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Our Ref

Your Ref

Date: 22 December 2022

Dear Councillor,

Planning Committee

A Meeting of the **Planning Committee** will be held at **Council Chamber**, Civic offices, Civic Way, Swadlincote on **Tuesday, 10 January 2023 at 18:00**. You are requested to attend.

Yours faithfully,

Chief Executive

To:- **Labour Group**

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

Conservative Group

Councillors Bridgen, Brown, Dawson, Haines, Redfern and Smith.

Non-Grouped

Councillor Wheelton



AGENDA

Open to Public and Press

- 1** Apologies and to note any Substitutes appointed for the Meeting.
- 2** To note any declarations of interest arising from any items on the Agenda
- 3** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 4** REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY) **3 - 43**
- 5** DEED OF VARIATION – LAND AT HILTON BUSINESS PARK, HILTON **44 - 45**

Exclusion of the Public and Press:

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

Report of the Strategic Director (Service Delivery)

Section 1: Planning Applications

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/2021/1585	1.1	Hatton	Hilton	6
DMPA/2022/0174	1.2	Melbourne	Melbourne	28
DMPA/2022/1105	1.3	Swadlincote	Woodville	37

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/2021/1585](#)

Valid date: 03/02/2022

Applicant: Batov

Agent: Third Revolution Projects

Proposal: Development of a solar farm with ancillary infrastructure, security fence, access, landscaping and continued agriculture, to generate power to feed into the local distribution network at Hoon Hay Manor, Marston Lane, Hatton, Derby, DE65 5EA

Ward: Hilton

Reason for committee determination

Derbyshire County Council (Planning Policy) have objected to the application on the grounds of landscape and visual impact, heritage impact, and potential flood risk.

Site Description

The 11 hectare site is located on land at Hoon Hay Farm, to the east of the settlement of Hatton and the large Nestle Factory. It is located on Grade 3b agricultural land and is part of an agricultural field to an existing large farm used for cattle and sheep farming. There are no designated heritage assets within the site, however, the site is within the setting of the Grade I listed Church of St Mary, and historic environment records are present across the site. A public right of way (PRoW) running north to south through the site links Derby Road with the wider public footpath network to the south. This network includes a Sustrans cycle route running east to west between Marston-on-Dove and Hatton and part of this has been upgraded as part of new development around the Nestle factory. Mature tree belts, individual trees and hedgerows are present around the site, and is reflective of the wider landscape which is predominantly flat arable land between the settlements of Hatton, Marston on Dove and Hilton.

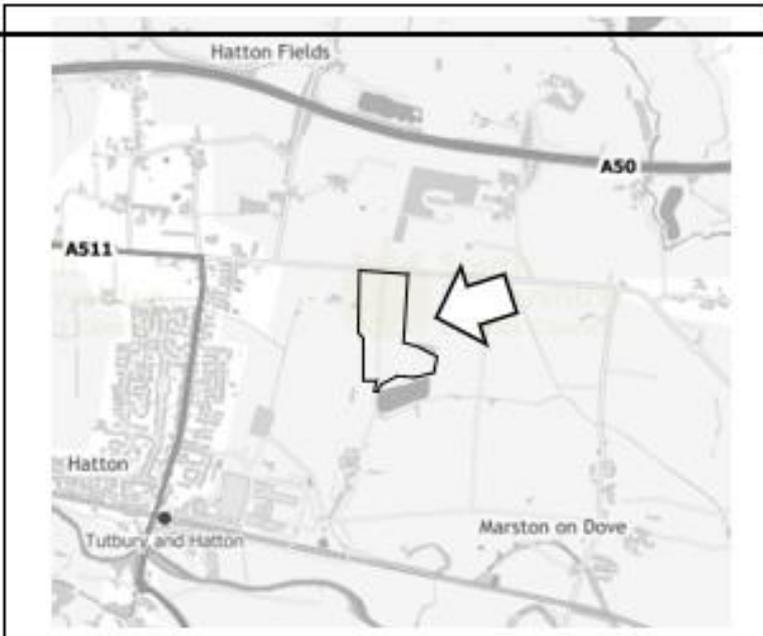
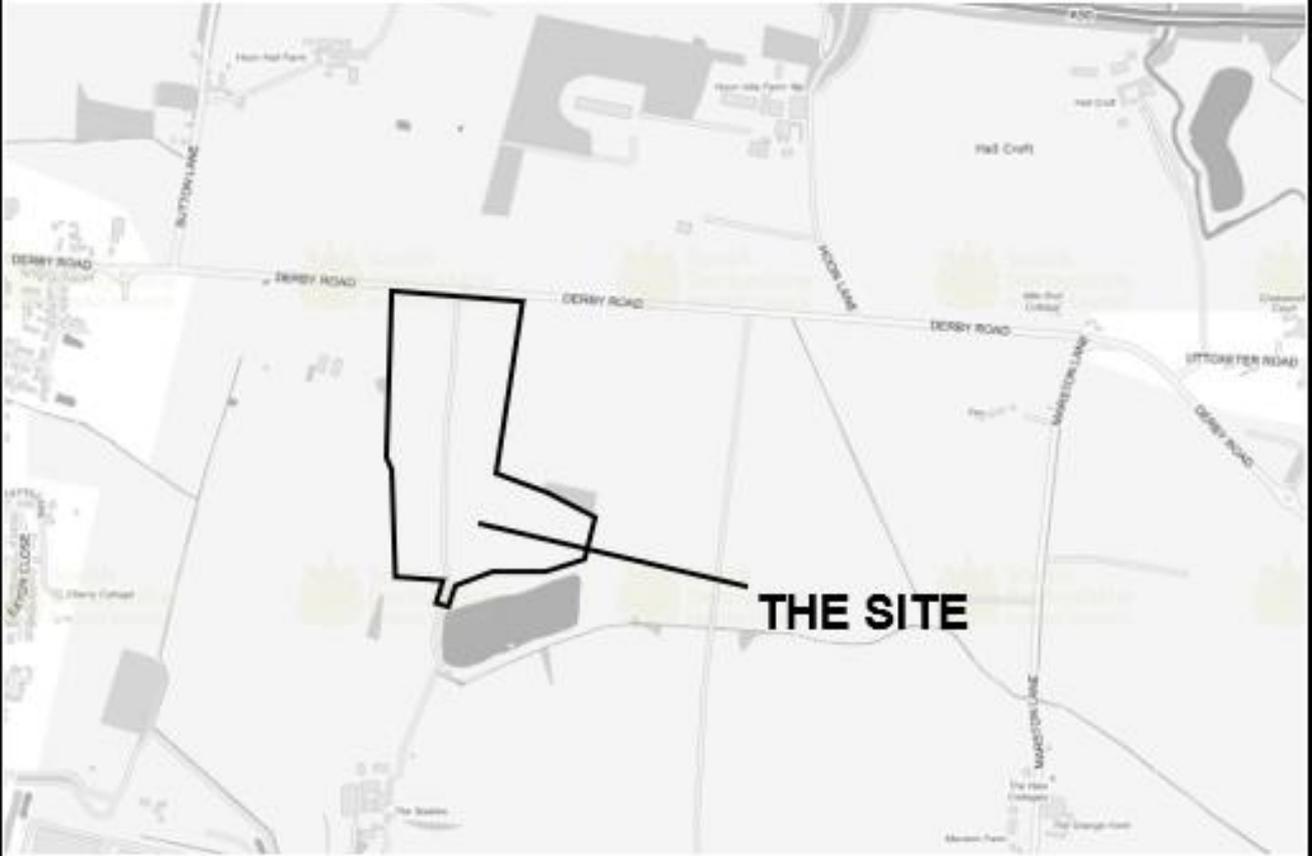
The proposal

The proposed development is for a ground mounted solar farm capable of generating approximately 5.1 Megawatts (MW) of power. The proposed solar farm would provide enough renewable energy to power 1,800 homes each year and avoiding 1,400 tonnes of CO2 every year. The proposed development includes rows of solar panels which are between 2.3 and 2.5 metres at their highest point, three inverter stations and one sub-station, and associated security fencing. The proposal also includes biodiversity net gain. The proposal is for the scheme to operate for up to 40 years, with up to 1 year for construction and up to 1 year for decommissioning. An EIA Screening decision (Ref: DMOT/2020/0704) was issued by SDDC on 6th August 2020, which stated that the council did not consider the proposed scheme to be EIA development and did not require the submission of an Environmental Statement in support of the proposal.

Applicant's supporting information

- Planning Statement dated October 2021
- Preliminary Ecological Appraisal dated December 2020
- Biodiversity Net Gain Report dated December 2021
- Flood Risk Assessment dated January 2021

DMPA/2021/1585 - Hoon Hay Manor, Marston Lane, Hatton, Derby, DE65 5EA



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South Derbyshire District Council, LA 100019461.2020

- Phase 1 Contaminated Land Preliminary Risk Assessment dated January 2021
- Landscape and Visual Impact Assessment dated October 2021
- Geophysical Survey Report dated November 2020
- Historic Environment Assessment dated January 2021
- Drainage Strategy Report dated August 2022
- Infiltration Testing Report dated July 2022
- Flood Risk Sequential Test Analysis dated October 2021

Relevant planning history

9/2002/1135 - The formation of a carpark on Land to the South of Derby Road, Marston on Dove - approved 19 December 2002.

DMOT/2020/0704 - Screening request under The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 relating to the construction of a solar photovoltaic (PV) farm on Land at SK2230 4550, Derby Road, Foston, Derby - Not EIA development 06/08/2020

Responses to consultations and publicity

County Highways Authority

Initially the CHA asked for improvements to the access arrangements to ensure that the manoeuvring of delivery vehicles can be satisfactorily accommodated safely, and with the appropriate visibility splays.

Following the receipt of amended plans...

The requested information has now been submitted and reviewed and the highway approve the proposed access improvements can satisfactorily accommodate the delivery vehicles to the site. Taking this into account the highway authority has no objections to the application subject to conditions being imposed should approval be granted.

Environmental Health

Raise no objection.

Severn Trent Water

No foul water proposed – no further comment.

Surface water is proposed to discharge via infiltration, which we have no comment. Advised to discuss surface water proposals with the Lead Local Flood Authority for their requirements or recommendations regarding acceptable disposal methods or flow rates. For the use or reuse of sewer connections either direct or indirect to the public sewerage system the applicant will be required to make a formal application to the Company under Section 106 of the Water Industry Act 1991. They may obtain copies of our current guidance notes and application form from either our website (www.stwater.co.uk) or by contacting our Developer Services Team (Tel: 0800 707 6600).

Environment Agency

Flood risk

The site is located in flood zone 3 from the River Dove, but benefits from the Lower Dove Flood Risk Management Scheme completed in 2013, and which provides a 1 in 100 (1%) standard of protection to the site. We therefore have no fluvial flood risk objections to above proposals.

Protection of controlled waters

We have the following comments to make which relate solely to the protection of controlled waters. Matters relating to human health should be directed to the relevant department of the local council.

We have reviewed the following document in support of this application:

- 'Phase I, Preliminary Risk Assessment, Hoon Hay Farm, Hatton' Phlorum (January 2021).

Reference to the 1:50,000 scale geological map indicates that the site is located on the bedrock of the Merica Mudstone Formation, which is designated as a Secondary B Aquifer by the Environment Agency. Superficial Alluvium (clay, silt, sand and gravel) deposits are also indicated, designated a Secondary A Aquifer. These deposits are likely to be in hydraulic continuity with surface water receptors in the vicinity of the site. The desk study undertaken has also revealed the site is located immediately west of Hoon Hay Landfill site which accepted inert and industrial waste, the licence for which was surrendered in 1986.

The information provided within the Phase I Desk Study report indicates the proposed area for re-development has been predominately agricultural, however historic pits have been identified on site and it is unknown what materials were used for infill.

Any potential contamination in this location could represent a risk to controlled water receptors that could be mobilised further during redevelopment. We therefore agree with the conclusions of the above referenced Phase I report that an appropriate intrusive site investigation, targeting areas of potential contamination should be carried out. Any investigation should aim to confirm what materials were used to infill the former large pits on site and include an assessment of the risk posed by the development to controlled waters receptors.

The Phase I study of this site has identified potential sources of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive due to the presence of permeable superficial Secondary A Aquifer deposits and linked surface water receptors.

Further detailed information will however be required before built development is undertaken. We believe that it would place an unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission but respect that this is a decision for the local planning authority.

In light of the above, the proposed development will be acceptable if a planning condition is included requiring the submission of a remediation strategy. This should be carried out by a competent person in line with paragraph 178 of the National Planning Policy Framework.

Lead Local Flood Authority

No objection subject to four conditions, and associated informatives.

East Midlands Airport

No objection.

Derbyshire Wildlife Trust

This response deals with matters relating solely to biodiversity and does not deal with matters relating to landscape and visual impacts.

The preliminary appraisal is based upon a site survey carried out on 8th April 2020 which was informed by an appropriate data search for existing biological information. The survey

identifies the vast majority of the site to comprise improved grassland used for grazing. On the basis of the submitted ecological information we advise that the proposal should not have an adverse impact on any habitats of substantive nature conservation value. No impacts on protected species are anticipated. A Biodiversity Net Gain Assessment based on the submitted Landscape and ecology mitigations and enhancements plan dated November 2020 using the recognised Defra 2.0 metric demonstrates that the proposed solar farm development will result in a measurable overall net gain in biodiversity amounting to +160.06% habitat units and +254.59% hedgerow units. As such, the proposal accords with the objectives of the NPPF and policy BNE3 of the South Derbyshire Local Plan.

We therefore recommend that the proposed development should be carried out in accordance with the Landscape and ecology mitigations and enhancements plan dated November 2020 as a condition of any permission.

Derbyshire County Council Rights of Way

Hoon Public Footpath No. 2 is directly affected by the proposed work.

The Right of Way Section has no objection to the proposals, as it appears that the route will be ultimately unaffected by the proposed works. I should be grateful however, if you would advise the applicant as follows :-

- The footpath must remain open, unobstructed and on its legal alignment.
- There should be no disturbance to the path surface without prior authorisation from the Rights of Way Section.
- Consideration should be given to the safety of members of the public using the path during the works. A temporary closure of paths will be permitted on application to DCC where the path(s) remain unaffected on completion of the development.
- There should be no encroachment of the path, and no fencing should be installed without consulting the Rights of Way Section.
- Hedges must not be planted within 2 metres of the central line of the path.

CPRE Derbyshire The Countryside Charity

Derbyshire CPRE is realistic about the expansion of renewable energy generation as a critical part of delivering the UK's reduced emissions targets. We are supportive in principle of well-planned development of this nature that also accounts thoroughly for local needs. In practice, however, we apply the same principles to evaluate the location, design and impact of such sites as to any other development taking place in the countryside and considering national and local planning policy.

Our primary focus and objective is to ensure that sensitive landscapes are protected from detrimental impacts of development and in line with the NPPF guidelines on sustainability, are preserved for both current and future generations from the perspective of distinctive landscape character assets as well as important access and amenity to cherished green spaces conveniently close to where people live.

The value of countryside to people's wellbeing and as a buffer against climate change has never been more obvious and its heritage value, once lost or seriously degraded is virtually impossible to retrieve. Development proposals in open countryside or on undeveloped green field sites, should be considered holistically in terms of what these places mean to people and contribute to communities now and for the future.

Having conducted an extensive site visit at the proposed solar development location and reviewed all the relevant documentation, it is our considered opinion the application should be refused. The detrimental impact on what is clearly high value agricultural land (acknowledged as such within the application submission) is unacceptable.

The site forms an integral part of a rich agricultural area on the banks of the river Dove. The land is suitable for both arable and livestock and removing this area of fertile land from food production goes against all climate change principles.

The proposed extensive development site is open and flat, bordering the Derby Road, making it highly visible from the highway and from the multiple very well-used footpaths that criss-cross the area.

CPRE, the countryside charity is committed to supporting solar energy but will always oppose harmful developments.

Solar photovoltaics are an important part of our energy supply in the climate emergency, but huge greenfield sites which damage our countryside ignore the huge potential of roof-mounted solar.

CPRE is a passionate advocate for climate action, and we have clearly stated our support for renewable energy, but the need for energy does not justify damaging developments. We support schemes that minimise landscape impacts, secure real nature recovery opportunities and enjoy the support of local communities. Schemes that fail to meet these expectations, like this one, must be refused.

The location of choice for solar developments has become valuable farmland, ignoring the 250,000 hectares of south-facing commercial roof space (enough to meet half the UK's electricity demand) not to mention domestic roofs and surface car parks that could be harnessed with little impact on landscape, tranquillity and cultural heritage.

By enabling greenfield solar you are actively courting public opposition to solar energy and putting progress towards net zero at risk.

Derbyshire County Council Archaeologist

The application has been submitted with a Heritage Assessment (HA) report produced by Heritage Archaeology (January 2021) as well as a geophysical survey (GS) report (November 2020) produced by Archaeological Research Services Ltd. The HA was produced following consultations with Steve Baker (Derbyshire County Council Archaeologist).

The HA drew together the available historic documentary, index and cartographic evidence to identify and assess the significance of any known or potential heritage assets, and to consider the likely impact of the proposed development upon the significance of any such assets. The HA identified a number of known or potential heritage interests upon which the proposed development might have a negative impact. However, historic mapping from the post-war period also showed gravel quarrying across parts of the northern end of the proposed development area. Such quarrying clearly would have damaged, if not removed any archaeological interest pre-dating the quarrying. There was some uncertainty as to the maximum extent of such quarrying. It was also clear that the quarrying had been in-filled to leave the level fields that are present today. Unfortunately, the character of that in-filling and any associated spreading of the in-fill material meant that when the geophysical survey was undertaken the results were dominated by that in-filling and/ or possibly high levels of ferrous contamination. This meant the GS could not assist in identifying any areas with surviving pre-quarrying deposits.

The HA has considered the nature of the heritage assets, their significance, the mapping evidence for post-war quarrying and in-filling. It has also considered the character of the proposals in terms of the nature and extent of ground disturbance. It has concluded that "it is very unlikely for this development to result in any impact to any surviving below ground archaeology that may be present within the site" (5.14).

I agree with the conclusions of the HA. On this basis I have no objection to the development proceeding and recommend that no further archaeological requirements be placed upon the applicant in respect of the present application.

South Derbyshire Conservation Officer

The application site

- Abuts or is within the boundary of a number of Historic Environment Record sites.
- I do not consider the site to be within the setting of Listed Buildings. However, I note that one

Listed Building in the locality is Grade I.

Please note that this assessment is based on a desk review. It is considered that there will be a resulting long range visual impact on the surrounding environment. It is the Conservation Officers opinion that this is an alternative use for an agricultural field, a diversification of sorts. It is not considered to be a permanent development. The impact is relatively low-level visual impact; and change to the texture, colour and reflection of views, and therefore minimally intrusive. The existing hedgerows and field divides appear to be unaffected. The appearance will change, however the only concern is the potential reflection and light change to long range views to the Grade I Listed church.

The Conservation Officers assessment is that given the distance, that this is a minimal impact upon the setting of designated heritage assets. The level of impact is a matter of judgement, resulting from the combination of scale, materials, distance, prominence from significant viewpoints, the existing appearance of the surroundings, and the impact on openness. This is a factor that has been considered, and it is concluded that the proposal would have minor impact on the nearby heritage assets.

In terms of the potential effect on the area's rural character and appearance, the initial assessment is that the proposed site forms part of a valued landscape with physical attributes that contribute to the character and appearance of the area. The change in land use resulting from the proposed development would erode the area's pastoral character, however the openness of the existing landscape would remain unchanged. It is considered that the (minor) harm to the significance of heritage assets is the result of the change in use and subsequent change to the appearance of the existing agricultural land. It is considered that this results in less than substantial harm (low) to the setting, as this is a secondary use of existing agricultural land, with minimal permanent development.

If the resulting public benefit is deemed to outweigh the harm to heritage designations, the following design guidance is suggested:

- Panels should be mounted as close to existing ground levels as possible with no significant changes to ground levels that might alter the natural contours of the landscape.
- Below ground connection so that the open countryside is not harmed by tall unsightly pylons, cables, and related equipment.
- Low level rural character security fencing positioned behind existing hedgerow boundaries to soften the impact of site boundaries. High level fencing would be harmful to the open countryside.

Derbyshire County Council Planning Policy

A response was submitted setting out that Derbyshire County Council considers that the scale, extent and nature of the solar park proposals raises a number of significant environmental impact concerns in the context national planning policies in the National Planning Policy Framework (NPPF) and local planning policies in the Adopted South Derbyshire Local Plan Part 1 (SDLPP1) and South Derbyshire Local Plan Part 2 (SDLPP2). Those concerns particularly relate to the landscape and visual impacts, heritage impacts and potential flood risk implications of the scheme.

Whilst they recognise the significant positive merits of the proposal, their objection is based on the impact on the landscape that the security fence panels and 3m high hedgerows would have on the character of the landscape. Derbyshire County Council consider that out of the five sites that were considered as potential sites, areas 1 and 2 would have had less impact than area 4 which was chosen for this proposal, as they more closely relate to the large Nestle

factory and would offer more scope for landscape integration. They also raised concerns regarding impact on the heritage assets of the Church of St Mary, Marston on Dove, as well as concerns relating to flood risk due to the site being located in flood zone 3.

Councillor Pattern

My main concern is flooding, Hatton and Foston and Scropton are high risk flood zone areas and run off etc. are issues which don't appear to have been addressed.

Members of the public

One comment was received from a member of the public who supported the application, as it is good for the environment and preferable to houses being built in that location.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S6 (Sustainable Access), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), SD5 (Minerals safeguarding), SD6 (Sustainable Energy and Power Generation), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF5 (East Midlands Airport), INF7 (Green Infrastructure)

Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas), BNE6 (Agricultural Development), BNE7 (Trees, Woodland and Hedgerows), BNE10 (Heritage)

Hilton Neighbourhood Development Plan 2021 - Policy E2 (Safeguarding Village Identity)

Derby and Derbyshire Minerals Local Plan – MP17

The relevant local guidance is:

Trees and Development SPD

Landscape Character of Derbyshire – Trent Valley Washlands (Landscape Type - Lowland Village Farmlands)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF) 2021

Planning Practice Guidance (PPG): Renewable and low carbon energy

The relevant legislation is:

The Town and Country Planning Act 1990

The relevant emerging plan is:

Derbyshire Minerals Plan

Planning considerations

- Principle of development
- Drainage and flood risk
- Highway safety and public right of way
- Impact on heritage assets and archaeology

- Landscape character, trees and hedgerows
- Biodiversity
- Loss of agricultural land
- Minerals safeguarding
- Impact on residential amenity and design
- Other matters (East Midlands Airport and Community Benefit)

Planning assessment

Principle of development

Paragraph 158 of the NPPF states *'when determining planning applications for renewable and low carbon development, local planning authorities should: a) not require applicants to demonstrate the overall need for renewable or low carbon energy'*. It is therefore accepted that there is a need for renewable energy, and that all projects provide a valuable contribution to cutting greenhouse gas emissions. Paragraph 158 goes on to state that *'local planning authorities should b) approve the application if its impacts are (or can be made) acceptable'*.

The application site is located outside of a settlement as defined by Policy SDT1 (Settlement Boundaries and Development) and is therefore located in the rural area and Policy BNE5 (Development in Rural Areas) applies. As a renewable energy proposal, policy SD6 (Sustainable Energy and Power Generation) also applies. Whilst Policy BNE5 does not list Policy SD6 as a specific exemption, due to the size of the site at 11ha, it could be considered as being unavoidable in the countryside and thus satisfying part iii) of the policy which states *'Outside of settlement boundaries (as defined by Policy SDT1) within the Rural Areas of the district planning permission will be granted where the development is, iii) unavoidable outside settlement boundaries'*. Impacts on matters covered by other policies in the adopted Local Plan also need to be assessed and satisfied, as set out under the headings below.

Policy SD6 Part A provides support for the proposal stating *'The Council will support renewable and other energy developments and ancillary buildings or infrastructure subject to the following considerations:*

- i) that the environmental effects of the proposal have been appropriately considered and schemes will not give rise to unacceptable impacts on landscape or townscape character, ecology, the historic environment or cultural heritage assets.*
- ii) that proposals will not give rise to unacceptable impacts on local amenity, or give rise to safety concerns, as a result of noise, shadow flicker, electromagnetic interference, emissions to the air or ground, odour or traffic generation and congestion.'*

It can therefore be considered that the proposal receives support from Policy SD6 due to its significant contribution to renewable energy generation and the UK's target to become carbon net zero by 2050. However, this is on the basis that the proposal does not cause unacceptable impacts and is in line with other relevant policies in the adopted Local Plan as set out below. This view is supported by national guidance through the National Planning Policy Framework and Planning Policy Guidance 'Renewable and low carbon energy which states that *'planning has an important role in the delivery of new renewable and low carbon infrastructure in locations where the local environmental impact is acceptable'*. The principle of the development is therefore considered acceptable, subject to further consideration of the matters below.

Drainage and flood risk

The application site lies within Flood Zone 3a, an area with a high risk of flooding, however the site benefits from defences through the Lower Dove Flood Risk Management Scheme (completed in 2013) to provide a standard 1 in 100 (1%) risk of river flooding in any year. In

line with national policy, the existing agricultural use of the site is considered to be 'less vulnerable', however the proposed use as a solar farm will be 'essential infrastructure', and therefore the flood risk vulnerability status would increase post-development.

A sequential test and exception test are therefore required to be completed in line with the NPPF paragraphs 159-169. In order to pass the exception test paragraph 164 of the NPPF states *'to pass the exception test it should be demonstrated that:*

- *The development would provide wider sustainability benefits to the community that outweigh the flood risk; and*
- *The development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall'*

Similarly, Policy SD2 (Flood Risk) of the adopted Local Plan part 1 states that *'the development of sites with a higher risk of flooding will only be considered...where development provides wider sustainability benefits to the community that outweigh flood risk'*. As set out above, the development of a solar farm would lead to wider sustainability benefits to the community, and therefore this is considered to outweigh any flood risk that might occur through this development and satisfy point a) of the criteria. In terms of point b), the applicant has worked with the Lead Local Flood Authority to ensure that the proposed drainage systems, and layout of the site including appropriate distance between the panels and infiltration ditches, would not lead to increased pluvial and fluvial flood risk in the locality and elsewhere in the catchment. Whilst the users of the site post-construction, are expected to be infrequent and minimal, the applicant has stated that the EA flood warning service should be used by the future developer/site operator.

The concern raised by Councillor Pattern related to flooding issues is noted. However, since this comment was received, additional information has been provided by the applicant and the Lead Local Flood Authority have confirmed they are satisfied with the details provided to date. Taking into consideration the no objection responses received from both the Environment Agency and the Lead Local Flood Authority, in addition to the proposals to manage drainage on site which will be secured by appropriate conditions, it is considered that the proposal satisfies the policy requirements of both local and national policy in terms of drainage and flood risk, and will not cause unacceptable impacts.

Highway safety and public right of way

It is proposed that the site will be served by an existing access track from Derby Road, with part of the track at its southern end, to be realigned. The County Highways Authority were consulted on the application and following amended plans to improve the visibility splay and access arrangements, where the track meets Derby Road, particularly through the construction phase, the County Highways Authority have no objection to the proposal subject to conditions to ensure the safe use of the access.

A Public footpath 'FP2' runs north/south through the site, close to the existing access track, and through this proposal the access track is proposed to be realigned to follow the existing public footpath route. Derbyshire Rights of Way Section have no objection to the proposals as they consider that the route will ultimately be unaffected by the proposals. It is proposed to manage the new hedgerow at 3m in height, which could create a tunnel-like effect. However, due to the access track also running through this section, it is considered the footpath will be wide enough to not feel unduly enclosed. The solar panels themselves, will largely be screened to users of the public footpath. It is therefore considered that subject to the relevant

conditions and informatives, the proposal accords with policies S6 (Sustainable Access) and INF2 (Sustainable Transport) of the adopted Local Plan Part 1.

Impact on heritage assets and archaeology

The application site is within the locality (just under 1km away) from a grade I listed building, St Mary's Church at Marston on Dove. Comments have been received from the Conservation Officer who considers that the development of a solar farm in this location would result in less than substantial harm to the setting of the listed building, due to the impact being relatively low level, changing the texture, colour and reflection of views, but with the existing hedgerows and field divides being unaffected and the openness of the existing landscape retained. This proposal can also be seen as temporary and reversible, with the public benefit of low carbon energy supply outweighing the minor harm to the significance of the heritage asset. With the application site being almost a kilometre away, and the panels themselves largely screened by trees and hedgerows given the flat landscape, it is therefore considered that the proposal would not cause undue harm to a heritage asset.

The application also has Historic Environment Records present, and therefore the Derbyshire Archaeologist was consulted on the application. They commented that the presence of post war gravel quarrying across at least some of the site (the full extent of quarrying is not known) would have damaged, if not removed any archaeological interest pre-dating the quarrying. It is also known that in-filling of land has taken place resulting in the level fields that are present today, again resulting in the loss of any archaeological deposits which may have been present. On this basis, the archaeologist agrees with the conclusions of the Heritage Assessment which concludes that 'it is very unlikely for this development to result in any impact to surviving below ground archaeology that may be present within the site'.

On this basis, it is therefore considered that the proposal will not cause undue harm to heritage assets and is therefore in accordance with Policy BNE2 (Heritage Assets) of the adopted Local Plan Part 1 and BNE10 (Heritage) of the adopted Local Plan Part 2.

Landscape character, trees and hedgerows

As set out above, the landscape of the application site and surrounding area, is predominantly flat, arable land, in the valley of the River Dove and River Trent. The Landscape Character of Derbyshire (2014) describes the wider landscape character as 'lowland village farmlands', with the key characteristics listed below

- gently rolling, almost flat, lowland with river terraces,
- low slopes and summits give a sense of elevation over a broad flood plain,
- mixed farming with arable cropping and improved pasture,
- thinly scattered hedgerow trees including some willow pollards,
- scattered, locally dense watercourse trees,
- medium to large regular fields with thorn hedges,
- discrete red brick villages with farms and cottages,
- large red brick outlying farms.

It is noted that one of the key characteristics in this area is the more sparsely scattered hedgerow trees, and one of the main objections from Derbyshire County Council is that the proposal would lead to security fences and 3m high hedgerows, which would be at odds with the existing character of the landscape where hedgerows are traditionally maintained at about 1.2m allowing for views across and through the landscape. Policy BNE4 of the adopted Local Plan Part 1 states *'in bringing forward proposals developers will be expected to demonstrate that close regard has been paid to the landscape types and landscape character areas*

identified in The Landscape Character of Derbyshire. Proposals should have regard to the woodland and tree planting, landscape management and habitat guidance set out in this document and demonstrate that mitigation proposals are appropriate to the character of the landscape'. Policy E2 of the Hilton, Marston on Dove and Hoon Neighbourhood Development Plan also states 'development proposals within the countryside beyond the Hilton settlement boundary (as shown on the map on page 43) will be assessed in terms of their impact upon the character of the area and the settlements and hamlets that lie within the countryside. Proposals which would result in the loss of the character and identity of such settlements will not be supported'. It is evident that the retention of the character of the local landscape is an important consideration in determining this application, and the assessment will be a matter of judgement and balance.

The Landscape Character of Derbyshire also refers to the ecology of the 'lowland village farmland' area as being ecologically poor, due to the long tradition of mixed farming with intensive cropping. It references the existence of terrestrial corridors, such as hedgerows, becoming poorer owing to neglect and further agricultural intensification. Whilst the fragmented hedgerows may have become part of the landscape character, they are not well able to support biodiversity and arguably do not necessarily represent a positive feature. To assert that the proposal should be refused on the basis that higher hedgerows and trees would be present, would be difficult to sustain given that a landowner or farmer may choose not to cut hedges to a low level and may choose to allow trees to grow. The solar panels themselves, are not considered to present a significantly harmful impact on the countryside as they are relatively low lying and would be largely screened by trees and hedgerows when established. A solar farm could be seen as an alternative use for an agricultural field and a diversification, which is supported by national guidance. PPG 'Renewable and low carbon energy' states that *'the deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively. In the case of ground-mounted solar panels it should be noted that with effective screening and appropriate land topography the area of a zone of visual influence could be zero.'* As the landscape in this area is considered to be flat (and not undulating), it is considered that the solar farm would be well-screened and would therefore have a limited visual impact. Whilst it is not considered that the proposal will result in significant harm to the character of the landscape, it is acknowledged that the proposal would lead to a change in appearance from the existing condition of the land. However, the wider benefit provided in terms of contributing towards renewable energy generation and the increase in biodiversity, is considered to justify this change in terms of the balance in favour of sustainable development. It should also be noted that this application is for a temporary use of land for 40 years of operation, with an additional up to one year for construction, and up to one year for decommissioning. A condition will be added to any consent granted to ensure the land is reinstated to its previous condition once this time period has expired and that any buildings, structures, gates, fencing or associated infrastructure will be removed.

In addition, it was raised by Derbyshire County Council that an alternative site within the applicant's ownership should have been selected for the proposal. They refer to Area 5 in the submitted Planning Statement which is to the south-west of the application site, closer to the village of Hatton and the Nestle factory. Whilst the merits of Site 5 are acknowledged, and it is noted that the applicant stated this site was a possible option, Area 5 is located adjacent to the well-used SusTrans route (route 549) which runs east-west between Hatton and Marston on Dove. The development of a solar farm in this location would lead to the solar farm being adjacent to a busier route and therefore more noticeable by the local population. It would also lead to the solar farm being located closer to residential properties in Hatton which would have

the potential to cause issues in terms of residential amenity from noise, glint and glare. The chosen application site is well away from residential properties, with the exception of 'The Stables' farmstead which is approximately 400 metres away. It is therefore considered that Area 5 would not lead to an overall lower impact, and that the site selection process has been completed satisfactorily with Area 4 being selected.

Although not part of this application, Derbyshire County Council raised the matter of the cabling connection to the sub-station in Hatton, and queried whether this would be through an underground trench or overground poles, so that the overall impact could be assessed. The applicant has stated, "As noted in Section 5.3 of the Planning Statement, the point of connection of the development to the existing electricity grid will be offsite. The works will be undertaken by the Distribution Network Operator (DNO) under their permitted development rights as a Statutory Undertaker and do not form part of this application. This is common with most solar farm developments and therefore the connection has not been included in this application. However, the applicant can confirm that while the point of connection to the grid is within the land ownership, the rest of it is outside of the land ownership. It will not require any works within public roads, and as per the DNO's standard procedures will be via an underground cable." While this element is not part of the application, and therefore cannot be formally assessed, it is helpful to understand that the development is not expected to give rise to additional poles and cabling to connect the development to the electricity grid. It is considered that this satisfies the concern raised by Derbyshire County Council.

The Planning Statement states that all existing trees and hedges will be retained. A 'Landscape and ecology mitigations and enhancements plan' has been submitted to indicate how landscaping will be achieved, and this is supported by Derbyshire Wildlife Trust. However a more detailed landscaping plan that lists species and shows appropriate tree root protection during the construction period will be secured through a condition attached to any approval of the development.

It is therefore considered that the proposal does not conflict with the Hilton, Marston on Dove and Hoon Neighbourhood Development Plan, and Policy BNE4 (Landscape Character and Local Distinctiveness).

Biodiversity

The proposal is supported by a Preliminary Ecological Appraisal (PEA) and a Biodiversity Net Gain report. The PEA report concluded that the site has low potential for protected species, but that a precautionary approach to site works is recommended to minimise disturbance to species such as birds and bats. Derbyshire Wildlife Trust (DWT) have no objection as the proposal should not have an adverse impact on any habitats of substantive nature conservation value or impact on protected species. DWT also noted that the proposal would result in an overall net gain in biodiversity, due to the significant increase in habitat units and hedgerow units. They recommended a condition to ensure the proposal be carried out in accordance with the 'Landscape and ecology mitigations and enhancements plan (2020)'. It is therefore considered that the proposal is in line with Policy BNE3 (Biodiversity) of the adopted Local Plan Part 1, as it 'contributes to the protection, enhancement, management and restoration of biodiversity or geodiversity and deliver net gains in biodiversity wherever possible'.

Loss of agricultural land

Policy BNE4 (Landscape Character and Local Distinctiveness) of the adopted Local Plan Part 1 states that 'the Council will seek to protect soils that are 'best and most versatile' (grades 1,

2 and 3a in the Agricultural Land Classification) and wherever possible direct development to areas with lower quality soils’.

NPPF paragraph 174 indicates that decisions should recognise the economic and other benefits of best and most versatile agricultural land.

Paragraph 013 of the NPPG refers to ‘encouraging the effective use of land by focusing large scale solar farms on previously developed and non-agricultural land, provided that it is not of high environmental value’.

The Ministry of Agriculture, Fisheries and Food (MAFF) method sets out how to classify agricultural land by grade. This grade system ranges from Grade 1 being the highest quality to Grade 5 being the most poor quality. Grade 3 is split into two classifications - Grade 3a and 3b with ‘a’ being of higher quality.

An objection has been received from CPRE The Countryside Charity, on the basis that the proposal would lead to a loss of high quality agricultural land, which is suitable for both arable and livestock, and an important resource for food production.

Whilst it is not disputed that land used for agriculture is valuable to the wider community and economy, the application site is assessed as grade 3b agricultural land and therefore is not considered to be ‘best and most versatile’ in the agricultural land classification. The development of a solar farm is also considered to be a reversible form of development and would therefore not prevent the land from being used for agriculture in the future. It is therefore considered that the proposal is in accordance with Policy BNE4 of the adopted Local Plan Part 1, and the guidance as set out in the PPG ‘Renewable and low carbon technology’.

Minerals Safeguarding

It is noted that the site is located within a sand and gravel minerals safeguarding area. Policy SD5 (Minerals Safeguarding) of the adopted Local Plan Part 1 states that *‘B. The Council will not permit other development proposals in mineral safeguarding areas where they might sterilise economically workable mineral deposits, except where development conforms with the criteria set out in the minerals safeguarding policy included in the Derbyshire Minerals Local Plan.’* The DDC Minerals team did not comment on this application, however it is noted that on a recent application in Scropton for a solar farm of a similar size (DMPA/2021/0315), they commented that a solar farm would be a temporary use of the land and that since the panels could be removed, it would not lead to the sterilisation of the sand and gravel resource. It is therefore considered that this view also applies to this application, and therefore the development can be considered to be in accordance with Policy SD5 (Minerals Safeguarding).

Impact on residential amenity and design

The application is largely well away from residential properties with the exception of the farmstead to the south and the residential farmhouse ‘The Stables’. Due to the presence of a number of agricultural buildings to the north of the farmhouse, it is considered that these would act as a significant buffer to any potential effects of noise from the proposed sub-station or inverter stations, or visual disturbance through glint and glare. The farmhouse itself is approximately 400m away from the southern border of the site, and with the additional hedgerow screening, it is not considered that there would be an impact on residential amenity.

Indicative drawings have been received for the proposed substation and three inverter stations, and due to their relatively small size as single-storey functional buildings, it is not anticipated that they will cause an impact on either residential amenity or the openness of the landscape. However, the final dimensions and details of materials, to ensure they proposed

buildings have a low visual impact, will be sought through a planning condition. The proposal is therefore considered to be in accordance with Policy BNE 1 (Design Excellence) of the adopted Local Plan Part 1.

Other matters (East Midlands Airport and Community Benefit)

Due to the potential effects of glint and glare from the solar panels, and the application site being within a flight path approach area, East Midlands Airport were approached for comment. They have no objection to the development subject to informatives in respect of crane/tall equipment licencing by informative only. The development is therefore considered to be in accordance with Policy INF5 (East Midlands Airport) of the adopted Local Plan Part 1.

Derbyshire County Council stated in their objection that if the development were to be approved, that it should secure community benefit to balance against harm caused by the development. It is not considered though this assessment however, that harm is expected to be caused and that wider community benefit is achieved through the renewable energy project itself, therefore it would be unreasonable to request developer contributions for an application of this type. For reference, a solar farm of a similar size was granted permission in January 2021 in Scropton (DMPA/2021/0315) and community benefits were not sought.

Summary

There is national and local planning policy support for renewable energy schemes providing that unacceptable impacts are not caused. This report sets out that each matter with the potential to cause impact has been considered and assessed, and no unacceptable impacts have been identified. The proposal will secure renewable energy generation as well as biodiversity net gain in this area and it is therefore recommended that the application should be approved subject to the relevant conditions and informatives.

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

Due to the considerable benefit of renewable energy generation and biodiversity net gain, balanced against the low impact on a designated heritage asset and the local landscape, it is recommended that the application be approved 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 Layout '1063 02', Panel Elevations '1063 03', Security '1063_04', Customer Substation '1063 05', Inverter Station '1063 06', Standard DNO Substation '1063 07', Realigned Access Track '1063 09', Proposed Access Visibility Splays 'LTP-3255/P1/01/01 Rev A', Swept Path Analysis 'LTP/3255/T2/01/01 Rev A' and 'Landscape and ecology mitigations and enhancements plan' unless as otherwise required by

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

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

3. Details of wheel washing/cleaning facilities for construction traffic connected with the development shall be submitted to and approved in writing by the Local Planning Authority. The approved wheel cleaning facilities shall be installed and operational before any development commences and shall be retained in working order throughout all phases of development, to prevent mud and other debris being deposited on the surrounding highways during the construction of the development.

Reason: In order to minimize the amount of mud, soil and other materials originating from the site being deposited on the highway and to ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highways.

4. No development, including preparatory works, shall commence until the improved vehicular access to Derby Road has been constructed. The junction shall be laid out in accordance with the approved plans, constructed to base level, drained, provided with white lining and signage and visibility sightlines of 2.4 x 215m in both directions measured to a point 1m in from the nearside edge of the carriageway. The area within the sightlines shall thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level.

Reason: To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway.

5. No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

1. A targeted site investigation scheme, based on the Desk Study Report submitted in support of this application, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
2. The results of the site investigation and the detailed risk assessment referred to in (1) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from/adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

6. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the

principles outlined within:

- a. Royal Haskoning DVH (01/08/2022). Drainage Strategy Report, PC3902-ZZ-XX-RP-D-0001 S2/P012, Royal Haskoning DVH (05/12/2022). Surface and Foul Water Drainage Strategy Sheet 1, PC3902-RHD-GE-H1-DR-D-0500 revision P02 and Royal Haskoning DVH (05/12/2022). Surface and Foul Water Drainage Strategy Sheet 2, PC3902-RHD-GE-H1-DR-D-0501 revision P02, including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team
- b. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015),
have been submitted to and approved in writing by the Local Planning Authority.

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

7. Prior to commencement of the development, the applicant shall submit for approval to the Local Planning Authority details indicating how additional surface water run-off from the site will be avoided during the construction phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the Local Planning Authority, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.

Reason: To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development.

8. Prior to the commencement of the development, a soil management plan must be submitted to and approved by the Local Planning Authority. Soil infiltration rates can vary widely depending on ground conditions such as soil compaction and ground cover. A soil management plan must demonstrate how damage to soil horizons and ground cover will be mitigated and remediated during and after construction and for future decommissioning. Please note that the soil management plan should include the remedial measures to be used if it is found that the ground cover is damaged by the erosive effect of the runoff from the solar panels.

Reason: To ensure that the properties of the soil profile remain as close as is reasonably practicable to pre-development conditions, damage is mitigated and remediated and the ability of the soil to infiltrate is not diminished.

9. No development, including preparatory works, shall commence until protective fences have been erected around all trees and hedgerows shown to be retained on the approved plans. Such fencing shall conform to best practice as set out in British Standard 5837:2012 (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. Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

Reason: To ensure that the drainage system is constructed to the national Non-statutory technical standards for sustainable drainage and CIRIA standards C753.

11. Notwithstanding the details as shown on drawing references '1063 05', '1063 06' and '1063 07', prior to their incorporation into the buildings hereby approved, details and/or samples of the facing materials to be used and final dimensions of the buildings on elevation drawings, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed using the approved facing materials and elevation drawings.

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

12. Notwithstanding approved plan ref '1063 04', prior to the construction of a boundary wall, fence or gate, details of the position, appearance and materials of such boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the development is brought into use 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.

13. Notwithstanding the 'Landscape and ecology mitigations and enhancement plan dated November 2020', prior to the development being brought into use, a detailed scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. 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 completion of the development, 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 biodiversity net gain.

14. Notwithstanding the submitted details, prior to the installation of any solar panel modules forming part of the development hereby approved, details of the CCTV monitoring provision shall be submitted and approved in writing by the Local Planning Authority and implemented in accordance with the approved details on a prior to first use of the development basis.

Reason: In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions to promote the well-being of the area and to reflect local and national planning policies on secure design and crime prevention in new developments.

15. The development hereby approved is granted for a limited period only, expiring 41 years after the date on which electricity is first generated by the installation, on or before which date the solar panel arrays and associated buildings, structures, tracks, infrastructure, gates and fencing shall be removed and the site reinstated to the satisfaction of the Local Planning Authority as per its former agricultural use state, including the agricultural field land drainage system across the whole site area as it existed prior to the approved development, unless, prior to that date, permission has been granted for an extended period pursuant to an application made to the Local Planning Authority in that regard. The solar panel array operator shall inform the Local Planning Authority in writing within 10 working days of the first date on which electricity is first generated.

Reason: In the interests of the visual amenities and landscape character of the rural area beyond settlement boundaries, so not to risk redundant equipment, structures, buildings and boundary treatments being left in place in perpetuity, compromising the productive use of the land and the character and appearance of the area thereafter.

16. Any entrance gates shall be set back a minimum of 20m from the highway boundary and maintained at that distance for the life of the development unless otherwise approved in writing by the Local Planning Authority

Reason: To ensure parked vehicles do not overhang the adjoining public highway, thereby adversely affecting highway users.

17. The open land within the curtilage of the site shall not be used for storage of any form or nature.

Reason: In the interests of the visual amenities of the area and the openness of the land.

Informatives:

- a. Planning permission does not give you approval to work on the public highway. To carry works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk, email highways.hub@derbyshire.gov.uk or telephone 01629 533190.
- b. Public Rights of Way Footpath No. 2 as shown on the Derbyshire Definitive Map, must remain open, unobstructed and on its legal alignment at all times. There should be no disturbance to the surface of the route without prior authorisation from the Rights of Way Inspector for the area. Consideration should be given to members of the public using the route at all times. A temporary closure of the route may be granted to facilitate public safety subject to certain conditions. There should be no encroachment of the path, and no fencing should be installed without consulting the Rights of Way Section. Hedges must not be planted within 2 metres of the central line of the path. Further information may be obtained by contacting the Rights of Way Section – ETE.PROW@derbyshire.gov.uk. If a structure is to be erected adjacent to the right of way, it should be installed within the site boundary so that the width of the right of way is not encroached upon.
- c. It should be noted that the information detailed below (where applicable), will be required as an absolute minimum in order to discharge any of the drainage conditions set by the LPA:
 - A. The County Council does not adopt any SuDS schemes at present (although may consider ones which are served by highway drainage only). As such, it should be confirmed prior to commencement of works who will be responsible for SuDS maintenance/management once the development is completed.
 - B. Any works in or nearby an ordinary watercourse may require consent under the Land Drainage Act (1991)

from the County Council. For further advice, or to make an application please contact Flood.Team@derbyshire.gov.uk.

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

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

E. The applicant should demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water discharge, in line with Table 4.3 of the CIRIA SuDS Manual C753.

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

G. The applicant should provide a flood evacuation plan which outlines:

- The flood warning procedure
- A safe point of extraction
- How users can safely evacuate the site upon receipt of a flood warning
- The areas of responsibility for those participating in the plan
- The procedures for implementing the plan
- How users will be made aware of flood risk
- How users will be made aware of flood resilience
- Who will be responsible for the update of the flood evacuation plan

H. Flood resilience should be duly considered in the design of the new building(s) or renovation. Guidance may be found in BRE Digest 532 Parts 1 and 2, 2012 and BRE Good Building Guide 84.

I. Surface water drainage plans should include the following:

- Rainwater pipes, gullies and drainage channels including cover levels.
- Inspection chambers, manholes and silt traps including cover and invert levels.
- Pipe sizes, pipe materials, gradients, flow directions and pipe numbers.
- Soakaways, including size and material.
- Typical inspection chamber / soakaway / silt trap and SW attenuation details.
- Site ground levels and finished floor levels.

J. On Site Surface Water Management;

- The site is required to accommodate rainfall volumes up to the 1% probability annual rainfall event (plus climate change) whilst ensuring no flooding to buildings or adjacent land.
- The applicant will need to provide details and calculations including any below ground storage, overflow paths (flood routes), surface detention and infiltration areas, etc, to demonstrate how the 30 year + 35% climate change and 100 year + 40% Climate Change rainfall volumes will be controlled and accommodated. In addition, an appropriate allowance should be made for urban creep throughout the lifetime of the development as per 'BS 8582:2013 Code of Practice for Surface Water Management for Developed Sites' (to be agreed with the LLFA).
- Production of a plan showing above ground flood pathways (where relevant) for events in excess of the 1% probability annual rainfall event, to ensure exceedance routes can be safely managed.
- A plan detailing the impermeable area attributed to each drainage asset (pipes, swales, etc), attenuation basins/balancing ponds are to be treated as an impermeable area.

Peak Flow Control

- For greenfield developments, the peak run-off rate from the development to any highway drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100 year rainfall event, should never exceed the peak greenfield run-off rate for the same event.
- For developments which were previously developed, the peak run-off rate from the development to any drain, sewer or surface water body for the 100% probability annual rainfall event and the 1% probability annual rainfall event must be as close as reasonably practicable to the greenfield run-off rate from the development for the same rainfall event, but should never exceed the rate of discharge from the development, prior to redevelopment for that event.

Volume Control

- For greenfield developments, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must not exceed the greenfield runoff volume for the same event.
- For developments which have been previously developed, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must be constrained to a value as close as is reasonably practicable to the greenfield runoff volume for the same event, but must not exceed the runoff volume for the development site prior to redevelopment for that event.

Note:- If the greenfield run-off for a site is calculated at less than 2 l/s, then a minimum of 2 l/s could be used (subject to approval from the LLFA).

- Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.
- Where cellular storage is proposed and is within areas where it may be susceptible to damage by excavation by other utility contractors, warning signage should be provided to inform of its presence. Cellular storage and infiltration systems should not be positioned within the highway.
- Guidance on flood pathways can be found in BS EN 752.
- The Greenfield runoff rate which is to be used for assessing the requirements for limiting discharge flow rates and attenuation storage for a site should be calculated for the whole development area (paved and pervious surfaces - houses, gardens, roads, and other open space) that is within the area served by the drainage network, whatever the size of the site and type of drainage system. Significant green areas such as recreation parks, general public open space, etc., which are not served by the drainage system and do not play a part in the runoff management for the site, and which can be assumed to have a runoff response which is similar to that prior to the development taking place, may be excluded from the greenfield analysis.

K. If infiltration systems are to be used for surface water disposal, the following information must be provided:

- Ground percolation tests to BRE 365.
- Ground water levels records. Minimum 1m clearance from maximum seasonal groundwater level to base of infiltration compound. This should include assessment of relevant groundwater borehole records, maps and on-site monitoring in wells.
- Soil / rock descriptions in accordance with BS EN ISO 14688-1:2002 or BS EN ISO 14689-1:2003.
- Volume design calculations to 1% probability annual rainfall event + 40% climate change standard. An appropriate factor of safety should be applied to the design in accordance with CIRIA C753 – Table 25.2.
- Location plans indicating position (soakaways serving more than one property must be located in an accessible position for maintenance). Soakaways should not be used within 5m of buildings or the highway or any other structure.
- Drawing details including sizes and material.
- Details of a sedimentation chamber (silt trap) upstream of the inlet should be included.

Soakaway detailed design guidance is given in CIRIA Report 753, CIRIA Report 156 and BRE Digest 365.

L. All Micro Drainage calculations and results must be submitted in .MDX format, to the LPA. (Other methods of drainage calculations are acceptable.)

M. The applicant should submit a comprehensive management plan detailing how surface water shall be managed on site during the construction phase of the development ensuring there is no increase in flood risk off site or to occupied buildings within the development.

N. The applicant should manage construction activities in line with the CIRIA Guidance on the Construction of SuDS Manual C768, to ensure that the effectiveness of proposed SuDS features is not compromised.

- d. Due to the location of this development within the operational and safeguarding zone of East Midlands Airport a crane or tall equipment licence may be required from the Civil Aviation Authority on a prior to commencement basis, separate to planning.
- e. For the use or reuse of sewer connections either direct or indirect to the public sewerage system the applicant will be required to make a formal application to the Company under Section 106 of the Water Industry Act 1991. They may obtain copies of our current guidance notes and application form from either our website (www.stwater.co.uk) or by contacting our Developer Services Team (Tel: 0800 707 6600).

Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under, The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.

Clean Water Comments

We have apparatus in the area of the planned development, the developer will need to contact Severn Trent Water, New Connections team as detailed below to assess their proposed plans for diversion requirements.

To request a water map please follow the link, <https://www.stwater.co.uk/building-and-developing/estimators-and-maps/request-a-water-sewer-map/> scroll down the page to view the link:

Please visit www.digdat.co.uk

You will need to register on the website and then you will be able to search for your chosen location and get an instant quote online. For more information you can view Digdat's user guide([opens in a new window](#)).

Please look at the district area supply plan (PDF)(opens in a new window) to check that your site is within the Severn Trent boundary before requesting an underground asset map.

Any correspondence and diversion applications are to be submitted through New Connections the relevant form can be found on the Severn Trent website, please complete the form as fully as possible.

https://www.stwater.co.uk/content/dam/stw/stw_buildinganddeveloping/Diversion-of-a-Severn-Trent-Water-main.pdf

Information on diversion application charges can be found at https://www.stwater.co.uk/content/dam/stw/stw_buildinganddeveloping/new-connections/2020/new-connections-charging-arrangement-20-21.pdf Scroll down the “New Connections Charging” document - 1 April 2020 to 31 March 2021 go to Page 24 Diversion of a Water Asset.

Please attach all the relevant documentation and relevant fee and return the form to:

Severn Trent Water Ltd

PO Box 5311

Coventry

CV3 9FL

Telephone: 0800 707 6600

Email: new.connections@severntrent.co.uk

- f. The Environment Agency recommend that developers should:
- Follow the risk management framework provided in government guidance LCRM, on gov.uk, when dealing with land affected by contamination.
 - Refer to our Guiding principles for land contamination for the type of information that we require in order to assess risks to controlled waters from the site. The local authority can advise on risk to other receptors, such as human health.
 - Consider using the National Quality Mark Scheme for Land Contamination Management which involves the use of competent persons to ensure that land contamination risks are appropriately managed.
 - Refer to the contaminated land pages on GOV.UK for more information.

We would like to refer the applicant/enquirer to our groundwater position statements in ‘The Environment Agency’s approach to groundwater protection’, available from gov.uk. This publication sets out our position for a wide range of activities and developments, including:

- Waste management
- Discharge of liquid effluents
- Land contamination
- Ground source heat pumps
- Drainage.

Item No. 1.2

Ref. No. [DMPA/2022/0174](#)

Valid date: 10/02/2022

Applicant: C Collins

Agent: GEF Building Planning Services

Proposal: Proposed new highway entrance with driveway standing and turning area and the felling of tree at 125 Penn Lane, Melbourne, Derby, DE73 8EP

Ward: Melbourne

Reason for committee determination

Advice given by Tree Officer Derbyshire County Council Statutory Consultee is inconsistent with the Officer recommendation.

Site Description

The application site is adjacent to a Grade II Listed Building Chantry House and the property is classed as a curtilage listed building. Historically there was an ownership link between the application site and the Grade II Listed Building, and the legibility of the principal listed dwelling and the outbuildings remains, as does the historic boundary. The application site is also located within Melbourne Conservation Area and is under an Article 4 direction.

The proposal

The proposal is for a proposed new highway entrance, standing and turning area and the felling of trees. These works are intended to allow for the long term repair of the listed barns at 125 Penn Lane within the ownership of the applicant, and this will be subject to a separate Listed Building Consent application.

Applicant's supporting information

The applicant has submitted plans, Arboricultural report and photographs of the trees over the period of the application. These set out impacts on heritage assets, and considers the proposals against the relevant policy framework.

Relevant planning history

9/2004/0857 Installation of replacement windows and front door - Approved 02/09/2004

9/2005/0069 Erection of porch and satellite dish - Refused 18.5.2005

9/2010/0007 Internal and external alterations to facilitate the conversion of an outbuilding to living accommodation and the insertion of two new roof lights - Listed Building Granted 26.02.2010

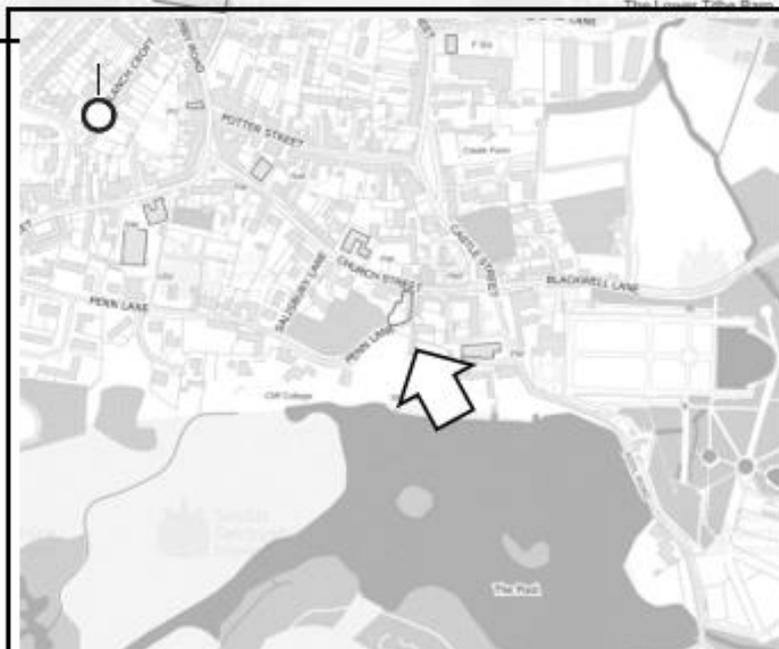
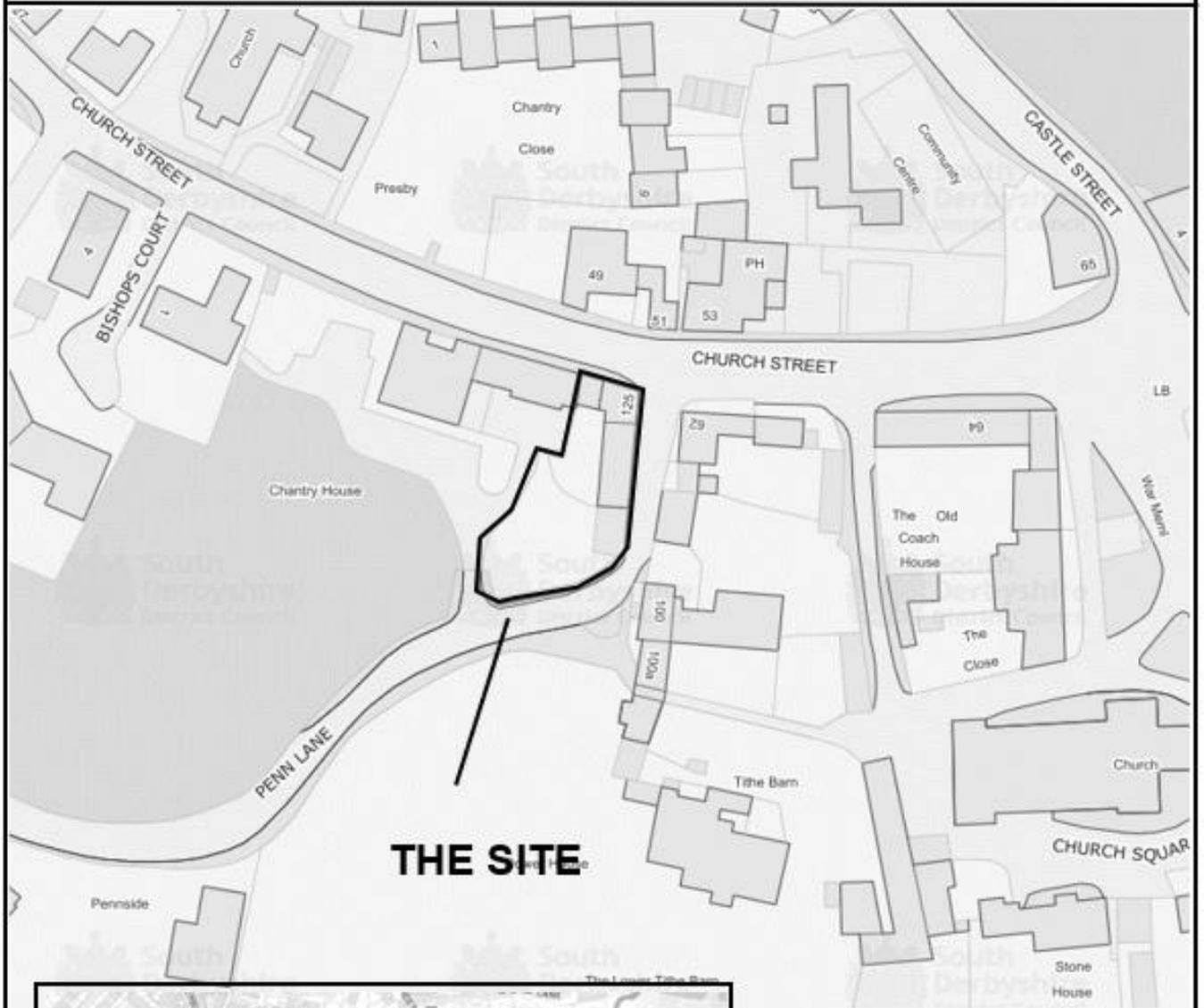
DMOT/2021/1587 The felling of a Yew Tree - No objection 25.11.2021

Responses to consultations and publicity

Melbourne Civic Society - Object

- a) The loss of part of an old wall and impressive tree.

DMPA/2022/0174 – 125 Penn Lane, Melbourne, Derby, DE73 8EP



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South Derbyshire District Council, LA 100019461.2020

- b) Access and the exit will be difficult from Penn Lane as there is on street parking, it would adversely affect the setting of Grade II Chantry House and spoil the character of the lower part of Penn Lane.
- c) Already have off road Access from Church Street.

Melbourne Parish Council – Object

- a) The loss of a tree and heritage wall will have a detrimental effect upon Penn Lane and the street scene, this is within a conservation area and affects the setting of a listed building.

County Highways – No objections

Their original comments were:

- The proposed access is located too close to the adjacent access and should be moved further east by a minimum of 2m.
- Sufficient visibility should be provided to the left of the access to ensure safe egress from the site.
- Any gates to the access should be set back by a minimum of 5m to ensure vehicles can pull off the highway before the gates are opened.

Amendments were received 13.6.2022 taking these comments into account and the highway authority has no objections subject to conditions being imposed should approval be granted.

SDDC Tree Officer - Object

- Removal as proposed will have a detrimental impact on local visual amenity, a negative impact on Biodiversity and it will take 30-40 years minimum, to replace with what's here now with new plantings. It will mean removal of category A and B trees which will have an impact and it is pointed out that they are within a conservation area.

DCC Tree Officer - Object

- It will unnecessarily remove a mature pine tree of significant amenity value.
- No Arboricultural Survey, Impact Assessment or Method Statement has been submitted

Following the submission of an Arboricultural Survey which confirms that four mature trees will be removed, one of the trees is a Category A, one Tree is classified as Category B. They still object as this application will have a detrimental effect upon protected trees and the local street-scene.

Conservation Officer - Support

- The amended plans have taken on board comments made on site and they are a positive amendment. The removal of wall to create an access point will result in a change to the character and appearance of the conservation area. However, it is considered that this is no different to the neighbouring access point, therefore, with careful attention to detailing of the finish of the wall, and a detailed return, an objection would not be raised.
- The part of the application to remove the TPO trees is supported, the built and natural form within the Conservation Area are a pertinent combination in this area of Melbourne Conservation Area. The silvan character of this corner of Penn Lane is a positive feature. However, the large trees within the curtilage of 125 Penn Lane are incongruent to its built form – that of former outbuildings associated with The Chantry. The trees are proportionally large to the plot, and overbearing to the roofline, within very close

proximity to the built form. In a similar outbuilding setting it would be expected that there would be hardstanding, access to the barns/outbuildings and planned smaller scale planting. The trees are particularly concerning, with regard to the impact upon the designated heritage assets; the curtilage Listed buildings at 125 Penn Lane. During this application, the condition of all the trees within the curtilage of 125 Penn Lane appear to have deteriorated. Concerns have been raised by the owner that the trees are overhanging the building, and causing damage to the building, but in addition, there is considered to be a risk of collapse onto the building. The neighbour at The Chantry had one large mature tree removed during the summer because of damage, disease, and instability. The role of the Conservation Officer is to provide guidance to secure the protection of the building fabric of designated Listed Buildings. This is the priority in this application, and therefore they do not object to the removal of trees within the curtilage of the plot. The tree report has been considered and conversations have taken place with the Tree Officer at DCC, and the Conservation Officer has visited the site at least once a month since May 2022 to view the condition of the trees.

- There have been discussions with the owner for a Phase II project to the existing barns to 125 Penn Lane. The owner has made the Conservation department aware of future plans to repair and renovate the barns. One of the reasons for the requirement for access to the curtilage would be to enable these proposed works to take place. The existing access is restricted by a more significant inner courtyard wall, that an objection would be given to any proposal to alter, as it is considered that this would result in a higher level of harm than the current proposal that is being assessed.

Biodiversity Officer

- It was evident from the site visit even without specialist personal knowledge that the Curtilage Listed building in question is in a poor state of repair. The comments from the Council's Conservation Officer in respect of the importance of the building as heritage features in association with Chantry House and Melbourne Conservation Area have been noted.
- From an arboricultural perspective, there is the need for vehicular access to facilitate renovation of the Curtilage Listed building, the fabric of which would, possibly deteriorate and decline further over time. If the only viable and safe vehicular access is off Penn Lane as agreed by the Highways Authority, then it is accepted that if the Authority were minded to approve the application this would necessitate the removal of the high value pine T1, in addition to the other three trees on-site, due to the position of the trees, the historically raised levels and the resulting significant impacts to roots from excavation operations.
- For these reasons, it is considered that in this instance, there is not a position to specifically object to or recommend refusal for this application on arboricultural grounds, but trust that sufficient evidence from has been provided from an arboricultural perspective to inform a decision on the planning balance for this application, specifically whether the benefits of protecting heritage features within the site outweighs the harm caused by the removal of trees.
- Should this Authority be minded to approve this application, it is advised that a landscaping scheme is secured through planning condition and that furthermore the new trees planted are subject to a new Tree Preservation Order or that the existing Order is amended to include the new plantings.

Public representations

Five public representations have been received which can be summarised as follows:

- a) There are properties on Penn Lane that have no off street parking and are required to park on the street that will restrict any turning circles for cars using the proposed entrance.
- b) The felling of the trees will affect neighbouring trees as the roots are well entwined.
- c) The trees are of good condition, and they bring a significant visual amenity and landscape character to the area.
- d) The trees are protected by a TPO. The loss of the trees would leave an irreplaceable gap in the central part of the conservation area and it includes the removal of a Category A tree solely to facilitate a driveway application.
- e) The property already has access to off road parking from Church Street, Melbourne and it is questioned why this is not sufficient.
- f) The gateway set slightly away from an existing entrance sweep to keep them as two distinct /separate entrances and preserve the symmetry of a listed entrance.
- g) The proposal will allow the homeowner to park their cars securely and off road instead of trying to find a place to park on Church Street, or Penn Lane.

Relevant policy, guidance and/or legislation

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF) Planning Practice Guidance (PPG)
 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications shall be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan for the purposes of this application comprises the South Derbyshire Local Plan Part 1 (LP1) adopted in June 2016 and the South Derbyshire Local Plan Part 2 (LP2) adopted in November 2017, together with the Melbourne Neighbourhood Plan (NP) made in July 2022. Material considerations include, albeit not limited to, the National Planning Policy Framework (NPPF) Planning Practice Guidance (PPG), together with the South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant Development Plan policies are:

2016 South Derbyshire Local Plan – Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness) and INF2 (Sustainable Transport).

2017 South Derbyshire Local Plan Part 2: SDT1 (Settlement Boundaries and Development), H27 (Residential Extensions and other Householder Development), BNE7 (Trees, Woodland and Hedgerows) and BNE10 (Heritage).

Melbourne Neighbourhood Plan: DP1 (Proposals for New Development) and HC1 (Heritage Assets)

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 the character of the street
- Highway Safety;
- Impact on the significance of the heritage assets (setting of listed building and conservation)

area)

. Impact on protected trees

Planning assessment

Design

The proposal is for the creation of new highway access with driveway, standing and turning area and the removal of trees. The creation of the new access is to enable off street parking for two cars. The removal of part of the wall to create an access point has been altered and the opening will be formed in the lesser quality stone wall of the boundary. This will enable the dressed stone detailing to remain which is a positive feature of the boundary wall and is linked to the listed building Chantry House. The application is therefore considered to be acceptable from a design perspective.

Impacts on the character of the street

Some properties on the street have off road parking to the front but not all. There is an apparent need for on street parking as the number of properties that do not have the capacity to have off road parking has increased with the number of cars on the road. Penn Lane is a one-way street. The character of the street will be altered due to the removal of part of the wall for the access, it is considered that it is similar to the neighbouring access point and overall is acceptable. The part of the wall removed will be used in other parts of the wall that need repairing and will help with securing the long term upkeep of the existing boundary wall which is the boundary wall of the listed building. The removal of the trees will have an impact on the character of the street. It is considered that the trees are proportionally large to the plot and two are within close proximity to the built form. There are a large number of trees within the lane and the wider conservation area that are more of a presence and part of the character. Overall, the new access will have an impact on the character of the street but it is considered that this would be minimal and is outweighed by the public benefits of reducing on street parking and securing the long term maintenance of the boundary wall which is a historic fabric feature within the street scene and the conservation area and will mainly be retained.

Highway Safety

With the amended plans submitted CHA offer no objection to the proposal subject to conditions. The proposal would allow two cars off the road and there is some benefit to that where immediate safe parking on the highway is a premium. The applicant has displayed that they have achieved an acceptable visibility splay given that the likely speed of traffic on Penn Lane. The proposed gates have been set back 5m from the highway and it is noted that vehicles can turn round within the site ensuring that they can enter and leave in a forward direction.

Impact on the significance of the heritage assets (setting of listed building and conservation area)

The existing boundary wall is a positive feature within the conservation area and provides a clear division and connectivity to the original curtilage. Alteration of the boundary wall to the curtilage of a listed building is considered less than substantial harm (medium-low), there is evidence of similar alteration at the principle listed building, The Chantry. The part of the stone wall that will be removed and would be a positive recommendation that it is used in areas where the existing stone requires replacement and repair. The applicant has taken this recommendation on board and where possible would use the existing stone where needed and this will be of benefit to the historic fabric.

The built and natural form within the conservation area are a pertinent combination in this area of Melbourne conservation area. The silvan character of this part of Penn lane is a positive

feature. However, the large trees within the curtilage of 125 Penn Lane are considered to be incongruent to its built form - that of former outbuildings associated with the Chantry. The trees are proportionally large to the plot and are considered to be overbearing to the roofline and within very close proximity to the built form. During this application the condition of the trees appears to have deteriorated, concerns have been raised by the Council's Conservation Officer that the trees are overhanging the building, and appear to be causing damage to the buildings. It should be noted that the arboricultural advice is that the trees can be retained without causing harm to the listed buildings. At present there is no evidence that the trees are actually causing damage. It is considered that in the future the curtilage listed building will require works to the fabric to help with any further deterioration and to restore the building. The applicant has spoken to the Conservation Officer with a proposal for a phase II project to the existing barns, this will require Listed Building Consent. One of the reasons this application is being sought is that with the phase II works there will be a requirement for access to the curtilage to enable these proposed works to take place. The existing access which opens up on to Church Street, is inadequate as it is unable to be widened and it is considered not fit for purpose. This access is restricted by a more significant inner courtyard wall and the Conservation Officer would object to any proposal to alter this, as it is considered that it would result in a higher level of harm than the current proposal.

It is therefore considered that the removal of the TPO trees within the Conservation area comprises less than substantial harm (medium) to the character and appearance of the Conservation Area. This is outweighed by the benefit of protecting designated heritage assets from further actual and potential harm and condition 6 recommended to be attached to any permission will secure this.

Impact on protected Trees

The proposal for a new access and parking within the curtilage of 125 Penn Lane, will result in the loss of 4 mature trees that are covered by a TPO. Through the duration of the application, the condition of the trees within the curtilage of 125 Penn Lane has resulted in concern raised by the Conservation Officer that the trees are overhanging the building and potentially causing damage. This view is not shared by the respective tree experts. It has come to light during the application that the land now used as the garden was raised by previous owners. Due to this there is a land bank, which has raised the ground level around the trees and now the trunk of the trees is compacted by earth. The garden area, due to the trees canopy, receives little sunlight and the area is barren of vegetation at ground level. The trees that are overhanging the building T3 & T4 are of low arboricultural value and to a lesser extent T2, these could be a potential for causing interference to the fabric of the listed building. With T1 this is a mature pine of high arboricultural value and would be a loss to the biodiversity within the area and character of the street scene. It is considered that the removal of the trees are outweighed by the benefit of protecting designated heritage assets and to remove two cars from on street parking in an area where parking is at a premium. The owner's intention, if the application is approved to remove the trees would be to create a green boundary with The Chantry, at present there is a close boarded fence dividing the gardens, this is a negative boundary for listed buildings. If the application is approved a condition will be included in the decision to submit a landscaping scheme to be approved by the local planning authority, and it is considered that this would be acceptable.

Other Matters

In relation to the concerns raised in comments from neighbours, it is noted that Penn Lane is used for on street parking for residents and visitors to the village. This proposal would take two cars from on street parking and this would be considered a minor benefit. The access/gateway has been moved through the application process and this is to accommodate the comments from the CHA to ensure that the visibility splay required for the likely speed of traffic on Penn

Lane is acceptable. This part of Penn Lane is a one-way road and any turning traffic will have entered or left Penn Lane at the point of access. It is noted that vehicles can turn round within the site ensuring they can enter and leave in a forward direction, the proposed gates have been set back 5m from the highway. There will be conditions on the decision ensuring that the parking spaces shown on the submitted plans and means of access be provided and thereafter retained for the lifetime of the development. The entrance gates shall be set back by 5m from the highway and maintained at that distance for life or the development. This is to ensure that no parked vehicles will overhang the adjoining highway and the proposed development does not prejudice the free flow of traffic or the conditions of general safety. With the access from Church Street, this access is extremely narrow and unable to be widened. The historic access has large wooden gates, and it is opposite where on street parking occurs consistently which means that the traffic passes in single file despite the road being two way and on a bus route. This would be a more problematic access to enter and leave from.

If the application is approved the trees that are covered by the TPO would be felled this has been considered and set out in the report. Although there have been concerns raised that the trees have deteriorated during the application the insufficient reason in isolation to recommend approval. The significant public benefit that does result in the application being recommended for approval is the long term and necessary maintenance of the listed buildings which the removal of the trees will facilitate and is secured by condition 6. There is also the less significant benefit of providing space for two cars within the site where on street parking is a premium and landscaping will be incorporated within the site.

Conclusion

The highway access is proposed to provide off street parking and for future proposals to repair and renovate the barns and this is secured by condition. The existing access is not a viable access, and the highway authority requested the plans be amended to a position where the access would be viable and a safe place off Penn Lane. Whilst it is not ideal to lose high any moderate amenity value trees, the loss of the trees is considered to be outweighed by the benefit of protecting designated heritage assets. A condition would be put on the decision notice for a landscaping scheme would be required to be submitted to the Local Authority in writing.

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 approved plans Driveway (plans (dwg 21/030/04), Existing and Proposed Elevations (dwg

21/030/03) received 11th February 2022, Topographical Survey (dwg 21/030/08), Section (dwg 21/030/07) received 17th October 2022, Highway Plan revised (dwg 21/030/02 rev C) received 1st December 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. Prior to the implementation of the highway entrance a scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following 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.

4. Prior to the construction a sample of the lime mortar shall be provided on site for inspection and agreed in writing by the Local Planning Authority. Mortar for the purposes of re-pointing shall be carried out using lime binder with sharp sand. The sand mix, colour, texture shall match as closely as possible the historic pointing found elsewhere on the wall. The development shall be carried out only in accordance with the agreed sample details.

Reason: To preserve the special architectural and historic interest of the boundary wall.

5. During the construction of the driveway the section to be removed is limited to the section of rubble stone as detailed on the approved plans. The dressed stone or coursing bricks should not be touched or removed at any stage as these are the fabric of the wall.

Reason: To preserve the special architectural and historic interest of the boundary wall.

6. Within six months of the felling of any trees pursuant to this permission an application for Listed Building Consent shall be submitted to the District Council for the following works in relation to the listed barns at 125 Penn Lane:

Roofing repairs and replacement, focussing on areas of vegetation growth

Rainwater goods to be replaced, focussing on areas of water ingress

Window repair and/or replacement

Door repairs and/or replacement

Repointing to masonry and stone/brick repairs and replacements

Repairs to the boundary wall.

Following submission of this Listed Building Consent application, the applicant shall undertake the necessary reasonable steps to secure approval. Following the approval, the work will be completed within two years of the decision date.

Reason: To secure the necessary repairs in order to preserve the architectural and historic interest of the listed building.

Item No. 1.3

Ref. No. [DMPA/2022/1105](#)

Valid date: 08/08/2022

Applicant: Rankin

Agent: Turner & Co Consulting Ltd

Proposal: Retrospective application for the retention of a replacement shed with the purpose of keeping domestic dogs and associated storage on Land Behind 69a & 69b Repton Road, Hartshorne, Swadlincote, DE11 7AE

Ward: Woodville

Reason for committee determination

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

Site Description

The site comprises part of the land behind the two dwellings at 69a and 69b Repton Road which has historically been their rear garden. There has previously been a building within the site further to the south which has for a number of years been used for the breeding and keeping of dogs as a hobby. This has been demolished. Planning permission has also recently been granted for outline permission for 3 dwellings within part of the garden area of numbers 69a and 69b and this building is located to the south-east of these.

The existing dwelling fronts Repton Road, and there are outriggers which are situated to the rear of the main building. This historically used to be a bakery.

There is a track which leads to land at the rear of the dwelling, and it is towards the end of this track where the proposed building is located. There is a slight gradient uphill towards the site. The eastern boundary is well screened by hedgerow and some larger trees behind the fence line. There is a row of trees protected by a Tree Preservation Order on the shared boundary to the east with the adjacent development in Adams Close.

There is a public footpath which runs to the east of the site, and runs in a southerly direction towards Woodville

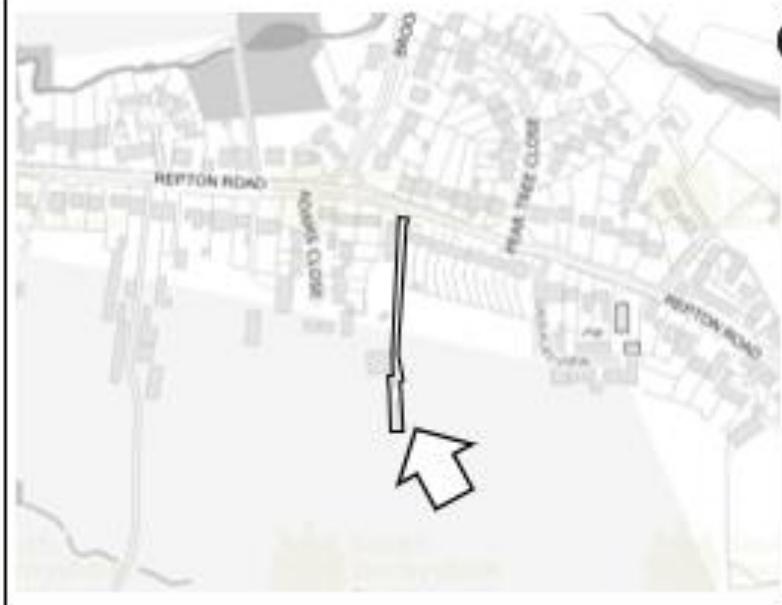
The proposal

The application seeks permission to retain a building that has been erected for use in association with the historical use of the site for the keeping and breeding of dogs for domestic purposes. This is subsequent to the demolition of a number of buildings which had occupied the wider site.

Applicant's supporting information

The application is supported by the necessary application form, site, block, floor and elevational plans.

DMPA/2022/1105 - Land Behind 69a & 69b Repton Road, Hartshorne, Swadlincote. DE11 7AE



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South Derbyshire District Council, LA 100019401.2020

Relevant planning history

DMPA/2021/0983 - Outline application (matters of access to be considered now with matters of layout, scale, appearance, and landscaping reserved for later consideration) for the erection of three dwellings at land to the rear of 69a and 69b Repton Road, Hartshorne, Swadlincote, DE11 7AF– Granted 07/06/22

Responses to consultations and publicity

Environmental Health raise no objections.

No other responses have been received from the consultations taken out with other interested parties.

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) and BNE1 (Design Excellence).

2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in rural areas), Policy H27 (householder development).

The relevant local guidance is:

South Derbyshire Design Guide (SPD)

The relevant national policy and guidance is:

2021 National Planning Policy Framework (NPPF).

Planning Practice Guidance (PPG).

Planning considerations

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

- The principle of development;
- Design and appearance; and
- Neighbouring amenity.

Planning assessment

Principle of development

The proposal retrospectively seeks permission for a replacement shed, for the purposes of storage and domestic dog keeping. The site has historically been used for such activities and prior to the erection of the proposal, a number of outbuildings were present on the site. A domestic garage associated with the outbuildings remains in close proximity. The proposal therefore consolidates several of the outbuildings into one comprehensive shed.

The application site is partly within the settlement boundary of Hartshorne, although the siting of the development this application seeks to regularise is located just outside. Policy BNE5 permits development outside settlement limits subject to a number of criteria one of which is consistency with Policy H27 of the Local Plan. As per policy SDT1, development that accords with the development plan is permitted within such boundaries, whereas rural policies typically apply elsewhere. Given the minor nature of the development and proximity to the settlement boundary, it is considered that there is no in principle conflict with Policy SDT1 of the Local plan. Notwithstanding this, it is also considered that the application accords with Policy BNE5 and H27 of the Local plan given that the building is to be used for domestic purposes and

subject to design and amenity considerations which are considered below.

Design and appearance

The proposal consolidates a number of poor quality outbuildings into a single purpose-built one-storey replacement shed. Whilst functional in appearance, the proposal represents a significant improvement to the previous structures in terms of design quality, according with the requirements of policy BNE1.

The application site is largely screened by mature vegetation and hedgerows and the proposal is located at the end of the access road, largely out of public sight. Cumulatively this results in limited views onto the site both from the village and as part of the broader landscape setting. Visual impact on the landscape character is therefore unchanged, as the amount and scale of development is largely similar to that it replaces. When taking into account the effect on adjacent unimplemented planning permission for the erection of three dwellings (ref. DMPA/2021/0983), the distance of the properties and their associated landscaping strategies mitigate any visual impact, which is considered to be negligible and no greater than the structures located at the site prior.

Amenity

The domestic keeping of dogs has potential to give rise to noise, impacting neighbour amenity. At present, the shed is located around 65m from residential dwellings. This would reduce to around 25m with the implementation of the permitted scheme for three dwellings (ref. DMPA/2021/0983). This distance is considered to be acceptable and was not regarded as a contentious issue in the determination of the application, when the proposed uses were already in operation. Noise restrictions have previously been enforced by Environmental Health, but no objections have been raised with regard to the proposal. Accordingly, there are not considered to be any harmful or significant impacts on neighbour amenity that would arise as a result of the proposal, satisfying the requirements of policy BNE1.

Taking these main issues into account, the proposal would not result in a conflict with the policy requirements of the Local Plan and is considered to be acceptable. The relevant constraints have been considered in the planning balance and no material harms have been identified that would warrant refusal of the application.

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

1. The development hereby permitted shall be carried out in accordance with the Site Location Plan E001 Rev B and Proposed as Existing Plans and Elevations E002 Rev B, received on 5th August 2022; unless as otherwise required by condition attached to the 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.

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 approved plans Driveway (plans (dwg 21/030/04), Existing and Proposed Elevations (dwg 21/030/03) received 11th February 2022, Topographical Survey (dwg 21/030/08), Section (dwg 21/030/07) received 17th October 2022, Highway Plan revised (dwg 21/030/02 rev C) received 1st December 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. Prior to the implementation of the highway entrance a scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following 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.

4. Prior to the construction a sample of the lime mortar shall be provided on site for inspection and agreed in writing by the Local Planning Authority. Mortar for the purposes of re-pointing shall be carried out using lime binder with sharp sand. The sand mix, colour, texture shall match as closely as possible the historic pointing found elsewhere on the wall. The development shall be carried out only in accordance with the agreed sample details.

Reason: To preserve the special architectural and historic interest of the boundary wall.

5. During the construction of the driveway the section to be removed is limited to the section of rubble stone as detailed on the approved plans. The dressed stone or

coursing bricks should not be touched or removed at any stage as these are the fabric of the wall.

Reason: To preserve the special architectural and historic interest of the boundary wall.

6. Within six months of the felling of any trees pursuant to this permission an application for Listed Building Consent shall be submitted to the District Council for the following works in relation to the listed barns at 125 Penn Lane:

Roofing repairs and replacement, focussing on areas of vegetation growth
Rainwater goods to be replaced, focussing on areas of water ingress
Window repair and/or replacement
Door repairs and/or replacement
Repointing to masonry and stone/brick repairs and replacements
Repairs to the boundary wall.

Following submission of this Listed Building Consent application, the applicant shall undertake the necessary reasonable steps to secure approval. Following the approval, the work will be completed within two years of the decision date.

Reason: To secure the necessary repairs in order to preserve the architectural and historic interest of the listed building.

7. The parking spaces shown on the submitted plans and the means of access thereto shall be maintained as shown on the approved plans and be reserved for the benefit of the development hereby permitted.

Reason: To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway and to ensure that the facilities provided are reserved for the benefit of the development for which they are specifically required.

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

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

9. The entrance gates shall be set back a minimum of 5m from the highway boundary and maintained at that distance for the life of the development unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure parked vehicles do not overhang the adjoining public highway, thereby adversely affecting highway users.

Informatives:-

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

b) Planning permission does not give you approval to work on the public highway. To carry works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk, email highways.hub@derbyshire.gov.uk or telephone 01629 533190.

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 5
DATE OF MEETING:	10 JANUARY 2023	CATEGORY: DELEGATED
REPORT FROM:	HEAD OF PLANNING AND STRATEGIC HOUSING	
MEMBERS' CONTACT POINT:	JESSICA CHEADLE jessica.cheadle@southderbyshire.gov.uk	
SUBJECT:	DEED OF VARIATION – LAND AT HILTON BUSINESS PARK, HILTON	REF: 9/2013/1044
WARD(S) AFFECTED:	HILTON	TERMS OF REFERENCE

1.0 Recommendations

- 1.1 That the Committee approves the request to amend the Section 106 Agreement (S106) to include amendments to be made to the definition of Affordable Housing and the inclusion of First Homes which is within the fourth schedule of the Section 106 Agreement – Affordable Housing. This is based upon recommendations that have been received from Strategic Housing and Development Manager.
- 1.2 That the Committee delegate authority to the Head of Planning and Strategic Housing to agree the finer detail and wording of the obligations to be secured under the DoV.

2.0 Purpose of Report

- 2.1 To inform the Committee of the proposed changes to the S106 Agreement, Land at Hilton Depot.

3.0 Background

- 3.1 Members may recall that the site, Local Plan allocation H7, was granted outline planning permission for up to 485 homes in March 2015. The Section 106 agreement and Deed of Variation can be found under permission reference [9/2013/1044](#). A Deed of Variation request was approved at Planning Committee in September 2022 for four First Homes in lieu of previously approved homes on phase three of the development.
- 3.2 South Derbyshire District Council has received a request from Persimmon Homes, who are currently developing phase three of the development to amend a further 10 of the previously approved homes so that they can become “First Homes”.

4.0 Discussion

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- 4.1 The Council has been approached by Persimmon Homes, as they would like to change ten private market homes into First Homes. Persimmon Homes are

currently taking part in the Government scheme to roll out First Homes across the country, therefore on sites with existing planning permission a Deed of Variation is required to insert First Home clauses into the Affordable Housing schedule of the Section 106 agreement. This will then create an ability for the Council to enforce the use of the homes in perpetuity.

- 4.2 First Homes are the Governments proposal to replace Help to Buy across the country that was launched in 2021. First Homes are discount market sale homes which:
- Have a minimum discount of 30% of Open Market Value held in perpetuity at the time of sale;
 - Are sold to a person or persons meeting the First Homes eligibility criteria – at present this is a nationally set criteria but can be set in local policy;
 - Has a price cap of £250,000 for the value of the home at the time of the first sale.

5.0 Financial Implications

- 5.1 There are no financial implications associated to the Council for this change as the costs of the DoV will be paid for by Persimmon Homes as they have requested the DoV.

6.0 Corporate Implications

- 6.1 None.

7.0 Community Implications

- 7.1 This will increase the amount of Affordable Housing provision within the District.

8.0 Background Information

- a) Section 106 Agreement:
[Planning Applications, Decisions and Appeals \(southderbyshire.gov.uk\)](https://www.southderbyshire.gov.uk/planning-applications-decisions-and-appeals)