remaining 9% from mixed and bramble scrub.

#### 2. Units of habitat lost and created from the development.

The existing baseline is comprised of 12.68 habitat units. The biodiversity net-gain calculator confirms the proposed development will cause a loss of existing habitats of 10.88 units. This leaves a total of 1.8 units retained. Following development, a total of 8.22 habitats will be created, alongside improvements to the quality of the existing woodland of 0.82 units. The development will therefore deliver a total of 10.35 (rounded) units against the existing baseline of 12.68; a shortfall of 2.33 units. These details are shown in the table below.

Summary table showing the existing habitat and the new habitat created.

Existing Habitat	Area (HA)	Number of Biodiversity Units	Habitat Creation	Area (HA)	Number of Biodiversity Units
Modified Grassland	2.75	11	Vegetable Garden	0.65	1.25
Other Woodland Broadleaf	0.13	0.52	Sustainable Urban Drainage Feature	0.21	0.71

Bramble Scrub	0.25	1.00	Other Neutral Grassland	0.14	0.94
Mixed Scrub	0.04	0.16	Modified Grassland	0.29	0.82
			Urban Trees	1.47	4.49
<b>Total</b>	<b>3.17</b>	<b>12.68</b>		<b>2.76</b>	<b>8.22</b>

### 3. Number of units that can't be provided on site.

There is an outstanding net-gain requirement of 2.33 units to be delivered off-site. Conversations have taken place with Gareth Price of South Derbyshire DC who has identified a suitable off-site location on SDDC owned land and has confirmed the cost required for delivering the 2.33 units in an off-site location.

### 4. What this equates to in land take

A Biodiversity Plan was submitted which shows the land take required for achieving no net-loss is a further 1.03 hectares.

### 5. What this equates to in regard to housing provision

This would equate to a loss of 25 dwellings.

### **Conclusion**

Considering the above, the Committee is asked to resolve that planning permission be granted in accordance with the recommendations in the previous report.

**Item No:** 1.8

**Ref. No:** [DMPA/2022/1159](#)

**Valid date:** 20/10/2022

**Applicant:** Barwood Homes

**Proposal:** Approval of Reserved Matters (Landscaping, Layout, Scale and Appearance) pursuant to phase 1 (residential development of up to 75 dwellings) of outline application DMPA/2019/0931 for the residential development of up to 300 dwellings, a local centre comprising a 1,600sqm food store (Class A1 Use), 700sqm restaurant/fast food (Class A3 Use) and 550sqm pub (Class A4 Use), together with employment land consisting of 2,000sqm Class B1(b) research and development and/or B1(c) light industrial uses, 4,000sqm Class B2 general industrial uses and 8,000sqm Class B8 storage and distribution uses, together with access from the Woodville Regeneration Route (to be delivered by others), and public open space, landscaping and associated drainage infrastructure

**Ward:** Woodville

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

This item is presented to the Committee given it is a major application and seeks off site BNG provision.

#### **Update Report 28/11/2023**

This application was deferred at the previous meeting on 14 November 2023 to allow members to attend Biodiversity Net Gain Training which is due to take place on 21 November 2023.

#### **Update Report 14/11/2023**

This application reference DMPA/2022/1159 has been heard twice previously at committee; firstly, at the meeting held on the 08<sup>th</sup> August 2023 and then again on the 22<sup>nd</sup> August.

Both times to allow further details and clarifications with regards to Biodiversity Net Gain (BNG) delivery on site.

In response to the latest deferral, the applicant has provided an Ecology Enhancement Note, Biodiversity Net Gain Assessment and Metric covering the entire site in support of the application reference DMPA/2023/0583.

DMPA/2023/0583 seeks to amend condition 3b attached to DMPA/2019/0931, which seeks BNG on site.

For clarity there are three applications –

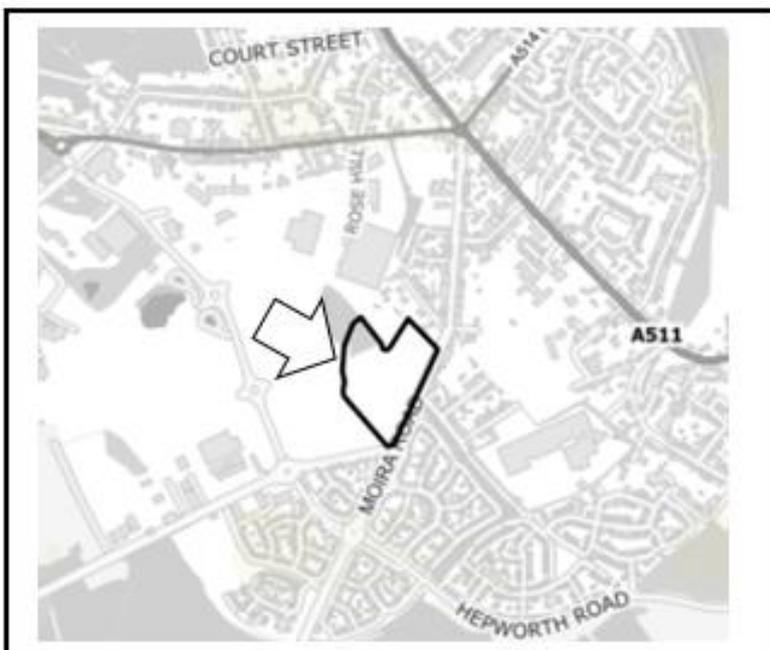
DMPA/2022/1159 – This application for the reserved matters of Phase 1 (to which this report relates)

DMPA/2019/0931 – The original outline application for the comprehensive Woodville Regeneration development

DMPA/2023/0583 – An application to amend a condition attached to DMPA/2019/0931 to allow off site BNG which has come about during the assessment of DMPA/2022/1159

For application reference DMPA/2022/1159 to be determined it needs DMPA/2023/0583 to be approved to allow off site delivery of BNG.

**DMPA/2022/1159 – Land North of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote**



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South Derbyshire District Council, LA 100019461.2020

For background, this application DMPA/2022/1159 is the 'reserved matters' application for Phase 1 of the large mixed use 'Woodville Regeneration' development DMPA/2019/0931

The Woodville Regeneration development was approved in outline and allows comprehensive development across some 21.5ha for:

- up to 300 homes
- 14000sqm of employment space; and,
- 2850sqm of retail space.

The impact of such a development on biodiversity and ecology was considered at the time of approving DMPA/2019/0931. The Committee report notes –

*'The response of the Wildlife Trust indicates there would be impacts on protected and priority species... it is noted that suitable off site compensatory habitat for ground nesting species including Skylark would need to be provided and this can be conditioned accordingly'.*

Subsequently, there were conditions attached to the decision. Specifically, Condition 3 which outlines the following relevant matters and underneath how the application responds:

3. The reserved matters shall be designed broadly in accordance with the illustrative plan ref. P16-1422 004 revision B and section 5 of the Design & Access Statement ref. P18-0670 200B dated August 2019 with the exception of pages 44 to 45 where the principle and extent of 3 and 4 storey dwellings would need to be justified through detailed design analysis, and include the following specific requirements and/or be supported by the following documents in so far as relevant to that matter:

The reserved matters for phase 1 follows the extent of the developable area as approved in the outline. The reserved matters maintains the Public Rights of Way, open woodland and indicated area for play.

3(a) a Landscape and Ecological Management Plan (LEMP) for all retained and created habitats demonstrating provision for the establishment of the approved landscaping scheme for a period of no less than thirty years and details of the legal and funding mechanism(s) by which the long-term implementation of the LEMP will be secured by the developer with the management body(ies) responsible for its delivery;

The application is supported by a LEMP which is accepted by Derbyshire Wildlife Trust – see comments in original committee report supplied as an appendix. The LEMP will secure the habitats for a minimum of 30 years.

3(b) a Biodiversity Metric Calculation to confirm the extent by which mitigation measures proposed through the LEMP contribute to the achievement of a biodiversity net gain (ideally a 10% gain) compared with the existing site conditions in compliance with policy BNE3 of the Local Plan and paragraph 175 of the National Planning Policy Framework;

This element of the condition is subject to the application reference DMPA/2023/0583 referred to above. The application seeks to amend the wording to enable off site provision of BNG. It should be noted that off-site provision is allowed by the Environment Act subject to on-site provision being maximised.

The further information in support of DMPA/2023/0583 shows that a significant amount of the regeneration proposed in terms of housing delivery, employment and town centre amenities for residents would be lost if a 10% BNG was to be delivered on site. This would in turn make the scheme unviable and likely result in no development.

DWT have confirmed that this application DMPA/2022/1159 has maximised its onsite BNG delivery and therefore in accordance with the Environment Act it is permissible to consider off site. The applicant has outlined how there would be the loss of c. 20 dwellings if the 3 BNG units (which will currently be lost on site through the proposed development) were to be provided on site. Officers have worked with

the applicant and a legal agreement will secure an offsite contribution resulting in an overall 10% net gain in BNG.

Members are reminded that it is not SDDC planning policy to require a 10% biodiversity net gain, the Environment Act, whilst a consideration, is not law at this time and the wording of the condition also does not require a 10% net gain.

Overall, there is an approach to secure a Biodiversity Net Gain via the retention of the important habitats, trees and supplementary enhancements across the site, and then a further gain of 3 habitat units off site. Derbyshire Wildlife Trust (DWT) has considered the supporting Ecological Impact Assessment and approach to securing Biodiversity Net Gain and raises no objection subject to conditions and legal agreement during which Officers will be in correspondence with DWT.

For the reasons above the application is considered to address this element of the condition.

*3(c) a suitable off-site compensatory habitat scheme for ground nesting priority bird species, including skylark;*

It is considered by virtue of this condition that it was clear that habitat for ground nesting birds including Skylarks on site would be lost by approving the outline application. The condition mitigates this impact.

In determining this application the fundamental matter is therefore considering compliance with the condition and not the possible loss of the habitats.

The application is supported by a Skylark Mitigation Report – edp7597\_r001-A. The report was considered by DWT who raised no objection subject to the following condition:

*Prior to the commencement of any works on site, evidence and details showing Skylark Mitigation and ongoing management/retention where required has been accepted by Derbyshire Wildlife Trust. The details and mitigation shall be submitted to and approved in by the Local Planning Authority.*

*Reason: To ensure the development complies with the outline permission reference DMPA/2019/0931*  
For the reasons above the application is considered to address this element of the condition.

*3(d) details of enhancement measures for bats and birds in the form of incorporated bat boxes/bat bricks and nesting boxes both on existing mature and early-mature trees and within the fabric of the new buildings, as appropriate, set out in paragraph 6.2 of the Ecological Appraisal dated July 2019 (revision A);*

The application outlines that the development will provide bird and bat boxes on every dwelling. Which reflects the British Standard (BS 42021:2022 Integral nest boxes – Selection and installation for new developments) and will be secured by condition. DWT raises no objection to this point.

For the reasons above the application is considered to address this element of the condition.

*3(e) details of hedgehog holes/tunnels within boundary fences and walls at ground level to residential gardens;*

The application was supported by details outlining features to support the movement of hedgehogs around the proposed development. DWT raises no objection to this point.

For the reasons above the application is considered to address this element of the condition.

## **Conclusion**

For the reasons set out above and in the two prior reports showing this application maximises its onsite delivery of BNG, off site gains will be controlled and this will result in a 10% BNG overall which DWT

raises no objection; and, alongside the matters set out above that wider elements of condition 3 attached to DMPA/2019/0931 are met, the Committee is asked to resolve that planning permission be granted in accordance with the recommendations in the previous report.

**Item No.** 1.3

**Ref. No.** DMPA/2022/1159

**Valid date:** 20/10/2022

**Applicant:** Barwood Homes

**Proposal:** Approval of Reserved Matters (Landscaping, Layout, Scale and Appearance) pursuant to phase 1 (residential development of up to 75 dwellings) of outline application DMPA/2019/0931 for the residential development of up to 300 dwellings, a local centre comprising a 1,600sqm food store (Class A1 Use), 700sqm restaurant/fast food (Class A3 Use) and 550sqm pub (Class A4 Use), together with employment land consisting of 2,000sqm Class B1(b) research and development and/or B1(c) light industrial uses, 4,000sqm Class B2 general industrial uses and 8,000sqm Class B8 storage and distribution uses, together with access from the Woodville Regeneration Route (to be delivered by others), and public open space, landscaping and associated drainage infrastructure

**Ward:** Woodville

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

This item is presented to the Committee given it is a major application and seeks off site BNG provision.

#### **Update Report**

The application was previously considered at the meeting held on 08 August 2023 but was deferred to allow further details and clarifications with regard to Biodiversity Net Gain and these are presented in relation to the previous item on this committee agenda. The previous report is attached as an appendix.

#### **Conclusion**

Considering the findings in relation to the BNG details, the Committee is asked to resolve that planning permission be granted in accordance with the recommendations in the previous report.

**Item No.**

**Ref. No.** DMPA/2022/1159

**Valid date:** 20/10/2022

**Applicant:** Barwood Homes

**Proposal:** Approval of Reserved Matters (Landscaping, Layout, Scale and Appearance) pursuant to phase 1 (residential development of up to 75 dwellings) of outline application DMPA/2019/0931 for the residential development of up to 300 dwellings, a local centre comprising a 1,600sqm food store (Class A1 Use), 700sqm restaurant/fast food (Class A3 Use) and 550sqm pub (Class A4 Use), together with employment land consisting of 2,000sqm Class B1(b) research and development and/or B1(c) light industrial uses, 4,000sqm Class B2 general industrial uses and 8,000sqm Class B8 storage and distribution uses, together with access from the Woodville Regeneration Route (to be delivered by others), and public open space, landscaping and associated drainage infrastructure

**Ward:** Woodville

**Reason for committee determination**

This item is presented to the Committee given it is a major application and seeks off site BNG provision.

**Site Description**

The site is Phase 1 of the wider Woodville Regeneration Area which was granted outline permission for comprehensive redevelopment of the site including up to 300 dwellings a new local centre and significant employment space served by a new access through road as well as wider open space, landscaping and drainage.

The site is located in the east of the wider outline permission. The site is irregular in shape and approximately 3.1 hectares. It is north of the junction between Moira Road and Chapel Street. It is bound by Moira Road to the south east. The site boundary then running north west follows an established hedgerow and PROW SD51/5/1 both of which are included in the redline, and then cuts north east along a watercourse and through a woodland to the north eastern boundary of the south where it runs south following established plot line to Moira Road given the adjacent residential development at this point.

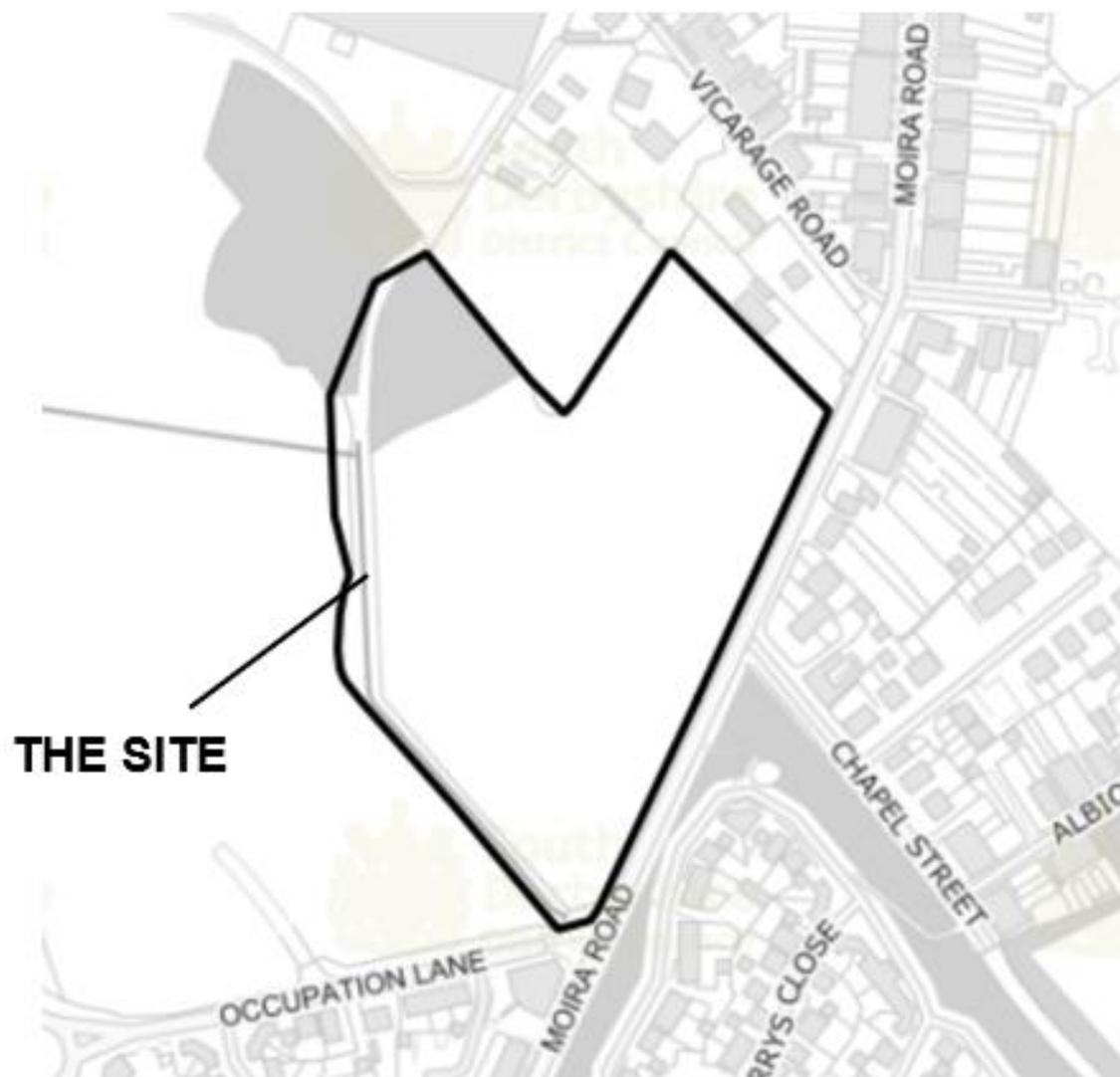
To the west is cleared vacant land within the wider outline permission. To the east is residential development and Moira Road. Moira Road provides access to a number of schools in the area.

Within the site, the land is predominantly clear. As set out there is an area of woodland straddling the north east of the site some of which is outside the site boundary. This is protected by TPO537. There are established hedgerows along the boundary with Moira Road and along the PROW. There is also sporadic tree planting along the north eastern boundary adjacent to the existing residential.

The site generally slopes down from north east to south west but there are undulations within the site.

The site is located within the Woodville area 2km east of Swadlincote. Woodville is identified as the urban area in the Local Plan policy SDT1 to which development will be focussed given its range of services and amenities, and greater accessibility.

DMPA/2022/1159 – Land north of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote



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South Derbyshire District Council

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The site is not designated for any landscape value nor any intrinsic wildlife value. It is considered that the site has no heritage assets within or within the proximity. The water course on site is subject to a low risk of surface water flooding.

## The Proposal

The proposal is for all reserved matters except for access (agreed at outline) for residential development consisting of 70 dwellings (Use Class C3).

The development description is as follows:

*Approval of Reserved Matters (Landscaping, Layout, Scale and Appearance) pursuant to phase 1 (residential development of up to 75 dwellings) of outline application DMPA/2019/0931 for the residential development of up to 300 dwellings, a local centre comprising a 1,600sqm food store (Class A1 Use), 700sqm restaurant/fast food (Class A3 Use) and 550sqm pub (Class A4 Use), together with employment land consisting of 2,000sqm Class B1(b) research and development and/or B1(c) light industrial uses, 4,000sqm Class B2 general industrial uses and 8,000sqm Class B8 storage and distribution uses, together with access from the Woodville Regeneration Route (to be delivered by others), and public open space, landscaping and associated drainage infrastructure*

The scheme will provide the following mix of units:

14 no. 2beds 20%

27 no. 3beds 39%

29 no. 4beds 41%

Total 70 100%

The total site area amounts to 3.1ha with a total developable area of 2.11ha. This area provides a site density of c.35 dwellings per hectare (dph), based on total number of units equating to 70.

It should be noted that since submission the applicant has reduced the number of units at the request of the LPA to reduce the density and improve the internal distances and relationships between units.

The site will be accessed and egressed from Moira Road following the approved access. The layout flows from this access around the site creating a spine road with spurs and shared drives feeding off. The layout provides for a street scene of residential development facing Moira Road and the local area for play in the southern corner of the site which follows the outline indicative layout. The PROW will be maintained and pedestrian connections from Moira Road will be increased as per the conditions attached to the outline permission. There is the provision of an attenuation basin to the north around which pedestrian connections will flow from the existing PROW north providing access to later phases of the scheme and the retained woodland. The woodland and attenuation basin and local area for play will be provided as public open space.

The units will be in a range of detached and semi-detached dwellings each served by a front and rear amenity space, drives and/or garage from parking. Buildings will be kept to a maximum of 2 storeys inline with the outline permission and will be consistent in design with local vernacular.

Key buildings are proposed across the site and are designed so that they are distinct from the surrounding buildings. These are generally located to present a clearly defined public realm and legible route through the internal roads.

The main facing materials is proposed as red brick which is prominent to Woodville, with some examples of render to create variance. Plots will be detailed with reflections of local character with occasional features such as bay windows and an array of differing porch styles.

During the application, it has been confirmed that biodiversity net-gain cannot be delivered on site alone and therefore requires an approach to off site provision of 2 habitat units to make up the shortfall.

The approach has been consulted on with DWT and discussed further below. Given the restrictive conditions attached to the outline permission, the approach to secure an off site provision has triggered the need for a S73 which enables off site provision. This application is reference DMPA/2023/0583. In support of this application there has been the submission of the cover letter and technical note for information which comprises the S73 application.

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

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

#### Drawings and Plans:

Location Plan: P20-2301\_006

Planning Layout: 3746-002

Presentation Layout: 3746-003

Proposed Sections: 3746-011

Wood- PL- HOUSEPACK TYPE\_V1

Single Garage: 3746-51

Double Garage: 3746-50

Landscape and Ecology Management Plan: edp7597\_r001-A

Landscape Detailed Design – Residential Plots: edp7597\_d002-D

Landscape Detailed Design – LAP: edp7597\_d003-C

Landscape Detailed Design – POS: edp7597\_d001-F.

#### Supporting Documents:

Design and Access Statement

Biodiversity Net Gain Technical Note – Part 1 - edp7597\_r001-A

Biodiversity Net Gain Technical Note – Part 2

Skylark Mitigation Report – edp7597\_r001-A

Woodville Travel Pack

Woodville Green Travel Plan

### **Relevant planning history**

DMPA/2019/0931 - Outline application with all matters reserved, except for part access into the site from Moira Road, for the residential development of up to 300 dwellings, a local centre comprising a 1,600sqm food store (Class A1 Use), 700sqm restaurant/fast food (Class A3 Use) and 550sqm pub (Class A4 Use), together with employment land consisting of 2,000sqm Class B1(b) research and development and/or B1(c) light industrial uses, 4,000sqm Class B2 general industrial uses and 8,000sqm Class B8 storage and distribution uses, together with access from the Woodville Regeneration Route (to be delivered by others), and public open space, landscaping and associated drainage infrastructure on Land north of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote – Approved 8<sup>th</sup> April 2022

DMPA/2023/0583 - The variation of condition no. 3b (Biodiversity Net Gain) of permission ref. DMPA/2019/0931 on Land North of Occupation Lane (Woodville Regeneration Area), Woodville, Swadlincote – PENDING

### **Responses to consultations and publicity**

The application was publicised via two round of consultation running from 21<sup>th</sup> October 2022 until 25<sup>th</sup> November 2022 and then again on the 6<sup>th</sup> June 2023 until 20<sup>th</sup> June 2023 during which letters were sent to neighbours and a site notice and press notices publicised the application.

On this basis, the application is considered to have been publicised in accordance with national and local legislation on consultation.

The reason for the re-consultation was consideration of the following amendments set out below made in response to comments made during consultation:

#### Proposed layout

- Reduction of dwellings to 70 units
- Reconfiguration of the layout to provide an enhanced street scene, most readily seen at the site's northern boundary.
- Introduction of chimneys at key vistas.
- Introduced new footpath link to Moira Road
- Additional trees along street frontages
- Changes to proposed housetypes to deliver a more consistent typology of house types.
- Confirmation of rear garden depths
- Additional landscaping around

#### Open Space

- Introduction of additional footpath links within the site, connecting to existing public rights of way to the north and south, and proposed footpath links within the wider development.
- Confirmation of on-site delivery of open space exceeds requirements within the s106 agreement and LPA policy standards.

#### Highways

- Confirmation of Bin Collection Points at the end of private drives
- Change of materials on Street 01
- Removal of raised table from internal highway
- BNG Off site approach

The following responses were made by statutory consultees in response to consultation provided in summary:

Environmental Health – No comment

Environment Agency – No comment

No comments to make at this reserved matters stage, matters of concern covered by condition on outline permission.

North West Leicestershire District Council Planning – No objection

SDDC Planning Policy – No objection subject to amendments

Local Plan Part 2 Policy INF2 Part A states:

“i) Planning permission will be granted for development where:

- a) travel generated by development, including goods vehicle movement, should have no undue detrimental impact upon local amenity, the environment, highway safety, the efficiency of transport infrastructure and the efficiency and availability of public transport services; and
- b) appropriate provision is made for safe and convenient access to and within the development for pedestrians, cyclists, public transport users and the private car; and
- c) car travel generated by the development is minimised relative to the needs of the development”.

The outline planning application DMPA/2019/0931 decision notice, condition 3, states:

“The reserved matters shall be designed broadly in accordance with the illustrative plan ref. P16-1422\_004 revision B and section 5 of the Design & Access Statement ref. P18-0670\_200B dated August 2019....”

Condition 3 (h) of the above states:

“pedestrian and cycle links between residential cul-de-sacs and Occupation Lane, Moira Road and the WSRR, as well as pedestrian and cycle links between the local centre car parking/pedestrian

circulation areas and the WSRR;”

On this basis, additional routes through the site and widening of routes to 3m for use as shared paths with bound surfaces was requested. No access barriers should be erected at the entrances to these routes.

DCC Archeology – No objection

Conservation Officer – No objection

Not within the setting of a Listed Asset, and given previous Outline permission, no further assessment required.

DCC Highways – No objection subject to access and parking provision

Secure By Design – Comments

- majority of reserved matters detail is good from a community safety perspective.
- query regarding the Moira Road boundary and enclosure of the two shared drives for plots 12-15 and 16-20. The proposal shows an easement along the Moira Road edge, but no boundary treatment for either the roadside or the two shared driveways. Two shared drives should be defined by post and rail fencing (as the other shared drives on site are) and that there should be a stronger definition to the Moira Road edge, easement permitting.

Subsequent comment

- Moira Road boundary treatment now be defined by a 1.2m high wooden post and rail fence.
- Lack of clarity for other boundaries, with the LAP area edged with timber post and rail fence on site plan revision D, but shown as with an estate rail on landscaping plans.
- All house types are now named rather than numbered, with no additional floor plans that I can see, footprints seem to be different, need clarity.

Derbyshire County Council - Local Lead Flood Authority (LLFA) – No comments

*The applicant should ensure that the proposed development layout reflects the outline application and that the relevant surface water conditions can be discharged.*

Natural England – No comments

Sever Trent Water – No comments/objection subject to condition on capacity

Foul is proposed to connect into the public foul water sewer, which will be subject to a formal section 106 sewer connection approval. As a pumped solution is being proposed for foul water discharge from this site, a sewer modelling assessment may be required to determine what impact the generated flows from this site will have on the network and to determine the maximum pump rate that could be accommodated within the existing network without worsening the existing sewer performance in rainfall events. Severn Trent may need to undertake a more comprehensive study of the catchment to determine if capital improvements are required. If Severn Trent needs to undertake capital improvements, a reasonable amount of time will need to be determined to allow these works to be completed before any additional flows are connected.

Derbyshire County Council – No objection / comments

Adult Social Care and Health - unable to provide specific feedback based on number and type of housing. However, we would like the following general design principles considered to comply with the NPPF's requirement for developments to 'create places that are safe, inclusive and accessible and which promote health and well-being, with high standards of amenity and flexibility for existing and future users.'

- Dwellings meet national space and/or M4(2) standards to encourage independent living for all ability and mobility levels
- Good internal space standards, ceiling heights, natural light levels
- Stairways, walls and ceilings capable of accommodating stair lifts or hoists should these be required in future; large internal cupboards which could be converted for through floor lifts at a future date
- A mix of tenures and types: affordable accommodation is important to help ensure the stability of the

domiciliary care market

- Having a proportion of dwellings built on one level (stacked or bungalow) and ensuring this type of provision is located near public transport routes and/or urban centres”.

National Forest Company – No objection subject to S106 monies

- The outline (DMPA/2019/0931) acknowledged that there would be shortfall planting across the whole site area, and accordingly the outline was approved subject to a s106 agreement which requires any shortfall of the required 6.45ha of on-site National Forest planting to be met by a financial contribution.
- This contribution should be met for each reserved matters phase to provide the proportion of National Forest planting that the site area of that phase would trigger. Given that phase 1 does not include woodland planting and landscaping, the NFC considers that the National Forest planting requirement should be met by a financial contribution, based on 30% of the site area, calculated at a rate of £35,000 per hectare.
- Previous comments need further consideration, noting amendments and that some elements could be conditioned.

Derbyshire Wildlife Trust – No objection subject to condition / accepts Off Site BNG provision

No major concerns regarding the off-site delivery in principle, but the details should be agreed.

Advise as follows:

1. Identify sites owned by the Council that might be able to deliver 3 habitat units.
2. Ask the applicant to visit the identified sites to confirm and record the ecological baseline habitats and their condition and to work up the details including costs and agree this with the Council. A financial contribution could then be made to the Council secured by a S106 agreement.
3. Once they applicants have done this they should update the biodiversity metric so that it shows a net gain (i.e. they need to include the details of the off-site compensation site).

Woodville Ward Councillor – Cllr Taylor

Considered 9<sup>th</sup> November 2022 by Woodville Parish Council with one of the questions that was most prominent being the proposed routes for HGV vehicles accessing and egressing the site understanding that weight limits are permitted for accessing the site where restrictions are in place namely Moira Road Woodville. To observe that Moira Road has a weight limit restriction, pupils attending school (2schools) twice daily, the narrow throughfare aggravated by legally parked vehicles, could you please advise the routing, 5 - 7 day workings, access rites and daily timings for activities at this site directions from Swadlincote and Ashby de la Zouch.

DCC Public Right of Way PROW – No objection / comments

- The footpath must remain open, unobstructed and on its legal alignment.
- There should be no disturbance to the path surface without prior authorisation from the Rights of Way Section. In planning the incorporation of the footpaths into the development, preference should be given to the use of made-up paths through landscaped or open space areas away from vehicular traffic.
- Consideration should be given to the safety of members of the public using the paths during the works. A temporary closure of the footpath may be granted to facilitate public safety during the construction phase subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section. The applicant should be made aware that at least 5 weeks' notice is required to process the closure and an alternative route should be provided if possible.
- A temporary closure of paths will be permitted on application to DCC where the path(s) remain unaffected on completion of the development. Or, where a diversion is required under the provisions of the Town and Country Planning Act 1990, that the Order has been Confirmed. The applicant should be advised that an application can be submitted for the diversion of the public footpaths in advance of planning permission being granted.

- Finally, I would request that consideration is given to funding being provided to improve the paths linking to and surrounding the development which will receive increased use on completion of the development.

The application received no public responses in objection or support.

One comment made the following point which was considered neither in support or objection to the proposal:

*Conditions to state that priority must be given to establishing construction traffic access to site off Moira Road or (better) Hepworth Road. Thereafter access off Occupation Lane must be prohibited at all times. No construction vehicles of any kind must be parked in Occupation Lane at any time.*

### **Relevant policy, guidance and/or legislation**

The relevant Development Plan policies are:

2016 Local Plan Part 1: S1 (Sustainable Growth Strategy); S2 (Presumption in Favour of Sustainable Development); S3 (Environmental Performance); S4 (Housing Strategy); S6 (Sustainable Access); H1 (Settlement Hierarchy); H20 (Housing Balance); H21 (Affordable Housing); SD1 (Amenity and Environmental Quality); SD2 (Flood Risk); SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure); SD4 (Contaminated Land and Mining Legacy Issues); SD5 (Minerals Safeguarding); BNE1 (Design Excellence); BNE2 (Heritage Assets); BNE3 (Biodiversity); BNE4 (Landscape Character and Local Distinctiveness); INF1 (Infrastructure and Developer Contributions); INF2 (Sustainable Transport); INF7 (Green Infrastructure); INF8 (The National Forest), INF9 (Open Space, Sport and Recreation).

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

The relevant local guidance is:

South Derbyshire Design Guide SPD

South Derbyshire District Council Strategic Housing Market Assessment January 2020 (SHMA)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF) (as updated)

Planning Practice Guidance (NPPG)

### **Planning considerations**

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

- Principle of development
- Housing Need and Tenure
- Impact on residential amenity
- Effect on highways safety
- Design and impact on the character of the area
- Trees and ecology
- Other matters
- Section 106 obligations; and,
- Conclusion and Planning Balance

### **Planning assessment**

#### **Principle of development and compliance with the Outline permission**

The site is allocated for employment led regeneration via Policy E6. This reserved matters application is pursuant to the wider outline permission granted which reflects the objectives of employment led regeneration of E6 but also permitted up to 300 dwellings. The policy notes that housing would also be delivered and assist in the viability of the overall scheme.

The site is located within the settlement boundary of Woodville as set out in policy SDT1. Policy H1 outlines this area is the sole urban area within SDDC and where development of sites within the settlement boundary is considered appropriate in principle.

The principle of residential development is therefore acceptable as it accords with policy H1 and the wider housing strategy under policies S1 and SDT1.

The NPPF sets out a presumption in favour of sustainable development, in particular affording weight to significantly boosting housing delivery. The Local Plan relies on the housing provision arising from this site and has already been considered as sustainable in the round given the provision of facilities and services on site to support these provisions.

As with all proposals for planning permission, consideration needs to be given to its detail to ensure that it is in accordance with the relevant policies, however the principle of the development is considered to be acceptable.

The outline application was approved subject to several conditions. Condition 2 specifically outlines that the approved access from Moira Road shall not serve more than 75 dwellings and such access shall be delivered in accordance with the parameters set out in the subsequent approved drawing. The proposed access is discussed in further detail below however, the approved junction arrangement is in accordance with that approved, serves 73 dwellings and no objection is raised from Derbyshire Highways Authority.

Condition 3 requires the reserved matters to be broadly in accordance with the approved indicative plan ref.P16-1422\_004 Rev B and section 5 of the approved Design and Access Statement.

It is considered that the proposed layout is reflective of plan ref.P16-1422\_004 Rev B. In terms of compliance with section 5, Officers have reviewed this document. The DAS allows for residential development up to 36dph, in a scale up to 2 storeys, with a main residential road from Moira Road, tertiary streets and shared drives, provision of perimeter blocks with outward looking development over key spaces, responsive design along Moira Road with open space adjacent to Moira Road, green routes north through phase 1 and drainage along the existing watercourse all of which is reflected in the proposed development.

Furthermore condition 3 requires that reserved matters applications shall be supported by the following documents where relevant:

*Condition 3a: Include a Landscape and Ecological Management Plan (LEMP) for all retained and created habitats.*

*Condition 3b: Include a Biodiversity Metric Calculation to confirm the extent to which mitigation measures proposed through the LEMP contribute to the achievement of a biodiversity net gain.*

*Condition 3c: Include a suitable off-site compensatory habitat scheme for ground nesting priority bird species, including skylark.*

*Condition 3d: Include details of enhancement measures for bats and birds in the form of incorporated bat boxes/bat bricks and nesting boxes on existing mature trees and within the fabric of the new buildings*

*Condition 3e: Include details of hedgehog holes/tunnels within boundary fences and walls at ground level to residential gardens*

A LEMP, Biodiversity Report and Skylark Assessment are included within the RM submission. The Landscaping plans show details of bird/bat boxes, along with hedgehog tunnels. All of which have been

consulted on by DWT who raise no objections. The process and provision for off site BNG is discussed below.

*Condition 3f: the layout shall accord with the Highway Authority's 6C's Design Guide and national guidance laid out in the Manual for Streets.*

*Condition 3g: the gradient of any site access shall not exceed 1:30 for the first 10m into the site from the existing highway boundary and/or the Woodville to Swadlincote Regeneration Route (WSRR) and 1:20 thereafter.*

*Condition 3h: Include pedestrian and cycle links between residential cul-de-sacs and Occupation Lane, Moira Road and the WSRR.*

*Condition 3i: Each dwelling to be provided with designated space for the parking of 1.5 vehicles per 1 bedroom dwelling, two vehicle spaces per 2-3 bedroom dwelling and three vehicles per 4+ bedroom dwelling.*

*Condition 3j: Include domestic bin collection points, sufficient for holding no less than 2 bins per dwelling on collection days, at the entrance of shared private accesses.*

It is considered that the submitted layout accords with adopted Highway's guidance discussed further below and the proposed roads will not exceed the stated gradient limits. Pedestrian and Cycle links are provided within the site layout to Moira Road. Parking provision accords with minimum standards and Bin Collection Points are shown on the Planning and Presentation layout.

*Condition 3k & 3l: Not relevant. Condition 3m: Include a revised Travel Plan for that phase or premises, based upon the approved framework Travel Plan.*

A Revised Travel Plan is included in the application submission which has been considered by DCC highways and no objection raised.

*Condition 3n: Not relevant.*

*Condition 3o: Inclusion of a Local Area for Play (LAP) as part of the phase 1 residential scheme.*

*Condition 3p, 3q, 3r & 3s: Not relevant*

*Condition 3t: Retained hedgerows and trees shall not form boundaries to gardens to proposed dwellings and shall be incorporated into green infrastructure.*

*Condition 3u: Include details of subterranean tree and hedgerow root growth facilitation measures.*

A suite of detailed landscaping plans have been submitted in support of the application, which show the LAP provision, retained hedgerows and management of existing landscaping. No objection has been raised by the Landscape Officer, Open Space Officer or DWT to the submission.

For the reasons set out above the application is considered acceptable in principle in that it follows the outline permission in its delivery of residential development, it is laid out in broad compliance with the relevant approved documents and the application is supported by the necessary information. There is the need for an off site provision of BNG but this considered to be acceptable and discussed in more detail below.

### **Housing Mix and Tenure**

Policy H20 aims to ensure a balance of housing that includes a mix of dwellings, tenure, size and density. This mix is also promoted to accommodate for different groups of people, which includes an ageing population. Policy H21 seeks developments to provide up to 30% of new housing as affordable as defined by the NPPF on sites with over 15 dwellings.

The proposed development provides a range of dwelling types with the majority focussed as 3 and 4 bed which aligns with the expected need for market housing as set out in Table 36 of the Strategic

Housing Market Assessment. On this basis, the proposed housing mix is aligned to and would help meet the expected need for larger family housing which weighs in favour of the application.

The proposed development would provide both detached and semi detached housing at a density c.35 dwellings per hectare (dph), based on total number of units equating to 70. This offer is considered to maximise the delivery of housing, in a layout that reflects the outline and provide a mix of dwelling types in line with Policy H20.

The proposed development is solely for market housing. The viability of delivering affordable housing on this site was tested at outline stage, concluded that it would be unviable for both S106 monies as well as affordable housing, most notably due to the land contamination cost given the previous use of the site. The Officer recommendation was to approve with no affordable housing noting that Homes England funding may come forward for provision at reserved matters stage. In line with the outline permission the application will provide a range of S106 contributions and no affordable housing. The S106 contributions are to social infrastructure and this is set out later in this report.

In conclusion, the Applicant has confirmed that discussions with local affordable housing partners are ongoing and there is a desire to provide an element of the proposed homes as affordable housing. This will be dependent on the level of grant funding available from Homes England. Notwithstanding this, the application is not bound to provide affordable housing, it is compliant with the outline permission and legal agreement, and it is not considered to be in conflict with Policy H21 as it is subject to the viability of the proposal.

Overall, it is considered the proposal responds to a demonstrable need and would align with policy H20 by providing a range of typologies, which subject to condition will also provide accessible units. Whilst it is unfortunate affordable housing is not being proposed in this phase, there remains wider phases, and the application is not considered to conflict with the Local Plan on this point given the outline was permitted on the basis of no fixed affordable offer, anything that did come forward would be a benefit, but not a benchmark to assess the application against.

On this basis, the application is considered to be compliant with the Local Plan and the benefit of meeting a to a demonstrable housing need is given weight in favour of the application.

### **Design, Layout and Density**

LP1 policy BNE1 requires all new development to be well designed, to embrace the principles of sustainable development, to encourage healthy lifestyles and enhance people's quality of life by adhering to design principles relating to community safety, street design, movement and legibility, diversity and community cohesion, ease of use, local character and pride, visual attractiveness, neighbouring uses and amenity, healthy lifestyles and resource use. All proposals for new development are assessed against the Council's Design SPD.

Policy S6 Sustainable Access states that the Council will seek to minimise the need to travel and encourage modal shift away from private car to walking, cycling and public transport. To do this they will seek the provision of new or enhanced walking, cycling and public transport infrastructure.

#### *Layout and Housing Design*

The proposed layout for the site shows a new access from Moira Road via a new junction as permitted at outline permission, with a tree lined spine road running into the site leading to spurs and further shared drives which is in line with outline and considered to result in a high quality public realm when entering the site. The layout is considered to maximise development but generally conforming to SPD principles of overlooking and separation distances. There are a range of house types proposed all of which have been considered as reflective of the vernacular of the area, with some dwellings at key locations along the spine road being key typologies and expected to have varied detail to provide variance which is again considered positive and in line with the outline design principles. The site is considered too small to provide specific character areas but the spine road is tree lined which is welcomed and considered to improve the public realm here.

The layout provides for a street scene along Moira Road which is welcomed and where properties are adjacent to POS these are largely positioned such that they face onto these areas, presenting a more active, attractive streetscene and natural surveillance of the spaces.

All dwellings are positioned so as to enjoy off-street parking and amenity provision to the rear of the property. Some dwellings also enjoy some amenity space to the front/side of their respective plots. Where achievable, all gardens have a minimum depth of 10m, there are however some that fall below this figure, but this does not result in undue harm or unacceptable amenity to the host property.

Overall, the layout is considered inline with the outline design principle and should result in a high quality public realm and residential units.

### *Density*

The proposed density is c.35dph which is considered inline with the outline consent given conditions 3's reference to Section 5 of the DAS where it states this up to 36dph for Phase 1. The amount of development has also been reduced in discussion with the applicant and the mix amended to help tailor the housing offer and address some original concerns regarding density and internal housing relationships. Now the application is considered to reflect the outline and maximise the capacity of the site delivering a suitable housing offer, not to the determinant of the quality of units or public realm.

### Landscaping, Open space and Connections

A landscaping strategy (including proposed landscaping plans, POS detail, including children's play areas and specimens) has been submitted to support the application which shows the existing landscape assets which are to be retained. These are largely the PROWs, existing hedgerows and woodland. The water course on site is to be enhanced to provide an attenuation basin. Pedestrian connections will be provided by enhancing the PROW FP5, a link will be provided through the site linking FP5 to the existing FP4 running through the retained woodland, in addition there will be connections through to Moira Road onto the shared driveways of the houses and the public realm provides access northwards through the site. There are indicative spurs shown on the routes to provide connections to the later phases. In addition, routes have been sized to 3m which provides for dual use by pedestrian and cyclists.

The Local Area Play is to be provided in the southern corner of the site which aligns with the indicative layout plan. This space contains perimeter planting and pathways. It is considered that it is appropriately spaced and located within the site. A condition will be added to secure the final detail of the play equipment and its build out prior to the occupation of any dwelling.

The POS offer includes the LAP as well as the attenuation basins and retained woodland. Given the connections provided through these spaces and with suitable street furniture the provision is considered to provide a range of spaces to meet various needs from which and as such the POS provision is considered to be acceptable.

The Council's Landscape Officer offers comments on the application requiring the use of native hedgerows and more tree planting both within some of the hedgerows, around and within the POS, within the rear gardens of properties and with the front/side gardens of properties. They also comment on the use of boundaries and the need to include hedgehog access points and the need to include inclusive play equipment. That said they offer no in principle objections to the proposals, and it is considered that the additional planting and information can be secured by condition.

### Access, parking and servicing

The site layout follows that indicated at outlined stage with internal roads and shared drives. Condition 3f requires the roads to be built to DCC compliant standards. The internal roads proposed are for the majority built to DCC compliant adoption standards. The two minor spur lanes will be 5m wide instead of 5.5m wide. This point has been raised with DCC as the applicant is seeking adoption for all internal roads except for shared drives. DCC have accepted this road width at this point on the basis that the width is to allow up to HGV movements and given the scale and type of units served by such is unlikely to be needed.

The site layout provides for a number of pedestrian routes from the shared drives along Moira Road into the site. This is inline with outline condition 3h.

The access will be from Moira Road and meets condition 21 attached to the outline and states:

*21. The access to Moira Road hereby approved shall be provided with visibility sightlines of 100 metres in a northerly direction and 108 metres in a southerly direction, both measured to the nearside edge of the carriageway, as measured from a point located centrally and 2.4 metres back into the access, the area forward of which shall be levelled and constructed as footway/verge and put forward for adoption as part of the public highway and thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level, unless a scheme to reduce vehicle speed limits along Moira Road can first be agreed with the Local Highway Authority by way of first submitting details to the Local Planning Authority for their approval in writing and first implemented in full including relocation of associated signage, etc., allowing for visibility splays of 43 metres in both northerly and southerly directions. The area within the approved sightlines shall be levelled and constructed as footway/verge and put forward for adoption as part of the public highway and thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level.*

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

A further condition 23 attached to the outline requires prior to occupation the internal roads to be constructed to base level, drained and lit, with a footway and such will be completed within 12 months (or 3 months in the case of a shared surface road) from the first occupation of that plot/unit. This will continue to control Phase 1 on this matter.

Parking is proposed off street with each dwelling having either driveway and/or garage parking. The dimensions of the parking has been provided on the proposed layout plans which has been considered by DCC Highways who raise no objection on this matter. The proposed parking aligns with the standards set out by Condition 3i attached to the outline and furthermore the dimensions will be controlled by virtue of being on approved plans.

Further to this with regards to parking condition 3l requires 1 dedicated point per dwelling with dedicated parking as it is in this instance and sets out the specification for this EV charging point. This condition will continue to control Phase 1 and ensure EV charging in each unit proposed which is welcomed.

In the amendments made to the proposed layouts and plans, spaces have been indicated with sufficient sizing at the end of shared drives to allow for the storage of bins for accessible collection. This is now inline with condition 3j attached to the outline, which is welcomed and such detail will be controlled by virtue of being on approved plans.

A Travel Plan this has been submitted as per the outline condition 3m. The TP follows the framework travel plan approved at outline setting out a series of measures to reduce the need to travel and if successful, would reduce the need to own a car. The TP measures in the TP will be conditioned and the annual monitoring and monies are already secured as part of the Section 106 agreement to the outline which continue to bind this land.

The application has been considered by Derbyshire County Council Highways, who raised no issues regarding highways impacts or trip generation. The proposed parking is inline with standards and there is the provision of cycle and indication of EV parking points, which conditions will or are already attached to relevant permissions.

Overall, it is considered that the proposal will not give rise to undue impacts on network capacity, provision of parking, cycle and EV parking is acceptable subject to condition and there is an agreed legal agreement controlling Travel Plan measures. On this basis, the application is considered acceptable in terms of highways, access and sustainable transport.

### Drainage, Flooding and the River Mease

Policy SD2 Flood Risk states when considering development proposals the Council will follow a sequential approach to flood risk management, giving priority to the development of sites with the lowest risk of flooding. Developments in areas that are identified as being at risk of flooding will be expected to:

- i) Be resilient to flooding through design and layout;
- ii) Incorporate appropriate mitigation measures, such as on-site flood defence works and/or a contribution towards or a commitment to undertake and/or maintain off-site measures;
- iii) Not increase flood risk to other properties or surrounding areas; and
- iv) Not affect the integrity or continuity of existing flood defences Suitable measures to deal with surface water will be required on all sites in order to minimise the likelihood of new development increasing flood risk locally.

Any developments that could lead to changes in surface water flows or increase flood risk should be managed through the incorporation of Sustainable Drainage Systems (SUDS), which mimic natural drainage patterns, unless this is not technically feasible.

Proposals that lower the risk of flooding will be supported, subject to the proposal having no other adverse effects on local amenity and/or flood risk elsewhere. Where new flood related infrastructure is proposed, opportunities for delivering environmental improvements, including biodiversity gain and green infrastructure delivery, should be fully considered by those delivering the project.

Policy SD3 Sustainable Water Supply, Drainage and Sewerage Infrastructure requires the Council and other stakeholders to ensure future water resource needs, wastewater treatment and drainage infrastructure are managed effectively in a coordinated manner by:

- i) Ensuring that adequate water supply, sewerage and drainage infrastructure needed to service new development is delivered in tandem with identified growth;
- ii) Supporting activities by the Water Companies to reduce demand for water and in turn suppress sewerage and discharge effluent volumes;
- iii) Working with the County Council (as Lead Local Flood Authority or other appropriate body), to ensure new developments incorporate sustainable drainage schemes that reduce the demand for potable water supplies and mimic natural drainage, wherever practicable.

Foul flows generated by new development will be expected to connect to the mains sewer. Surface water from new development will be expected to be managed using SUDS; discharge to watercourse; or connection to surface water mains sewer.

The site lies within Flood Zone 1 on the Environment Agency's flood map. Consequently, the area is deemed to be at the least risk to flooding. However, there is a watercourse running through the site north south, which is subject to low risk of surface water flooding.

The built development proposed introduces impermeable areas it would therefore generate appreciable rainwater run-off, there is potential for substantial surface water and therefore potential for flooding of the site and/or other land.

The indicative layout at outline stage showed drainage attenuation along the existing watercourse and located at the southern corner at the entrance of the site alongside open space. This is now proposed as Local Area Playspace (LAP) alone, and this arrangement is considered to offer a more inviting and accessible space to the local community. The attenuation will be located on the route of the watercourse where it is already susceptible to surface water flooding which is considered to be a pragmatic design solution and still inline with the outline strategy.

The outline permission was subject to the following drainage conditions:

*No development, including preparatory works, shall commence within a phase or sub-phase until details of measures indicating how additional surface water run-off from the phase or sub-phase will be avoided during the construction works have been submitted to and approved in writing by the Local*

*Planning Authority. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved measures and systems shall be brought into operation before any works to create buildings or hard surfaces within that phase or sub-phase commence.*

*No construction of a building or hard surface, setting of site levels or installation of drainage services/utilities within a phase or sub-phase shall take place until a detailed design of, and associated management and maintenance plan for, surface water drainage of the phase or sub-phase, in accordance with the technical notes and principles outlined within:*

*a) the Flood Risk Assessment and Outline Drainage Strategy (06785-CUR-00-XX-RP-D-001 Revision 4) dated 24th July 2019 and the Technical Note (067895-CUR-00-XX-RP-D-72901-P01) dated 2nd April 2020, including any subsequent amendments or updates to those documents as approved by the Lead Local Flood Authority;*

*b) Defra non-statutory technical standards for sustainable drainage systems; and*

*c) Development Proposals within the River Mease Catchment: Standing Advice for Local Planning Authorities (LPAs) - Third Issue Including Detailed Advice on Sustainable Urban Drainage Systems (SuDS)*

*has been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that, as a minimum, suitable capacity is proposed to attenuate peak flows from the phase or sub-phase, making allowance for climate change and urban creep, and where necessary include measures to capture overland flows between proposed and existing properties.*

*The scheme shall also include drawings and details, including the colour and appearance of safety railings, of all inlet and outfall structures to attenuation ponds, as well as details of any management company, responsible person(s), the mechanism of funding of the management company (including the details of any proposed service charge payable by the owners of the dwellings, justification for any amount proposed and the mechanism for calculating future increases in the service charge) so that the management company will be capable of carrying out the inspection, management and maintenance of the retained surface water drainage features. Attenuation ponds shall be fully designed and constructed in line with CIRIA SuDS manual C753.*

*The surface water drainage infrastructure shall be installed in conformity with the approved details prior to the first occupation/use of each respective building/road/hard surface served by the surface water drainage system within that phase or sub-phase or in accordance with a phasing plan first submitted to and approved in writing by the Local Planning Authority. Those elements of the surface water drainage system not adopted by a statutory undertaker shall thereafter be maintained and managed in accordance with the approved management and maintenance plan.*

*Upon completion of the surface water drainage system, in part or in whole, including any attenuation ponds and swales, and prior to their adoption by a statutory undertaker or management company; a survey and report from an independent surveyor shall be submitted to and approved in writing by the Local Planning Authority. The survey and report shall be carried out by an appropriately qualified Chartered Surveyor or Chartered Engineer and demonstrate that the surface water drainage system has been constructed in accordance with the details approved pursuant to condition 12. Where necessary, details of corrective works to be carried out along with a timetable for their completion, shall be included for approval in writing by the Local Planning Authority. Any corrective works required shall be carried out in accordance with the approved timetable and subsequently re-surveyed by an independent surveyor, with their findings submitted to and approved in writing by the Local Planning Authority.*

*No construction of a building or hard surface, setting of site levels or installation of drainage services/utilities shall take place within a phase or sub-phase until details of the finished floor levels of the building(s) or hard surface(s), and of the proposed ground levels of the site relative to the finished floor levels and adjoining land levels, for that phase or sub-phase has been submitted to and approved in writing by the Local Planning Authority. Such details shall be supplemented with locations, cross-sections and appearance of any retaining features required to facilitate the proposed levels. The development shall be constructed in accordance with the approved details.*

*These conditions control drainage on site during construction and operation and provide control to ensure the strategy is built out in accordance with and prior to occupation. The proposed development*

aligns with the drainage strategy principles and objectives, and it is understood that an attenuation basin has been sized to accommodate the expected run off and delay drainage at a suitable rate. On this basis, the outline strategy is not undermined by the reserved matters. Given the pre-commencement nature of the conditions, development cannot commence until the final drainage is acceptable.

The LLFA was consulted on the proposal and raises no objection given the existing conditions applicable and the control on the matter offered by them.

Foul water would be managed via a connection to the lower sewer network to which Severn Trent Water raises no objection subject to a capacity study being undertaken prior to commencement and any remedial works being undertaken, which could be controlled by conditioned.

**Given the proximity of tributaries feeding the River Mease**, an appropriate assessment as per the Habitat Regulations of the proposed development was undertaken at the outline stage. There has been no material changes to the context to undermine this assessment. The assessment details that the foul discharges from the development will discharge outside the catchment; thus, foul water will not cause an adverse impact on the River Mease SAC. In terms of the surface water again these matters are suitably conditioned, and the Natural England raises no objection beyond requesting consultation on the discharge of these conditions, as/when information for their discharge is brought forward, to ensure there will not be an impact on the River Mease from the development.

**Overall, it is considered that the reserved matters align to the approved drainage strategy. Natural England raise no objection and the HRA undertaken for the outline permission is still applicable here in so far as the outline conditions bind this consent too which limit the pathway for possible impacts.**

In summary, the proposed development is not at significant flood risk and a suitable drainage strategy can be implemented. The proposed development therefore accords with LPP1 Policies SD2 and SD3 and Section 14 of the NPPF.

### **Biodiversity, Ecology and Trees**

The application is supported by a Biodiversity Report and Assessment, Landscape and Ecological Management Plan (LEMP) for all retained and created habitats, an off-site Skylark assessment and the supporting landscaping plan shows details of bat and bird boxes and hedgehog tunnels. This is in line with condition 3a-e in terms of required information.

The existing woodland is retained, and onsite grassland would be provided in terms of public open areas, further to this there would be soft landscaping hedgerows and an attenuation basin. Notwithstanding this, the ability of further gain is limited and the application seeks a Biodiversity Net Gain, both on and off site.

The outline permission granted a clear development parcel within the site, within which residential development would come forward, and the reserved matters layout is reflective of this indicative layout, retaining areas of open space, play and woodland. In addition to this Condition 3b states:

*(b) a Biodiversity Metric Calculation to confirm the extent by which mitigation measures proposed through the LEMP contribute to the achievement of a biodiversity net gain (ideally a 10% gain) compared with the existing site conditions in compliance with policy BNE3 of the Local Plan and paragraph 175 of the National Planning Policy Framework;*

The effect of this condition as worded is that it is considered to only enable on site provision of BNG. The timing of the decision is noted and it is considered that on site provision of BNG may not have been fully appreciated at the time given the infancy of the Environment Act at that time, which is unfortunate as it has led to this matter.

The Environment Act which is the legislation behind which BNG is founded, allows for off site provision if on site gain has been maximised and even a commuted sum if further criteria are met, so it is not the case that off site provision should automatically lead to the refusal of an application on this basis.

Discussions have taken place with Derbyshire Wildlife Trust during the course of the application and their position on the matter is as follows:

*I have reviewed the letter from EDP Ltd (22nd March 2023) which sets out an approach to biodiversity net gain to comply with condition 3b. I've also reviewed the existing proposals on-site and the LEMP that was submitted earlier in the process. The net loss of 2.33 habitat units is acknowledged in the letter and previously within the Biodiversity Technical Note prepared by EDP. This loss has been calculated using a Biodiversity Metric. It is noted that some woodland habitat is retained on site and that the on-site proposals already include creating areas of species rich grassland as part of the public open space and in association with the drainage system. Further biodiversity gain on-site would be challenging unless the scale of the development was reduced.*

The shortfall of habitat units to secure a gain is 3 units rounded. An assessment was requested by Officers to confirm the extent of land required to achieve an on site net gain which found an additional 33% (1.03hectares) of the site would be required to deliver no net loss. This would result in a significant loss of housing. The housing delivery was considered in the outline application and was accepted to a greater degree across the outline site on the basis that such would enable the wider employment led regeneration in line with policy by making it viable. On this basis, it is considered unreasonable to provide an on site gain to the detriment of housing delivery and likely the viability of the entire outline permission. Overall, given DWT raise no objection and agree, it is considered that on site gain has been maximised and this opens the pathway for off site provision.

Subsequently, to enable both on and off site provision, the wording of Condition 3b is now proposed to be amended as follows:

*“b) a Biodiversity Metric Calculation to confirm the extent by which mitigation measures proposed through the LEMP contribute to the achievement of a biodiversity net gain (ideally a 10% gain), which in the first instance should be provided on site as part of any phase of the development, or subject to agreement with the LPA and Derbyshire Wildlife Trust on a suitable off-site location or via a financial contribution, compared with the existing site conditions in compliance with policy BNE3 of the Local Plan and paragraph 175 of the National Planning Policy Framework. For the avoidance of doubt, each phase should positively contribute to the delivery of a biodiversity net gain;”*

This is the subject of the application reference DMPA/2023/0583, which is also to be considered by Committee.

On this basis, the on site BNG will be managed by the approval of the submitted LEMP. The off site delivery will require land outside of the redline, the matter will be controlled by a legal agreement. The matter has been discussed with the applicant and they are in agreement with this approach.

SDDC's legal team have been instructed on this matter and are in discussion with the applicant's solicitors.

The current drafting of the heads of terms is based on the following principles. These principles follow the standard LEMP condition wording provided by Derbyshire Wildlife Trust:

BNG Off Site Provisions:

1. to provide (insert size/area/habitat units as per DEFRA metric) of land off site
2. to provide the off-site land situated within the Parish of Woodville and if that cannot be satisfied, the District Ward and if that cannot be satisfied within the centre or south east of the District and if this cannot be satisfied in the south of the District and if this cannot be satisfied in the District
3. to submit to the Council for approval the BNG plan which shall include:
  - a. Description and location of features to be retained, created, enhanced and managed.
  - b. Details of bat and bird boxes to be installed including location, type and number
  - c. Details of hedgehog connectivity gaps including a plan showing locations

- d. *Aims and objectives of on-site and off-site management.*
  - e. *Ecological trends and constraints on site that might influence management.*
  - f. *Appropriate management methods and practices to achieve aims and objectives.*
  - g. *Prescriptions for management actions.*
  - h. *Preparation of a work schedule (including a five-year work plan capable of being rolled forward*
  - i. *in perpetuity).*
  - j. *Details of the body or organization responsible for implementation of the plan.*
  - k. *Ongoing monitoring and remedial measures including benchmarking of the site enhancement areas against the DEFRA conditions sheets reportable to the authority at 5-, 10-, 15- and 30- years post completion*
4. *details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.*
  5. *These obligations to be satisfied before occupation and in consideration with DWT*

It is considered that an obligation drafted inline with the principles above would be sufficient to control the off site provision of biodiversity net gain. In summary then there is a process which would secure BNG inline with the provisions of the Environment Act and the application is acceptable in this regard.

Further comments from DWT have raised that the Council should seek further information from the applicant regarding a location and agreement with the landowner for the delivery of the skylark mitigation. This has been forthcoming from the applicant and is being considered by DWT. It was also recommended that the number of integrated swift bricks is increased to 75 in line with the British Standard (BS 42021:2022 Integral nest boxes – Selection and installation for new developments) which can be secured by condition.

With regards to trees, the extent of tree retention and tree loss has been accepted at outline stage. The application site is within the National Forest Company (NFC) as designated by policy INF8. The outline permission accepted the principle of commuted sum for payments to the NFC if substantial woodland isn't planted on site. As set out above there are a number of pressures on Phase 1. It is considered that Phase 1 does not include woodland planting and discounts sporadic tree planting for the purposes of assessing contributions to the NFC. On this basis, *the NFC considers that the National Forest planting requirement should be met by a financial contribution, based on 30% of the site area, calculated at a rate of £35,000 per hectare. This is as per the provision in the outline S106 and the applicant has outlined that this is accepted.*

SDDC Tree Officer does not raise an objection and the proposed additional planting and trees proposed along the main residential street is welcomed and considered inline with BNE4.

It is accepted that there would be disruption to habitats and ecological impacts during construction. On this matter there are a suite of conditions attached to the outline which are considered to suitably manage the construction process; Condition 16 requires certain construction works to be undertaken outside of nesting season, Condition 17 requires a construction environmental plan which would include the information below and Condition 18 requires proposed tree and hedgerow protection measures as per best practice as set out in British Standard 5837:2012 prior to commencement.

Condition 17 criteria:

- (a) *a risk assessment of potentially damaging construction activities;*
- (b) *identification of biodiversity protection zones (e.g. buffers to trees and hedges or to protected wildlife habitat);*
- (c) *practical measures (both physical measures and sensitive working practices, such as protective fencing, exclusion barriers and warning signs) to avoid or reduce impacts during construction (particularly in relation to works within canopy and root protection areas for hedgerows or protected trees);*
- (d) *the location and timing of sensitive works to avoid harm to biodiversity features (in relation to breeding birds in particular);*

- (e) the times during construction when specialist ecologists need to be present on site to oversee works (as required);*
- (f) responsible persons and lines of communication; and*
- (g) the role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person (as necessary).*

Overall, there is an approach is to secure a Biodiversity Net Gain via the retention of the important habitats, trees and supplementary enhancements across the site, and then a further gain of 3 habitat units off site. Derbyshire Wildlife Trust (DWT) has considered the supporting Ecological Impact Assessment and approach to securing Biodiversity Net Gain and raises no objection subject to conditions and legal agreement during which Officers will be in correspondence with DWT. Wider ecological impacts and impacts to trees and hedgerows have been considered and subject to conditions are considered to be adequately addressed, subject to a further update on Skylarks.

On this basis, no objection is raised by DWT in terms of approach or gain and it is considered that the proposed development from an ecology perspective would be in accordance with LPP1 Policy BNE3 and paragraph 174 of the NPPF.

### **Cultural heritage**

There are no heritage assets within the application site, nor is it considered that the development would impact any heritage settings.

The application has been consulted on with the Derbyshire County Council (DCC) Archaeologist given the potential for archaeological remains. The DCC Archaeologist has confirmed no objection subject to a written statement of investigation to guide archaeological field work and subsequent mitigation.

On this basis, it is considered there would be no unacceptable impact on archaeology and the application is inline with BNE10 and NPPF paragraph 205.

### **Other Matters**

**There are a range of further conditions attached to the outline permission that relate to Phase 1 and would still control matters. Where not already addressed within the report these are as follows:**

**Condition 4 requires an update to an agreed phasing which is required prior to commencement. No phasing has yet been agreed and phase 1 was already earmarked on this section of the wider outline and accessed by Miora Road by the outline permission to which this proposal accords.**

**Condition 5 relates to employment marketing and is not relevant.**

**Condition 6 limits the hours of construction limiting hours to standard working hours M-F and Saturday mornings. This condition will continue to control the construction of phase 1.**

**Condition 7 requires mitigation measures for air quality to be employed during construction. This condition will continue to control the construction of Phase 1.**

**Condition 8 relates to contamination and would require a remediation scheme for Phase 1 prior to commencement and subsequent verification prior to occupation. This condition will continue to control Phase 1 and is considered to satisfactorily address the risk of contamination on site.**

**Condition 9 requires the mitigation strategy to manage coal mining risk to be employed. This condition will continue to control the construction of Phase 1 and is considered to suitably address the risk of of hazards arising from coal mining legacy on the site.**

**Condition 10 requires the complete stop of construction and further investigation if further unidentified contamination is found during construction. This condition will continue to control Phase 1.**

**Condition 15 limits the amount of water usages through efficient fixtures and fittings in line with Building Regulation Part G2. This condition will continue to apply to the 73 dwellings constructed during Phase 1.**

**Condition 27 requires ventilation and glazing details approved via condition 3 to be retained and removes PD rights to amend these details. Whilst unlikely targeted at residential dwellings such as those proposed in Phase 1, this condition is still considered to bind Phase 1.**

**Condition 22, 23, 25, 26, 28 and 29 are not relevant and relate to other phases, employment uses, odour areas not within phase 1, mechanical plant, removal of PD rights for commercial uses and commercial floorplates respectively.**

**Construction access was raised in consultation with the ward Councillor and by a local resident. The points made was that: Moira Road given its restrictions, width, usage and that it provides access to schools was not suitable for construction access for such a significant development; and, Occupation Road to the south west of the site by virtue of it being a spur lane now closed off after highways works also is not suitable for construction access. The proposed most suitable route was from the new road built to serve the site which is to the west of the site.**

**The point was raised with the applicant who outlined that the wider site is under third party ownership, however they would be willing to explore the issue with the landowner especially given that this land is also likely to be subject to further phases development. It is not considered reasonable at this time to fix a condition requiring the use of access across third party land.**

**There is already condition 20 requiring the details of a temporary construction access, condition 19 requiring a construction management plan attached to the outline and whilst neither specifically preclude access from Moira or Occupation Road, this matter can be explored at the time of discharge. In addition, a further condition will be attached to this permission requiring evidencing that the applicant has asked for temporary access over third party land, but it would be unreasonable to require them to do so.**

### **Section 106 obligations**

**As set out above it has been accepted that Biodiversity Net Gain will be achieved in part off site which will be secured via a legal agreement.**

**The application was considered by Derbyshire County Council and the NHS for its impacts on service provision who both raised no objections. It should be noted by members that there are already provisions in the outline consent to local infrastructure, services and open space. By way of summary, the total S106 contributions are as follows (\*based on 70 dwellings):**

**Infant education\* - 7 845.71  
Junior education\* – 133,337.10  
Secondary education\* - 82 754.11  
Recreation outdoor sports facilities – 220.00 per bedroom  
Recreation built facilities – 122.80 per bedroom  
Healthcare\* - 33 600**

**In addition to this the S106 also sets out arrangements for the long-term ownership and management of public open spaces and non-highway drainage on site as well as the funding for any management company/ies.**

Further to this, open space contribution for on site was also considered however this was discounted on the basis of on-site provision was as per the outline permission.

### **Conclusion and Planning Balance**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

In terms of the Local Plan, this comprises SDDC Local Plan Part 1 (LP1) and SDDC Local Plan Part 2 (LP2). Which is considered to be up to date in terms of the relevant policies set out above. On this basis, Paragraph 11 of the NPPF is not 'triggered'.

The outline permission has approved this site for residential development which meets certain parameters. The report outlines that the proposal reflects the principle, layout, design approach, density, provision of open space and connections, drainage strategy, access and parking. It is compliant with the outline permission, subject to conditions and will realise in part the significant benefits upon which the outline permission was granted. This realisation of these benefits weighs heavily in favour of the application.

There are no objections from statutory consultees, and no public objections. Members are reminded that no affordable housing was approved at outline given what was at the time fragile viability. In response it is understood the applicant to date has been discussing additional funding and the proposal with RPs, who has been requested to update members at committee. On this basis, whilst not required there is also the possibility of affordable housing arising which would be a further benefit. The public benefits of S106 monies by virtue of the outline legal agreement are also outlined to members.

BNG is the sole reason for this application being heard at committee. The provision has been robustly discussed by the tripartite of SDDC, the applicant and DWT. The Environment Act which is the legislation upon which BNG is founded allows for off site provision. The requests of SDDC and DWT in evidencing on site is maximised have been satisfied and subsequently the criteria to allow off site provision. Subject to both conditions and legal agreement this matter is suitably addressed. Subject to an update on Skylarks, all other ecological impacts are addressed.

With specific regard to the historic environment, this proposed development has been considered with due regard for Section 66 and 72 of the Act and found to be acceptable.

Several conditions attached to the outline remain to control development and further conditions where relevant will be attached to this reserved matters to suitably control matters.

Overall, for the reasons set out above, the proposed development is considered inline with the outline permission, compliant with the Local Plan and will give rise to significant benefits as part of the wider outline permission. It is therefore recommended that the application is approved subject to conditions and the legal agreement securing BNG provision off site.

### **Equality Implications**

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

### **Recommendation**

- A. Grant delegated authority to the Head of Planning and Strategic Housing to conclude negotiations on and complete an agreement under section 106 of the Town and Country Planning Act 1990 as outlined in the

- report; and  
B. Subject to A, **Approve** the application subject to the following condition(s):

Standard

1. The development hereby permitted shall be carried out in accordance with plans/drawings:

Drawings and Plans:

Location Plan: P20-2301\_006  
Planning Layout: 3746-002 Rev E  
Presentation Layout: 3746-003 Rev E  
Proposed Sections: 3746-011  
Wood- PL- HOUSEPACK TYPE\_V1  
Single Garage: 3746-51  
Double Garage: 3746-50  
Landscape and Ecology Management Plan: edp7597\_r001-A  
Landscape Detailed Design – Residential Plots: edp7597\_d002-D  
Landscape Detailed Design – LAP: edp7597\_d003-E  
Landscape Detailed Design – POS: edp7597\_d001-F

Supporting Documents:

Design and Access Statement  
Biodiversity Net Gain Technical Note – Part 1 - edp7597\_r001-A  
Biodiversity Net Gain Technical Note – Part 2  
Biodiversity Net Impact Plan (Wood-PL-014)  
Biodiversity Net Gain Letter  
Skylark Mitigation Report – edp7597\_r001-A  
Woodville Travel Pack  
Woodville Green Travel Plan

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

Reason: For the avoidance of doubt and to ensure a high-quality development.

2. Prior to the site being access by HGV vehicles for construction, evidence of reasonable endeavours seeking to secure construction access from the west of the site shall be submitted to the Local Planning Authority and approved in writing.

Reason: In the interests of securing the optimal construction access into the site and in the interests of highway safety and residential amenity.

3. Prior to the commencement of any works on site, evidence and details showing Skylark Mitigation and ongoing management/retention where required has been accepted by Derbyshire Wildlife Trust. The details and mitigation shall be submitted to and approved in by the Local Planning Authority.

Reason: To ensure the development complies with the outline permission reference DMPA/2019/0931

4. Prior to any works to the identified Public Rights of Way on site or in the event that construction is deemed to make the route unsafe, evidence to show necessary temporary closures agreed with Derbyshire County Council shall be provided, alongside the details of the proposed works which where directly affecting the route shall have prior authorisation from the Rights of Way Section at Derbyshire County Council. Any diversion shall first be discussed with the Local Planning Authority in consultation with Derbyshire County Council. All details shall be approved in writing by the Local Planning Authority and shall thereafter be constructed in accordance with the approved details.

Reason: In the interests of securing high quality public routes and minimising disruption during construction.

5. Prior to their incorporation into the buildings hereby approved, details and samples of the external materials for that phase shall be submitted to and approved in writing by the Local Planning Authority. The buildings within each phase shall thereafter be constructed in accordance with the approved materials.

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

6. Prior to their incorporation into the buildings hereby approved, key details such as but not limited to:
  - Windows
  - Doors
  - Verges
  - RWG and Meter Boxes

Shall be submitted to and approved in writing by the Local Planning Authority. The dwellings shall thereafter be constructed in accordance with the approved materials for that phase.

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

7. The boundary treatments pursuant to condition 9 shall be completed before the respective dwelling(s) to which they serve is/are first occupied and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, no further boundary treatments shall thereafter be erected between those approved and the highway or public open space(s)

Reason: In the interests of sustainable development and the character and appearance of the area.

8. No dwelling shall be occupied until the garages (as the case may be), parking and manoeuvring space has been provided within the curtilage of that property, in accordance with the approved plans. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the garaging/parking/turning facilities shall be retained throughout the life of the development free from any impediment to their designated use as such.

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

9. No development shall commence until details of hard landscaping works have been submitted to and approved in writing by the local planning authority. These details shall include:
  - a statement setting out the design objectives and how these will be delivered;
  - earthworks showing existing and proposed finished levels or contours;
  - means of enclosure and retaining structures;
  - boundary treatment[s];
  - hedgehog access points;
  - other vehicle and pedestrian access and circulation areas;
  - hard surfacing materials;
  - minor artefacts and structures [e.g. furniture, play equipment, refuse or other storage units, signs, etc.];
  - proposed and existing functional services above and below ground [e.g. drainage, power, communications cables, pipelines etc. indicating alignments, levels, access points, supports as relevant];
  - lighting, floodlighting and CCTV;
  - water features;
  - an implementation programme, [including phasing of work where relevant]
  - mechanism for the on going management and maintenance of the hard landscaping

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.

The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.

Reason: In the interests of securing and maintaining a high quality public realm

10. Prior to the occupation of any dwelling the LAP shall be provided in accordance with drawing no. Landscape Detailed Design – LAP: edp7597\_d003-E will be laid out in accordance with these details and that area shall not thereafter be used for any purpose other than as a play area.

Reason: To secure and retain suitable playspace for the enjoyment and amenity of local occupiers of the development.

11. Notwithstanding the submitted details bin collection points shall be provided for residents on private drives, in accordance with a scheme to be submitted and approved by the Local Planning Authority. The facilities shall be provided prior to the first occupation of the related dwellings and shall be retained thereafter free from any impediment to their designated use.

Reason: To prevent refuse bins and collection vehicles standing on the new estate streets for longer than necessary causing an obstruction or inconvenience for other road users.

12. The carriageways of the proposed estate roads shall be constructed in accordance with Condition 1 above up to and including at least road base level prior to the commencement of the erection of any dwelling intended to take access from that road. The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surface course within twelve months (or three months in the case of a shared surface road) from the occupation of such dwelling, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety

13. Prior to the commencement of the development full details of the tree protection measures for all trees and hedges to be retained shall be submitted to and approved in writing by the Local Planning Authority. These measures shall be set out in a detailed Arboricultural Method Statement to include the specification of the location and type of protective fencing, the timings for the erection and removal of the protective fencing, the details of any hard surfacing and underground services proposed within the root protection areas, all to be in accordance with the British Standard for Trees in Relation to Construction 5837: 2012, and the monitoring of tree protection measures during construction. All tree protective measures shall be carried out as set out in the approved Arboricultural Method Statement.

Reason: To protect the retained trees and visual amenity of the area in accordance with the Local Plan.

14. The applicant shall make an application for S38 approval to the Highways Authority prior to the occupation of any dwelling. Until such time as the application has been approved by the County Council Highways Authority the applicant shall manage and maintain the roads within the development as set out in their email of 1st August 2022.

Reason: In the interests of highway safety

15. The garages/parking spaces hereby permitted shall be kept available for the parking of motor vehicles at all times. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and/or re-enacting that Order) the garage/car parking space(s) hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property without the grant of further specific planning permission from the Local Planning Authority.

Reason: In the interests of highway safety and to ensure that acceptable levels of parking are retained throughout the development.

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

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

17. The development shall be built in accordance with the measures and habitats set out in Landscape and Ecology Management Plan: edp7597\_r001-A. The development shall be managed so that the monitoring and remedial measures including benchmarking of the site enhancement areas against the DEFRA conditions sheets are reported to the authority at 5-, 10-, 15- and 30-years post completion.

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

#### Informatives:

You are advised of the following matters:

a. For the avoidance of doubt this application does not discharge conditions 3 (in so far as it is relevant to later phases), 4, 5, 6, 7, 8, 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 or 28 of the outline planning approval DMPA/2019/0931

#### *Highways*

- a. *Planning permission does not give you approval to work on the public highway. To carry works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website [www.derbyshire.gov.uk](http://www.derbyshire.gov.uk) email [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk) or telephone 01629 533190.*
- b. *Planning permission does not give you approval to work on the public highway. 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 is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed, which may take up to 16 weeks. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained by contacting the County Council via email – [ete.devcontrol@derbyshire.gov.uk](mailto:ete.devcontrol@derbyshire.gov.uk). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.*

- c. *If an adoption Agreement is not in place when the development is commenced, the Highway Authority is obliged to serve notice on the developer, under the provisions of the Advance Payments Code part of the Highways Act 1980 (section 219 / 220), to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980.*
  - d. *If the roads within the proposed development are to be offered for adoption by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980. Detailed plans will need to be submitted and approved, the Agreement signed and all sureties and fees paid prior to the commencement of development. The Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please contact the County Council's Implementation team – email [ete.devcontrol@derbyshire.gov.uk](mailto:ete.devcontrol@derbyshire.gov.uk)*
  - e. *Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.*
  - f. *Where the site curtilage slopes down towards the public highway provisions within Section 163 of the Highways Act 1980 requires measures to be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dished channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.*
  - g. *The layout of swales within the proposed highway limits do not comply with the Highway Authority's Design Guide and the design indicated on the application drawings has not been used elsewhere in the County. The applicant should be aware that their provision will attract a commuted sum for future maintenance purposes and could compromise the future adoption of the new estate streets.*
- A. The County Council does not adopt any SuDS schemes at present (although may consider ones which are served by highway drainage only). As such, it should be confirmed prior to commencement of works who will be responsible for SuDS maintenance/management once the development is completed.*
- B. Any works in or nearby an ordinary watercourse may require consent under the Land Drainage Act (1991) from the County Council. For further advice, or to make an application please contact [Flood.Team@derbyshire.gov.uk](mailto:Flood.Team@derbyshire.gov.uk).*
- C. No part of the proposed development shall be constructed within 5-8m of an ordinary watercourse and a minimum 3 m for a culverted watercourse (increases with size of culvert). It should be noted that DCC have an anti-culverting policy.*
- D. The applicant should be mindful to obtain all the relevant information pertaining to proposed discharge in land that is not within their control, which is fundamental to allow the drainage of the proposed development site.*

*E. The applicant should demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water discharge, in line with Table 4.3 of the CIRIA SuDS Manual C753.*

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

*G. The applicant should provide a flood evacuation plan which outlines:*

- The flood warning procedure*
- A safe point of extraction*
- How users can safely evacuate the site upon receipt of a flood warning*
- The areas of responsibility for those participating in the plan*
- The procedures for implementing the plan*
- How users will be made aware of flood risk*
- How users will be made aware of flood resilience*
- Who will be responsible for the update of the flood evacuation plan*

*H. Flood resilience should be duly considered in the design of the new building(s) or renovation. Guidance may be found in BRE Digest 532 Parts 1 and 2, 2012 and BRE Good Building Guide 84.*

*I. Surface water drainage plans should include the following:*

- Rainwater pipes, gullies and drainage channels including cover levels.*
- Inspection chambers, manholes and silt traps including cover and invert levels.*
- Pipe sizes, pipe materials, gradients, flow directions and pipe numbers.*
- Soakaways, including size and material.*
- Typical inspection chamber / soakaway / silt trap and SW attenuation details.*
- Site ground levels and finished floor levels.*

*J. On Site Surface Water Management;*

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

*The applicant will need to provide details and calculations including any below ground storage, overflow paths (flood routes), surface detention and infiltration areas, etc, to demonstrate how the 30 year + 35% climate change and 100 year + 40% Climate Change rainfall volumes will be controlled and accommodated. In addition, an appropriate allowance should be made for urban creep throughout the lifetime of the development as per 'BS 8582:2013 Code of Practice for Surface Water Management for Developed Sites' (to be agreed with the LLFA).*

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

*A plan detailing the impermeable area attributed to each drainage asset (pipes, swales, etc), attenuation basins/balancing ponds are to be treated as an impermeable area.*

### **Peak Flow Control**

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

*For developments which were previously developed, the peak run-off rate from the development to any drain, sewer or surface water body for the 100% probability annual rainfall event and the 1% probability annual rainfall event must be as close as reasonably practicable to the greenfield run-off rate from the development for the same rainfall event, but should never exceed the rate of discharge from the development, prior to redevelopment for that event.*

### **Volume Control**

*For greenfield developments, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must not exceed the greenfield runoff volume for the same event.*

*For developments which have been previously developed, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must be constrained to a value as close as is reasonably practicable to the greenfield runoff volume for the same event, but must not exceed the runoff volume for the development site prior to redevelopment for that event.*

*Note:- If the greenfield run-off for a site is calculated at less than 2 l/s, then a minimum of 2 l/s could be used (subject to approval from the LLFA).*

*Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.*

*Where cellular storage is proposed and is within areas where it may be susceptible to damage by excavation by other utility contractors, warning signage should be provided to inform of its presence. Cellular storage and infiltration systems should not be positioned within the highway.*

*Guidance on flood pathways can be found in BS EN 752.*

*The Greenfield runoff rate which is to be used for assessing the requirements for limiting discharge flow rates and attenuation storage for a site should be calculated for the whole development area (paved and pervious surfaces - houses, gardens, roads, and other open space) that is within the area served by the drainage network, whatever the size of the site and type of drainage system. Significant green areas such as recreation parks, general public open space, etc., which are not served by the drainage system and do not play a part in the runoff management for the site, and which can be assumed to have a runoff response which is similar to that prior to the development taking place, may be excluded from the greenfield analysis.*

*K. If infiltration systems are to be used for surface water disposal, the following information must be provided:*

- Ground percolation tests to BRE 365.*
- Ground water levels records. Minimum 1m clearance from maximum seasonal groundwater level to base of infiltration compound. This should include assessment of relevant groundwater borehole records, maps and on-site monitoring in wells.*
- Soil / rock descriptions in accordance with BS EN ISO 14688-1:2002 or BS EN ISO 14689-1:2003.*
- Volume design calculations to 1% probability annual rainfall event + 40% climate change standard. An appropriate factor of safety should be applied to the design in accordance with CIRIA C753 – Table 25.2.*

- *Location plans indicating position (soakaways serving more than one property must be located in an accessible position for maintenance). Soakaways should not be used within 5m of buildings or the highway or any other structure.*
- *Drawing details including sizes and material.*
- *Details of a sedimentation chamber (silt trap) upstream of the inlet should be included.*
- *Soakaway detailed design guidance is given in CIRIA Report 753, CIRIA Report 156 and BRE Digest 365.*

*L. All Micro Drainage calculations and results must be submitted in .MDX format, to the LPA. (Other methods of drainage calculations are acceptable.)*

*M. The applicant should submit a comprehensive management plan detailing how surface water shall be managed on site during the construction phase of the development ensuring there is no increase in flood risk off site or to occupied buildings within the development*

**Item No.** 1.9

**Ref. No.** [DMPA/2023/1155](#)

**Valid date:** 07/09/2023

**Applicant:** Master Reggie Hines

**Agent:** Andrew Bennett

**Proposal:** **The erection of a single storey rear extension to provide ground floor bedroom and shower room at 13 Albion Street, Woodville, Swadlincote, DE11 8DS**

**Ward:** Woodville

### **Reason for committee determination**

This application has been submitted on behalf of the applicant by SDDC's housing adaptation department, therefore is required to go to planning committee.

### **Site Description**

The site is within the settlement boundary, within a built up residential estate. The site is a Victorian semi-detached dwelling and is surrounded by neighbouring dwellings which also appear to be Victorian. The dwellings range from semi-detached to detached dwellings, with small front gardens and the majority of the private amenity space to the rear.

The site and other neighbouring dwellings, do not have off road parking and park on the street.

### **The proposal**

The proposed development is for a single storey rear extension, to provide a ground floor bedroom and shower room.

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

The applicant's supporting information is an application form, location plan and proposed elevation plans/floor plans.

### **Relevant planning history**

There is no relevant planning history here.

### **Responses to consultations and publicity**

There have been no objections received from consultations and publicity.

### **Relevant policy, guidance and/or legislation**

Development Plan Policies:

#### **South Derbyshire Local Plan – Part 1**

Policy S2 (Presumption in Favour of Sustainable Development)

Policy SD1 (Amenity & Environmental Quality)

Policy BNE1 (Design Excellence)

Policy INF2: (Sustainable Transport)

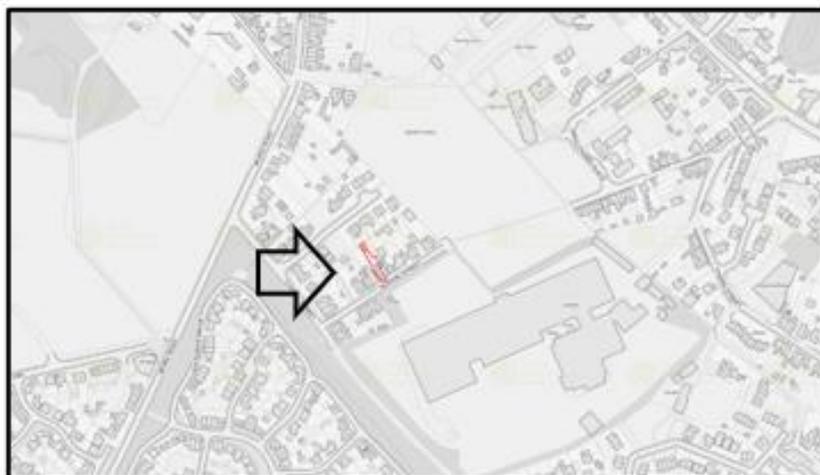
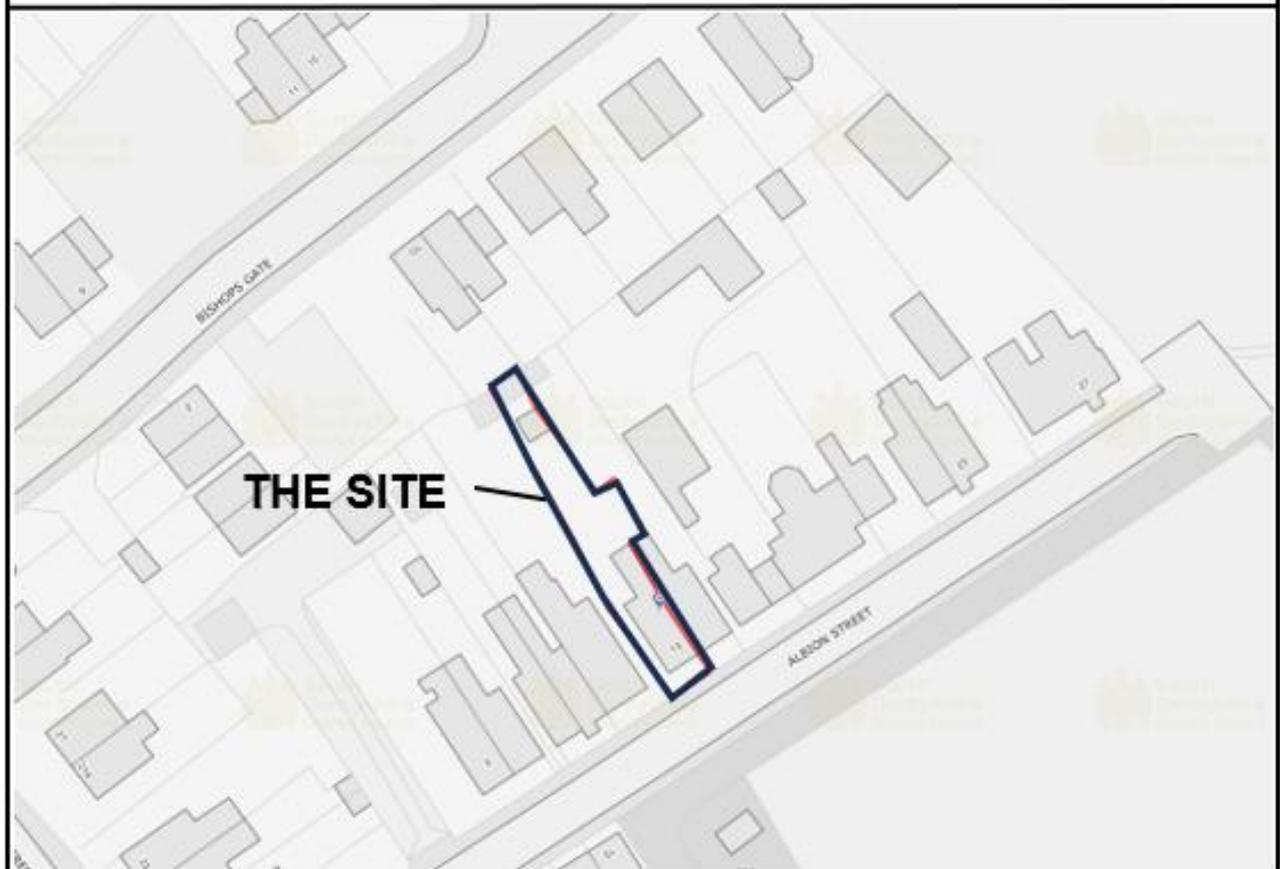
#### **South Derbyshire Local Plan Part 2 (2017)**

Policy STD1 (Settlement Boundaries and Development)

Policy H27 (Residential Extensions and Other Householder Development)

Relevant local guidance includes:

**DMPA/2023/1155 – 13 Albion Street, Woodville, Swadlincote, DE11 8DS**



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South  
Derbyshire  
District Council

South Derbyshire District Council, LA 100019461.2020

## South Derbyshire Design Guide Supplementary Planning Document (SPD) (2017)

Relevant National Policy and Guidance includes:

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

#### **Planning considerations**

##### Main issues

- Principle of the proposed development
- Design and Impact upon the host dwelling and the character and appearance of the area and the host dwelling
- Residential amenity

#### **Planning assessment**

##### Application Site

13 Albion Street, is a semi-detached pre 20th century dwelling, situated within the settlement boundary in an established residential area. The dwelling has a courtyard to the front elevation of the site and side access, leading to a large parcel of residential curtilage to the rear. The dwelling is within the defined Settlement Boundary Maps under Appendix A to LP2.

##### Proposed Development

In brief, planning permission is sought for the erection of a single storey rear extension to provide ground floor bedroom and shower room.

##### Principle of the proposed development

Development plan policy SDT1 supports development in principle in locations within the defined settlement boundaries, subject to compliance with the relevant policies of the development plan. Policy H27 considers householder development and supports such undertakings if they do not harm the host property and the character and appearance of the area, and is not unduly detrimental to the amenity afforded of nearby properties. The criteria associated with policy H27 is also reflected within policy BNE1 and advice within the SPD.

##### Design and Impact upon the host dwelling and the character and appearance of the area and the host dwelling

The most appropriate policies and guidance with regards to the design, character and appearance related consideration are Policy S2 (Presumption in Favour of Sustainable Development), Policy SD1 (Amenity & Environmental Quality), Policy BNE1 (Design Excellence) of the South Derbyshire Local Plan, the South Derbyshire Design Guide SPD and the National Planning Policy Framework.

Dwellings amongst Albion Street all date to a similar age to the site and range from detached and semi detached dwellings. Most of the neighbouring Victorian dwellings have a projecting element from the rear and former coal sheds to the rear.

The proposed development, being to the rear, would have very limited visibility from the public realm. The proposed extension would adopt a flat roof, therefore would not be prominent in its setting.

##### Residential amenity

The most applicable policies and guidance here are Policy SD1 (Amenity & Environmental Quality), Policy BNE1 (Design Excellence), Policy H27 (Residential Extensions and Other Householder Development) and the South Derbyshire Design SPD, each seek that the new development does not

lead to adverse impacts on the environmental or amenity of existing occupiers. The level of harm is assessed against guidance within the SPD which sets out minimum distances to nearby occupiers and instances when development is overlooking, overbearing and overshadowing.

Allowing for the reduced scale of the proposed development, the siting in relation to neighbours, sufficient distances between neighbouring primary spaces coupled with boundary treatments, it is considered that the proposed development will not unduly harm the amenity afforded the occupiers of nearby properties. The scheme therefore complies with policies H27 and BNE1 of the development plan and advice within the SPD.

The south facing bathroom window, looks onto the ground floor window of the neighbouring dwelling. Following a site visit, it was noted that this window is obscurely glazed and may potentially be a bathroom window. The proposed bathroom windows will be conditioned to be non-opening and obscurely glazed, therefore mitigating any overlooking impacts.

The side (west facing) windows/doors, although look onto the neighbouring dwelling to the east, there is a boundary wall which screens the views. Therefore, any overlooking concerns are mitigated here.

### Summary and planning balance

While the development of the single storey rear extension may have some impact upon neighbouring properties, it is considered that these impacts would be minimal and would not lead to a loss of amenity. The proposal is therefore recommended for approval subject to conditions.

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

### **Recommendation**

The proposals as presented are in accordance with the aims and objectives of the Development Plan, South Derbyshire Design SPD and do not have unacceptable impacts on other, relevant, material considerations. Therefore the recommendation is approval subject to conditions.

1.

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

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

2. The development hereby permitted shall be carried out in accordance with the existing and proposed floor plans/elevations, site plan, location plan and application form as received on the 7th September 2023, unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. The ground floor bathroom windows shown in the proposed floor plans, shall be non-opening and fitted with obscure glazing to Pilkington Level 4 or 5 and retained as such in perpetuity.

Reason: For the avoidance of doubt and in the interests of residential amenity.