

Report of the Strategic Director (Service Delivery)

[Section 1: Planning Applications](#)

[Section 2: Planning Appeals](#)

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

1. Planning Applications

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

Reference	Item	Place	Ward	Page
DMPA/2021/1392	1.1	Overseal	Seales	6
DMPA/2022/1241	1.2	Egginton	Etwall	21
DMPA/2022/0132	1.3	Hilton	Hilton	29
DMOT/2021/1190	1.4	Woodville	Woodville	36

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

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

Glossary of terms

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

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

Item No. 1.1

Ref. No. [DMPA/2021/1392](#)

Valid date: 21/01/2022

Applicant: Shaun Calladine

Agent: S G Design Studio Limited

Proposal: Change of use of land to provide 7no. caravans for holiday let accommodation including the formation of a lake, associated parking and landscaping at The Conifers, Park Road, Overseal, Swadlincote, DE12 6JS

Ward: Seales

Reason for committee determination

The application is returned to committee following a deferral at the meeting on 15th November 2022

Overseal Parish Council have objected to the proposal.

Site Description

The site is a rectangular parcel of land, south of Park Road, Overseal, and to the east of the adjacent gypsy caravan site, The Conifers. The site is comprised of rough grassland, that slopes gently down to the east. It is almost completely surrounded by mature trees, especially on the southern boundary, which is a substantial area of National Forest tree planting (Swainspark Wood). The site is not very visible in the local landscape due to the mature trees and hedges. The site does not currently appear to be used, although remains of small-scale building materials are scattered around the site.

The proposal

The proposal is for the change of use to tourism, to provide seven lodges for holiday let accommodation including the formation of a lake.

Applicant's supporting information

The application is supported by the following documents:

Design and Access Statement

Business Case

Ecological Appraisal

Drainage calculations, foul drainage and soakaway details

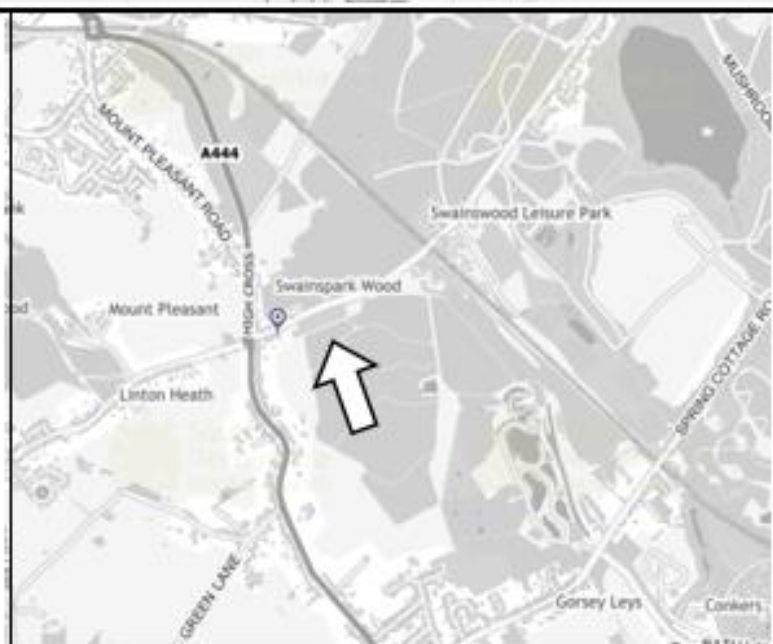
Flood Risk Assessment

Relevant planning history

9/2018/1297 - Change of use of land to provide holiday let accommodation (caravans) including the formation of a lake, associated parking and landscaping at The Conifers, Park Road, Overseal - withdrawn 05/06/2019

DMPA/2019/1246 - Change of use of land to provide holiday let accommodation (caravans) including the formation of a lake, associated parking and landscaping at The Conifers, Park Road, Overseal - withdrawn 15/07/2020

DMPA/2021/1392 The Conifers, Park Road, Overseal, Swadlincote, DE12 6JS



MAPS ARE NOT TO SCALE

This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

South Derbyshire District Council. LA 100019461.2020

Responses to consultations and publicity

County Highway Authority

The proposal does not appear to differ significantly in highway terms from applications 9/2018/1297 & DMPA/2019/1246 other than the number of caravans/cabins proposed. The Highway Authority commented on both applications and the Highway Authority's previous comments equally apply to the above application.

The proposal is for the change of use of a grassed field into holiday let accommodation for ten holiday let units each with one parking space and an additional 10 spaces provided near the entrance to the site.

The Highway Authority would wish to see a footway provided to the east of the proposed access point to link up with the exiting footway outside 6 Park Road, whilst I would like to see this detailed on a plan I am happy for it to be conditioned as follows if there is insufficient time to obtain amended drawings. The footway will require a Section 278 agreement with the Highway Authority for its construction.

There are no highway objections to the proposal subject to conditions being included on any consent granted.

Derbyshire Wildlife Trust

The following comments are aimed at providing accurate and up to date information on the nature conservation issues associated with the proposed development. The application seeking permission for the change of use of land to provide a holiday caravan park is accompanied by an Ecological Appraisal prepared by Arc Ecology dated August 2018 and a Reptile and Terrestrial Amphibian Surveys dated October 2018. Unfortunately, this ecological information is now out of date. As planning decisions need to be based on up to date environmental information we advise that an updated Ecological Appraisal is required with a specific focus on reptiles.

Following an updated Ecological Appraisal...

In our previous consultation response, we advised that an up to date ecological assessment was required. We have now had the opportunity to review an Update Ecological Appraisal prepared by Arc Ecology dated May 2022. The update appraisal is based upon a walkover site survey carried out on 13th May 2022 which was carried out in order to identify any significant habitat changes since the previous surveys carried out in 2018. As such, the appraisal takes the form of a preliminary assessment which concludes that there have been no significant habitat changes.

On the basis of the submitted information, we are satisfied that the proposed development will have no impact on REDACTED. The update appraisal concludes that the site is still suitable for reptiles and that common lizard and grass snake, recorded during previous surveys, are highly likely to remain present on the site. Appropriate mitigation and compensation for reptiles are therefore required. We advise that this should include the retention and appropriate management of suitable lizard habitat, particularly at the western end of the site, as part of the landscaping together with a capture/exclusion exercise. This should all be included within a detailed Reptile Mitigation Strategy to be secured by a pre-commencement planning condition.

National Forest Company

Tourism accommodation within the National Forest

The NFC has launched a Sustainable Tourism Accommodation Design Guide (available on our website Tourism businesses | National Forest). This guide sets out rationale for encouraging new and retrofitted tourist accommodation development that helps create a distinctive National Forest character and sense of place, and makes a case for investing in the

National Forest as a sustainable tourism destination by showing how tourist accommodation can contribute to a zero carbon future.

It is not apparent from the information provided that the applicant is aware of the Sustainable Tourism Accommodation Design Guide, and we would encourage consideration of this document by both yourself and the applicant. Amendments to the proposal could be made which reflect the Sustainable Tourism Accommodation Guide and result in a high quality and distinctive development within the National Forest.

National Forest planting

The area of the application is specified on the application forms as 1.05 hectares and within the Design and Access Statement (DAS) as 1.2 hectares. Despite this discrepancy, the application documents acknowledge that this development is expected to deliver 20% National Forest planting.

The DAS states that the proposal will provide significantly more than 20% and specifies that 3900m² of landscape planting is shown on the submitted plans. However, it is not evident from the site plan drawing no. 221-52-02 Rev A (and it does not appear that a specific landscaping plan has been provided) that this amount of National Forest planting is proposed. Additionally, there are inaccuracies / omissions relating to landscaping on this plan (see below for further detail). Despite this, it does appear that there is sufficient space on site to accommodate National Forest planting and that appropriate amendments could be made. Accordingly, while it would be preferable for a plan showing National Forest planting to be provided prior to determination, in this case a condition requiring a detailed landscaping plan which qualifies and quantifies 20% on site National Forest planting (i.e. precise location, species mix, density of planting, method of protection) is likely to be acceptable. A further condition should require details on how the landscaping will be maintained to ensure successful establishment. If the application in its current form is approved, the NFC ask that the decision makes it clear that the current landscaping details are not acceptable.

The NFC advises that National Forest planting could include appropriate tree planting along the northern and western boundaries and that there is an area to the west of the site which could accommodate woodland planting. Additionally, we would encourage amendments to the pond design to ensure this feature has biodiversity value. The following summary of the National Forest Guide for Developers & Planners may be useful to the applicant in preparing a detailed landscaping plan Planners Guide 2018.pdf (nationalforest.org).

With regard to the inaccuracies / omissions relating to landscaping on the proposed site plan (drawing no. 221-52-02 Rev A), the site plan shows existing trees and hedges to be retained and removed, and proposed trees and hedges. However, it is not clear from this plan where the retained and proposed hedgerows are. The site plan proposes 4no. standard trees, yet the two acer campestre trees appear to be outside of the applicant's ownership (outside of the blue line). The site plan indicates 4no. trees without coding close to the red line boundary to the east of the entrance. Further along this boundary the same tree symbol is used but again these appear to be outside of the applicant's ownership (outside the red line). The site plan includes a table with tree species but this table is incomplete.

We will defer to the Council's Tree Officer to consider the acceptability of the submitted Tree Report.

Following the receipt of amended plans...

Tourism accommodation within the National Forest

As previously advised, the NFC has launched a Sustainable Tourism Accommodation Design Guide (available on our website [Developing a sustainable destination | National Forest](#)) which sets out rationale for encouraging new and retrofitted tourist accommodation development that helps create a distinctive National Forest character and sense of place, and makes a case for investing in the National Forest as a sustainable tourism destination by showing how tourist accommodation can contribute to a zero carbon future. The Design Guide details seven design principles to develop exemplary sustainable tourism accommodation in the National Forest. These principles (discussed in more depth within the Design Guide) are developing in harmony with the Forest character, designing for health and wellbeing, supporting the Forest community and economy, building ethically and sustainably, promoting carbon emission free holidays, integrating with nature and managing water wisely.

It is disappointing that the Sustainable Tourism Accommodation Design Guide does not appear to have been considered.

National Forest planting

The applicant has confirmed that the site area is 1.04 hectares, resulting in a requirement for 0.21 hectares of National Forest planting. The applicant has provided an amended site plan (Rev C) which includes a pink shaded plan to demonstrate that a compliant area of National Forest planting can be provided. While the NFC considers that there is sufficient space on site to accommodate National Forest planting, the landscaping on the site plan (Rev C) in its current form is not considered acceptable.

The accuracy of the plans was raised in our previous response. Adding to these accuracy concerns, the amended site plan (Rev C) shows more trees than the earlier site plan (Rev A) but there is no increase in numbers on the planting schedule table and there continues to be information missing from the table (the coding).

Turning to the tree species proposed, we do not consider these to be appropriate and ask the agent to refer to the table below, which details an appropriate woodland mix (including species, species mix, size, density). The NFC recommends that rather than show individual trees on the landscaping plan (which are unlikely to be accurately located), that it is more appropriate to show areas of woodland planting on the landscaping plan.

Woodland Species Mix

Species	Common name	Percentage
---------	-------------	------------

Quercus robur	Oak	20
---------------	-----	----

Betula pendula	Silver birch	15
----------------	--------------	----

Tilia cordata	Small-leaved lime	10
---------------	-------------------	----

Sorbus aucuparia	Rowan	10
------------------	-------	----

Acer campestre	Field maple	10
----------------	-------------	----

Prunus avium	Wild cherry	10
--------------	-------------	----

Crataegus monogyna	Hawthorn	10
--------------------	----------	----

Cornus sanguinea	Dogwood	5
------------------	---------	---

Corylus avellana	Hazel	5
------------------	-------	---

Ilex aquifolium	Holly	5
-----------------	-------	---

All to be planted as 1+1 transplants, 40/60cm size with stake or cane and 0.75m tube or spiral protection.

Planted at 2m centres in groups of 3-5.

All to be spot sprayed 1m around each plant.

To conclude, the NFC consider that the current site plan should not be approved for the above reasons (inaccuracies and inappropriate species, species mix and density). However, we consider that a compliant amount of on-site National Forest planting can occur, and in this case, the NFC considers that the specific details of the National Forest planting could be secured by a condition (having regard to the woodland species mix table above). The NFC would again encourage the pond to be designed to achieve biodiversity enhancements.

Natural England

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of the River Mease Special Area of Conservation
- damage or destroy the interest features for which the River Mease Site of Special Scientific Interest has been notified.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required:

As part of the Habitats Regulations Assessment (HRA), the Local Planning Authority (LPA) should ensure that there will be no harmful discharges of foul or surface water from the application site into the River Mease or its tributaries.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Following the receipt of a Habitats Regulation Assessment...

Your assessment concludes that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination. On the basis of the information provided, Natural England concurs with this view.

Environmental Health

I have considered this application in relation to the potential air quality, noise, odour, land contamination and environmental lighting. I have also read the relevant technical reports submitted in support of the application.

In my opinion, the key potential environmental impacts of the development are;

1. The potential exposure of existing receptors / new receptors associated with the development to existing sources of land contamination;

I am satisfied that the impacts of the proposed development will be acceptable in planning policy terms provided that the following conditions be attached;

Recommendations

Our records show that 50m to the north of the proposed development is land with a potentially former contaminative use (namely 'general quarrying' and 'unknown filled ground'). The proposed development therefore has the potential to result in mobilisation of contaminants and in particular a risk to the proposed body of water. An assessment is required to determine the risk and adopt appropriate mitigation.

I am satisfied that the impacts of the proposed development will be acceptable in planning policy terms provided that conditions be attached.

Lead Local Flood Authority

LLFA initially objected due to a lack of information.

Following the receipt of further information...

Derbyshire County Council as the Lead Local Flood Authority (LLFA) has reviewed the

information submitted for this application, which was received on 24th January 2022. The LLFA has no objection in principle to the proposals provided they are brought forward as per the submitted documents.

Coal Authority

I have reviewed the proposals and confirm that the application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. The Coal Authority records indicate that the site is likely to have been subject to historic unrecorded underground coal mining at shallow depth which could be attributed to the thick coal seam conjectured to outcrop at or close to the surface across the northern part of the site. The application is accompanied by a Coal Mining Risk Assessment (P8582 - CMRA-1 dated 14th August 2018) prepared for a proposed holiday let at the site by GRM Development Solutions Ltd.

It is noted that the Coal Authority were consulted on previous planning applications for this site: 9/2018/1297 and DMPA/2019/1246 (Change of Use of land to provide holiday let accommodation (caravans) including the formation of a lake, associated parking and landscaping) which were accompanied by the same Coal Mining Risk Assessment. The Coal Authority raised no objection to the proposal subject to the imposition of a planning condition to secure the intrusive ground investigations as recommended by the report author: GRM Development Solutions Ltd.

In light of the above, as the proposed development is predominantly the same as the previous applications and no site investigations would appear to have taken place at the site, our previous comments are predominantly unchanged: Based on this review of available information, the report author concurs with our information but also highlights based on BGS geological mapping, opencast workings from which coal has been removed is within the site boundary (based on grid co-ordinates mentioned within the geological memoirs).

In light of the above, the report author considers that there is a high risk to this proposal but only as a result of the potential for the opencast workings / highwall running approximately east west across the site. Based on the nature of the development the report author does not consider that any surface instability related to past coal workings will have a significantly detrimental impact on the proposed development. Section 5.0 concludes that ground investigations will be required in order to assess ground conditions and make mitigation and foundation recommendations.

The intrusive site investigations should be designed and undertaken by competent persons to ensure that these are appropriate to assess the ground conditions on the site to establish the coal-mining legacy present and the risks it may pose to the development and inform any mitigation measures that may be necessary.

The applicant should note that Permission is required from the Coal Authority Permit and Licensing Team before undertaking any activity, such as ground investigation and ground works, which may disturb coal property. Please note that any comments that the Coal Authority may have made in a Planning context are without prejudice to the outcomes of a Permit application.

Mine Gas

It should be noted that wherever coal resources or coal mine features exist at shallow depth or at the surface, there is the potential for mine gases to exist. These risks should always be

considered by the LPA. The Planning & Development team at the Coal Authority, in its role of statutory consultee in the planning process, only comments on gas issues if our data indicates that gas emissions have been recorded on the site. However, the absence of such a comment should not be interpreted to imply that there are no gas risks present. Whether or not specific emissions have been noted by the Coal Authority, local planning authorities should seek their own technical advice on the gas hazards that may exist, and appropriate measures to be implemented, from technically competent personnel.

Sustainable Drainage

Where SuDs are proposed as part of the development scheme consideration will need to be given to the implications of this in relation to the stability and public safety risks posed by coal mining legacy. The developer should seek their own advice from a technically competent person to ensure that a proper assessment has been made of the potential interaction between hydrology, the proposed drainage system and ground stability, including the implications this may have for any mine workings which may be present beneath the site.

Overseal Parish Council

Councillors object to this application on the basis that it is a creeping development as the site started with a single caravan.

Concerns were raised regarding safety as the highway nearest to this premises is used at speed. The application is inaccurate as it states there is a Doctors Surgery in Overseal when in fact, there is not.

Councillors request inclusion of a clause, if permission is granted, that the caravans should be for holiday use only and not permanent residences.

No comments from members of the public have been received.

Relevant policy, guidance and/or legislation

The relevant policies are:

2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF8 (The National Forest) and INF10 (Tourism Development).

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

The relevant National Guidance is:

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

The relevant Local Guidance is:

Design Guide Supplementary Planning Document (SPD)

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:

- Principle of development;

- Landscape and trees;
- Design and amenity;
- Highway safety;
- Coal mining legacy;
- Drainage;
- Potential impact on protected species.

Planning assessment

Principle of development

The application for tourist accommodation falls to be considered by Policy INF10 (Tourism Development) of the adopted Local Plan Part 1. Part A states that '*Tourism development, including overnight accommodation and visitor attractions, will be permitted:*

i) Within or adjoining the urban area or the Key Service Villages or;

ii) In other appropriate locations where identified needs are not met by existing facilities'

The site is not within or adjoining a key service village as defined by the Settlement Boundaries and Development Policy (STD5) in the Local Plan Part 2, however it is noted the site is adjacent to the ribbon development along the Burton Road, which connects the settlements of Overseal and Castle Gresley/Mount Pleasant. Although there are a three caravan/lodge parks close by on Park Road, two of them are gypsy and traveler caravan sites near to the application site (adjacent and opposite), and Swainswood Park Road Caravan Park received a Certificate of Lawfulness in 2017 that the static caravans are now permanent residential dwellings. The applicants have stated within their submitted Business Case, that the loss of these units as holiday lodges has added to the demand for in the area. Other local sites are named as Forest Holidays at Bath Yard, Moira and Ashby Woulds Lodges, Spring Cottage Road, which are both within 3km in North West Leicestershire District. The Colliery Lane, Linton is the closest holiday lodge park, which is approximately 1km away and has approval for a total of 18 holiday lodges. The submitted Business Case also makes reference to the site being within the National Forest and the increased demand for holiday accommodation that this generates. The supportive text of Policy INF10 states that the Heart of the National Forest area is a particular focus for tourism development, and with this site being within the Heart of the National Forest area (the area between Swadlincote, Ashby de la Zouch and Measham), it is accepted that the demand for holiday accommodation in this area is likely to be greater. Policy INF8 (National Forest) Part F states '*the District Council will seek to support efforts to concentrate tourism and leisure activities and economic opportunities based on the woodland and environmental economy in this area*'. Although other holiday lodge accommodation does exist near to the application site, it is considered that given the location within the Heart of the National Forest, and the loss of holiday lodge accommodation at Swainswood Park, that there is sufficient identified need for the proposal in this location.

Part B of Policy INF10 states '*The District Council will seek to maximise opportunities to deliver new, or improve existing sustainable access arrangements including public transport provision, walking and cycling provision where appropriate*'. As there are bus routes that operate along Burton Road to both Burton and Swadlincote, as well as cycle routes (including cycle route 63) nearby and a metalled footpath along Park Road, it is considered that existing sustainable access arrangements exist in this location.

Part C of Policy INF10 states '*In all cases the District Council will expect new tourism development to be*

i) Provided through the conversion or re-use of existing buildings or;

ii) Accommodation of a reversible and temporary nature, or;

iii) Sustainable and well designed new buildings, where identified needs are not met by existing facilities, subject to all the other relevant policies in the Local Plan.'

I consider that the proposal comprises accommodation of a reversible and temporary nature and would therefore satisfy this policy requirement.

The objection from the Parish Council is due to the expansion of this type of development 'as the site started with a single caravan'. Whilst the site subject to this application does not benefit from planning permission for caravan related uses, it is acknowledged that the adjacent site and the site across the road to the north have long since benefitted from planning permission for both a gypsy caravan and traveller site. This proposal for holiday lodges, differs from the adjacent sites however, in that the tourism policy applies here, and as stated above, this location is particularly appropriate for this type of development in the heart of the National Forest. The proposed units are timber lodges and not caravans, which will create a different feel that is more in-keeping with the local landscape. It is not considered that this comment is sufficient reason to refuse permission.

Part D of Policy INF10 is considered below, however based on the matters covered above, it is considered that the principle of holiday lodge accommodation in this location is acceptable. It is important however, that the lodges are used for holiday lets only, as residential development on this site would not be in accordance with current planning policy. This can be controlled by a use-restriction on any permission granted.

Landscape and trees

The site is situated outside of the village of Overseal in an area surrounded by National Forest planting, and older woodland, close to Swainspark Wood and Albert Village Lake. The site is relatively contained due to the topography and tree screening, and therefore this proposal is not expected to be prominent, except for glimpses along Park Road.

Part D of Policy INF10 states, 'New tourism development that is likely to give rise to undue impacts on the local landscape, natural environment or cultural heritage assets will be refused'. No objections have been received from the Council's Tree Officer; however, the National Forest have commented that although the planting requirements have been shown on the amended site plan, there are omissions in the detail relating to the number of trees to be planted and the species mix proposed. They therefore have requested that specific details of National Forest planting be secured by a planning condition, having regard to the woodland mix as set out in their comments.

Provided that the appropriate National Forest planting is secured, it is not considered that the seven lodges proposed in this location would lead to undue impact on the local landscape, and therefore the proposal is in accordance with Part D of Policy INF10 (Tourism Development), as well as Policies BNE4 (Landscape Character and Local Distinctiveness) and INF8 (The National Forest).

Design and amenity

The lodges proposed are single storey with timber cladding, and dark grey tile roofs. There is a small amount of decking to the front of elevations and wooden steps to one side elevation. The lodges are three-bed and relatively simplistic in design. It is considered that they are typical of their kind, and do not present any design features which would generate harm to the local landscape. The closest neighbours to the site are located at the adjacent caravan park The Conifers, however, it is acknowledged that there is sufficient distance and landscaping between the sites to enable the sites to operate independently of each other, and it is not anticipated that the use of the holiday lodges would detrimentally impact the amenity of the

residents of the caravan park.

Highway safety

The County Highway Authority have commented that they would wish to see a footway provided to the east of the proposed access point to link up with 6 Park Road, and they suggest that this can be secured through a planning condition. The County Highway Authority have no objections to the proposal providing the footway is provided, and that matters relating to the construction phase are also secured through conditions.

Coal mining legacy

The application site falls within the defined Development High Risk Area, and therefore the Coal Authority have been consulted on the application. The assessment provided by the applicant has concluded that ground investigations will be required in order to assess ground conditions and make mitigation and foundation recommendations. The Coal Authority therefore recommends that pre-commencement conditions be attached to any permission to ensure that the site investigations take place, and that any remediation works and/or mitigation measures are implemented to ensure the site is safe and stable for the development proposed.

Drainage

Due to the pond being created as part of the proposals, the applicant has been able to provide a Sustainable Urban Drainage System on site. The applicant submitted an amended site plan showing details relating to drainage and the Lead Local Flood Authority have confirmed they do not object to the proposals.

Potential impact on protected species

No objections have been raised from Derbyshire Wildlife Trust, provided that conditions to enable appropriate mitigation and compensation for reptiles are imposed on any permission.

The site falls within the River Mease (SAC) catchment area and therefore consideration as to whether the proposal will lead to an impact on the integrity of the SAC must be given through a Habitat Regulation Assessment. In line with current Natural England Standing Advice, foul drainage and surface water drainage need to be considered for this proposal. In the absence of a Developer Contribution Scheme at present to mitigate the effects of increase foul drainage, foul flows are unable to connect to the mains sewer but must instead use an appropriate bespoke mitigation solution, designed into the application. This proposal includes the use of a package treatment plant, as well as a Sustainable Urban Drainage System. A Habitats Regulation Assessment has been undertaken for both foul and surface water drainage, and Natural England have confirmed their agreement with it. Subject to appropriate planning conditions, the proposed mitigation will ensure that the proposal will not have any impact on the integrity of the River Mease SAC and is therefore in accordance with Policy BNE3 (Biodiversity) of the Local Plan Part 1.

Conclusion

Considering all the matters set out above, it is concluded that the proposal is in accordance with national and local planning policy and should be granted permission 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 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 plans/drawings ref. Site Plan 'Is-221-52-02 Rev D', Lodges Plans and Elevations '221-52-06' and Extract of Access Site Plan '221-52-03' 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. No development, including preparatory works, shall commence until a scheme to avoid harm to reptiles, particularly common lizard and grass snake, along with a timetable for the provision of protective and enhancement measures has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.

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.

4. The development hereby permitted shall not begin until a scheme to deal with contamination of land & ground gas has been submitted to and approved in writing by the local planning authority. The scheme shall include all of the following measures, unless the local planning authority dispenses with any such requirement specifically in writing:
 1. A Phase I site investigation report carried out by a competent person to include a desk study, site walkover, the production of a site conceptual model and a human health and environmental risk assessment, undertaken in accordance with BS 10175: 2011 Investigation of Potentially Contaminated Sites – Code of Practice.
 2. A Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites – Code of Practice. The report shall include a detailed quantitative human health and environmental risk assessment.
 3. A remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation shall be stated, and how this will be validated. Any ongoing monitoring shall also be determined.
 4. If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed in an appropriate remediation scheme which shall be submitted to and approved in writing by the local planning authority.
 5. A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the

approved methodology shall be submitted prior to first occupation of the development. Details of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.

Reason: To protect the health of future occupiers of the site from any possible effects of contaminated land, in accordance with local planning policy SD4.

5. Before any other operations are commenced a new vehicular and pedestrian access shall be created to Park Road in accordance with the application drawing number 221-52-03, laid out, constructed and provided with 2.4m 120m visibility splays in both directions, the area in advance of the sightlines being maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to 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. Throughout the construction phase space will be made available within the site curtilage for the storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives.

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

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

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

8. Prior to the site being taken into use a footway shall be provided from the proposed site access in an easterly direction to join the existing footway at 6 Park Road in accordance with the first scheme submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. Once approved the footway shall be constructed in accordance with the approved drawings.

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

9. No development, including preparatory works, shall commence until protective fences have been erected around all trees and hedgerows shown to be retained on approved Tree Protection Plans with references 'MVA_AM_TPP_Access_Rev1' and 'MVE_AM_TPP_Rev1'. Such fencing shall conform to 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 fences shall be retained in situ during the course of ground and construction works, with the protected areas kept clear of any building materials, plant, debris and trenching, and with existing ground levels maintained; and there shall be no entry to those areas except for approved arboricultural or landscape works.

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

10. All facing materials used in the development shall reflect the details shown on approved plan ref '221-52-06 Plans and Elevations of Lodges', unless, prior to their incorporation into the development hereby approved, 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(s) and the surrounding area.

11. Prior to the development being brought into use the package treatment plant and drainage details hereby approved shall be installed and commissioned to receive flows from the respective lodges. The drainage scheme shall be implemented in accordance with approved plans 'IS-221-52-02 Rev D Site Plan', '200505-SDA-S-XX-DR-C-0001-SO Rev P2 Drainage Layout Sheet 1' and '200505-SDA-S-XX-DR-C-0002-SO Rev P2 Drainage Layout Sheet 2'. The package treatment plant and drainage scheme shall thereafter be maintained in working order throughout the lifetime of the development.

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

11. Notwithstanding the approved plans, prior to the development being brought into use, a revised scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority which shows compliant on-site National Forest Planting using the woodland species mix table as set out by the National Forest Company. The scheme 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 planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first use of a holiday lodge 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, and to ensure compliance with policies relating to the National Forest.

12. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) Order 2015, or any Order(s) revoking and re-enacting either or both Order(s), with or without modification, the building(s) hereby permitted shall be used for the purpose of holiday accommodation only and for no other purpose, including any other purpose within Class C3 of the Order, without the prior grant of planning permission by the Local Planning Authority pursuant to an application made in that regard, and:
 - (i) the building(s) shall not be occupied as a person's sole, or main place of residence;
 - (ii) the accommodation shall not be occupied by a person or group of persons for a continuous period of more than 28 days and it shall not be re-occupied by the same person(s) within 3 months following the end of that period; and
 - (iii) the site operator shall maintain an up-to-date register of the names of all occupiers of

the building(s), and of their main home addresses, and shall make that information available at all reasonable times to the Local Planning Authority.

Reason: The provision of conventional residential dwellings in this location would be contrary to the Development Plan and the objectives of sustainable development, and to enable to the effective monitoring of the use of the site.

13. 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 units hereby permitted shall not be enlarged or extended, and no buildings shall be erected on the site without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

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

Informatives:

- a. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from Mr K Barton in Development Control at County Hall, Matlock (tel: 01629 538658). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.
- b. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport & Environment at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp, e-mail highways.hub@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190.
- c. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the householder.
- d. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

Item No. 1.2

Ref. No. DMPA/2022/1241

Valid date: 07/09/2022

Applicant: Sam Elgie

Agent: Wilson Architects Ltd

Proposal: The erection of a proposed roof and rear extension, replacement of windows and doors with aluminium and render entire property at 3 Fishpond Lane, Egginton, Derby, DE65 6HJ

Ward: Etwall

Reason for committee determination

This item is presented to the Committee at the request of Councillor Lisa Brown based on local objection.

Update report

The application was deferred at the November Committee meeting due to concerns raised by Members relating to privacy concerns from the first-floor terrace and smells associated with the outdoor kitchen area within the terrace.

The applicant has attempted to address the concerns raised by Members and has made further amendments to the scheme. These include:

- a solid rendered wall replacing the 'slatted' screen previously proposed, creating a permanent bookend. There is also a small return of slatted fencing at the rear to help enclose the space further.
- The outdoor kitchen area will be removed completely, eliminating any possibility of smells travelling to the neighbouring properties.

Taking into consideration the amendments outlined above, it is considered the proposed terrace will result in minimal overlooking to the neighbours at No. 5 and given the complete removal of the outdoor kitchen, there is no possibility of smells from cooking to travel into No. 5's garden or property.

To alleviate Members concerns a condition will be attached to any consent, removing permitted development rights so that the property cannot be extended or altered in any way without prior approval from the Local Planning Authority. The previously proposed condition removing permitted development rights has been altered slightly to make clear that this also prevents this outdoor kitchen being re-instated at a future date.

Therefore, the Committee is asked to resolve that planning permission be granted in accordance with the recommendation below which includes a slightly altered Condition 4 to ensure the outdoor kitchen cannot be re-instated without the benefit of a further planning permission.

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 application form, site location plan ref 22,031-P-001, Proposed first floor plan ref. 22,031 - P - 104 Rev E, Proposed site plan ref. 22,031 - P - 106 Rev C, Proposed ground floor plan ref. 22,031 - P - 103 Rev E and Proposed elevations ref. 22,031-P-105 Rev D 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 permitted shall, as a minimum, have (a) floor levels set no lower than existing levels and (b) flood proofing incorporated where appropriate and practicable. Any flood proofing shall, once installed, be retained and maintained in working order.

Reason: To reduce the risk from flooding to the proposed development and its future occupants.

4. 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 cooking equipment shall be installed on the rear first floor terrace area without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

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

Item No. 1.7

Ref. No. [DMPA/2022/1241](#)

Valid date: 07/09/2022

Applicant: Sam Elgie

Agent: Wilson Architects Ltd

Proposal: The erection of a proposed roof and rear extension, replacement of windows and doors with aluminium and render entire property at 3 Fishpond Lane, Egginton, Derby, DE65 6HJ

Ward: Etwall

Reason for committee determination

This item is presented to the Committee at the request of Councillor Lisa Brown based on local objection.

Site Description

The site lies within the Settlement Boundary of Egginton and is host to a large detached two storey dwelling set 32m back from the highway by a hard surfaced parking area and driveway. To the east of the property lies a sizeable garden area containing a substantial amount of vegetation with a number of outbuildings present also.

The surrounding area consists of a range of property sizes including detached two storey properties and two storey terrace dwellings, some located a significant distance from the highway and other located just off it. The architectural design of the properties varies also with some properties supporting red brick and others painted white brickwork. To the south of the site lies playing fields and Egginton Primary School lies approximately 120m south east of the site.

The proposal

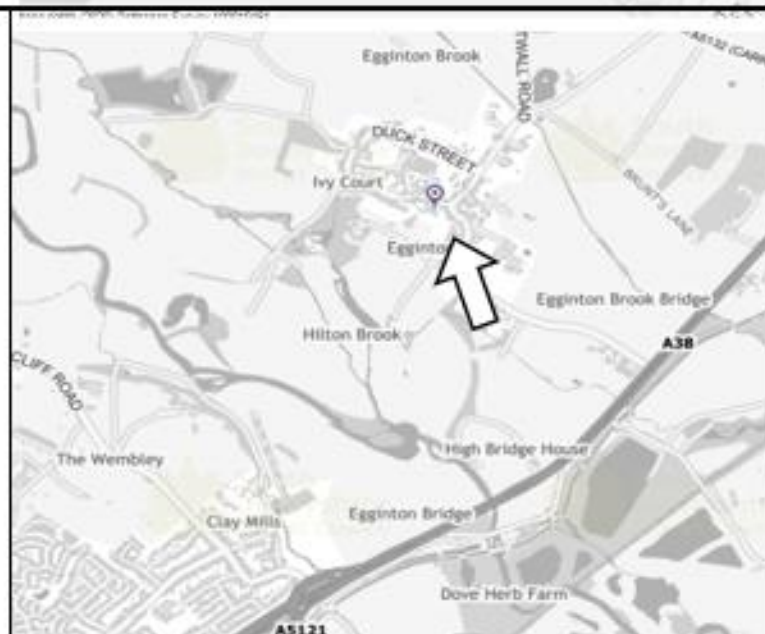
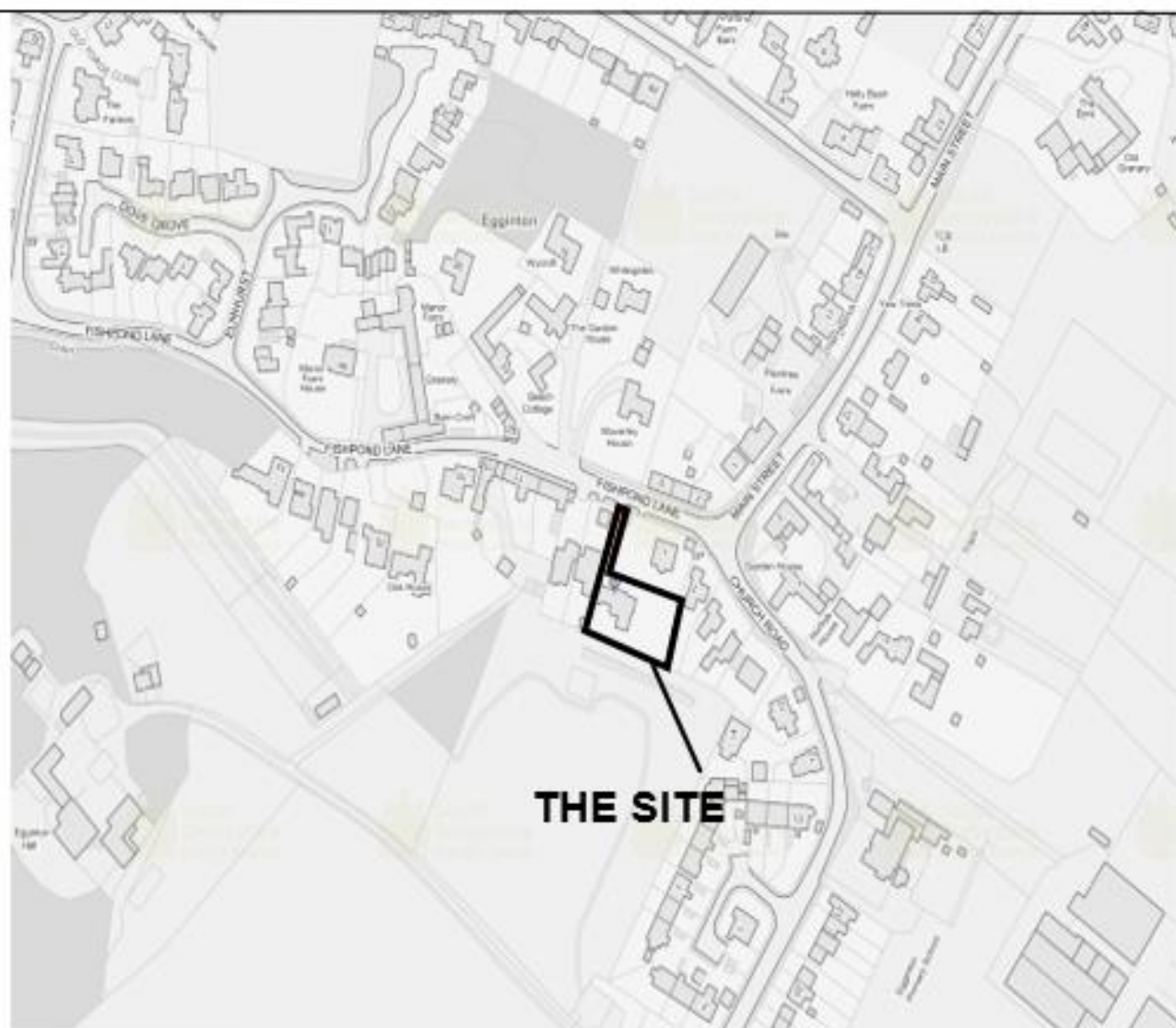
The application seeks permission to raise the roof of the existing single storey main element to create a two storey element, conversion of the garage into a bedroom, removal of the existing conservatory and the erection of an extension to the rear to provide a larger dining/living room at ground floor and an open terrace area at first floor level.

Applicant's supporting information

The documents submitted with the application include;

- Existing Elevations
- Existing Floor Plans
- Proposed Ground Floor Plan
- Proposed First Floor Plan
- Proposed Site Plan

DMPA/2022/1241 3 Fishpond Lane, Egginton, Derby, DE65 6HJ



MAPS ARE NOT TO SCALE

This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationary Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

South Derbyshire District Council. LA 100019461.2020

- Proposed Elevations
- Mass Models

Relevant planning history

DMPA/2022/0624 - The erection of a proposed roof and rear extension - Refused by Planning Committee July 2022.

9/2013/0359 - The erection of an extension - Approved with conditions

9/1998/0645 - The installation of a pitched roof on the garage and a conservatory at the rear of the detached dwelling - Approved.

Responses to consultations and publicity

Highways

No objections.

Parish Council

Object. Remains issues with regard to car parking and vehicle access. Considering the size of the proposed property, the only access is a single drive, which can't be widened as its boundaries belong to neighbouring properties, and there is limited car parking which would be inadequate to service a property of this size.

The Parish Council believes the development should include a garage rather than a sixth bedroom. If a sixth bedroom is required, there is room to incorporate that out at the back garden. What we do not want is more cars parked on Fishpond Lane, rather than on peoples' driveways or in their garages.

Public Comment

One letter of objection has been received by a neighbour outlining the following;

- a) Previous concerns raised have not been sufficiently addressed in this new application.
- b) Design out of character with the surrounding area.
- c) Design would have an overbearing impact and result in loss of privacy to our property.
- d) trees have been removed which provided some privacy previously.
- e) fence has been erected reaching over 2m - resulting in a detrimental effect on the light in our dining and bathroom.
- f) concerns regarding parking and access given the number of bedrooms proposed. visitors have caused issues with access and parking on the road.

Relevant policy, guidance and/or legislation

The relevant policies are:

2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development); SD1 (Amenity and Environmental Quality); SD2 (Flood Risk); and BNE1 (Design Excellence).

2017 Local Plan Part 2: H27 (Residential Extensions and Other Householder Development).

National Guidance:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Local Guidance:

South Derbyshire Design Guide SPD (Design SPD)

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;
- Impacts on amenity;
- Highway Impacts
- Flood risk;

The previous application DMPA/2022/0624 was recommended for approval but was overturned at Planning Committee citing the following reason for refusal;

'The proposed extensions, due to their scale, design, proposed materials and massing on the boundary with the neighbour at number 5 Fishpond Lane would be out of character with the surrounding area, particularly when viewed from the open space to the rear and would be detrimental to the amenity of this immediate neighbour'.

Following this decision, the current application has made with some changes to the proposal in an attempt to overcome this reason for refusal. These include;

- The rear extension to the existing garage has been removed (adjacent western boundary)
- Double storey fully glazed feature corner window to the master bedroom/living room removed.
- Double height fully glazed entrance porch removed from the 'front elevation'

Planning assessment

Design

The proposed development would sit a significant distance (approximately 32m) from the public highway and would not be unduly prominent within the street scene. The proposal includes raising the roof height of the existing single storey element to create a second storey as well as an extension to the rear which includes a first floor open terrace. Whilst the proposed extensions would increase the overall bulk to the dwelling, they would largely be built on the existing footprint of the dwelling and would not appear excessive or cramped within the plot. Furthermore, the removal of the entrance porch, double storey fully glazed feature corner and garage extension at the rear has decreased the bulk of the building further from the previous scheme.

The removal of the double height entrance porch, allows the building to be read more easily as its original form when viewed from the front of the site. The pitched roof design is maintained with the proposed extensions and would be in keeping with the character of the surrounding properties in the area. The design reflects a more modern style with the use of render and aluminium cladding. Whilst the properties in the locality are of a more traditional style, they vary in size and design and the site does not lie within a Conservation Area. Taking this into account it is considered the design and materials used on the property are acceptable and refusal on design could not be justified in this instance and they would be in accordance with Policies S2 and BNE1 of the Local Plan.

Residential Amenity

The proposed property sits 15m from the rear elevation of No. 1 Fishpond Lane. No windows are proposed at first floor level, apart from 3 rooflights which would not be considered to result in any detrimental overlooking to the rear garden of No. 1.

In terms of the impact to No. 5 Fishpond Lane, the previous rear extension to the garage has been omitted from this scheme with it remaining as existing apart from the projecting window seat to the rear elevation. The proposed rear extension would be situated 3.1m from the shared boundary with No. 5 and taking this into consideration, the proposed development would not result in any detrimental overbearing impact to this property. In terms of loss of privacy, no windows are proposed which would overlook No. 5. The open terrace will have a pergola with full height panelling on the side element preventing any direct overlooking towards No.5. The proposed dwelling is set further back from No. 5 and any overlooking to arise from the open terrace would be to the bottom end of the neighbouring garden area, not of its most private amenity space immediately adjacent the rear of the property. Furthermore given the position of the properties to one another, a mutual level of overlooking from first floor windows into the neighbouring garden areas is to expected.

Taking the above into account it is not considered the amended scheme would result in any detrimental overbearing impact or loss of privacy and is considered to comply with Policy SD1 of the Local Plan.

Highways

No changes are proposed to the existing access, however the driveway to the front has been extended into the garden area and this area alone can comfortably accommodate 4 parking spaces. Another car could also fit in front of the north elevation. The Highway Authority have raised no objections and the proposal would not result in any harmful impact to highway safety in this instance.

Flood Risk

The application site is within an area at risk of flooding. However, the limited extensions to the footprint on the building will not add to this risk, and the EA standing advice applies whereby the extensions should be designed to incorporate flood resilience measures.

Conclusion

In conclusion it is considered that the proposals as amended would achieve a satisfactory standard of design and would not result in any significant detriment to residential amenity, such that permission should be refused. Parking provision is considered to be sufficient and in all other regards the proposals are acceptable and in accordance with the relevant policies of the local plan.

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

Recommendation

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 application form, site location plan ref 22,031-P-001, Proposed first floor plan ref. 22,031 - P - 104 Rev D, Proposed site plan ref. 22,031 - P - 106 Rev C, Proposed ground floor plan ref. 22,031 - P - 103 Rev E and Proposed elevations ref. 22,031-P-105 Rev C 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 permitted shall, as a minimum, have (a) floor levels set no lower than existing levels and (b) flood proofing incorporated where appropriate and practicable. Any flood proofing shall, once installed, be retained and maintained in working order.

Reason: To reduce the risk from flooding to the proposed development and its future occupants.

4. 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 without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

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

Item No. 1.3

Ref. No. [DMPA/2022/0132](#)

Valid date: 04/02/2022

Applicant: J Fryer

Proposal: Retrospective application for an amended scheme (previously approved ref DMPA/2020/1241) for the demolition of the existing bungalow and the erection 5 detached bungalows, 2 garages and the associated new access at Clair De Lune, Lucas Lane, Hilton, Derby, DE65 5FL

Ward: Hilton

Reason for committee determination

This item is presented to the Committee due to the proposal not being wholly in accordance with the relevant policies of the Hilton, Marston and Dove Neighbourhood Plan, as required by the scheme of delegation.

Site Description

The site is located within the settlement boundary of Hilton a key service village , as identified by Policies H1 and SDT1. The site is within a well established built-up residential area, with neighbouring dwellings surrounding the site on both sides and to the rear.

The proposal

The proposal relates to the erection of 5 detached bungalows. A similar scheme was approved in January 2021 and the changes from this consented scheme to the one proposed here is:

- The removal of all detached garages, replaced with 2 off road parking spaces within plots.
- integral garage for plot 1 removed and internals of property reconfigured to provide larger master bedroom.

No additional bedrooms are proposed related to any plots. Plots 3 and 5 are two bed dwellings and plots 1, 2 and 4 are 2 beds with a 3rd smaller room labelled study/bedroom as was the case with the previously approved scheme. Plot 1 will lose 1 parking space within the integral garage, with two parking spaces being provided within the site, parking provision is the same for plot 4, which is unchanged.

Applicant's supporting information

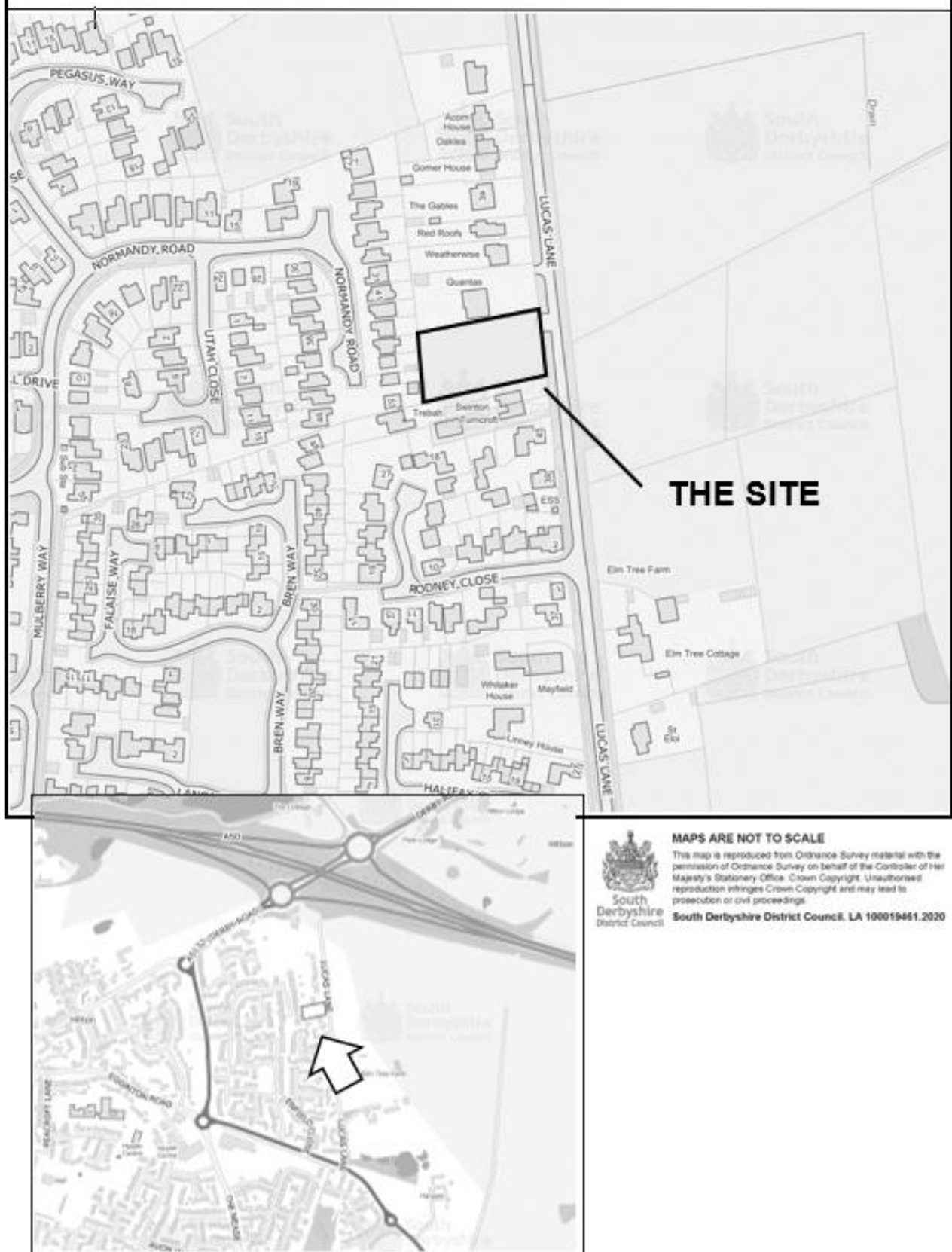
The applications is supported by an application form, location and block plans and floorplans and elevations showing the 5 dwellings.

Relevant planning history

DMPA/2020/1241 - The demolition of the existing bungalow and the erection of 5 detached bungalows, 2 garages and the associated new access at Clair De Lune, Lucas Lane, Hilton, Derby, DE65 5FL – Approved (27th January 2021)

9/2005/0739 – Application for the approval of reserved matters of 9/2004/1009/O for the erection of three detached bungalows and two detached houses – Approved September 2005.

DMPA/2022/0132 – Clair De Lune, Lucas Lane, Hilton, Derby, DE65 5FL



9/2004/1009 – Outline application (all matters reserved except for siting and means of access) for the erection of five dwellings – Approved October 2004

Responses to consultations and publicity

Hilton Parish Council – Objects to the removal of the garage proposed for Plot 1 as it is contrary to Condition 6 of DMPA/2020/1241 and is also contrary to the Neighbourhood Plan policy on parking.

DCC Highways – No objection to the proposed development provided that the previously imposed condition still apply.

Environmental Health – No objection and confirm that their previous comments in relation to DMPA/2020/1241 would still apply

No responses have been received from local neighbours or the public.

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), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy) and INF2 (Sustainable Transport).

2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development)

Hilton Neighbourhood Development Plan (NDP): H3 (Requirements of housing: residential car parking).

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 document 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 conflict with Policy H3 of the Hilton Neighbourhood Plan;

Planning assessment

The planning application seeks retrospective approval for an amended scheme in relation to the approved development of 5 detached bungalows at Clair De Lune, Lucas Lane, Hilton, Derby (ref: DMPA/2020/1241). The amended scheme proposes an alteration to Plot 1 to amend the floorplan to enlarge the master bedroom and reconfigure the internals, removing the integral garage.

In principle, this amendment is not considered to be a significant material difference to the

approved scheme. The principle of residential development on the site has been established and the alteration is not considered to be a significant departure from the scheme that has already been found to be in accordance with the development plan. However, it is recognised that the proposal as amended would result in a conflict with Policy H3 Requirements of Housing: Residential Car Parking of the Hilton Neighbourhood Plan, as highlighted by the Parish Council, which has been made since the original grant of planning permission.

Indeed, the proposed amendment would not result in the increase of any bedroom numbers across the site, although Plot 1 would benefit from a larger master bedroom. Whilst Plot 1 and plot 4 (the other 2 bed with optional 3 bedroom) would still include two off-street parking spaces, which would be in accordance with the Council's Design SPD (plot 2 would have 3 parking spaces including the retained integral garage), it would not accord with Policy H3 of the Hilton Neighbourhood Development that requires 3-bed dwellings to provide 3 parking spaces. It is recognised, therefore, that there is a slight conflict between both the requirements of the Council's Design SPD and Policy H3 of the Neighbourhood Plan, which must be considered in determining this application.

It is not unusual for Development Plan policies to pull in different directions. It should be noted that a conflict with one policy in the Development Plan does not mean that the application is in conflict with the Development Plan as a whole, particularly, where there are material considerations that weigh in favour of the development. As such, a judgement must be made as to the degree of the conflict with Policy H3 against the Development Plan as a whole.

It should be noted that Policy H3 is considered to be an independent policy that does not limit the operation of any other policy in the plan. As such, the conflict is limited to Policy H3 only. It should also be noted that the objectives of the Development Plan as a whole that are relevant to the consideration of this application are:

- To ensure the needs of an ageing population are recognised in shaping all aspects of our communities
- To ensure the district housing stock is decent, suitable and affordable, meets community need and is balanced with access to employment opportunities.
- To reduce the need to travel by car.

In that context, a number of material considerations have also been taken into account in determining this application.

1. The original approved scheme and the proposed amended scheme makes an important contribution to the identified need for bungalows in the area. This is recognised in the Hilton Neighbourhood Plan which states that there is a significant lack of bungalows in the area with only 13 bungalows being built in the past 20 years.
2. The proposed amendment would result in a greater mix of bungalows in the area which would present an opportunity for families with specialist housing and disabled access requirements.
3. The site is located in close proximity to the centre of Hilton, and as such, there are a wide range of services and facilities available to meet the day to day needs of the residents at Clair De Lune without the need to travel by car. It is, therefore, reasonable to suggest that the need for a third parking space would not be necessary.
4. It is recognised that there would be enough space to provide an extra parking space to plot 1 in the future if required, with the loss of soft landscaping.

On balance, it is considered that the conflict with Policy H3 is relatively minor in the context of the wider objectives of the Development Plan. The proposals contribute to meeting the needs

of an ageing population, ensuring an appropriate mix in the districts housing stock and reducing the demand for travel. As such, it is not considered that the extent of the breach is of such significance such as to warrant a refusal of planning permission, taking account of the significant material considerations that weigh in favour of the proposed development.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, 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 No. 101 Rev A, 102 and 103; except for Plot 1 which should be developed in accordance with Drawing No. P1 Rev B as submitted to the Council on 4th February 2022; 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.

3. The parking and manoeuvring space shall be laid out in accordance with application Drawing 1604/101 rev A and maintained throughout the lifetime of the development free of any impediment to its designated use.

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

4. There shall be no gates within 5.5m of the highway boundary and any gates shall open inwards only.

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

5. Notwithstanding the submitted drawings, a bin collection point shall be provide within private land at the entrance to the shared driveway into the site sufficient to accommodate two bins per dwelling for use on collection day to ensure that bins do not cause an obstruction of the either highway or the access. The bin store shall be provided in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority before the dwelling 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, and maintained throughout the lifetime of the development free of any impediment to its designated use.

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

6. The windows to all of the habitable rooms on the north and east facades of the proposed development shall be fitted with secondary glazing to a specification of Rw 33dBA or better (or equivalent). The provision of ventilation within these rooms shall be such that the ventilation rates for dwellings specified in Approved Document F of the Building Regulations are capable of being achieved with the windows closed (such as through the use of sound insulated trickle vents). 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, all subsequent replacement of windows to habitable rooms shall achieve at least the same level of noise suppression.

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

7. Notwithstanding the plans hereby approved, details of the position, appearance and materials of 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 dwellings to which they serve are first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

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

8. 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 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 effect upon neighbouring properties.

9. Prior to the first occupation of the dwelling a recharge point for electric vehicles shall be provided. Individual 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, located where it can later be changed to a 32amp EVCP. Shared 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. 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. Alternative provision to the above specification must be first submitted to and approved in writing by the Local Planning Authority. The electric vehicle charging point 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.

10. 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.

Item No. 1.4

Ref. No. [DMOT/2021/1190](#)

Valid date: 28/07/2021

Applicant: JESSUP

Agent: Walker Troup Architects

Proposal: Approval of details required by conditions 6 (mammal protection measures), 7 (biodiversity enhancement measures), 9 (construction management details), 10 (landscaping), 13 (boundary treatments), and 21 (external lighting) attached to application ref. DMPA/2019/1415 (Residential Development for the erection of 4 dwellings in Shared Ownership) associated parking access road and landscaping) at 61 Court Street, Woodville, Swadlincote, DE11 7JJ

Ward: Woodville

Reason for committee determination

This application is presented to Committee due to an objection from the County Highways Authority.

Site Description

The application site is located within the Swadlincote Urban Area as defined in the local plan, with part of the wider area (directly adjacent to this site) being built out pursuant to planning permission for 72 dwellings.

The proposal

Planning permission was granted in June 2021, subject to conditions and this application seeks to discharge conditions 6 (mammal protection measures), 7 (biodiversity enhancement measures), 9 (construction management details), 10 (landscaping), 13 (boundary treatments), and 21 (external lighting) of this 'host' permission.

Applicant's supporting information

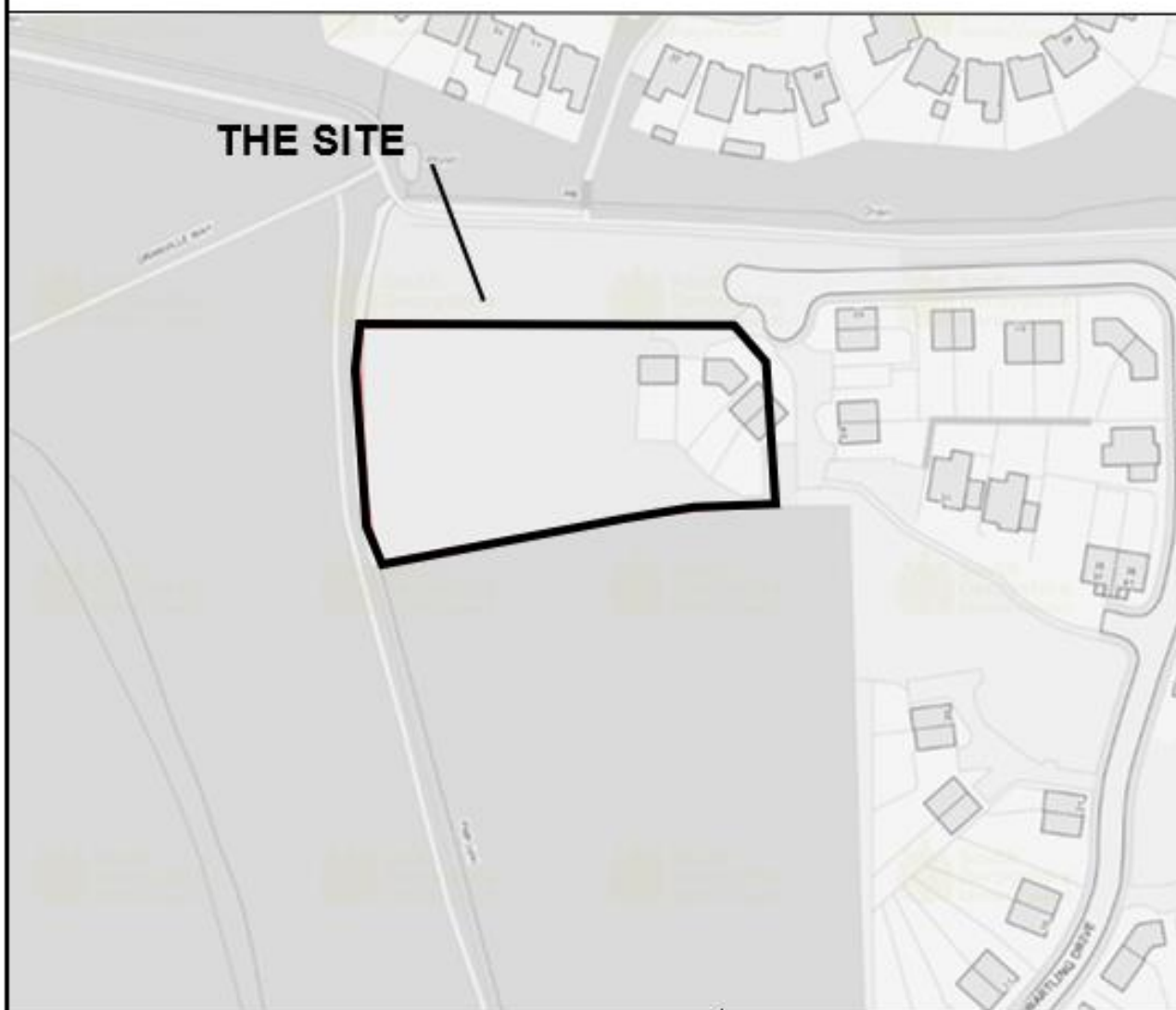
Various documents have been submitted in support of the application including the following:

- Landscaping Plan
- External works site layout
- Street lighting design
- Transport management plan
- Access management plan
- External finishes plan
- Construction management plan; and
- Bird and bat box location plan

Relevant planning history

DMPA/2019/1415 - Residential development for the erection of 4 dwellings (shared ownership), associated parking, access road and landscaping. Approved June 2021.

DMOT/2021/1190 61 Court Street, Woodville, Swadlincote, DE11 7JJ



MAPS ARE NOT TO SCALE

This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

South Derbyshire District Council, LA 100019461.2020

The current application seeks to discharge conditions placed on this permission and therefore this is the only relevant planning history.

Responses to consultations and publicity

County Highways object to the scheme, citing that wheel washing facilities require incorporation into the scheme.

Derbyshire Wildlife Trust object to the information provided in relation to condition 9, stating the improved suitability of Swift boxes compared to the House Sparrow terraces proposed.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are set out in the officer report relating to the host permission. However, for completeness these are as follows:

The relevant policies are:

2016 Local Plan Part 1: S1 (Sustainable Growth Strategy); S2 (Presumption in Favour of Sustainable Development); S4 (Housing Strategy); S6 (Sustainable Access); H1 (Settlement Hierarchy); H20 (Housing Balance); SD1 (Amenity and Environmental Quality); SD2 (Sustainable Water Supply, Drainage and Sewerage Infrastructure); SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure); SD4 (Contaminated Land and Mining Legacy Issues); INF1 (Infrastructure and Developer Contributions); INF2 (Sustainable Transport); BNE1 (Design Excellence); BNE3 (Biodiversity); BNE4 (Landscape Character and Local Distinctiveness).

2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development)

The relevant National Guidance is:

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

The relevant Local Guidance is:

South Derbyshire Design Guide SPD (Design SPD)

Planning considerations

The application seeks approval of details required by conditions set out on the host permission such that the scope of planning considerations is confined to the matters which those conditions seek to control or address. Matters of principle are thus not of relevance under this assessment.

Planning assessment

Condition 6 states that:

No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers (and other mammals) from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the Local Planning Authority. The measures may include:

- a) creation of sloping escape ramps (mammal ladders) for badgers (and other mammals potentially using the site), which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and
- b) open pipework greater than 200 mm outside diameter being blanked (capped) off at the end of each working day.

The approved measures shall be implemented throughout the construction period.

A number of measures are proposed by the Applicant to protect badgers and other mammals from being adversely impacted by the construction works. These include, but are not limited to, escape ramps, visual inspections and capping off of pipe work over 200mm in diameter. The Derbyshire Wildlife Trust are satisfied with the mitigation plans proposed for safeguarding such species against harm.

Condition 7 states that:

No development shall commence until a scheme has been submitted to and approved in writing by the Local Planning Authority indicating:

- i) a construction traffic routing plan;
- ii) the proposed temporary means of construction access;
- iii) site accommodation;
- iv) storage of plant and materials;
- v) areas for parking and manoeuvring of site operatives' and visitors' vehicles;
- vi) loading, unloading and manoeuvring of goods vehicles
- vii) hours of operation;
- viii) measures to minimise noise close to habitat for protected species; and
- ix) method of prevention of debris being carried onto the highway.

Before any other operations are commenced the scheme shall be fully implemented in accordance with the approved details and be retained/followed as such throughout the construction period.

A Construction Management Plan and Traffic Management Plan have been submitted, as well as further information detailing access and dust procedures. County Highways object to the application due to the absence of wheel washing facilities denoted on the submitted plans. It is noted that wheel washing is referred to on p.8 of the Construction Management Plan, stating their location at the site entry gates, should such facilities be required. It is considered that a sufficiently detailed and proportionate response has been provided in order to minimise and mitigate impact on highway safety and biodiversity during the construction phase, such that the detail is satisfactory to satisfy the condition. Notwithstanding this the Highways Authority has separate legislation available to them to control and ensure that mud is not transported onto the public highways such that it would cause highways safety concerns.

Condition 9 states that:

Prior to any works to construct a building or boundary treatment, a scheme of biodiversity enhancement (namely the incorporation of bat roosting bricks/boxes) shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall also include a method of communicating the purpose of such biodiversity enhancement measures to occupiers of the dwelling(s). The approved scheme shall be implemented so that physical measures are incorporated before the first occupation of each respective dwelling and thereafter retained and maintained in situ.

Details for the location of and specifications for 4 no. bat boxes and 4 no. bird boxes have been submitted. These are to be integrated into the fabric of the development, with each tenant provided with information that is to be retained in each dwelling. Although the specific choice of bird box has been disputed by the Derbyshire Wildlife Trust, the proposed specification submitted is considered to be suitable and fit for purpose in safeguarding and enhancing existing habitats. In addition, it is relevant to note that the condition only requires bat roosting boxes and that bird boxes are to be provided over and above the requirements of the condition. Overall, the type, number and location of the boxes provided is considered to be

appropriate and proportionate to the development proposed.

Condition 10 states that:

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

Landscaping details have been provided with regard to both soft and hard landscaping interventions across the entirety of the site. A variety of species are proposed across the site that reflect the differing character areas, i.e. domestic, woodland edge. Hard landscaping is limited to tarmac and grey block paving, indicative of a materiality typical of the surrounding residential context. It is considered that the details enhance the visual setting of the development and add visual interest to the streetscene and wider proposed public open space.

Condition 13 states that:

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

The boundary treatments submitted detail a mixture of predominantly close boarded fencing and brick walling at variable heights. Further information is also provided on the various retaining wall features across the site. It is understood that the relevant boundary treatments will be erected on a dwelling by dwelling basis and given the scale of the development, a formal timetable would not be necessary. The choice of boundary treatment, in terms of both materiality and scale, is considered to be appropriate for the nature of development proposed in protecting neighbouring amenity and remaining in keeping with the character of the surrounding context.

Condition 21 states that:

Prior to the installation of any external lighting a detailed lighting strategy (designed in accordance with the guidelines issued by the Institute of Lighting Engineers, or any equivalent guidelines which may supersede such guidelines) which shall include precise details of the position, height, intensity, angling and shielding of lighting, as well as the area of spread/spill of such lighting, has been submitted to and approved in writing by the Local Planning Authority. All lighting shall be installed in accordance with the approved strategy and thereafter retained in conformity with them.

The lighting strategy remains the same as the previously approved phase 1 of the scheme, with no further external lighting proposed. As such there are no further details with regards to external lighting that require consideration. There is no new external lighting proposed, with

the approved details of the phase 1 works providing sufficient coverage of the site. Accordingly there will be no increase in impact on neighbouring amenity or light pollution.

Conclusion

Having considered the information submitted in support of the application and having regard to the reasons for attaching the conditions to the host permission, whilst there are outstanding objections from Highways and DWT, on balance given the information submitted it is considered that there is sufficient and acceptable information to discharge the relevant 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 subject to the following submitted information

- Letter by Dr Stefan Bodnar MCIEEM dated 12th July 2021
- Construction Management Plan Issue 01 date June 2021
- Plan ref. 1817-502 Rev C – P
- External works site layout plan 1817-100-P10
- Proposed Private External Finishes Plan Phase 2 170412-WDK-00-SI-DR-C-32010 Rev P01
- Street Lighting and Electrical Design Rev O Date 11/12/2019

2. Planning and Other Appeals

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

Reference	Place	Ward	Outcome	Decision level
<u>DMPN/2022/0403</u>	Elvaston	Aston	Dismissed	Delegated
<u>DMPA/2021/0090</u>	Newhall	Newhall and Stanton	Dismissed	Committee



Appeal Decision

Site visit made on 11 October 2022

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2022

Appeal Ref: APP/F1040/W/22/3300274

Beechwood Park, Main Road, Elvaston, Derby, Derbyshire DE72 3EQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Beech against the decision of South Derbyshire District Council.
 - The application Ref DMPN/2022/0403, dated 21 March 2022, was refused by notice dated 16 May 2022.
 - The development proposed is described as 'Application to determine if prior approval is required for a proposed: Change of use of agricultural buildings to dwellinghouses (Use Class C3), and for building operations reasonably necessary for the conversion at Beechwood Park, Main Road, Elvaston, Derby, DE72 3EQ'.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application form did not include an accurate description of the proposed development, with it instead referring to the submitted Design and Access Statement. Consequently, the description in the banner header above has been taken from the appeal forms and the decision notice. I have dealt with the appeal accordingly.

Main Issue

3. Class Q(a) of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) permits the change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order. Class Q(b) of the GPDO permits building operations reasonably necessary to convert the building referred to in (a) above.
4. Paragraph Q.1(a) of the GPDO states that development is not permitted by Class Q if the site was not solely for an agricultural use as part of an established agricultural unit on 20 March 2013 or in the case of a building which was in use before that date but was not in use on that date, when it was last in use.
5. The Council considers that the appeal building was not used solely for an agricultural use as part of an established agricultural unit as required under paragraph Q.1(a), and therefore the appeal proposal is not permitted development.

6. Given the above, the main issue is whether the proposal would be permitted development, with particular regard to whether the agricultural use requirements of paragraph Q.1(a) would be met.

Reasons

7. The appeal site comprises a steel framed, metal clad barn and the land immediately surrounding it. The existing barn is situated adjacent to the southern boundary of the middle of three enclosed fields which are located to the west of Beechwood Park, which accommodates a holiday let site including caravans, log cabins and glamping pods. The appeal site is accessed via the existing vehicular access to Beechwood Park.
8. The appellant contends that the appeal building has been in agricultural use since 2006. The Council however consider that at the date of the application the building was not being used solely for agricultural use and was in fact being used primarily for general storage associated with the holiday let site. I observed during my site visit that the whilst the appeal building was being used for the storage of various items and machinery including trailers and ride on mowers, many of these items appeared to be more related to general grounds maintenance than any specific agricultural use or activity. The three enclosed fields immediately adjacent to the appeal building contained no livestock and were largely empty save for a small number of items including pipes, pallets, fencing, and a small tractor.
9. However, the current use of the site and the building itself are not determinative since paragraph Q.1(a)(i) allows the permitted development where the site was in agricultural use as part of an established agricultural unit on 20 March 2013. In that context, the Council concede that there is no evidence to suggest that the building was not in agricultural use on the relevant date. The appellant seeks to support that position with a letter from a neighbouring farm owner stating that he harvested hay from the fields and made use of the storage facility erected by the appellant in 2006 for several years. However, I note that the letter does not provide information on the use of the site in 2013 specifically.
10. Notwithstanding the above, an agricultural building is defined in Schedule 2, Part 3, paragraph X of the GPDO as "a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business; and 'agricultural use' refers to such uses". Whilst this definition does not require the activity to make a profit, to be considered an agricultural building, it must be used as part of a trade or business. To my mind this means that the agricultural activity taking place must be undertaken on a commercial and organised basis.
11. I accept that the evidence suggests that the appeal building was historically used for agricultural purposes, and that there is no information before me which would indicate that it was not in such use on the relevant date. However, in order to be considered an agricultural building and benefit from the permitted development rights afforded under Class Q, it must also be used as part of a trade or business.
12. Other than confirming that the appeal building is separate from and does not form part of the wider Holiday Let site, or indeed form part of the associated Beechwood Park Licence, very little information has been provided in relation to

any connection with a trade or business. No substantive evidence has been provided by the appellant which would indicate that the site was operated for an agricultural trade or business on the relevant date. The letter from the neighbouring farm owner does not provide conclusive evidence in that regard. The Council has highlighted a lack of a DEFRA Holding Number being provided by the appellant, whilst no other supporting evidence such as accounts, tax returns or sales invoices and receipts have been provided to indicate that the activity at the appeal site has been carried out for the purpose of a trade or business.

13. Under Schedule 2, Part 3, paragraph W(3) of the GPDO, the Local Planning Authority may refuse an application where the developer has provided insufficient information to establish whether the development complies with any conditions, limitations or restrictions in Part 3. The burden of proof is on the applicant and in this case, based on the evidence before me, whilst the site may have been used in connection with agriculture historically, it has not been sufficiently demonstrated that it was so used for the purposes of a trade or business. Consequently, I find that there is uncertainty as to whether the site was used solely for an agricultural use as part of an established agricultural unit. As a result, the proposal would not be permitted development under Class Q.

Conclusion

14. For the reasons set out above, I conclude that the proposal would not constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO. The appeal is therefore dismissed.

David Jones

INSPECTOR

Appeal Decision

Site visit made on 8 November 2022

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2022

Appeal Ref: APP/F1040/W/22/3296129

Broadfield, Thorn Tree Lane, Newhall, Swadlincote DE11 0LW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr S Wain (DP Improvements) against South Derbyshire District Council.
 - The application Ref DMPA/2021/0090, is dated 15 January 2021.
 - The development proposed is demolition of existing dwelling and outbuildings and the erection of two dwellings.
-

Decision

1. The appeal is dismissed and planning permission for demolition of existing dwelling and outbuildings and the erection of two dwellings is refused.

Application for costs

2. An application for costs has been made by Mr S Wain (DP Improvements) against South Derbyshire District Council. This application is the subject of a separate Decision.

Main Issues

3. The Council has not made a determination on the application leading to this appeal. However, in light of the submissions, the main issues are (i) the effects of the development on the character and appearance of the site and surrounding area, and (ii) whether it would be in a suitable location having regard to development plan policies and the National Planning Policy Framework (the Framework).

Reasons

Character and appearance

4. The appeal property is a fenced-off parcel of land that slopes up from its access at the junction of Rose Tree Lane and Thorn Tree Lane towards a 2 storey house at the top of the site. Except from the dwelling and nearby garage and air shelter, the property is largely open land, although on parts I saw vehicles, containers and other items. Nearby residential and employment areas on the edge of Swadlincote to a degree influence the character of the area. However, the site also adjoins fields to the north and west and so it has a semi-rural feel. The site's character is appreciated in views from the highway through the access as well as from public footpaths that run along the side and rear boundaries of the plot.

5. The proposed dwellings would be positioned towards the top of the slope. The unit on plot 2 as shown on the appeal drawings would be roughly in the same position as the existing house, whereas the house on plot 1 would be to the side on land that is largely open apart from the small air raid shelter. Given their prominent position, it is likely the proposed houses would be visible from the access point and from the adjoining footpaths.
6. The replacement of the existing house with the dwelling on plot 2 would in itself have little effect on the overall character and appearance of the site. However, the introduction of an additional 2 storey dwelling would lead to a noticeable loss of openness compared to the current situation. Consequently, the scheme would erode the rural aspects and nature of the site.
7. The proposal would include the removal of outbuildings as well as the existing house. However, apart from the dwelling, the other buildings on the appeal site are low key. As such, their removal would not offset the visual impact of the extra house. Also, I am unconvinced from the limited information provided that new planting would adequately mitigate for the additional visual intrusion that would be caused by the proposal.
8. The design and scale of the proposed dwellings would be in keeping with the houses in the nearby residential areas of Swadlincote. However, acceptability in these respects would not address nor override the erosion of the semi-rural feel of the site and its surroundings.
9. For these reasons, I conclude the development would harm the character and appearance of the area. In these regards, it would not accord with policies S1 and BNE4 of the South Derbyshire Local Plan Part 1 2016 (LP1). Amongst other things, these seek to protect the rural character and landscape of the District.

Suitability of location

10. Policy SDT1 of the South Derbyshire Local Plan Part 2 2017 (LP2) states that settlement boundaries as shown on the policies map define the built limits of a settlement. The appeal site lies close to but outside the defined settlement boundary for Swadlincote. As such, it is classed as falling within a rural area under the terms of LP2 policy SDT1 and LP1 policy H1.
11. The proposal would represent the redevelopment of the site rather than a conversion of a building or infilling. As such, it is not permissible under the terms of LP1 policy H1.
12. With reference to other policies, LP2 policy BNE5 lists additional types of development that are allowed in rural areas. This includes replacement dwellings that accord with LP2 policy H24. The explanation to this policy indicates that only development where there is no further dwellings is permissible. This casts doubt over whether the appeal scheme complies with the policy as it is proposed to replace a single dwelling with 2 houses.
13. The current dwelling is quite intrusive in the landscape as it is on top of the slope and easily seen from adjoining roads and footways. However, for the reasons as set out in respect of the first main issue, the introduction of an additional dwelling would have a harmful effect on the semi-rural character of the site. The development as a whole would be more intrusive in the landscape than the current situation and so it would not accord with criterion (iii) of LP2 policy H24.

14. The appellant claims the appeal site falls within the curtilage of the existing dwelling and that significant extensions and outbuildings could be erected under permitted development rights (PDRs). However, there is limited information to show it is likely that development allowed under PDRs would be carried out in the event of this appeal being dismissed. In any event, the evidence fails to demonstrate how buildings allowed under PDRs would have a greater visual impact compared to the proposed 2 storey high houses. As such, I am unconvinced the fallback position provided by PDRs would be as harmful to the landscape compared to the proposal.
15. No case is made that the scheme would fall within any of the other permitted categories of development as set out in LP2 policy BNE5. As such, the proposal would be contrary to the development plan policies on the location of housing and that seek to protect rural areas.
16. The Framework generally advises against isolated new homes in the countryside. However, the proposed development would be quite close to the built up extent of Swadlincote and so it would not be isolated. Moreover, it is likely that occupiers of the dwellings would be able to walk to a range of local facilities and bus stops with public transport links to a wider area. As such, the development would be located so as to support the vitality of the local community and to promote sustainable modes of travel. In these respects, it would accord with the aims of the Framework in terms of its location.
17. For the above reasons, I conclude the development would not be in a suitable location having regard to development plan policies. It would not accord with LP2 policy H24 and so it would conflict with LP2 policies BNE5 and SDT1. Also, it would not accord with LP1 policies H1 and S4. The harm caused in these respects is tempered by the scheme's accordance with the provisions of the Framework on the location of rural housing and sustainable modes of travel.

Other Matters and Planning Balance

18. The Council's submissions refer to the impact of the development on the Green Belt. However, the appeal site is adjacent to, rather than in, designated Green Belt and so Green Belt policies do not apply. This factor does not affect my views on the proposal's impact on the rural landscape.
19. It is unlikely the development would generate significant additional traffic movements to and from the site and so it would not prejudice highway safety. The scheme would include adequate parking space and would provide a satisfactory living environment for occupiers. Also, it would not be at flood risk. The issue of safety in light of coal mining records could be reasonably addressed through the imposition of a planning condition. Acceptability in all of these regards is a neutral factor rather than a benefit to which I attach positive weight.
20. The appellant indicates that the site is being promoted for residential development as part of the review of the current LP1 and LP2. However, there is no information before me that indicates the status of this review or whether there are unresolved objections to the proposed allocation. As such, this factor attracts limited weight in my assessment.
21. The proposal would lead to an extra dwellinghouse in a location where occupants would support local businesses and services. These benefits add

support for the scheme. However, they attract modest weight given that only a single additional house would be created and as the Council can demonstrate in excess of a 5 years' supply of housing land as required under the Framework.

22. I find the proposal would be contrary to the development plan policies when read as a whole for the reasons set out in respect of the main issues. The harm caused by reason of conflict with policies on the location of development is tempered by the proposal's accordance with the Framework in these regards. Even so, factors in support of the scheme are of insufficient weight to justify granting planning permission contrary to the development plan.

Conclusion

23. For the reasons given above, I conclude that the appeal should be dismissed.

Jonathan Edwards

INSPECTOR



Costs Decision

Site visit made on 8 November 2022

by **Jonathan Edwards BSc(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 November 2022

Costs application in relation to Appeal Ref: APP/F1040/W/22/3296129 Broadfield, Thorn Tree Lane, Newhall, Swadlincote DE11 0LW

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr S Wain (DP Improvements) for a full award of costs against South Derbyshire District Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for demolition of existing house and outbuildings and erection of two dwellings.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and so caused the applicant to incur unnecessary expense in the appeal process. This application claims unreasonable behaviour by the Council in failing to make a decision on the planning application leading to the appeal.
3. Contrary to advice in the PPG, no information has been provided to show why the Council failed to make a decision on the planning application within the prescribed period. Moreover, there is no evidence to show that the Council sought agreement with the applicant to extend the determination period. This constitutes unreasonable behaviour.
4. In such circumstances, it is understandable that the applicant felt the need to lodge the appeal. However, through its appeal submissions, the Council has explained why it would have refused planning permission had it been in a position to issue a decision. There is no indication that the applicant would not have lodged the appeal had the Council's objections been known in advance. Therefore, irrespective of the Council's failure to determine the planning application, it seems as though the Council would have refused planning permission that would have led to an appeal in any event. Accordingly, no unnecessary costs have been incurred by the applicant as a result of the Council's unreasonable behaviour. Therefore, I conclude an award of costs is not justified.

Jonathan Edwards

INSPECTOR