

Date: 29 January 2024

Dear Councillor,

### **Planning Committee**

A Meeting of the **Planning Committee** will be held at **Council Chamber**, Civic offices, Civic Way, Swadlincote on **Tuesday, 06 February 2024** at **18:00**. You are requested to attend.

Yours faithfully,



Chief Executive

To:- **Labour Group**

Councillor G Jones (Chair), Councillor D Shepherd (Vice-Chair) and  
Councillors J Carroll, M Gee, I Hudson, A Jones, L Mulgrew and K Storey.

**Conservative Group**

Councillors K Haines, A Kirke and D Muller.

**Liberal Democrats**

Councillor J Davies.

**Non-Grouped**

Councillor A Wheelton.

## AGENDA

### Open to Public and Press

- 1 Apologies and to note any substitutes appointed for the Meeting.
- 2 To receive the Open Minutes of Meetings held on  
  
05 November 2019 **4 - 7**  
  
22 August 2023 **8 - 12**  
  
19 September 2023 **13 - 18**  
  
17 October 2023 **19 - 24**  
  
14 November 2023 **25 - 33**  
  
28 November 2023 **34 - 39**  
  
12 December 2023 **40 - 44**
- 3 To note any declarations of interest arising from any items on the Agenda
- 4 To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 5 **REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)** **45 - 175**

### 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 the Exempt Minutes of the Meetings held on:

Details

14 November 2023

- See agenda for reasons for exemption

**8** To receive any exempt questions by Members of the Council pursuant to Council Procedure Rule No. 11.

Details

PLANNING COMMITTEE

5th November 2019

**PRESENT:**

**Conservative Group**

Councillors Angliss, Brady, Mrs Bridgen (Vice-Chairman), Mrs Brown (Chairman), Ford, Muller, Watson and Mrs. Wheelton.

**Labour Group**

Councillors Gee, Dr. Pearson, Shepherd, Southerd, Tilley.

PL/94 **APOLOGIES**

The Committee was informed that no apologies had been received.

PL/95 **DECLARATIONS OF INTEREST**

The Committee was informed that no declarations of interest had been received.

PL/96 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

The Committee was informed no questions from Members of the Council had been received.

**MATTERS DELEGATED TO COMMITTEE**

PL/97 **REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)**

The Strategic Director (Service Delivery) submitted reports for consideration and determination by the Committee and presented oral reports to the Meeting to update them as necessary. Consideration was then given thereto and decisions were reached as indicated.

PL/98 **DEMOLITION OF EXISTING DWELLING (USE CLASS C3) AND NURSERY BUILDINGS (SUI-GENERIS USE) AND CONSTRUCTION OF 9 LIGHT INDUSTRIAL/OFFICE BUILDINGS (USE CLASS B1(C)) WITH THE CREATION OF A NEW ACCESS TO DERBY ROAD AND ASSOCIATED WORKS AT TALBOT FARM, 75 DERBY ROAD, HILTON, DERBY**

The Committee was informed that Members had attended a site visit earlier in the day.

The Planning Delivery Team Leader presented the report to the Committee and summarised the key areas of the application.

An Objector and the Applicant's Agent attended the meeting and addressed the Committee regarding the application.

The Committee considered the application and discussed the recommendations and conditions.

**RESOLVED:**

***That planning permission be granted as recommended in the report of the Strategic Director (Service Delivery), subject to the stated conditions.***

PL/99

**CHANGE OF USE OF LAND TO FORM A SEASONAL WEDDING VENUE INCLUDING THE ERECTION OF FOUR LINKED TIPIS AND THE CONSTRUCTION OF A TIMBER A FRAME CEREMONY STRUCTURE WITH ASSOCIATED WORKS AT BEEHIVE WOODLAND LAKES, ROSLISTON, SWADLINCOTE, DE12 8HZ**

The Planning Delivery Team Leader presented the report to the Committee and summarised the key areas of the application.

The Applicant's Agent attended the meeting and addressed the Committee regarding the application.

The Committee considered the application and discussed the recommendations and conditions.

**RESOLVED:**

***That planning permission be granted as recommended in the report of the Strategic Director (Service Delivery), subject to the stated conditions.***

PL/100

**THE DEMOLITION OF STABLE BUILDING AND THE ERECTION OF A DETACHED DWELLING AT 21 LINTON ROAD, CASTLE GRESLEY, SWADLINCOTE**

The Planning Delivery Team Leader presented the report to the Committee and summarised the key areas of the application.

The Applicant attended the meeting and addressed the Committee regarding the application.

The Committee considered the application and discussed the recommendations and conditions.

**RESOLVED:**

***That planning permission be granted as recommended in the report of the Strategic Director (Service Delivery), subject to the stated conditions.***

PL/101 **APPLICATION TO MODIFY THE SECOND SCHEDULE 'AFFORDABLE HOUSING' OF THE SECTION 106 AGREEMENT FOR THE SITE DATED THE 7TH SEPTEMBER 2007 RELATED TO PERMISSION REF. 9/2006/0885 AT THE FORMER CALDER ALUMINIUM WORKS, REPTON ROAD, WILLINGTON, DERBY**

The Planning Delivery Team Leader presented the report to the Committee and summarised the key areas of the application.

The Committee considered the application and discussed the recommendations and conditions.

**RESOLVED:**

***That planning permission be granted as recommended in the report of the Strategic Director (Service Delivery), subject to the stated conditions.***

PL/102 **CHANGE OF USE FROM RETAIL UNIT TO SUNBED SALON (SUI GENERIS) (RE-SUBMISSION OF WITHDRAWN APPLICATION REF. 9/2019/0213) AT UNIT A & PART B, ALDI DEVELOPMENT, SWARKESTONE ROAD, CHELLASTON, DERBY, DE73 6WS**

The Planning Delivery Team Leader presented the report to the Committee and summarised the key areas of the application.

The Committee considered the application and discussed the recommendations and conditions.

**RESOLVED:**

***That planning permission be granted as recommended in the report of the Strategic Director (Service Delivery), subject to the stated conditions.***

PL/103 **THE FELLING OF A PINE TREE COVERED BY SOUTH DERBYSHIRE DISTRICT COUNCIL TREE PRESERVATION ORDER NO.157 AT BRETBY HEIGHTS, NEWHALL, SWADLINCOTE**

The Planning Delivery Team Leader addressed the Committee and summarised the key points of the application.

The Committee considered the application and discussed the recommendations and conditions.

**RESOLVED:**

***That planning permission be granted as recommended in the report of the Strategic Director (Service Delivery), subject to the stated conditions.***

PL/104 **AMENDMENT TO SECTION 106 AGREEMENT RELATING TO LAND AT COURT STREET, WOODVILLE**

The Planning Delivery Team Leader presented the report to the Committee and noted the amendment to the Section 106 Agreement.

The Committee considered the report and discussed the Officer's recommendations.

**RESOLVED:**

***That the Committee endorsed the amendment to the agreement to accept a financial contribution of £27,500 in lieu of the previously required financial contributions totalling £340,511.60 towards education, healthcare, built facilities, open space, outdoor sports, highways (Swadlincote Regeneration Route), and a Traffic Regulation Order. It is recommended that the sum be allocated towards the delivery of the Swadlincote Regeneration Route.***

PL/105 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

**RESOLVED:**

***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 was 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 paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.***

PL/106 **EXEMPT QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE No 11.**

The Committee was informed that no questions had been received.

COUNCILLOR MRS L BROWN

CHAIRMAN

PLANNING COMMITTEE

22 August 2023

**PRESENT:**

**Labour Group**

Councillor G Jones (Chair) and Councillor Shepherd (Vice-Chair)  
Councillors J Carroll, M Gee, I Hudson, A Jones, L Mulgrew and K Storey.

**Conservative Group**

Councillors K Haines, A Kirke and P Watson (substituting for Councillor D Muller).

**Liberal Democrats**

Councillor J Davies

**Non-Grouped**

Councillor A Wheelton.

**In Attendance**

Councillor R Pearson  
Councillor S Taylor

PL/51 **APOLOGIES**

The Committee was informed apologies had been received from Councillor D Muller (Conservative Group).

PL/52 **DECLARATIONS OF INTEREST**

The Committee was informed that a Councillor Shepherd had declared a non-pecuniary interest in item PL/55.

PL/53 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

The Committee was informed that no questions had been received.

**MATTERS DELEGATED TO COMMITTEE**

PL/54 **REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)**

The Strategic Director (Service Delivery) submitted reports for consideration and determination by the Committee and presented oral reports to the Meeting to update Members as necessary. Consideration was then given thereto and decisions were reached as indicated.

PL/55 **THE VARIATION OF CONDITION 31 OF OUTLINE PERMISSION REF. DMPA/2020/0543 (RELATING TO THE RESIDENTIAL DEVELOPMENT OF UP TO 1,100 DWELLINGS, AN EXTRA CARE FACILITY, A LOCAL CENTRE COMPRISING: A SMALL SUPERMARKET WITH A FLOORSPACE NOT EXCEEDING 1000 SQM (NET); A SMALLER RETAIL UNIT WITH A TOTAL FLOORSPACE NOT EXCEEDING 200SQM (NET); A CAFE/RESTAURANT WITH A FLOORSPACE NOT EXCEEDING 200 SQM (NET); A PUBLIC HOUSE WITH A FLOORSPACE NOT EXCEEDING 650 SQM (NET); A DOCTORS SURGERY OR CRÈCHE; AND A COMMUNITY FACILITY, AS WELL AS A PRIMARY SCHOOL TOGETHER WITH ASSOCIATED PLAYING FIELDS AND THE PROVISION OF ASSOCIATED INFRASTRUCTURE (INCLUDING ROADS, FOOTPATHS, CYCLEWAYS, SUSTAINABLE URBAN DRAINAGE AND OPEN SPACE)) ON LAND AT NEW HOUSE FARM, ETWALL ROAD, MICKLEOVER, DERBY, DE3 0DN**

The Head of Planning and Strategic Housing presented the report to the and noted that the application was to be reconsidered by the Committee due to procedural issues at the previous meeting. The Head of Planning and Strategic Housing outlined the key aspects of the variation.

An Objector and the Applicant's Agent attended the meeting and addressed the Committee regarding the application.

Members raised concerns regarding the air quality and the amount of traffic at the A38 Kingsway junction.

The Head of Planning and Strategic Housing informed the Committee that the original Environmental Statement submitted by the applicant remained valid and that the vehicle activity would be less than anticipated.

**RESOLVED:**

***That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).***

PL/56 **THE VARIATION OF CONDITION NO. 3B (BIODIVERSITY NET GAIN) OF PERMISSION REF. DMPA/2019/0931**

The Senior Planning Officer presented the report to the Committee and outlined the key aspects of the application and noted that the request was to allow for Biodiversity Net Gain to be delivered offsite.

As Local Ward Member Councillor Taylor addressed the Committee regarding the application raised concerns regarding the loss of biodiversity on the site.

The Senior Planning Officer explained to the Committee that overall, there would be a net gain.

Members raised concerns regarding the protection of wildlife onsite and the use of modified grasslands and sought clarity about what was being proposed.

**RESOLVED:**

***That planning permission be deferred to enable applications DMPA/2023/0583 and DMPA/2022/1159 to be considered together and for Biodiversity Net Gain and Landscape and Ecological Management Plan to be provided.***

PL/57 **APPROVAL OF RESERVED MATTERS (LANDSCAPING, LAYOUT, SCALE AND APPEARANCE) PURSUANT TO PHASE 1 (RESIDENTIAL DEVELOPMENT OF UP TO 75 DWELLINGS) OF OUTLINE APPLICATION DMPA/2019/0931 FOR THE RESIDENTIAL DEVELOPMENT OF UP TO 300 DWELLINGS, A LOCAL CENTRE COMPRISING A 1,600SQM FOOD STORE (CLASS A1 USE), 700SQM RESTAURANT/FAST FOOD (CLASS A3 USE) AND 550SQM PUB (CLASS A4 USE), TOGETHER WITH EMPLOYMENT LAND CONSISTING OF 2,000SQM CLASS B1(B) RESEARCH AND DEVELOPMENT AND/OR B1(C) LIGHT INDUSTRIAL USES, 4,000SQM CLASS B2 GENERAL INDUSTRIAL USES AND 8,000SQM CLASS B8 STORAGE AND DISTRIBUTION USES, TOGETHER WITH ACCESS FROM THE WOODVILLE REGENERATION ROUTE (TO BE DELIVERED BY OTHERS), AND PUBLIC OPEN SPACE, LANDSCAPING AND ASSOCIATED DRAINAGE INFRASTRUCTURE**

The Senior Planning Officer presented the report to the Committee and outlined the key aspects of the application and noted the interconnection with the previous application.

Members raised concerns regarding the protection of wildlife onsite and the use of modified grasslands and sought clarity about what was being proposed.

**RESOLVED:**

***That planning permission be deferred to enable applications DMPA/2023/0583 and DMPA/2022/1159 to be considered together and for Biodiversity Net Gain and Landscape and Ecological Management Plan to be provided.***

PL/58 **THE DEMOLITION OF THE EXISTING DWELLING, AND THE ERECTION OF 4NO. BUNGALOWS AT 7A PINFOLD LANE, REPTON, DERBY, DE65 6GH**

The Committee was informed that Members of the Committee had attended a site visit earlier in the day.

The Head of Planning and Strategic Housing presented the report and outlined the key aspects of the application and noted that the replacement planting would be covered by conditions to negate the removal of trees for access purposes.

An Objector attended the meeting and addressed the Committee regarding the application.

As a Local Ward Member Councillor K Haines addressed the Committee and raised concerns on behalf of the local residents.

Members raised concerns regarding the removal of mature trees, the lack of a tree officer's report, how the application contravened the Heritage Statement, the gradient of the access, the loss of open space and the harmful impact on the conservation area.

**RESOLVED:**

***That planning permission be refused contrary to the recommendations in the report of the Strategic Director (Service Delivery) for reasons related to the loss of an important open space which would be harmful to the character and appearance of the conservation area and its setting, the loss of trees, the demolition of a dwelling to create access that would be uncharacteristic in the street scene and use of steep access would be harmful to the amenity of neighbours.***

PL/59 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

**RESOLVED:**

***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 was 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 paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.***

PL/60 **EXEMPT QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE No 11.**

The Committee was informed that no questions had been received.

The meeting terminated at 19:50 hours.

COUNCILLOR G JONES

CHAIR

PLANNING COMMITTEE

19 September 2023

**PRESENT:**

**Labour Group**

Councillor G Jones (Chair) and Councillor Shepherd (Vice-Chair)  
Councillors M Gee, S Harrison (substituting for Councillor J Carroll) I Hudson,  
A Jones, L Mulgrew and K Storey.

**Conservative Group**

Councillors K Haines, A Kirke and D Muller.

**Liberal Democrats**

Councillor J Davies

**Non-Grouped**

Councillor A Wheelton.

**In Attendance**

Councillor G Andrew  
Councillor D Corbin  
Councillor L Singh  
Councillor S Taylor

PL/61 **APOLOGIES**

The Committee was informed apologies had been received from Councillor J Carroll (Labour Group).

PL/62 **DECLARATIONS OF INTEREST**

The Committee was informed that no declarations of interest had been received.

PL/63 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

The Committee was informed that no questions had been received.

**MATTERS DELEGATED TO COMMITTEE**PL/64 **REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)**

The Strategic Director (Service Delivery) submitted reports for consideration and determination by the Committee and presented oral reports to the Meeting to update Members as necessary. Consideration was then given thereto and decisions were reached as indicated.

PL/65 **THE CONSTRUCTION OF 2 X 2 STOREY HOUSEBLOCKS (WITH ADDITIONAL ROOFTOP PLANT), ADDITIONAL CAR PARKING, SUBSTATION AND GENERATOR AT HMP FOSTON HALL, UTTOXETER ROAD, FOSTON, DERBY, DE65 5DN - DMPA/2022/1594**

The Committee was informed that Members had attended a site visit earlier in the day.

The Senior Planning Officer presented the report to the Committee outlining the key aspects of the application that included a conditioned 21:30 hours curfew, parking arrangements and access. It was noted that the application had been called in by Councillor G Lemmon.

An Objector and the Applicant's Agent attended the meeting and addressed the Committee regarding the application.

As a Local Ward Member Councillor G Andrew addressed the Committee raising concerns regarding parking arrangements on behalf of the local residents.

The Senior Planning Officer clarified that access was via a private road and was outside of the adopted highways and that the travel plan included plans to reduce private car use.

Members discussed the impact of parking arrangements on local residents, the fear of crime as a material consideration, lighting issues and improvements to landscaping. It was noted that Members requested that timber cladding be used on the building.

**RESOLVED:**

***That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery) subject to additional conditions regarding hard and soft landscaping and the requirement to ensure car parking was provided on site in advance of commencement of construction.***

PL/66 **PROPOSED EXTENSION TO EXISTING WORKSHOP AND PROVISION OF ADDITIONAL OFFICE SPACE, TOGETHER WITH A CHANGE OF USE OF EXISTING LAND AND TURNING HEAD RESULTING FROM THE**

**DEVELOPMENT OF THE KILN WAY LINK ROAD FOR THE CREATION 45NO. CAR PARKING SPACES, INCLUDING 24NO. ELECTRIC VEHICLE CHARGING POINTS, ERECTION OF 10 NO. CYCLE SPACES, STAFF SEATING AREA AND LANDSCAPING FOR FIRST FENCE LTD. (3 PARKING SPACES TO BE ALLOCATED FOR SHARPE'S BROTHERS AND CO LTD) - DMPA/2023/0177**

The Senior Planning Officer presented the report to the Committee and summarised the key aspects of the application noting the carparking arrangements and landscaping with the retention of trees. The Committee was informed that the application had been called in by Councillor S Taylor.

An Objector attended the meeting and addressed the Committee regarding the application.

Following comments from the Objector the Senior Planning Officer clarified that the landscaping proposals would be an improvement to what was currently on the site and that the movement of heavy goods vehicles would be covered by conditions.

As a Local Ward Member, Councillor S Taylor addressed the Committee and raised concerns on behalf of the local residents.

Members discussed the negative impact the proposals would have on a prominent gateway site, the public domain and the loss of open green space.

***RESOLVED:***

***That planning permission be refused contrary to the recommendations in the report of the Strategic Director (Service Delivery) due to the visual erosion of a significant landscaped gateway site which would result in an undue adverse impact on the character, appearance and visual amenity of the area. As such, the proposal failed to accord with Local Plan Part 1 policies BNE1 and BNE4 and the adverse impact was not considered to be outweighed by the increased in parking provision and additional planting proposed as part of the application.'***

PL/67

**CONSTRUCTION OF LANDSCAPED EARTH BUND AND ACOUSTIC FENCE DMPA/2022/1554**

The Senior Planning Officer presented the report to the Committee outlining the key aspects of the application that included the installation of fencing and proposed landscaping to the bund. The Committee was informed that the application had been called in by Councillor Corbin.

As Local Ward Member, Councillor Corbin addressed the Committee and raised concerns on behalf of local residents and the impact of the built wall.

Members supported the comments raised by Councillor Corbin regarding the impact on amenity and sought clarity regarding the heights of the bund and fencing and what had been approved at outline stage.

The Senior Planning Officer explained to the Committee that the in outline matters a bund had been approved that was the height of the proposed bund and fence combined.

**RESOLVED:**

***That planning permission be refused contrary to the recommendations in the report of the Strategic Director (Service Delivery) due to the visually intrusive nature of the fence, that would be out of keeping with the character and appearance of the area and would result in the loss of visual amenity.***

PL/68

**CONTINUED USE OF THE LAND FOR THE PARKING, STORAGE, DISPLAY AND SALES OF MOTOR VEHICLES – DMPA/2023/0436**

The Committee was informed that Members had attended a site visit earlier in the day.

The Head of Planning and Strategic Housing addressed the Committee and outlined the key areas of the application. The Committee was informed of a late item received raising objections in relation to the anti-social behaviour, operating outside of approved hours and access to the site. The Head of Planning and Strategic Housing highlighted Tree Preservation Orders, the proposed landscape buffer to the frontage of the site and better management of drainage.

An Objector and the Applicant's Agent attended the meeting and addressed the Committee regarding the application.

As Local Ward Member, Councillor L Singh addressed the Committee and raised concerns on behalf of local residents.

As Local Ward Member, Councillor D Shepherd raised concerns regarding the operation of the site, the operating hours and complaints received in relation to late night car repairs.

Members raised queries regarding parking, the turning circle and the parking and unloading of car transporters on the roadside.

The Head of Planning and Strategic Housing clarified that there were clear demarcations for parking bays and the turning circle on site and that the unloading and parking of the car transporters on the roadside was not permitted as per the conditions and if this was breached then enforcement action could be taken.

**RESOLVED:**

***That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery) subject to amendments to conditions 3 and 7 to reduce the timeframe from six to three months.***

PL/69 **THE RETENTION OF THE EXISTING VEHICLE STORAGE AREA TO THE REAR OF THE SITE, INCLUDING AN OFFICE BUILDING – DMPA/2023/0415**

The Committee was informed that Members had attended a site visit earlier in the day.

The Head of Planning and Strategic Housing presented the report and summarised the application.

An Objector and the Applicant's Agent attended the meeting and addressed the Committee regarding the application.

As Local Ward Member, Councillor L Singh addressed the Committee and raised concerns on behalf of local residents.

**RESOLVED:**

***That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery) subject to amendments to conditions 3 and 7 to reduce the timeframe from six to three months.***

PL/70 **CHANGE OF USE FROM A VEHICLES REPAIR WORKSHOP (USE CLASS B2) TO RESEARCH AND DEVELOPMENT AND/OR INDUSTRIAL PROCESSES (USE CLASS E)**

The Committee was informed that Members had attended a site visit earlier in the day.

The Head of Planning and Strategic Housing addressed the Committee and outlined the proposals within the report.

An Objector and the Applicant's Agent attended the meeting and addressed the Committee regarding the application.

Councillor Singh addressed the Committee as Local Ward Member and raised concerns on behalf of local residents.

Members sought clarity regarding the difference between the Use Class B1 and Use Class E and requested more information regarding the intended use of the building.

**RESOLVED:**

***That planning permission be deferred for further information regarding Use Classes and clarity on the end user.***

PL/71 **PROPOSED TREE PRESERVATION ORDER 552 – 1- HOLDEN HOUSE, CANAL BANK, SHARLOW**

The Planning Delivery Team Leader presented the report to the Committee and sought approval for the Tree Preservation Order.

**RESOLVED:**

**1.1 The Committee confirmed the Tree Preservation Order 552.**

PL/72 **TREE PRESERVATION ORDER 553 – 7 CHAPEL STREET, TICKNALL, DERBY**

The Planning Delivery Team Leader presented the report to the Committee and sought approval for the Tree Preservation Order.

**RESOLVED:**

**1.1 The Committee confirmed the Tree Preservation Order 553.**

PL/73 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

**RESOLVED:**

***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 was 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 paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.***

PL/74 **EXEMPT QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE No 11.**

The Committee was informed that no questions had been received.

The meeting terminated at 21:05 hours.

COUNCILLOR G JONES

CHAIR

PLANNING COMMITTEE

17 October 2023

**PRESENT:**

**Labour Group**

Councillor G Jones (Chair) and Councillor Shepherd (Vice-Chair)  
Councillors J Carroll, M Gee, A Jones, L Mulgrew, M. Mulgrew (substitute for  
Cllr  
I Hudson) and K Storey.

**Conservative Group**

Councillors K Haines, A Kirke and D Muller.

**Liberal Democrats**

Councillor G Andrew (substitute for Cllr J Davies)

**Non-Grouped**

Councillor A Wheelton.

**In Attendance**

Councillors A Archer, A Haynes, G Rhind, L Singh. S Taylor, A Tilley and  
N Tilley.

PL/75 **APOLOGIES**

The Committee was informed apologies had been received from Councillors  
I Hudson (Labour Group) and Councillor J Davies (Liberal Democrats Group).

PL/76 **DECLARATIONS OF INTEREST**

The Committee was informed that Councillor A Jones declared a pecuniary interest  
regarding item PL/87 by virtue of being a Parish Councillor and would leave the  
Chamber whilst the item was considered.

PL/77 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL  
PROCEDURE RULE NO.11**

The Committee was informed that no questions had been received.

**MATTERS DELEGATED TO COMMITTEE**

PL/78 **REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)**

The Strategic Director (Service Delivery) submitted reports for consideration and determination by the Committee and presented oral reports to the Meeting to update Members as necessary. Consideration was then given thereto and decisions were reached as indicated.

PL/79 **CHANGE OF USE FROM A DWELLING (USE CLASS C3) TO A CHILDREN'S HOME (USE CLASS C2) AT 22 MILLFIELD STREET, WOODVILLE – DMPA/2023/0687**

The Head of Planning and Strategic Housing Committee presented the report to the Committee and outlined the key areas of the application noting objections received from the Parish Council.

An Objector and the Applicant attended the meeting and addressed the Committee regarding the application.

As Local Ward Member Councillor Taylor attended the meeting and addressed the Committee raising concerns on behalf of local residents.

Councillor M Gee addressed the Committee as Local Ward Councillor and raised concerns regarding the application.

Members raised concerns regarding a potential to increase the number of children in residence.

The Head of Planning and Strategic Housing confirmed that planning permission would be required for additional children to be resident in the home.

***RESOLVED:***

***That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).***

PL/80 **ERECTION OF 14NO. DWELLINGHOUSES, WITH ASSOCIATED PARKING, INTERNAL ROAD AND AMENITY SPACE, ALONG WITH THE CREATION OF ACCESS AT MERRILEES, CADLEY HILL ROAD, SWADLINCOTE – DMPA/2020/0127**

The Planning Delivery Team Leader presented the report and summarised the application's key areas noting the acoustic report and an updated condition 5.

An Objector and the Applicant's Agent attended the meeting and addressed the Committee regarding the application.

Following comments from the Objector the Planning Delivery Team Leader confirmed that the hawthorn bush was to be cut back but not removed.

As Local Ward Councillor, Councillor A Haynes addressed the Committee raising concerns on behalf of local residents.

Councillor Wheelton sought clarity regarding the number of trees to be removed.

The Planning Delivery Team Leader confirmed that four trees were to be removed.

Members raised concerns regarding noise mitigation factors, the loss of trees, inadequate landscaping, poor design and loss of amenity.

***RESOLVED:***

***That planning permission be refused contrary to the recommendations in the report of the Strategic Director (Service Delivery) due to noise which included the impact on future occupants' amenity and the loss of trees and hedges and the unacceptable landscaping.***

PL/81 **THE ERECTION OF A COMMERCIAL BUILDING TO FORM FIVE UNITS FOR STORAGE PURPOSES AT ASH TREE FARM, ROSLISTON ROAD, WALTON ON TRENT – DMPA/2023/0221**

The Head of Planning and Strategic Housing presented the report and summarised the key points of the application noting the hours of operation and that no objections had been raised by statutory consultees.

The Applicant's Architect attended the meeting and addressed the Committee regarding the application.

As Local Ward Member, Councillor Wheelton addressed the Committee raising concerns on behalf of local residents and noted the objection by the Parish Council.

Councillor Muller noted the importance of promoting small businesses in the area.

***RESOLVED:***

***That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).***

PL/82 **THE ERECTION OF A TWO STOREY FRONT, REAR AND SIDE EXTENSION, DETACHED GARAGE AND HARDSTANDING AT 12 AVON CLOSE, STENSON FIELDS, DERBY, DE24 3AP – DMPA/2023/0739**

The Head of Planning and Strategic Housing addressed the Committee and presented the report. The Committee was asked to note the alterations made to the proposal following refusal of a previous application.

The Applicant's Agent attended the meeting and addressed the Committee regarding the application.

As Local Ward Member, Councillor L Singh attended the meeting and addressed the Committee regarding the application raising concerns on behalf of local residents.

Members discussed concerns raised by Councillor L Singh and requested that correspondence be sent to applicant asking them to ensure that all building materials be stored within the site and not positioned so as to block any pedestrian walkways.

**RESOLVED:**

***That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).***

PL/83 **CHANGE OF USE FROM A VEHICLES REPAIR WORKSHOP (USE CLASS B2) TO RESEARCH AND DEVELOPMENT AND/OR INDUSTRIAL PROCESSES (USE CLASS E) DMPA/2023/0546**

The Head of Planning and Strategic Housing addressed the Committee and presented the report outlining the Class E Use and noting the amendment to Condition 4 of the previous report.

As Local Ward Member, Councillor L Singh addressed the Committee and raised concerns on behalf of local residents.

Members raised concerns regarding the potential use of the building and the need to ensure that the area of land used for turning and deliveries was not obstructed.

**RESOLVED:**

***That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery) subject to an amendment to condition 4 to insert the word 'deliveries' after 'parking and turning'.***

PL/84 **THE FELLING OF 9 TREES COVERED BY SOUTH DERBYSHIRE DISTRICT COUNCIL TREE PRESERVATION ORDER NO.213 AND THE FORMATION OF A VEHICULAR AND PEDESTRIAN ACCESS TO SERVE 247 HEARTH COTE ROAD, SWADLINCOTE, DE11 9DU – DMPA/2022/0302**

The Head Planning and Strategic Housing addressed the Committee and presented the report outlining the key areas of the report and noted that land ownership was not a planning consideration.

As Local Ward Member, Councillor N Tilley attended the meeting and addressed the Committee raising concerns on behalf of local residents.

Member raised concerns in relation to the removal of trees, the loss of hedgerows, the impact on biodiversity and sought clarity regarding the use of the entry and exit points.

The Head of Planning and Strategic Housing clarified that signage would be used and a device installed to ensure the correct use of the entry and exit points.

**RESOLVED:**

***That planning permission be refused contrary to the recommendations in the report of the Strategic Director (Service Delivery) due to the harmful visual impact on the character and appearance of the area through the construction of the solid brick wall.***

PL/85 **REGULATION 77 APPLICATION FOR THE INSTALLATION OF 2 NO. PACKAGE TREATMENT PLANTS TO SUPPORT THE CONVERSION OF A FORMER AGRICULTURAL BARN TO 2 NO. DWELLINGS AT STONEHOUSE FARM, ASHBY ROAD, BOUNDARY – DMPA/2023/0826**

The Planning Delivery Team Leader addressed the Committee and presented the report.

Members considered the application and supported the officer's recommendations.

**RESOLVED:**

***That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).***

Councillor A Jones left the meeting.

PL/86 **FELLING, PRUNING AND POLLARDING OF TREES COVERED BY TREE PRESERVATION ORDER 207 AT LAND AT THE CUTTING, HARTSHORNE ROAD, WOODVILLE, SWADLINCOTE DMPA/2023/0923**

The Planning Delivery Team Leader addressed the Committee and presented the report.

Members considered the application and supported the officer's recommendations.

**RESOLVED:**

***That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).***

Councillor A Jones returned to the meeting.

PL/87 **THE PRUNING OF TREES COVERED BY SOUTH DERBYSHIRE DISTRICT COUNCIL TREE PRESERVATION ORDER NO. 131 AT WILLOW PARK WAY, ASTON ON TRENT, DE72 2DF – DMOT/2022/0027**

The Planning Delivery Team Leader addressed the Committee and presented the report.

Members considered the application and supported the officer's recommendations.

**RESOLVED:**

***That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).***

PL/88 **APPEALS**

The Committee noted the planning appeal decision in relation to the following application:

<b>Reference</b>	<b>Place</b>	<b>Ward</b>	<b>Outcome</b>	<b>Decision Level</b>
DMPA/2022/0176	Willington	Willington	Allow	Delegated

PL/89 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

**RESOLVED:**

***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 was 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 paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.***

PL/90 **EXEMPT QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE No 11.**

The Committee was informed that no questions had been received.

The meeting terminated at 20:25 hours.

COUNCILLOR G JONES

CHAIR

PLANNING COMMITTEE

14 November 2023

**PRESENT:**

**Labour Group**

Councillor G Jones (Chair) and Councillor Shepherd (Vice-Chair)  
Councillors J Carroll, J Jackson (substitute for Cllr I Hudson) A Jones, L  
Mulgrew, M. Mulgrew (substitute for Cllr M Gee) and K Storey.

**Conservative Group**

Councillors K Haines, A Kirke and D Muller.

**Liberal Democrats**

Councillor J Davies

**Non-Grouped**

Councillor A Wheelton.

**In Attendance**

Councillors D Corbin, A Tilley and N Tilley

PL/91 **APOLOGIES**

The Committee was informed apologies had been received from Councillors  
I Hudson and M Gee (Labour Group).

PL/92 **TO RECEIVE THE OPEN MINUTES OF THE FOLLOWING MEETINGS:**

The Open Minutes of Planning Committee meetings held on 18 October 2022, 15  
November 2022, 10 January 2023, 07 February 2023, 07 March 2023, 21 March  
2023, 04 April 2023, 06 June 2023, 27 June 2023 and 08 August 2023 were noted,  
approved as a true record and signed by the Chair.

It was noted that in the Minutes of 08 August 2023 at PL/39 the Applicant did not  
attend the meeting and address the Committee.

PL/93 **DECLARATIONS OF INTEREST**

The Committee was informed that Councillor Muller declared a personal, non-  
pecuniary interest in Item PL/105 by virtue of being a County Councillor.

The Committee was informed that Councillor Muller declared a personal, non-  
pecuniary interest in Item PL/106 by virtue of being a County Councillor.

PL/94 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL  
PROCEDURE RULE NO.11**

The Committee was informed that no questions had been received.

**MATTERS DELEGATED TO COMMITTEE**PL/95 **REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)**

The Strategic Director (Service Delivery) submitted reports for consideration and determination by the Committee and presented oral reports to the Meeting to update Members as necessary. Consideration was then given thereto and decisions were reached as indicated.

PL/96 **THE VARIATION OF CONDITION NO. 3B (BIODIVERSITY NET GAIN) OF PERMISSION REF. DMPA/2019/0931 ON LAND NORTH OF OCCUPATION LANE (WOODVILLE REGENERATION AREA), WOODVILLE, SWADLINCOTE, DMPA/2023/0583**

The Head of Planning and Strategic Housing addressed the Committee and requested that Members consider deferring the application as it concerned biodiversity net gain which was a complex and evolving area and noted that the Council had scheduled an information session on the topic on 21 November 2023. In addition, it was explained that planning officers had received additional information from the applicant which would need to be considered by the Committee.

**RESOLVED:**

*That planning permission be deferred to allow Members to attend Biodiversity Net Gain Training on 21 November 2023.*

PL/97 **APPROVAL OF RESERVED MATTERS (LANDSCAPING, LAYOUT, SCALE AND APPEARANCE) PURSUANT TO PHASE 1 (RESIDENTIAL DEVELOPMENT OF UP TO 75 DWELLINGS) OF OUTLINE APPLICATION DMPA/2019/0931 FOR THE RESIDENTIAL DEVELOPMENT OF UP TO 300 DWELLINGS, A LOCAL CENTRE COMPRISING A 1,600SQM FOOD STORE (CLASS A1 USE), 700SQM RESTAURANT/FAST FOOD (CLASS A3 USE) AND 550SQM PUB (CLASS A4 USE), TOGETHER WITH EMPLOYMENT LAND CONSISTING OF 2,000SQM CLASS B1(B) RESEARCH AND DEVELOPMENT AND/OR B1(C) LIGHT INDUSTRIAL USES, 4,000SQM CLASS B2 GENERAL INDUSTRIAL USES AND 8,000SQM CLASS B8 STORAGE AND DISTRIBUTION USES, TOGETHER WITH ACCESS FROM THE WOODVILLE REGENERATION ROUTE (TO BE DELIVERED BY OTHERS), AND PUBLIC OPEN SPACE, LANDSCAPING AND ASSOCIATED DRAINAGE INFRASTRUCTURE. DMPA/2022/1159**

The Head of Planning requested that the Committee considered deferring the item as it was intrinsically linked to the previous item.

**RESOLVED:**

*That planning permission be deferred to allow Members to attend Biodiversity Net Gain Training on 21 November 2023.*

PL/98 **THE ERECTION OF AN AMENITY BLOCK BROUGHTON CARAVAN PARK, PLOT 1A, SUTTON ROAD, CHURCH BROUGHTON, DERBY, DE65 5DB. DMPA/2022/1080**

The Head of Planning and Strategic Housing addressed the Committee and presented the report summarising the proposals.

As Local Ward Member, Councillor D Muller raised the concerns of former Ward Councillor J Patten.

Councillor J Jackson supported the application and considered the impact on diversity.

**RESOLVED:**

***That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).***

PL/99 **CHANGE OF USE OF AGRICULTURAL LAND TO A SINGLE PITCH TRAVELLER SITE AND CONSTRUCTION OF A NEW ACCESS ON LAND WEST OF CHURCH BROUGHTON CARAVAN PARK, SUTTON ROAD, CHURCH BROUGHTON, DE65 5DB. DMPA/2022/1498**

The Head of Planning and Strategic Housing addressed the Committee and presented the report noting late objections that had been received from Church Broughton Parish Council. The Head of Planning and Strategic Housing summarised the key areas of the application.

As Local Ward Member, Councillor D Muller addressed the Committee in support of the proposals.

Members considered the report and sought clarity regarding the proposed diversion of the footpath and the ownership of land.

**RESOLVED:**

***That planning permission be deferred to allow for the applicant to submit more information regarding the public right of way diversion and confirmation of land ownership.***

PL/100 **CHANGE OF USE TO SUI GENERIS (CAFE AND DRINKING ESTABLISHMENT) AND PROPOSED KITCHEN EXTRACT FLUE AT NOTSA, 7 DERBY ROAD, ASTON-ON-TRENT, DE72 2AE. DMPA/2023/1043**

The Planning Delivery Team Leader addressed the Committee and summarised the proposals.

As Local Ward Member, Councillor Corbin attended the meeting and addressed the Committee in support of the application.

Members considered the proposals and supported the officer's recommendations.

**RESOLVED:**

***That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).***

PL/101 **RETROSPECTIVE APPLICATION FOR THE CREATION OF A MAINTENANCE TRACK ON LAND AT BADWAY LANE, CHURCH BROUGHTON, DERBY DMPA/2023/0979**

The Head of Planning and Strategic Housing presented the report and noted a late item received from the Parish Council in opposition to the application. The Head of Planning outlined the application noting letters of objection received from the public and the principles of the development.

An Objector and the Applicant's Agent attended the meeting and addressed the Committee regarding the application.

As Local Ward Member, Councillor J Davies addressed the Committee raising concerns on behalf of local residents.

Following concerns raised by Councillor J Davies, the Head of Planning and Strategic Housing clarified that it was for the Committee to determine if the proposal was visually acceptable and was excessive development.

Members discussed the harmful impact the proposal would have on the countryside.

**RESOLVED:**

***That planning permission be refused contrary to the recommendations in the report of the Strategic Director (Service Delivery) due to the unnecessary requirement of the track to allow for effective maintenance of the hedgerow. Furthermore, the track would intrude into the Countryside and have a detrimental impact on the appearance, biodiversity and amenity value of the hedgerow and rural location contrary to policies BNE3, BNE4 and BNE7.***

PL/102 **THE INSTALLATION OF A NEW ACCESS. DMPA/2023/0930**

The Committee was informed that Members had attended a site visit earlier in the day.

The Planning Delivery Team Leader presented the report to the Committee noting the removal of hedgerows and that the County Highways Authority had no objection as long as the splays could be achieved. The Committee was informed that Derbyshire Wildlife Trust recommendations for offsetting had been included in Condition 3 and the maintaining as much of the hedgerow as possible was contained within Condition 8.

An Objector and the Applicant's Agent attended the meeting and addressed the Committee regarding the application.

As Local Ward Member, Councillor Wheelton addressed the Committee raising concerns on behalf of the local residents.

As Local Ward Member, the Chair of the Committee echoed the concerns raised by Councillor Wheelton.

Members discussed the issues of road safety, the impact on biodiversity, the reduction in the width and removal hedgerow and how the proposals were contrary to local planning policy.

**RESOLVED:**

***That planning permission be refused due to the significant loss of hedgerow which would be detrimental to the character, appearance and biodiversity value of the site contrary to policies BNE3, BNE4 and BNE7.***

PL/103 **DEMOLITION OF EXISTING AND ERECTION OF A REPLACEMENT BOWLS PAVILION AT EUREKA BOWLS CLUB, EUREKA PARK, NEWHALL ROAD, SWADLINCOTE DMPA/2023/1162**

The Planning Delivery Team Leader addressed the Committee and summarised the report and sought approval of the proposals.

The Committee considered the report and supported the officer's recommendations.

**RESOLVED:**

***That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).***

PL/104 **INSTALLATION OF 1 X 48 SHEET GABLE MOUNTED DIGITAL ADVERTISING DISPLAY UNIT AT 1 HIGH STREET, WOODVILLE, SWADLINCOTE, DMPA/2022/1621**

The Head of Planning and Strategic Housing addressed the Committee and presented the report that had been updated following concerns raised by Councillor M Gee at a previous meeting. The Committee was informed that officers had met with the Highway Authority and the advance road markings would be reinstated.

Councillor M Mulgrew addressed the Committee on behalf of Councillor M Gee in objection to a permanent permission requested.

The Committee considered the application and discussed the length of permission requested.

**RESOLVED:**

***That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery) subject to an amendment so that permission would be granted for a five year period only.***

PL/105 **CONSULTATION FROM THE COUNTY COUNCIL ON APPLICATION REF. CW9/1022/22 SEEKING PERMISSION FOR THE PROPOSED CONSTRUCTION AND OPERATION OF THE SWADLINCOTE RESOURCE RECOVERY PARK (SRRP) COMPRISING AN ENERGY RECOVERY FACILITY (ERF) AND AGGREGATE RECOVERY FACILITY (ARF) TOGETHER WITH ANCILLARY INFRASTRUCTURE INCLUDING GRID CONNECTION CABLE AND WORKS, PRIVATE ELECTRICAL WIRE PROVISION, SUBSTATION, CHP OFF-TAKE PROVISION, INTERNAL VEHICULAR CIRCULATION AND YARD AREAS, WEIGHBRIDGES, CAR PARKING, NEW ACCESS ROAD, TEMPORARY CONSTRUCTION COMPOUND AND LAYDOWN AREA, SECURITY FENCING AND GATES, DRAINAGE, LANDSCAPING AND OFF-SITE HABITAT COMPENSATION AT LAND ADJACENT TO WILLSHEE'S WASTE AND RECYCLING LIMITED, KEITH WILLSHEE WAY, SWADLINCOTE, DE11 9EN. DMOT/2023/1110**

The Committee was informed that Members had attended a site visit earlier in the day which could not be completed due a misunderstanding regarding necessary arrangements.

The Senior Planning Officer presented the report to the Committee and outlined the Council's proposed consultation response of objection.

An Objector and the Applicant's Agent attended the meeting and addressed the Committee regarding the application.

As Local Ward Member, Councillor A Tilley attended the meeting and addressed the Committee raising objections on behalf of the local residents.

Members raised concerns regarding the impact the proposals would have on local amenity and established woodland, industrialisation of the area, over development, the increase in Heavy Good Vehicles, noise, emissions and the overall detrimental impact on local residents.

Councillor Wheelton noted the close proximity of the Vital Energi waste plant and the impact of the proposed tower on surrounding areas.

Members requested that the Committee had sight of the draft letter prior to its submission to Derbyshire County Council.

**RESOLVED:**

***The Committee agreed to provide a written response of Objection to the County Council's consultation on the application drawing attention to the following key considerations:***

- ***Design and Landscape***
- ***Impact on Amenity***
- ***Access and Highway Safety***
- ***Ecology, Biodiversity and National Forest Planting***
- ***Flood Risk and Drainage***

***The Committee delegated authority to the Head of Planning in consultation with the Chair of the Committee to agree the finer detail and wording of the response.***

PL/106 **CONSULTATION FROM THE COUNTY COUNCIL ON APPLICATION REF. CW9/0623/15 SEEKING PERMISSION CONSOLIDATION APPLICATION TO COMBINE CURRENT PLANNING PERMISSIONS. FOR THE RETROSPECTIVE DEVELOPMENT OF SEVERAL INFRASTRUCTURE IMPROVEMENTS, THE FLOOD COMPENSATION SCHEME, REGULARISATION OF THE WEIGHBRIDGE OFFICE LOCATION AND RDF BUILDING ELEVATIONS, AND REGULARISATION OF THE PLANNING BOUNDARY TO INCLUDE UNAUTHORISED AREAS AT WILLSHEE'S WASTE AND RECYCLING LIMITED, KEITH WILLSHEE WAY, SWADLINCOTE, DERBYSHIRE, DE11 9EN. DMOT/2023/1060.**

The Committee was informed that Members had attended a site visit earlier in the day which could not be completed due a misunderstanding regarding necessary arrangements.

An Objector and the Applicant's Agent attended the meeting and addressed the Committee regarding the application.

As Local Ward Member, Councillor A Tilley attended the meeting and addressed the Committee raising concerns on behalf of local residents.

Members considered the report raised concerns regarding the loss of habitat and woodland and noted that the response should be a robust objection.

Members requested that the Committee had sight of the draft letter prior to its submission to Derbyshire County Council.

**RESOLVED:**

***The Committee agreed to provide a written response of Objection to the County Council's consultation on the application drawing attention to the following key considerations:***

- ***Design and Landscape***
- ***Impact on Amenity***
- ***Access and Highway Safety***
- ***Ecology, Biodiversity and National Forest Planting***
- ***Flood Risk and Drainage***

***The Committee delegated authority to the Head of Planning in consultation with the Chair of the Committee to agree the finer detail and wording of the response.***

PL/107 **DEED OF VARIATION – SITE A, CADLEY PARK**

The Planning Delivery Team Leader addressed the Committee and presented the report.

**RESOLVED:**

- 1.1 That the Committee approved the request to amend the Section 106 Agreement (S106) to include amendments to be made to the definition of the Greenbank Leisure Centre Contribution which was payable in accordance with the fifth schedule of the Section 106 Agreement– Greenbank Leisure Centre Contribution & Off-Site Recreation Contribution. This was based upon recommendations that had been received from the Head of Cultural and Community Services.**
- 1.2 That the Committee delegated authority to the Head of Planning and Strategic Housing to agree the finer detail and wording of the obligations to be secured under the Deed of Variation.**

PL/108 **DEED OF VARIATION – SITE B, CADLEY PARK**

The Planning Delivery Team Leader addressed the Committee and presented the report.

**RESOLVED:**

- 1.1 That the Committee approved the request to amend the Section 106 Agreement (S106) to include amendments to be made to the definition of the Greenbank Leisure Centre Contribution which was payable in accordance with the sixth schedule of the Section 106 Agreement – Recreation and Healthcare Contributions. This was based upon recommendations that had been received from the Head of Cultural and Community Services**
- 1.2 That the Committee delegated authority to the Head of Planning and Strategic Housing to agree the finer detail and wording of the obligations to be secured under the Deed of Variation.**

PL/109 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

**RESOLVED:**

***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 was 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 paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.***

**TO RECEIVE THE EXEMPT MINUTES OF THE FOLLOWING MEETINGS:**

*The Exempt Minutes of the Meeting held on 15 November 2022, were received.*

**EXEMPT QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE No 11.**

*The Committee was informed that no questions had been received.*

The meeting terminated at 20:25 hours.

COUNCILLOR G JONES

CHAIR

PLANNING COMMITTEE (EXTRAORDINARY)

28 November 2023

**PRESENT:**

**Labour Group**

Councillor G Jones (Chair) and Councillor Shepherd (Vice-Chair)  
Councillors J Carroll, M Gee, I Hudson, A Jones, L Mulgrew, and K Storey.

**Conservative Group**

Councillors A Kirke, D Muller and P Watson (substitute for Cllr K Haines)

**Liberal Democrats**

Councillor J Davies

**Non-Grouped**

Councillor A Wheelton.

**In Attendance**

Councillors G Andrew and A Tilley

PL/112 **APOLOGIES**

The Committee was informed apologies had been received from Councillor K Haines (Conservative Group).

PL/113 **DECLARATIONS OF INTEREST**

The Committee was informed that no declarations had been received.

PL/114 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

The Committee was informed that no questions had been received.

**MATTERS DELEGATED TO COMMITTEE**

PL/115 **REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)**

The Strategic Director (Service Delivery) submitted reports for consideration and determination by the Committee and presented oral reports to the Meeting to update Members as necessary. Consideration was then given thereto and decisions were reached as indicated.

PL/116 **APPROVAL OF RESERVED MATTERS FOR PLOT 3 (APPEARANCE, LANDSCAPING, BIODIVERSITY ENHANCEMENT, LAYOUT, CAR PARKING AND SCALE) PURSUANT TO OUTLINE PERMISSION REF. DMPA/2021/0983 AT LAND TO THE REAR OF 69A AND 69B, REPTON ROAD, HARTSHORNE, SWADLINCOTE, DE11 7AF – DMPA/2023/1243**

The Planning Delivery Team Leader addressed the Committee and presented the report.

Committee Members considered the application and supported the officer's recommendations.

Councillor Wheelton requested that an increase of 10 years be considered regarding landscaping and plants.

**RESOLVED:**

***That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery) subject to an amendment to Condition 2 to increase the time period to 10 years for landscaping and plants.***

PL/117 **OUTLINE APPLICATION INCLUDING ACCESS, LAYOUT AND SCALE (MATTERS OF APPEARANCE AND LANDSCAPING RESERVED FOR LATER CONSIDERATION) FOR THE ERECTION OF 2 DWELLINGHOUSES ON LAND TO THE REAR AND NORTH-WEST OF THE COTTAGE AND 2 SAPPERTON LANE, CHURCH BROUGHTON, DERBY, DE65 5AU- DMPA/2020/1094**

The Planning Delivery Team Leader presented the report to the Committee outlining the key areas of the application and noted that it was not in a flood zone and the Local Lead Flood Agency had no objection to the application subject to conditions regarding surface water drainage.

An Objector and a Supporter on behalf of the applicant attended the meeting and addressed the Committee regarding the application.

Following comments from the Objector the Planning Delivery Team Leader confirmed that the flood risk had been considered many times and the Local Lead Flood Authority was content subject to conditions within the report.

As Local Ward Member, Councillor G Andrew attended the meeting and addressed the Committee raising concerns on behalf of local residents.

Councillor Kirke noted that the Local Lead Flood Risk Authority was content with the original flood risk assessment.

Members discussed the application and raised concerns regarding flooding from surface water runoff as the area had previously flooded and considered the proposal not to be infill due to the scale of the development.

**RESOLVED:**

***That planning permission be refused contrary to the recommendations in the report of the Strategic Director (Service Delivery) due to unacceptable risk of surface water flooding and inappropriate infill which would be harmful to the character and appearance of the rural character of the area.***

PL/118 **THE ERECTION OF A DWELLING ON LAND AT THE MANDARIN, ASTLEY GARDENS, EGGINTON LANE, HILTON, DE65 5FJ – DMPA/2023/0523**

The Head of Planning and Strategic Housing addressed the Committee and presented the report summarising the key areas of the application.

An Objector and the Applicant's Agent attended the meeting and addressed the Committee regarding the application.

Following comments raised by the Objector the Head of Planning and Strategic Housing informed the Committee that Biodiversity Net Gain could be met via conditions and that Derbyshire Wildlife Trust had no objections to the proposal.

Members of the Committee considered the application and raised concerns regarding design and Biodiversity Net Gain.

**RESOLVED:**

***That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).***

PL/119 **DEMOLITION OF RESTAURANT (USE CLASS E) AND ERECTION OF RETAIL/COMMERCIAL UNIT (USE CLASS E) AT THE MANDARIN CHINESE RESTAURANT, EGGINTON ROAD, HILTON, DERBYSHIRE, DE65 5FJ – DMPA/2023/0528**

The Head of Planning and Strategic Housing presented the report to the Committee and outlined the salient points of the application, noting a late objection received from the Parish Council regarding the sequential assessment.

An Objector and the Applicant's Agent attended the meeting and addressed the Committee regarding the application.

Following comments from the Objector the Head of Planning and Strategic Housing informed the Committee that sequential assessment complied with policy and that it was considered to be a suitable and acceptable scheme.

As Local Ward Member, Councillor G Andrew attended the meeting and addressed the Committee raising concerns on behalf of local residents.

Committee Members considered the application and raised concerns regarding the reduced marketing period, the type of units proposed, the location and visual impact the design would have on the area.

**RESOLVED:**

***That planning permission be refused contrary to the recommendations in the report of the Strategic Director (Service Delivery) due to its standard design in a key gateway site being out of keeping with the character and appearance of the area.***

PL/120 **THE ERECTION OF AN SINGLE STOREY SIDE EXTENSION AT 316 BURTON ROAD, MIDWAY, SWADLINCOTE, DE11 7LY – DMPA/2023/1272**

The Planning Delivery Team Leader addressed the Committee and presented the report.

The Committee Members considered the application and supported the officer's recommendations.

**RESOLVED:**

***That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).***

PL/121 **THE VARIATION OF CONDITION NO. 3B (BIODIVERSITY NET GAIN) OF PERMISSION REF. DMPA/2019/0931 ON LAND NORTH OF OCCUPATION LANE (WOODVILLE REGENERATION AREA), WOODVILLE, SWADLINCOTE - DMPA/2023/0583**

The Senior Planning Officer addressed the Committee and outlined the report and noted updated information submitted by the Applicant regarding the delivery of Biodiversity Net Gain as close as possible to the site which had been endorsed by the Derbyshire Wildlife Trust.

Members considered the report and raised concerns regarding the loss of habitat and wildlife on site and the possibility that the 10% Biodiversity Net Gain would not be achieved.

The Head of Planning and Strategic Housing addressed the Committee and advised that the applicant had addressed the key concerns previously raised by the Committee and that the 10% net gain could be achieved offsite which could be Condition that it be delivered within the Woodville area and it was noted that the Applicant would be bound by the Section 106 Agreement.

**RESOLVED:**

***That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery) subject to an amendment to the Conditions requiring 10% Biodiversity Net Gain to be delivered on site or in the Ward of Woodville.***

PL/122 **APPROVAL OF RESERVED MATTERS (LANDSCAPING, LAYOUT, SCALE AND APPEARANCE) PURSUANT TO PHASE 1 (RESIDENTIAL DEVELOPMENT OF UP TO 75 DWELLINGS) OF OUTLINE APPLICATION DMPA/2019/0931 FOR**

**THE RESIDENTIAL DEVELOPMENT OF UP TO 300 DWELLINGS, A LOCAL CENTRE COMPRISING A 1,600SQM FOOD STORE (CLASS A1 USE), 700SQM RESTAURANT/FAST FOOD (CLASS A3 USE) AND 550SQM PUB (CLASS A4 USE), TOGETHER WITH EMPLOYMENT LAND CONSISTING OF 2,000SQM CLASS B1(B) RESEARCH AND DEVELOPMENT AND/OR B1(C) LIGHT INDUSTRIAL USES, 4,000SQM CLASS B2 GENERAL INDUSTRIAL USES AND 8,000SQM CLASS B8 STORAGE AND DISTRIBUTION USES, TOGETHER WITH ACCESS FROM THE WOODVILLE REGENERATION ROUTE (TO BE DELIVERED BY OTHERS), AND PUBLIC OPEN SPACE, LANDSCAPING AND ASSOCIATED DRAINAGE INFRASTRUCTURE – DMPA/2022/1159**

The Senior Planning Officer presented the report to the Committee and outlined the application noting a late item received regarding the offsite compensatory habitat regarding Skylarks which subject to conditions the Derbyshire Wildlife Trust was content with.

The Applicant's Agent attended the meeting and addressed the Committee regarding the application.

As Local Ward Member, Councillor Gee addressed the Committee raising highway concerns during construction on behalf of local residents.

Councillor A Jones raised concerns regarding the access route during construction.

The Senior Planning Officer clarified that the County Highways Authority had raised no concerns.

***RESOLVED:***

***That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).***

PL/123 **THE ERECTION OF A SINGLE STOREY REAR EXTENSION TO PROVIDE GROUND FLOOR BEDROOM AND SHOWER ROOM AT 13 ALBION STREET, WOODVILLE, SWADLINCOTE, DE11 8DS – DMPA/2023/1155**

The Planning Delivery Team Leader addressed the Committee and presented the report.

The Committee Members considered the application and supported the officer's recommendations.

***RESOLVED:***

***That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).***

PL/124 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

**RESOLVED:**

***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 was 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 paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.***

PL/125 **EXEMPT QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE No 11.**

The Committee was informed that no questions had been received.

The meeting terminated at 19:55 hours.

COUNCILLOR G JONES

CHAIR

PLANNING COMMITTEE (EXTRAORDINARY)

12 December 2023

**PRESENT:**

**Labour Group**

Councillor G Jones (Chair) and Councillor Shepherd (Vice-Chair)  
Councillors M Gee, S Harrison (substituting for Councillor J Carroll),  
M Mulgrew (substituting for Councillor I Hudson), A Jones, L Mulgrew, and  
K Storey.

**Conservative Group**

Councillors K Haines, A Kirke and D Muller.

**Liberal Democrats**

Councillor J Davies

**Non-Grouped**

Councillor A Wheelton.

**In Attendance**

Councillor J Carroll  
Councillor D Corbin  
Councillor N Tilley

PL/126 **APOLOGIES**

The Committee was informed apologies had been received from Councillor I Hudson (Labour Group).

PL/127 **DECLARATIONS OF INTEREST**

The Committee was informed that Councillor Muller declared a non-pecuniary interest in item PL/131 by virtue of being an County Councillor.

PL/128 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

The Committee was informed that no questions had been received.

**MATTERS DELEGATED TO COMMITTEE**

PL/129 **REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)**

The Strategic Director (Service Delivery) submitted reports for consideration and determination by the Committee and presented oral reports to the Meeting to update Members as necessary. Consideration was then given thereto and decisions were reached as indicated.

PL/130 **PROVISION OF TIMBER STORAGE BUILDING, EXTENSION TO EXISTING TIMBER AND MACHINERY STORE, INSTALLATION OF FOUL PACKAGE TREATMENT PLANT AND LAYING OUT OF PARKING SPACES AND REVISED YARD ACCESS LOCATIONS, TOGETHER WITH NEW LANDSCAPE SCREENING FOR THE EXISTING WOODYARD AND REGULARISATION OF HISTORIC LOG STORAGE AREA AT BUILDINGS FARM, TICKNALL ROAD, HARTSHORNE, SWADLINCOTE, DE11 7AU. – DMPA/2023/0814**

The Planning Delivery Team Leader presented the report to the Committee and outlined the key points of the application, noting information received regarding landownership.

Members considered the application and discussed the merits of a site visit.

***RESOLVED:***

***That planning permission be deferred to allow Members to visit the site.***

PL/131 **THE DEMOLITION EXISTING BUILDING AND THE ERECTION OF FIVE NEW DWELLINGS WITH ASSOCIATED AMENITY SPACE AND CAR PARKING AT MELBOURNE COMMUNITY CENTRE, CHURCH STREET, MELBOURNE, DERBY, DE73 8EJ – DMPA/2023/1259**

The Head of Planning and Strategic Housing presented the report to the Committee and summarised the changes to the application following previous refusal. A late letter received from the Civic Society in opposition to the proposals was noted.

An Objector and the Applicant's Agent attended the meeting and addressed the Committee regarding the application.

As Local Ward Member, Councillor J Carroll attended the meeting and addressed the Committee raising concerns regarding the appearance and design of the proposals.

Councillor D Corbin attended the meeting and addressed the Committee on behalf of the Local Ward Member, Councillor M Fitzpatrick in support of the application.

Following comments received by Councillor J Carroll the Head of Planning and Strategic Housing noted that the amended submission was broadly inline with the previous Committee's recommendations.

Members raised concerns regarding protection of the Beech Tree roots and the poor design of the proposals that were considered to not be in keeping with the conservation area. Members voiced disappointment that the Developer had not engaged with local residents regarding the proposals and noted that it could be a unique opportunity to develop something that could stand the test of time.

**RESOLVED:**

***That Planning Permission be deferred to allow for discussions regarding design improvements.***

PL/132 **THE VARIATION OF CONDITION NO. 2 (PLANS) AND 10 (PARKING AND MANOEUVRING) OF PERMISSION DMPA/2020/1266 AS VARIED BY DMPA/2021/1605 (FOR THE DEMOLITION OF EXISTING DWELLING AND OUTBUILDINGS AND THE ERECTION OF 4NO. DWELLINGS AND ASSOCIATED NEW ACCESS) AT SILSDEN, COTON ROAD, WALTON ON TRENT, SWADLINCOTE, DE12 8NL – DMPA/2023/1165**

The Committee was informed that Members had attended a site visit earlier in the day.

The Planning Delivery Team Leader presented the report and summarised the salient points of the variation noting that no further works could be undertaken until the access had been completed.

An Objector and the Applicant's Agent attended the meeting and addressed the Committee regarding the application.

As Ward Member, Councillor Wheelton addressed the Committee and raised concerns on behalf of the local residents.

Members discussed surface water runoff, the access, the reduction in garden space and sought clarity regarding the trees to be removed and those that had already been removed.

The Head of Planning and Strategic Housing clarified that 7 trees had been removed prior to planning permission and that one further tree was to be removed due to poor health. The Committee was informed that trees, additional planting, hedgerows and greenery were covered by Condition 3 of the approved application.

**RESOLVED:**

***That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).***

PL/133 **ERECTION OF A 2 BED BUNGALOW AT SILSDEN, COTON ROAD, WALTON-ON-TRENT, SWADLINCOTE, DE12 8NL – DMPA/2023/1063**

The Committee was informed that Members had attended a site visit earlier in the day.

The Planning Delivery Team Leader presented the report to the Committee summarising the application.

An Objector attended the meeting and addressed the Committee regarding the application.

As Local Ward Member, Councillor Wheelton addressed the Committee raising concerns on behalf of the local residents.

Members considered the application and discussed the loss of trees, the loss of garden space, the effect on the conservation area, poor visibility from the proposed bungalow, the steepness of the drive way, water runoff, poor design and overdevelopment of a small site.

**RESOLVED:**

***That planning permission be refused contrary to the recommendations in the report of the Strategic Director (Service Delivery) due to its over-intensive development of the site, resulting in the loss of trees which was considered to be harmful to the character and appearance of the conservation area.***

PL/134 **THE PRUNING OF LIME AND CYPRESS TREE(S) COVERED BY SOUTH DERBYSHIRE DISTRICT COUNCIL TREE PRESERVATION ORDER NO. 195 ON GEORGE STREET, CHURCH GRESLEY, SWADLINCOTE, DE11 9NZ – DMOT/2023/1375**

The Planning Delivery Team Leader presented the report and outlined the application.

Members considered the report and supported the officer’s recommendations.

**RESOLVED:**

***That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).***

PL/135 **APPEALS**

The Committee noted the planning appeal decisions in relation to the following applications:

Reference	Place	Ward	Outcome	Decision level
DMPA/2022/0407	Kings Newton	Melbourne	Dismissed	Committee
DMPA/2022/1202	Woodville	Woodville	Allowed	Committee
DMPA/2022/0360	Woodville	Woodville	Allowed & No Costs awarded	Committee

PL/136 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

**RESOLVED:**

*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 was 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 paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.*

PL/137 **EXEMPT QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE No 11.**

The Committee was informed that no questions had been received.

The meeting terminated at 19:45 hours.

COUNCILLOR G JONES

CHAIR

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

**Section 1: Planning Applications**  
**Section 2: Appeal Decisions**

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

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## 1. Planning Applications

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

Reference	Item	Place	Ward	Page
<a href="#">DMOT/2023/1024</a>	<a href="#">1.1</a>	Drakelow	Linton	48
<a href="#">DMPA/2023/1346</a>	<a href="#">1.2</a>	Mickleover	Etwall	78
<a href="#">DMPA/2023/1376</a>	<a href="#">1.3</a>	Etwall	Etwall	89
<a href="#">DMPA/2020/0599</a>	<a href="#">1.4</a>	Hartshorne	Hartshorne	93
<a href="#">DMPA/2023/1374</a>	<a href="#">1.5</a>	Linton	Linton	102
<a href="#">DMPA/2023/1229</a>	<a href="#">1.6</a>	Melbourne	Melbourne	110
<a href="#">DMPA/2023/1517</a>	<a href="#">1.7</a>	Melbourne	Melbourne	124
<a href="#">DMPA/2022/0008</a>	<a href="#">1.8</a>	Melbourne	Melbourne	130
<a href="#">DMPA/2022/0111</a>	<a href="#">1.9</a>	Melbourne	Melbourne	139
<a href="#">DMPA/2023/1368</a>	<a href="#">1.10</a>	Woodville	Woodville	145
<a href="#">TPO 556</a>	<a href="#">1.11</a>	Stenson Fields	Stenson	162

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.** [DMOT/2023/1024](#)

**Valid date:** 15/08/2023

**Applicant:** Countryside Partnerships

**Proposal:** The modification of a planning obligation under section 106 of the Town and Country Planning Act 1990 dated 24th August 2021 and relating to permission ref. DMPA/2020/1460 (seeking to reset trigger for Walton Bypass to allow for it to be delivered prior to occupation of 785 dwellings on the Drakelow Estate) on Land at SK2420 2230, Walton Road, Drakelow, Swadlincote

**Ward:** Linton

### **Reason for committee determination**

The application is returned to committee following a deferral at the meeting on 23 January 2024.

### **Update**

Members will recall the discussions around this proposal on 23 January.

There were some concerns and requests raised by members in relation to the recommendation.

These can be summarised as follows:

- Specify that the bridge application needs to be valid, received by 31 March 2024.
- Insert additional requirements in line with the applicants offer to accelerate delivery of infrastructure on site including to have the spine road and Greenway complete by 31 December 2025 at the latest.
- Require developers to submit with the planning application for the bridge a specific build programme that sets out measurable deliverables that the developer needs to meet.
- Increase the £1m in the escrow account.

Members also requested that contact be made with the County Councils to try and secure a commitment with them that they will deal with matters in their control in a timely manner.

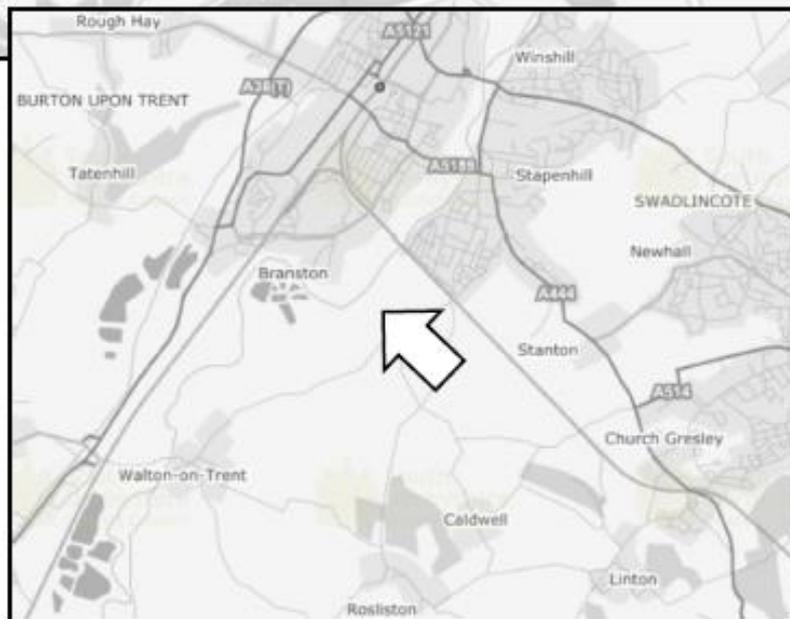
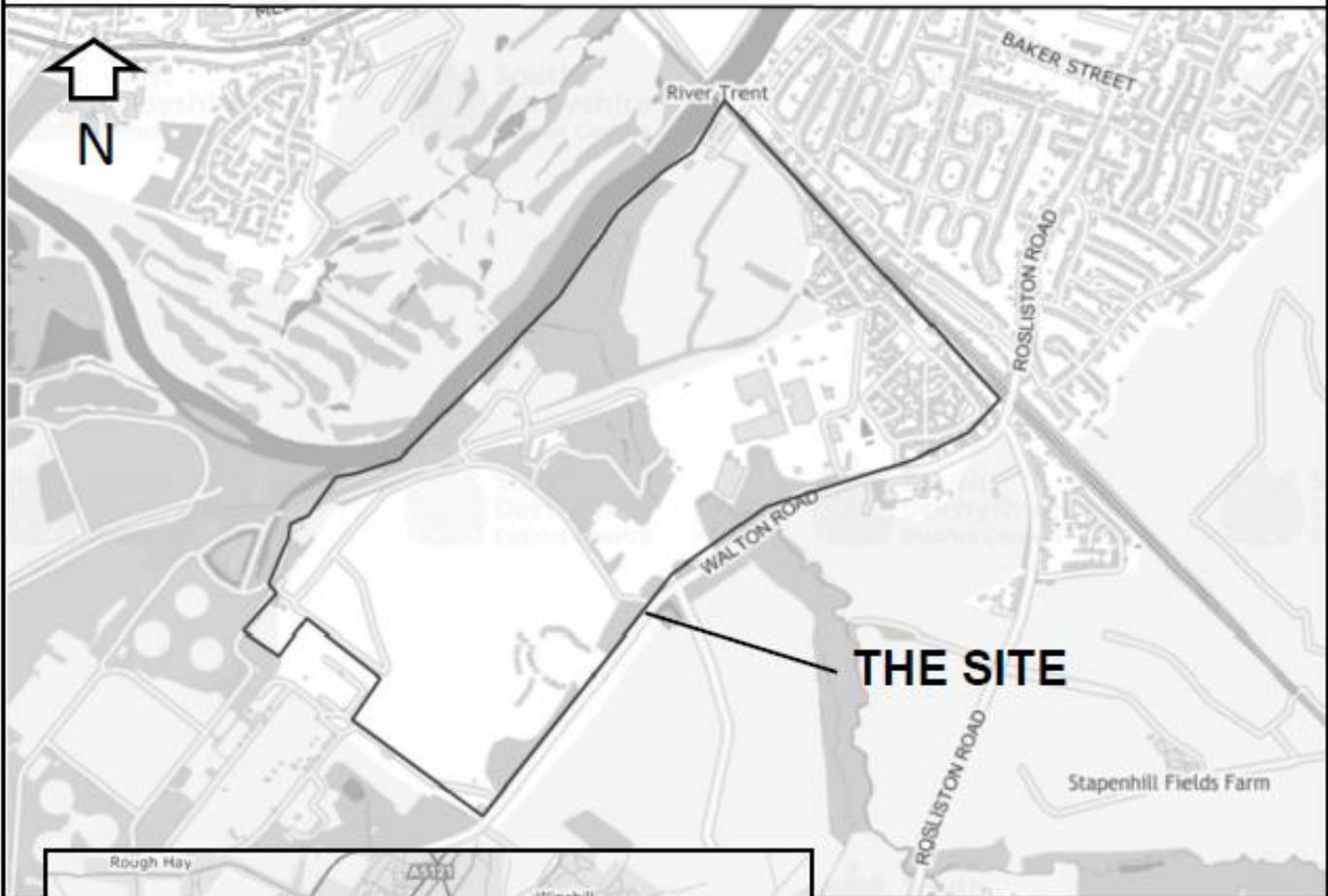
In addition, officers have also seen requests made by the Drakelow Parish Meeting which make a number of requests in respect of trigger points. These are outlined below:

1. No more than 450 homes to be occupied before planning permission for the revised bridge and bypass is obtained.
2. No more than 525 homes to be occupied before a start is made on site (of the bridge).
3. No more than 600 homes to be occupied until Stage 1 of the bridge and bypass works are complete.
4. No more than 700 homes occupied until Stage 2 of the bridge and bypass works are complete.
5. No more than 785 homes occupied until the bridge and bypass are open.

Discussions have taken place with Countryside in attempts to address the requests of members and those additional comments of the Parish Meeting and there has been agreement reached on the following matters:

1. The application received must be a valid one (by 31<sup>st</sup> March 2024)
2. Realise benefits such as the completion of the spine road and Greenway by 31 December 2025
3. Additional milestones in relation to the build programme on the Bridge / bypass secured.
- Start on site – assuming 3-month Technical Approval

DMOT/2023/1024 – Land at SK2420 2230, Walton Road, Drakelow, Swadlincote



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- Bridge foundation start (1 month from start on site)
- Bridge deck construction start (3 months from start on site)
- Bridge deck completion (9 months from start on site)
- S278 works tie-in start (12 months from start on site)
- Bypass road completion (end of December 2025)

Whilst Countryside have stated that they are not able to increase the money in the escrow account they offer the following explanation, offer and alternative:

*'The £1m paid into Escrow is an additional incentive for us to get on with delivering the bridge/bypass, beyond the fact we can't occupy more than 785 plots or carry on building after the longstop date. The £1m is not there to fund the bridge. To clarify this, we can agree that we lose the £1m if we do not commence work on the bridge within 3 months of technical approval of the bridge.'*

*On the request from the Council for the full cost of the bridge/bypass to be deposited in the escrow account, given the adverse impact this would have on cashflow, this would not be acceptable to us. We need to access that money to pay for the construction of the bridge and it being held in escrow would not work..... Therefore, as an alternative, we are happy to offer the full payment of the bridge cost (£20m) to the Council as a lump sum to allow the Council's to deliver the bridge and bypass.....'*

Officers have engaged with the County Councils regarding this offer and their commitment to the scheme and to deal with applications within their remit in a timely manner. Both Staffordshire and Derbyshire have responded, advising that they continue to support the need for the bridge/ bypass and will offer any assistance they can to ensure its delivery. In relation to the offer for £20m they are not willing to accept this, as they believe the cost of the scheme to be much higher and there is an unacceptable risk to the public purse should costs overrun.

It is considered by officers that the position of the Highways Authorities is a reasonable one.

Firstly, the design of the bridge is not yet set. Although the £20m may be a reasonable initial estimate of the cost, this does not fully take into account the additional design amendments that are necessary in securing a bridge/ bypass designed to respond to up-to-date flood modelling standards, which will add to its cost once the detailed design parameters following the 6 technical workshops are finalised. SCC are correct to point out that there is not a current certainty that the full funding of the bridge will be secured. In addition, the private sector is better equipped to undertake an infrastructure project of this scale and Countryside and their consultants have already planned this in significant detail. To stop this and transfer all responsibility for delivery to the County Councils (notwithstanding the cost) is very likely to lead to some delay, given that they will be project planning this (or likely commissioning others to do so at a cost and with a procurement exercise to go through) from a standing start.

Whilst the build programme does not specify set numbers of dwellings as suggested by the Parish Meeting, it is considered that the triggers suggested and included in the recommendation demonstrates a clear bridge build programme consistent with the principles of achieving specific, measurable and enforceable milestones to be included, and commitment to a completion within the specified timeframe This does involve all public authorities involved (SDDC, ESBC, SCC and DCC) to progress approvals within their remit in a timely manner. A clause regarding best endeavours to do this can be included in the amended S106 with the two County Councils, who will be signatories to the S106. Further assurances are also being sought from ESBC to get a commitment to process their own decision (planning application for the bridge) in a timely manner. This should be achievable, on the basis of the amended design being in line with the requests from the two County Councils and the EA, and the planning fallback position of an existing bridge approval with the approved bridge of approximately 1m lower in height and a different (inferior) alignment and design from a flood risk standpoint.

It is understood that DCC have historically agreed to be scheme supervisor for the delivery of the whole of the Bypass, which effectively means that DCC will act for both SCC and DCC Highway Authorities.

SCC will have a role in technically checking and approving all aspects of the works on the Staffordshire side, but it will be DCC who will ultimately give technical approval to the developer to build the bypass.

DCC will therefore deal with the delivery and Section 38 adoption process with the developer. This will require a bond to ensure that tie in works to the exiting highway are completed to an acceptable standard, but they will not ultimately require a bond for the new bridge. It is understood that the exact figure for this bond has not yet been finalised.

It is considered that the timeframes which Countryside agree to go a significant way to providing the assurances and requests made by committee previously. Whilst they are unable to increase the contributions to the Escrow account the alterations proposed in the recommendation and agreed with Countryside do provide further incentive for them to begin the scheme as soon as possible.

### **Recommendation**

The Committee is asked to approve the increased trigger of the occupation of 785 homes in advance of the opening of the bridge and bypass scheme with the exact wording of the variations to be negotiated by solicitors to also give effect to the following additional milestones:

1. Valid planning applications for the bridge and bypass scheme will be submitted to South Derbyshire District Council and East Staffordshire Borough Council by 31 March 2024. This application shall include a build programme for the bridge with specific measurable construction stages.
2. Within 3 months of receiving planning permission for the bridge/bypass and written confirmation from the two Highways Authorities that the designs are suitable for adoption as public highway, there will have been a material start on the construction of the bridge/bypass scheme, including the discharge of all relevant pre-commencement conditions. Following this the timeframes set out in the approved build programme will be met.
3. Prior to the occupation of 785 homes or 31 December 2025, whichever is the sooner the bridge will be completed and open to vehicles.
4. The spine road and Greenway will be completed by 31 December 2025.
5. Countryside will provide a temporary highway scheme just after the entrance to the Tucklesholme Nature Reserve/Quarry on Station Lane until such a time that the Walton Bypass is constructed and fully open to all traffic, in order to reduce the likelihood of commercial vehicles trying to gain access to the Drakelow site via the existing bailey bridge. Works to provide this will commence within 3 weeks of the scheme gaining technical approval from Staffordshire County Council, and the scheme will be completed no later than 2 months from commencement.
6. The sum of 1 million pounds to be secured in an Escrow account. Provision shall be made so that this can be drawn by the developer only to assist in the building of the bridge and bypass scheme and for no other purposes. If there is not a material start on the bridge/ bypass within 3 months of technical approval (as required in recommendation 2) the developer shall forfeit the money, and this shall be used to provide enhanced facilities within the development.

[23.01.2024](#)

**Item No.** 1.1

**Ref. No.** [DMOT/2023/1024](#)

**Valid date:** 15/08/2023

**Applicant:** Countryside Partnerships

**Proposal:** **The modification of a planning obligation under section 106 of the Town and Country Planning Act 1990 dated 24th August 2021 and relating to permission ref. DMPA/2020/1460 (seeking to reset trigger for Walton Bypass to allow for it to be delivered prior to occupation of 785 dwellings on the Drakelow Estate) on Land at SK2420 2230, Walton Road, Drakelow, Swadlincote**

**Ward:** Linton

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

The item is presented to Committee at the request of Cllr G Jones and Cllr Wheelton and given the Committee's determination of the original applications and the associated variation to the Section 106 Agreement.

#### **Executive Summary**

The applicants (Countryside) have requested an amendment to the trigger point for the provision of the Walton bridge and bypass, increasing the figure from 400 to 785. At the last monitoring visit in October there were approximately 360 homes completed and occupied across the site (including at phase 1 built by David Wilson Homes). It is expected at current build out rates that the 400 trigger point will be reached this month.

Countryside advise that the increased trigger point is needed due to the requirement to redesign the bridge due to updated flood modelling and the additional approval processes that are required as a result of the redesign.

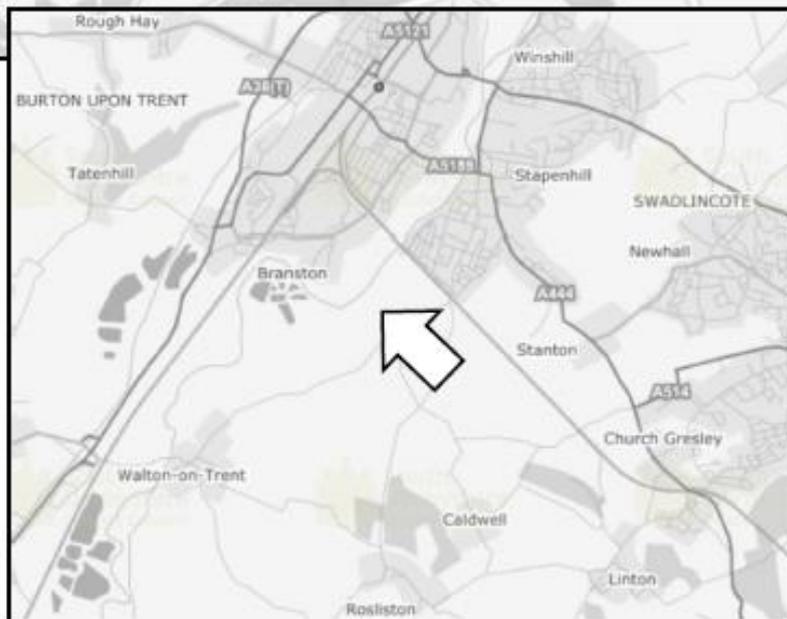
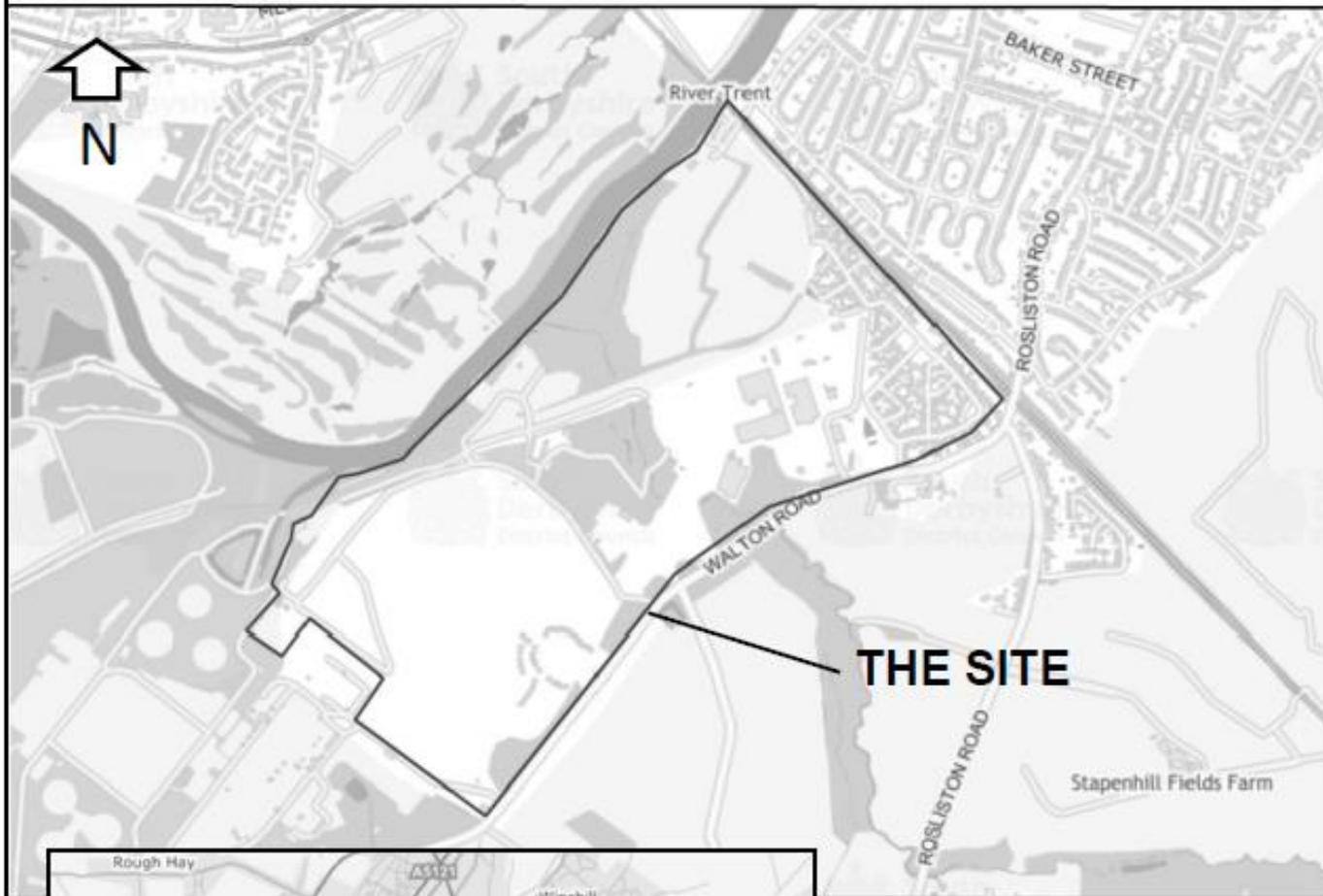
Countryside have submitted an amended Transport Assessment (TA) to support the submission, further to discussions with the relevant Highway Authorities in December 2023 which demonstrates capacity within the existing road network which would ensure that the increased traffic associated with the additional dwellings would not result in a severe impact on highway safety or traffic flow, subject to some mitigation works if the bridge is not opened in 2026 and the requirements of condition 48 of the outline planning permission which requires works. Additional information, including alternative survey work has also been included in the TA in an attempt to further demonstrate this matter at the request of the Highways Authorities.

Derbyshire County Council (DCC) Highways Authority are content with the information provided and the conclusions of the amended TA. They are content that subject to the mitigation identified and already required by condition that the increased trigger point can be accommodated without severe highway safety implications.

Staffordshire County Council (SCC) Highways Authority are content that the traffic flows arising from the amended trigger point would not be severe and therefore they do not object to the proposal.

The Council has appointed an independent Transport Consultant, The Waterman Group to undertake a review of the information submitted by Countryside and their own survey work to ratify the information provided by Countryside. The Waterman Group provides leading edge professional, multidiscipline advice on a wide range of infrastructure projects covering highways, rail, marine, aviation, and commercial development. They are working with National Highways to deliver asset improvement schemes planned for the eastern region and are supporting Transport Scotland as part of a

DMOT/2023/1024 – Land at SK2420 2230, Walton Road, Drakelow, Swadlincote



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collaborative partnership to deliver the Performance Audit Group Framework (PAG). Watermans undertook a review of the TA originally submitted, the TRICS data used, supplementary notes submitted during the course of the application and the survey work undertaken (March and October 2023). They also carried out their own survey work of the junctions surveyed by Countryside so that they could compare the two and undertook a detailed comparison assessment of three key junctions (full data set included in their appendix). They conclude that the data used in the TA is acceptable and compared to their own surveys undertaken in November 2023 represent a worst-case scenario. They agree with the conclusions drawn that the trigger point can be raised to 785 without any severe highways implications.

The developers have submitted viability work to demonstrate that the increased trigger point would not jeopardise the delivery of the bridge.

This has been reviewed by the council's economic development team. Initial concerns were raised. However, the developers have revised the proposals to include a sum of 1 million pounds which would sit in an account to be spent on the bridge/bypass scheme and would not be able to be drawn by the developer other than to be used on the bridge/ bypass scheme. Agreement between officers and Countryside has also been reached regarding the inclusion of measurable milestones into the amended trigger point rather than lifting it to 785 without any further timeframes or requirements to progress the bridge and bypass scheme.

These milestones would comprise:

1. A long stop date of 31 March 2024 by which a planning application shall have been submitted to South Derbyshire District Council and East Staffordshire Borough Council;
2. A three-month timeframe for commencement of the building works after the relevant permissions have been granted (planning permission and technical approval by other statutory stakeholders); and
3. Works to be completed and the bridge/bypass scheme open to vehicles by the occupation of 785 homes or the end of 2025, whichever is the sooner.
4. Countryside will provide a temporary highway scheme just after the entrance to the Tucklesholme Nature Reserve/Quarry on Station Lane until such a time that the Walton Bypass is constructed and fully open to all traffic, in order to reduce the likelihood of commercial vehicles trying to gain access to the Drakelow site via the existing bailey bridge. Works to provide this will commence within 3 weeks of the scheme gaining technical approval from Staffordshire County Council, and the scheme will be completed no later than 2 months from commencement.

Countryside are in agreement with the use of these additional milestones and these are included in the recommendation to Planning Committee.

This will give a long stop date of 31 December 2025 for the bridge to be open. If agreed by Planning Committee the S106 would be amended to this effect.

Not allowing the increased trigger would result in building works ceasing on site. This would result in reduced delivery of both market and affordable housing across the district for a period of approximately 21 months. This would have implications for the councils housing land supply, which as of January 2023 stood at approximately 6.29 years using the local plan formula but based on the loss of 21 months of delivery from Drakelow would result in a 5 year housing land supply of 5.96 years. There would also potentially be implications for the delivery of infrastructure across the site. An update to the housing supply position is to be reported to Environment and Developmental Services committee on 25 January and an update of the 5 year supply will be given to this committee.

### **Site Description**

The site measures over 100 hectares in size, comprising a mix of uses including brownfield land formerly occupied by the Drakelow Power Station and more recently by Roger Bullivant Limited and is

currently being used for a variety of industrial and storage activities. Development of phase 1 has been completed for some time (193 dwellings by David Wilson Homes) and works on Phase 2 has commenced on site under reserved matters application DMPA/2021/1035. It is understood that 400 dwellings will be occupied this month, and that more than 400 dwellings will be constructed and awaiting occupation.

The site is located immediately south-west of Burton upon Trent and is bounded by the River Trent to the north, beyond which lies Branston Golf and Country Club. To the south the site is bounded by the southern edge of Walton Road and open countryside. The National Forest railway line adjoins to the east and to the west is a National Grid substation and the new energy for waste facility approved by Derbyshire County Council. A new access point into the site has been constructed to serve Phase 2, and the spine road to serve the development within that phase. The spine road will ultimately run through the site connecting to a second access point on Walton Road. Due to concerns regarding connectivity between phase 2, phase 1 and the existing built form to the north-west Countryside have provided a temporary footpath through the site and are in discussions with all landowners regarding improvements to this.

The existing Bailey Bridge in Walton-On-Trent lies to the south-west of the site and the proposed trigger relates to the provision of a new crossing which would by-pass the existing village, located to the north of this existing bridge.

### **The proposal**

The proposal is to amend Schedule 4 of the Section 106 Agreement at paragraph 6 which currently requires the developer to 'not occupy or permit occupation of more than 207 dwellings within phases 2 and 3 until the Walton Bypass is constructed, completed and open to traffic'. Countryside wish to increase this to a combined total, with the David Wilson development of phase one (193 dwellings) to 785, an increase of 385 homes.

The developers have applied to increase the trigger due to issues gaining technical approval for the approved bridge/ bypass scheme. They have considered the build rate of the site and the length of time it would take to gain the necessary technical approval for a revised design, including additional planning permissions. This is supported by an updated TA which demonstrates that the traffic impacts of not building the bridge/ bypass prior to the occupation of 800 dwellings would not result in severe traffic implications.

They have documented how they are working with the technical decision makers (the EA, SCC and DCC) to ensure that the redesign is acceptable prior to the submission of a revised planning application.

The applicants have also stated that they are committed to delivering the bridge as quickly as possible and provided viability information which demonstrates that it would not be in their financial interests to not deliver the bridge.

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

REVISED WALTON BYPASS TRIGGER:TRANSPORT ASSESSMENT REV A (Dated 20.12.23): This updates the assessment originally submitted to support the application and includes the additional information requested by the Highway Authorities including the results of the additional traffic survey (undertaken in October 2023) and an updated assessment of the traffic implications of this survey work. It concludes that the traffic generated from the amended trigger point would be significantly less than allowed under the original consented scheme. Mitigation may be required if the bypass was not to be opened to traffic in 2026, and these mitigation measures would be required to address the short-term traffic impacts at the A444/St Peters Bridge roundabout.

TECHNICAL NOTE 6: RESPONSE TO COMMENTS RECEIVED FROM THE HIGHWAY AUTHORITIES: This document was submitted during the course of the application as a response to the initial comments of the Highways Authorities, the note includes information related to how the applicants assessed committed developments. It also compares the original TA traffic forecasts for 2026 at the A444/St Peter's Bridge Roundabout with the new 2023 traffic survey, noting that these were significantly below the original traffic forecasts. The note also provides a comparison of the 2023 classified turning page 55 of 175

(ATC) data to confirm that the former were undertaken on a representative day, which it considers to be robust. It provides data of the original TA which was agreed at the time with the relevant authorities. Additional survey work was also undertaken using the existing David Wilson Homes (DWH) development served by Fallow Drive to confirm the north/south distribution of trips on the Walton Road/Rosliston Road corridor. Whilst there are differences in the TA distribution compared with this additional survey work they do not consider that this is significant in terms of the directional split of trips.

#### RESPONSE TO COMMENTS RECEIVED FROM THE HIGHWAY AUTHORITIES:

**INTERIM STATEMENT:** This document was submitted during the course of the application in response to comments made on the submission. It sets out what it considers equates to committed development and asks the highways authorities to provide a list of any developments that they think should be included / taken into account. The document compares forecast data from the original TA with 2023 traffic surveys at the A444/St Peter's Bridge Roundabout and notes that the latter are significantly below the forecasts. It provides the original TRICS data used to inform the original TA.

**SUPPORTING STATEMENT:** This sets out the historical context to the application, that the original trigger point of 100 dwellings was based on no formal transport modelling and that the latter S73 application raised the trigger to 400 based on a more detailed assessment undertaken using traffic forecasts from the BTM, provided by SCC. The document sets out that the current owners of the site, Countryside did not seek to vary the trigger as part of the 2020 application as they understood the Walton Bypass permissions to be extant. However, whilst planning permissions were in place, due to the passage of time they have to date been unable to secure technical approvals required and due to the re-design work required they seek an amendment to the trigger point. The statement sets out the updated highways modelling undertaken, based on the 2020 masterplan for the site which reduces the industrial floorspace by approximately 10 hectares. It sets out the conclusions of the modelling and the implications of raising the trigger point beyond 800 dwellings. The statement sets out why the trigger point is needed to be raised, to redesign the bridge and secure technical approvals and the collaborative approach which they have been involved in with the relevant authorities.

#### APPENDIX 1: REVISED WALTON BYPASS TRIGGER:TRANSPORT ASSESSMENT

This document sets out that the technical approval process by the two county highways authorities has identified engineering and flood risk issues requiring significant re-design that will delay Technical Approval, and hence the construction of the Walton Bypass. The report considers the extent to which the Walton Bypass trigger could be increased above its current level without giving rise to adverse highway and traffic impacts, subject to alternative/interim highway mitigation measures on the wider highway network if required. The document identifies the original data used in the previous TA and notes that the traffic forecasts provided are based on traffic survey and model information that is at least 8 years old and are now out of date. However, much of the original methodology described in the 2009 TA has been followed in this assessment in order to provide an updated picture of the future traffic situation for direct comparison with the earlier forecasts. It notes that the latter 2015 assessment found that the 'with bypass' scenario would have little material effect on the amount of traffic through Walton village and in terms of wider flows of traffic any differences were modest during the am peak and more significant during the pm. The document details how Trip generation calculations used in this revised assessment have been prepared following the original DTA methodology, but using up to date trip generation rates, National Travel Survey and National Census data. The TA sets out how it is consistent with the original methodology and assessments previously considered in terms of data collection and key locations for this. The TA also looks at the implications for wider traffic flows, particularly at the A444/A5189 St Peter's Bridge Roundabout and assesses the different scenarios. Details of the traffic surveys to inform the document are outlined, with locations provided. The report sets out how the differences in land use have been amended from the original application to the most recent permission and the implications for this on traffic flows, it also sets out the information generated from the TRICS database to enable an assessment of traffic in relation to different land uses and the assumptions made and whether these are consistent with the original assessments or not. The report details all capacity assessments, the modelling used and makes comparisons with the previous TAs and different development scenarios and identifies issues at the different

junctions with different scenarios. Based on these findings it is considered that mitigation is not required should the Bypass be implemented by 2026.

APPENDIX 2. This document sets out the timeframe for the completion of the bridge and bypass, including build rates and dates for the submission and approval of details. The build rates provided demonstrates that the trigger point will be reached in January 2024 and that the site can deliver 17 new homes for each of the first 6 months of 2024. This figure increases to 20 homes a month from July 2024 to September 2025, when according to the projections Countryside put forward for securing the relevant permission would be when the new bridge and bypass would be completed following a start date of July 2024.

### **Relevant planning history**

DMPA/2021/1035: Approval of reserved matters (access, layout, scale, appearance and landscaping) pursuant to outline permission ref. DMPA/2020/1460 for 1,036 dwellings. Approved Sept 2021.

DMPA/2020/1460: The removal of conditions no. 1 and 2 and the variation of conditions no. 4, 6, 7,14, 19 and 34 of permission ref. 9/2015/1030 for the variation of condition 47 of planning permission ref. 9/2009/0341 (relating to a hybrid planning application with all matters reserved for up to 2,239 dwellings including a retirement village, an employment park, two local centres comprising retail services, leisure employment and community uses, public open spaces, a new primary school, associated landscape and infrastructure, including car parking, road and drainage measures, and the refurbishment of the listed stables and cottages (with full details- comprising change of use and repair of the building)). Approved August 2021.

The trigger for the completion of the bridge and bypass equated to 400 homes including Countryside and the previous development of phase 1.

Other contributions and trigger points contained in the S106 Agreement include: the provision of no affordable housing in phase 2 (up to 1,036 homes); Initial contributions towards the secondary school at occupation of 300 dwellings in phase 2/3/4 (493 in total); Primary school to be provided on site subject to a number of steps / requirements; Initial contribution towards the East Staffordshire Integrated Transport Strategy (ESITS) payable at 407 dwellings in phase 2 and 3 (600 in total). Provision is also made for an additional contribution to ESITA should trip generation be higher than specified through a formula; £1,726,660 towards the provision of a healthcare facility on or off site; Initial contribution towards built facilities to be paid prior to occupation of 101 dwellings (294 in total); and Phase 1 works to the Listed Buildings shall be undertaken prior to occupation of 600 dwellings.

DMPN/2020/1362: Certificate of Lawfulness for the construction of new road with bridge over the River Trent. Approved March 2021.

This confirmed that the planning permission (9/2006/0973) had been lawfully commenced and was therefore extant.

9/2017/1074: Approval of reserved matters of planning permission ref. 9/2015/1030 to include access, appearance, landscaping, layout and scale for the erection of 94 dwellings. Approved January 2018.

This approved reserved matters for the construction of 94 dwellings within Phase 1.

9/2015/1030: The variation of condition 47 of planning permission ref: 9/2009/0341 (relating to a hybrid planning application with all matters reserved for up to 2,239 dwellings including a retirement village; an

employment park; two local centres comprising retail, services, leisure, employment and community uses; public open spaces; a new primary school; associated landscape and infrastructure, including car parking, road and drainage measures; and the refurbishment of the listed stables and cottages (with full details- comprising change of use and repair of the building) – Approved June 2016 (The 2016 permission).

This application was approved to vary condition 47 of the 2009 permission to allow the occupation of no more than 400 dwellings (increased from 100) to be occupied in advance of the widening of the Walton on Trent Bypass.

Staffordshire County Council Highways Authority raised no objections to the increased trigger. Derbyshire County Highways Authority did not confirm that they agreed with the TA, but that there would be no material harm in raising the trigger and that there was no evidential basis to contradict the conclusions of the assessment.

The application was approved on the basis that the original 100 unit threshold was set as an outcome of discussions and negotiations. It was not derived from detailed modelling or impact assessment and therefore there was no quantitative justification at the time for the limit.

The provisions of the S106 Agreement were not fundamentally altered through this application.

9/2014/0363: Approval of reserved matters for phase 1 (99 dwellings) of previously approved outline permission 9/2009/0341 – Approved June 2014.

This approved reserved matters for the construction of 99 dwellings within Phase 1.

9/2009/0341: Hybrid scheme with all matters reserved for up to 2,239 dwellings including a retirement village; an employment park; two local centres comprising retail, services, leisure, employment and community uses; public open spaces; a new primary school; associated landscape and infrastructure including car parking, roads and drainage measures; and the refurbishment of the Listed stables and cottages – Approved February 2012 (The 2012 permission).

This application set the trigger at the occupation of 100 dwellings for the completion of the bridge and bypass.

9/2006/0973: The variation of condition 11 of planning permission 9/2003/1525/M to allow for the works on the construction of the by-pass to commence prior to the stopping up of the access to Barr Hall - Approved 30 May 2007.

9/2003/1525: The formation of the Walton Bypass including a bridge over the River Trent – Approved May 2005.

## **Responses to consultations and publicity**

## Highways Authorities

### Amended Transport Assessment (20.12.23)

DCC (29/12/23) – No objections, subject to mitigation identified and required by condition 48 of the outline permission.

SCC (10/1/24) – No objections, traffic implications would not be severe.

The revised traffic flows produced as part of the uplift to 800 residential dwellings would exceed the thresholds identified in Condition 48 of the outline permission and the highway schemes identified would therefore need to be implemented to accommodate the development of up to 800 residential dwellings. It is estimated that the existing thresholds would be reached when approximately 590 dwellings have been occupied (including the completed DWH phase of 193 dwellings). It is therefore confirmed that the requirements of Condition 48 of the 2020 outline planning permission remain applicable and should be delivered.

They request three conditions:

- The bridge/ bypass scheme shall be delivered prior to occupation of 785 dwellings
- That the requirements of condition 48 of the outline planning permission (DMPA/2020/1460) are delivered prior to occupation of 590 dwellings
- That a temporary highways scheme to allow commercial vehicles to turn be implemented until the bridge/ bypass is open.

### Further submission including additional traffic survey data.

DCC (8/12/23) These comments can be summarised as follows:

- Agreed that there are no committed developments that would have a significant impact on traffic flows on Walton Road.

SCC (15/12/23) These comments can be summarised as follows:

- Notes provision of personal injury collision data and makes request for how this should be shown in an updated TA
- Revised TA should only consider impact of new proposed trigger not full development.
- Additional data/analysis should be incorporated into the revised TA.
- Additional survey work of the Walton Road/Fallow Drive junction needs to be included in the amended TA to ensure a robust assessment is undertaken and the full impact of the proposal, especially towards Burton upon Trent.
- Requests further assessment of the A444/St Peter's Bridge Roundabout
- Confirms there are no committed developments that would have a significant impact on traffic flows heading to or from the Walton Road site.

### Applicants provided an interim statement and the following comments were provided.

DCC (6/11/23)

Developers approach of how to present information to satisfy concerns of relevant consultees considered to be acceptable.

It is considered that the traffic survey data of existing dwellings is critical in the review of this application and therefore it seems to be appropriate to await the submission of this data before any further response.

## Initial submission

### *DCC Highways:*

OBJECTS (7/9/23) Comments summarised as follows:

The submitted Transport Assessment (TA) states that the highway network in and around Walton-on-Trent could accommodate more than 800 dwellings in advance of the Walton Bypass. However, should development dwellings continue beyond this level, an increased number of development trips would use alternative routes to the north and impacts in the Stapenhill area and at the A444/St Peter's Bridge roundabout in particular would therefore arise and possible mitigation measures to address these impacts have been proposed.

There are 3 main reasons that the applicant suggests why the trigger point can be increased to 800 dwellings, these are:

- Up to date traffic survey data
- A change in the development proposals
- Up to date trip generation and assignment exercise

### Traffic Survey Data

The 2023 surveyed flows factored to 2026 using Temprow for the same link are 699 and 693 show an AM and PM peak that has a difference of about 30% from the previous data used to support the approved application.

Requests additional information to understand the different data sets used, including those around committed developments in the area; direct traffic flow comparison for the 2026 Forecast flows and the surveyed 2023 flows has been undertaken for the A444 St Peter's Bridge junction; the full ATC survey data is submitted by the applicant for full review.

### Development Proposals

Notes changes to land uses of the original scheme and the 2020 scheme. Whilst 2020 scheme provides more housing it is evident that the reduction in Employment area is the greatest difference and will have a significant impact on the trip generation of the whole development.

### Trip Generation/Assignment

A revised trip generation exercise has been undertaken using TRICS person trip rates. The TA shows that the revised scheme will generate significantly less traffic than the original scheme. Whilst a large proportion of this is due to the reduction in employment land use there is also a significant reduction in residential trips, particularly in the AM Peak, even though the number of dwellings is not significantly different. Further information is requested to understand these changes.

The proposed new trigger level assumes that no other land uses would be in place when this trigger is reached.

Question use of TRICS to establish traffic flows rather than the actual data from the 193 dwellings already occupied. This approach would give the actual north/south distribution and provide a better indication of the likely traffic routing south to the bailey bridge and routing north to the St Peter's Bridge junction.

### *SCC Highways:*

OBJECTS (7/9/23) Comments summarised as follows:

The Transport Assessment has carried out an updated assessment of Personal Injury Collisions using a website called Crashmap. The applicant should have requested data directly from the relevant county council's road safety teams.

Contradictions in submission - The covering letter states that the developer is fully committed to the delivery of the bypass. However, paragraph 8.81 within the Transport

Assessment discusses mitigation measures 'if the Walton Bypass scheme were to be delayed beyond 2026 or not progressed at all'.

The development has not progressed completely as planned in relation to highway matters, the Travel Plan has not been implemented on occupation of the site and the original methodology within the Transport Assessment produced by David Tucker Associates (DTA) was never fully accepted by Staffordshire County Council.

Paragraph 1.2.3 within the Transport Assessment states that the assessment is concerned only with the highway impacts of the delayed delivery of the Walton Bypass. However, within the document it goes on to consider the traffic associated with the full scheme, which is completely irrelevant for the application being determined. The Transport Assessment also goes on to considering the interim phase of 800 dwellings by applying a completely different methodology.

Whilst base data to support the proposal was undertaken at a 'neutral time', the document provides no sensitivity test or calibration on the data collected and therefore it is not possible to determine if the data is a true reflection of everyday vehicular movements on the highway network.

The TA focuses on a series of junctions. The A444/St Peter's Bridge Roundabout is the main concern for the county council. Whilst the TA outlines its approach to modelling it is requested that a more accurate methodology is first agreed with SCC.

Actual data from the 193 dwellings occupied should be used rather than using the TRICS database to

establish average trip rates and traffic routing.

This application should be refused due to there being insufficient information for the Highway Authority to determine an outcome to the application due to a lack of confidence in the data provided.

Staffordshire County Council (Business and Enterprise): Comments can be summarised as follows:

- Make comment on the length of time the bridge/ bypass scheme has been in place and the number of developments that have been planned for / implemented which are reliant on the building of the scheme.
- Questions commitment to the scheme when the TA considers both a delay to 800 dwellings and a 'no bridge' scenario. They do not agree to the conclusions drawn in the TA related to this.
- Whilst traffic levels are not as high as predicted there will be a perceived increase in traffic for residents.
- Makes comments on the evolution of the site, the transport measures initially envisaged, the delay in the implementation of the Travel Plan and the loss of LEP funding due to delays in delivery of the bridge.
- Questions impact on housing land supply.
- Due to concerns over delivery they recommend if the proposal is approved trigger points to be included into the S106 Agreement to require them to reach certain milestones to ensure that progress on the bridge/ bypass scheme continues including; the submission of a planning application; technical approval submission; commencement on site and further triggers to ensure development continues.

East Staffordshire Borough Council (Planning): Raises no objections.

Environment Agency: Raises no objections.

Walton on Trent Parish Council: Objects.

- a) Requirement for bridge was put in place to relieve traffic in Walton which has increased over the past years, which the development on the Drakelow site has directly contributed to.

- b) Regularly face gridlock and cannot cope with the extra traffic.
- c) Concern that they will apply to increase trigger in the future like they have previously and possibly not build the bridge at all.
- d) Raises a number of concerns with the supporting documents which they consider to demonstrate that the assessment provided with the application gives a fundamental under representation of the traffic around the Walton road corridor and over the Bailey Bridge, including: failing to consider multiple other factors affecting traffic volumes and includes concerns with the nature of the assessment; the absence of a strategic traffic model for the area; traffic surveys were conducted on a single occasion; The survey was conducted before the latest traffic restrictions were placed on Chetwynd Bridge which has pushed substantially more traffic through Walton, past Catton Hall in both directions; implications for rerouting of the extended 40mph speed limit on A38 Southbound due to HS2 work and the A5 roadworks is not taken into account in the baseline data; doesn't take into account events at Catton Hall, or the HGV traffic impact of the Vital Energy incinerator.
- e) Highways Authorities should carry out their own independent work in considering cumulative impacts of traffic.
- f) The existing bridge at Walton cannot cope with the increased traffic.
- g) The Parish Council wrote in May 2023 to the various authorities about the impact of traffic and raised a number of matters including:
  - The impact is a result of a large number of planning applications, licensed events at Catton Hall and long term roadworks combined with other decisions being taken that have had profound effects on the two closest bridges to the Village crossing of the River Trent.
  - Concerns about withdrawal of funding for the bridge.
  - Large number of changes. These all appear to be considered and evaluated on an individual, incremental basis with no co-ordination or dialogue between the respective District/ Borough and County Councils. As a result, traffic through the village is increasing dramatically and quality of life as a result is diminishing.
  - A more holistic view of the impact of all these changes needs to be considered and reviewed as a whole (includes Drakelow, Chetwynd bridge weight and (proposed) width restrictions, 14MW waste to power incinerator at Drakelow, Proposed 19.5MW incinerator at Stanton, NSIP Oaklands solar farm, Lullington solar farm
  - Deteriorating state of surround roads, particularly Station Lane approach from Staffordshire.
  - The funding and building of the new bridge is of crucial importance.
  - Station Lane approach to Walton on Trent needs to be improved.
  - Overweight and oversize lorries coming down Station Lane cannot continue to be ignored as a "nuisance". Drivers need to be held to account and traffic offences issued when numerous signs telling drivers of the impending restrictions are simply ignored.
  - The impact of restrictions at Chetwynd bridge. This needs a proper traffic impact review that includes the events at Catton Hall
  - The cumulative traffic impact of all these changes on Rosliston Road through Stapenhill and on past Drakelow to Walton, Swadlincote and Rosliston and surrounding villages and the A444.
  - The licensing of events at Catton Hall needs to be reviewed.

Drakelow Parish meeting: Objects.

- a) No support from residents for the increase
- b) Traffic surveys only conducted on a single day and are not sufficient or representative
- c) The survey was also conducted before the latest traffic restrictions were placed on Chetwynd Bridge which has pushed substantially more traffic through Walton and Drakelow in both directions
- d) The waste incinerator traffic (200 HGV movements per day) have not been taken into account.
- e) Need to consider major events at Catton Hall.
- f) County Councils should undertake a properly representative Traffic Survey
- g) Needs to be a footpath from the development along Walton Road
- h) A bus stop is required to serve the development

Overseal Parish Council: Objects.

- a) Result in increase traffic on the A444 which cuts Overseal village in half.
- b) There are not adequate river crossings, this will inevitably increase traffic on the A444.
- c) Chetwynd Bridge has been narrowed and a 7.5 tonne weight limit implemented, pushing heavy vehicles and farm traffic onto village lanes.
- d) Existing and committed development in the area resulting in an increase in traffic.
- e) Due to traffic there would be an increase in travel times for emergency services which will adversely impact the community.

Rosliston Parish Council: Objects.

- a) As work is well underway for the additional 300 houses we now find ourselves with a further request from the developers for an additional request to up the 'cap' on housing. The developers claim they are committed to building a new river crossing and bypass, but no guarantee on time.
- b) Both County Council Highways cannot agree on a design and flood plan and already a tremendous increase in vehicle movement on local roads and through village; with total completion of the development this alone could lead to a possible nine thousand vehicle movements a day putting even more strain on our infrastructure network.
- c) The present Barn Lane, 'Crossroads of Doom' and Murder Lane will put be put under more pressure with the vast traffic increase especially from HGV's.
- d) Derbyshire County Highways need to upgrade these roads to cope with the increase traffic flow. An upgrade of this new link road should have the effect of alleviating much traffic flow through villages.

Barton under Needwood Parish Council: Comments can be summarised as follows:

- a) Supportive of the bypass given its local benefits provided that: Flood water levels on the upstream side of the bypass must not increase such that flood risk to Barton is increased; Station lane is closed to through traffic and converted to non-motorised use; and The bypass is available for use during all but exceedance flood events on the river Trent.
- b) Concerned with potential impact on pedestrians using Station Lane and congestion at the Bailey bridge; lack of mechanism that guarantees its provision at 785 dwellings

Cllr Swann (Derbyshire County Councillor): Objects.

- a) Delay to trigger would remove any urgency on the part of the developer to deliver the proposed new bridge at Walton on Trent and its associated infrastructure.
- b) SDDC should commission an external review of the Transport Assessment to ensure a robust evaluation sits alongside the two county councils' comments as statutory consultees.
- c) Given the history of the development, and in the best interests of local residents, the application in 2021 should not have been supported by District Councillors until acceptable designs and a solid timescale for the new bridge were in place.
- d) Developers negotiate the planning system in a manner that suits them.
- e) The developer is already different to that in 2021.
- f) Developer aware from the start of need to build a bridge, and associated infrastructure, that meets current standards, particularly in relation to flooding issues and climate change, and is of a sufficient standard to be adopted by the two local authorities. The developer has been aware for some time of Staffordshire County Council's implacable position in relation to its serious concerns in respect of the flood modelling and the bridge and road designs.
- g) County Councils have been working collaboratively with the developer whilst the developer has been slow in submitting the necessary modelling, vital information, and designs and has allowed significant funding from the Local Enterprise Partnerships to lapse.
- h) The traffic generated by the Dracon development has already had a significant impact on the local road network, with the approaches to the current bridge subject to long tailbacks on both sides of the river. Rosliston, Coton in the Elms, and other villages in this part of South Derbyshire have also been negatively impacted by the significant traffic generated by the development.

- i) The traffic in and around Burton upon Trent has for a long time been at saturation point, and traffic modelling does not always reflect the everyday lived experience of users of the local road network.
- j) The homes already built are isolated and there is currently no access to public transport or safe walking routes in either direction.
- k) Issues in Staffordshire, most prominently the permanent weight and width restrictions on the Chetwynd Bridge along with the threat of closure to this crossing, have exacerbated the problems.
- l) In 2021 the traffic generated by 400 occupied properties was considered to be the absolute maximum number that could be accommodated in terms of the traffic impact on local roads without the new bridge at Walton.
- m) Given additional development recently, there is no convincing case to argue that the cap is set at too low a level. The figure of 400 new homes is generous. Necessary infrastructure should be in place at a very early stage of development.
- n) Not unreasonable for the developer to fund and install interim mitigation measures to improve the current situation on and around Walton on Trent's bailey bridge while they complete the new bridge and bypass as required.

Cushman and Wakeman on behalf of E.ON the adjacent land owner has objected. Their comments can be summarised as follows:

- insufficient evidence contained within the TA to demonstrate that the proposed amendment would not have an unacceptable impact on highway safety, or that the residual cumulative impacts on the road network would not be severe.
- the Transport Assessment does not assume the correct baseline as the Energy Centre is not included in the traffic counted.
- The applicant doesn't use the Burton Transport Model (BTM) to understand impact
- The Drakelow Power Station site has not been sufficiently accounted for as committed development
- There is no evidence to demonstrate that the additional traffic could be accommodated through Walton-on-Trent and across the existing Bailey Bridge.
- Haven't approached National Highways to understand impact on SRN
- Assessment of St Peter's Bridge Roundabout not robust.
- Mitigation proposed doesn't provide an alternative to the Bypass scheme.

There has been 1 letter in support of the application and objections received from 142 members of the public. These can be summarised as follows:

- a) Walton cannot hold anymore traffic
- b) Dangerous at rush hour for children going to school and all pedestrians
- c) The increase in traffic and road works because of the developments are already difficult for residents in Walton and Rosliston.
- d) There are already problems with other access routes as it is such as the entrance from Alrewas to Catton
- e) Plan for other developments in the area are going to cause major road disruptions and more traffic which can't access the sites and won't use the right routes.
- f) The traffic stands still and there are no other alternatives except to go over this bridge
- g) Pavements required on Walton Road
- h) Increasing the number of houses by almost double will add further to this extreme strain, which is causing dangerous driving as drivers become frustrated and impatient.
- i) There will be pedestrian fatalities.
- j) Signposting poor, oversized vehicles continue to attempt to get through the bridge and get stuck causing further delays
- k) Traffic is impacting on quality of life – noise, dust and air pollution
- l) Intolerable volumes of vehicles using this village as a rat run to access the A38
- m) All restrictions and agreements have been either ignored or changed yet no bridge had been built.
- n) The developer should be forced to stick to the agreed proposal and build the bridge.
- o) The county councils and all other authorities need to work together to ensure the bridge is built.

- p) The bridge access is insufficient with regular traffic problems and ever increasing problems with maintaining a pot hole free surface due to the traffic volume.
- q) There needs to be appropriate investment in the infrastructure and amenities (schools, shops, doctors) to support the current limit let alone consider the increased number of dwellings.
- r) Unacceptable journey times due to queuing traffic.
- s) Due to another crossing of the Trent being restricted to the same dimensions of The Walton bailey bridge traffic trying to connect with the A38 either way has at times caused gridlock in the village.
- t) Increase of large vehicles causing heavy congestion in and around Walton.
- u) An Independent traffic survey should be carried before any further decisions are made.
- v) Damage to existing bridge, verges and private property by amount of traffic and use by unsuitable vehicles.
- w) New houses ruining the countryside.
- x) Disrupting the local wildlife.
- y) Undermines the integrity of the initial agreement.
- z) Prioritizes profit over responsible development.
- aa) Need to ensure a fair and sustainable future for the area
- bb) If the conditions can be disposed of or delayed now, why were the conditions imposed in the first place
- cc) Had this been the case at the time of the initial planning, I believe there would be more opposition to the development
- dd) Roads not built for current volumes of traffic, Bailey bridge not fit for purpose.
- ee) What is to stop Countryside applying again when (and if approved) they reach 799 houses.
- ff) 399 houses already means an extra 798 vehicles, assuming two per household and over 1400 if Countryside get this approval
- gg) No account or modelling given of extra traffic towards Walton...all seem modelled towards Burton.
- hh) No account given for why doubling really needed, other than, I assume developer finances.
- ii) No account given of impact of Chetwynd bridge restrictions on traffic travelling south and north to access A38. This has also impacted transportation for Derbyshire children to local secondary school in Staffordshire.
- jj) No rationale of why 400 was the last limit agreed and assumed a bridge would be built.
- kk) How can we assume SDC and highway's have got their modelling numbers right...not just for this increase but the wider area
- ll) No updated counter modelling of wider impact of Drakelow development
- mm) Any road widening prep work for Drakelow towards Walton would encourage more traffic onto the road.
- nn) No local government highways funding guarantees for Walton bridge. What happens if developer goes out of business before bridge built.
- oo) If the viability of reaching a solution in design and commencing work before the current 400 properties occupied is a constraint amend the clause to read ' construction to have commenced before 400 properties are occupied ' as opposed to completed.
- pp) An investigation is needed as to why the original planning was granted, especially as Walton was already known to be struggling with volume of traffic.
- qq) Implications for emergency services
- rr) No way to enforce extra traffic to use St Peters Bridge.
- ss) The developers should only be allowed to commence work on the additional housing once all the funding is in place and works commenced on the bridge construction. Not subject to redesign and planning permission
- tt) There will soon be no grass areas and we will be part of Greater Burton
- uu) Traffic data is based on a single date and does not include an assessment of the traffic though Walton Village
- vv) The proposal does not differentiate between vehicle type in its assessment of congestion and/or pollution
- ww) It is unacceptable for the proposal to increase the traffic flow through Walton village by 128% as against previously agreed levels

- xx) The latest traffic survey was carried out before the recent restrictions on the Chetwynd bridge downstream and is therefore likely to be underestimating the number of vehicles trying to use the bridge.
- yy) The traffic volume assessment provided for this application is full of flaws and omissions with the survey giving an optimistically low traffic volume relative to the current situation and has minimised the increases
- zz) New permanent traffic restrictions were placed on Chetwynd Bridge (which feeds traffic to Walton past Catton Hall) and has caused substantially more traffic through Walton since the 7th March survey was conducted.
- aaa) Extended roadworks on the A38 due to HS2 and A5 contraflows have led to a marked increase to the volume of traffic now using Walton on Trent as an alternative route to Tamworth as sat navs are re-routing over the Bailey Bridge.
- bbb) The Vital Energy incinerator adjacent to Drakelow Park should have been in the assessment of "residual cumulative impacts on the road network" (200 movements per day)
- ccc) It appears that the projected increase in traffic vs. the 7th March survey covers the difference between 400 and 785 Dwellings. This is wrong as at 7th March 2023 there must have only been around 250 houses occupied on the site.
- ddd) Should consider impact of major festival at Catton Hall.
- eee) Staffordshire County Council (SCC) and Derbyshire County Council (DCC) Highways, as statutory consultees on this matter, to conduct their own evidence gathering considering the cumulative effects of traffic in the area of all the recent and planned material changes
- fff) Needs to be physical mitigations in the form of barriers on Station Lane at both the junction with Main Street in Walton and at Tucklesholme nature reserve entrance to physical stop oversize and overweight traffic from getting to the Bailey Bridge
- ggg) Nobody except the residents sticks to the speed limits of 30mph
- hhh) Traffic Assessment doesn't take into account Ivanhoe Line or Drakelow train station
- iii) What will happen with traffic when the bridges flood and are impassable in winter
- jjj) This bridge can no longer go ahead since Tucklesholm Lake has removed the flood relief. The bridge should at best be moved to run inline with the electricity pylons complete with the new road. This moves the flood risk down past the bottle neck
- kkk) The developer state whether the estimated construction costs of the highway improvements are more or less than the profit it will make by building properties 785 to 1036. Unless these profits outweigh highway improvement construction costs by a significant amount, there is an obvious disincentive to building property number 785
- lll) If the developer was truly committed to the highway improvements and the revision to the trigger was not merely for its financial benefit, then it could have proposed the use of an escrow arrangement at the 400-property trigger.
- mmm) Flood events make the site isolated and residents cut off from essential infrastructure and services.
- nnn) Can the local authority build the bridge
- ooo) Can local residents claim for their time losses sitting in the increased traffic.

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

The relevant local policies are:

2016 Local Plan Part 1:S1 (Sustainable Growth Strategy); S2 (Presumption in Favour of Sustainable Development); S3 (Environmental Performance); S4 (Housing Strategy); S5 (Employment Land Need); S6 (Sustainable Access); H1 (Settlement Hierarchy); H6 (Drakelow Park, Drakelow); H20 (Housing Balance); H21 (Affordable Housing); E1 (Strategic Employment Land Allocation); SD1 (Amenity and Environmental Quality); SD2 (Flood Risk); SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure); SD4 (Contaminated Land and Mining Legacy Issues); 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); INF6 (Community Facilities); INF7 (Green Infrastructure); INF8 (The National Forest); INF9 (Open Space, Sport and Recreation).

2017 Local Plan Part 2: SDT1 Settlement Boundaries and Development; BNE7 (Trees, Woodland and Hedgerows); BNE10 (Heritage); BNE12 (Former Power Station Land); RTL1 (Retail Hierarchy).

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy, guidance and legislation is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Town and Country Planning Act 1990 as amended.

### **Planning considerations**

Taking into account the application made, the documents submitted (and supplemented and/or amended where relevant), the relevant legislation and the site and its environs; the main issues central to the determination of this proposal are whether the amendment to the trigger point would result in an unacceptable impact on highway safety; whether the residual cumulative impacts on the road network would be serve, beyond the position already agreed; or whether the increased trigger point would create a position where the costs of the bridge outweighed the viability at that stage of progressing the development to completion, thereby threatening it's delivery.

### **Planning assessment**

Countryside have requested an amendment to the trigger point for the provision of the Walton bridge and bypass, increasing the figure from 400 to 785.

Countryside advise that the increased trigger point is needed due to the requirement to redesign the bridge/ bypass due to updated flood modelling and the additional approval processes that are required as a result of the redesign.

Countryside have submitted an amended Transport Assessment (TA) to support the submission. This amended TA was submitted after meeting with both Highways Authorities and further to additional survey work by Countryside and the provision of additional information requested by DCC and SCC. It draws together all the additional information submitted and undertakes further work to update the datasets following the additional survey work undertaken in October by Countryside.

This has been accepted by DCC and SCC who raise no objections and are content with the information provided and the conclusions of the amended TA. They are content that subject to the mitigation identified and already required by condition that the increased trigger point can be accommodated without severe highway safety implications.

Watermans, the independent transport consultant instructed by the council, are content that the submission, including the survey works are acceptable.

The key differences between the work undertaken to support the 400 trigger and the 785, as proposed by this submission relates to the significant reduction in employment floorspace, with the 785 TA also supported by updated survey work which demonstrates that the traffic flows at key junctions are significantly below those considered acceptable as part of the previous scheme.

### **Background**

A planning application was originally submitted for the bridge and bypass to SDDC for the part of the bridge and bypass that was within their administrative boundary. Application 9/2003/1525/M was approved by SDDC on 26th May 2005.

A subsequent Section 73 application to vary condition 11 of the permission (9/2006/0973/B) was approved on 29th May 2007.

Permission was also granted in 2012 for development of a mixture of uses including up to 2,239 dwellings. This permission was further amended by two subsequent S73 applications in 2016 and 2020. All these applications were controlled by a S106 Agreement which required the bridge and bypass to be completed first before the occupation of 100 dwellings and latterly by the occupation of 400 dwellings.

The approved bridge scheme provides a new 1.5 km bypass to serve the new Drakelow Park development, avoiding the village of Walton-on-Trent, removing local and development traffic and easing traffic levels in the village at peak times by constructing a new bridge over the River Trent and retaining the Bailey Bridge for non-motorised traffic only.

The original planning approval for the bridge was 17 years ago. It is understood that the developers at the time did not seek technical approval from the relevant Highways Authorities and nor were they required to do so.

During the time the 2020 consent was being considered, Countryside ensured that the planning permission for the bridge was still capable of being implemented (that it was extant) through the submission of a certificate of lawful development, for which they were granted consent by SDDC and ESBC. On approval of the 2020 permission (August 2021) they submitted an application for reserved matters consent for phase 2, which was subsequently approved, and they commenced the discharge of the relevant conditions and began discussions with the relevant authorities regarding the technical approval process.

It is understood that the issues presented by the updated flood modelling work, which identified the risk of flooding of the new bridge and bypass due to changing flooding predictions in the intervening time was raised at this point. Following discussions between the relevant decision-making authorities (Staffordshire County Council, Derbyshire County Council and the Environmental Agency) the developer was advised that further work was needed to agree an acceptable design solution in light of the more up to date modelling on flood risk.

The need to amend the alignment and configuration of the previously approved bridge is now required in order to achieve technical approval from the respective Highway Authorities in order to be able to construct it. The developer and the highways authorities and EA have been involved in discussions for some time regarding the work required to make the bridge acceptable both in terms of highways safety and flood risk. Whilst the finalised design has not been accepted by all parties at the time of writing the report it is understood that there is a clear direction of travel to ensure that a scheme the relevant decision-making authorities are content with can be achieved. The key stakeholders in relation to these technical approvals are involved in regular workshops to discuss the project and a route forward. The developer has submitted a timeline of works with this submission that identifies that technical approval for the bridge can be achieved by June 2024, starting on site in July 2024. This timeframe also relies on the developer getting to a point in their discussions regarding technical approval that a planning application can be submitted to the relevant planning authorities by 31 March 2024, and this date would be binding on the developer in an amended S106 agreement. In accordance with the Environmental Impact Assessment Regulations a Scoping request has been submitted to the council. This will inform the new applications.

Whilst the design has not been finalised or approved yet it is likely that the changes that are now anticipated to be required include:

- Increase in the height of the span of the bridge. The deck level is likely to need to be raised by approximately 1m.
- Realign the route of the road/bridge where it ties into the existing highway on the Staffordshire side of the River Trent.
- Construction and incorporation of new culverts within the overall bridge design to address concerns over flooding.

The applicants and the relevant decision makers in relation to the technical approval process are meeting approximately every 6 weeks to discuss the design and reach agreement. With this collaborative working in place, it is anticipated that once a planning application is submitted for the

amendments to the bridge, required to be by 31 March 2024, that any issues relative to flood risk or highways have been addressed.

It is understood that the latest on this work is that:

- The bridge and bypass have been redesigned to be above design flood levels.
- Openings are being redesigned from plastic pipes to large concrete spans, due to concerns previously expressed by the EA and HAs around the piped openings solution.
- Countryside's Flood Risk Modelling now demonstrates that the impacts of the new bypass fall within EA requirements.

These updates are to be discussed at the next technical workshop on 17<sup>th</sup> January 2024. The committee will be verbally updated on the outcome of this workshop.

### Highways

The applicant's submission seeks to demonstrate that the resultant traffic situation of allowing 785 dwellings to be occupied in advance of the completion of the bridge and bypass will result in no worse a situation than that accepted when the trigger for 400 dwellings was approved.

It is accepted that the 2015 TA provides the current basis for the trigger of 400 dwellings. This was based on the mix of development floorspace proposed as part of the 2016 development of the Drakelow site. This mix of development was for 2239 dwellings including retirement flats, flats and houses, 12 ha of employment space and 4900m<sup>2</sup> of retail and employment floorspace within the local centre compared to the current situation of 1921 homes (mix of houses and extra care units), 2.75 ha of employment space and 7732 m<sup>2</sup> of retail and employment use within the local centre. Both schemes included a primary school of the same size. Whilst the housing provision is considered to be similar across the two schemes, the latest proposal sees a reduction of over 9 ha of employment use, which came at a time when there was an overall oversupply of employment land in the District when measured against existing local plan targets and in light of the wider re-development of the former power station site as identified in policy BNE12 to the south-west of the site for employment purposes. The assessment used traffic forecasts from the Burton Transport Model (BTM), provided by SCC. The model was used to provide forecast traffic flows on the Main Street/Walton Road corridor north of the River Trent under the following scenarios:

- 2031 with 400 dwellings and Walton Bypass in place;
- 2031 with 400 dwellings and no Walton Bypass.

The TA focuses on the Main Street/Walton Road/Station Lane corridor between the A38 and A444 which is consistent with previous assessments.

In the absence of the Walton Bypass, a greater proportion of development traffic could travel to/from the north via Stapenhill and the A444/A5189 St Peter's Bridge Roundabout. The impact of the two development scenarios at these locations has been assessed relative to updated "No Development" scenarios that exclude both the development and the bypass. This enables the impact of the development without the Walton Bypass to be identified and the need for alternative or interim mitigation measures in this area to be considered.

The TA uses forecast traffic flows of Station Lane east of the A38 Barton Turn at 2026 to compare actual flows taken from the 2023 survey works and notes that the 2026 forecast demonstrates much higher volumes of traffic.

To assess whether material traffic impacts could arise in each development scenario, the advice provided within the former DfT "Guidance on Transportation Assessment" has been followed which suggests that a two-way increase of more than 30 vehicles may require further consideration. The TA acknowledges however that increases of below 30 vehicles (two-way) can be considered material where a junction or link is approaching capacity or where existing road safety issues have been identified. This is particularly relevant at the St Peter's Bridge roundabout, which has been identified as having limited capacity for further traffic growth.

Previously accepted 2026 Benchmark traffic flows west of Walton-on-Trent were around 1,000 vehicles/hour. However, this figure does not take into account the additional traffic that would be

generated by a further 400 dwelling, which would have increased the two-way flow in each peak hour figure by approximately 35 vehicles. The latest traffic survey shows this to be significantly lower than forecast at 700 vehicles per hour. An increased trigger of 800 dwelling would generate approximately 80 additional vehicles per hour, resulting in a net increase of 45 vehicles (80 – 35). Whilst higher than the DfT guidance the flow rate is significantly below the accepted benchmark rate which was considered could be accommodated.

The TA concludes that the quantum of development that could be accommodated on the network west of Walton-on-Trent in advance of the Walton Bypass is potentially much greater than the proposed amended trigger point. This is primarily to do with the reduction in employment space and a comparison of the original data sets used to calculate traffic and the updated survey work and data sets due to the differences in mixes of use within the site. However, without the Bypass a greater proportion of development traffic might use the road network to the north of Drakelow Park, requiring further assessment of short-term traffic impacts in Stapenhill and at the A444/St Peters Bridge roundabout.

In conclusion the TA demonstrates that allowing up to 800 dwellings to be occupied at Drakelow Park in advance of the Walton Bypass would not give rise to adverse traffic impacts on the local highway network sufficient to justify that the effects of raising the trigger would be severe.

Derbyshire County Council initially raised objections to the proposals requesting additional survey work and additional information to demonstrate clearly the traffic generation and distribution.

SCC Highways initially comment on a number of matters, noting contradictions in the submission, fundamentally the consideration of traffic associated with the full scheme, which is irrelevant for the proposed increased trigger. i.e. these points relate to the development of the site beyond the 785 homes proposed.

They comment that the development has not progressed completely as planned in relation to highway matters, the Travel Plan has not been implemented on occupation of the site and the original methodology within the Transport Assessment produced by David Tucker Associates (DTA) was never fully accepted by Staffordshire County Council. Notwithstanding this the TA considers the interim phase of 800 dwellings by applying a completely different methodology to previous.

They acknowledge that the base data to support the proposal has been undertaken at a 'neutral time', but that there is no sensitivity test or calibration on the data collected and therefore it is not possible to determine if the data is a true reflection of everyday vehicular movements on the highway network.

They request that a more accurate methodology for modelling is first agreed with SCC.

Concern was also raised regarding the baseline data and the inclusion of the Energy Centre and whether all committed development has been accounted for.

The submission of the interim statements and additional TA sought to clarify and identify for review the information sought by the key consultees. This can be summarised as follows;

- The developers have asked for a list of committed development both highways' authorities think should be included. Both HAs now agree that there are none that should be included.
- The provision of original TA traffic forecasts for 2026 at the A444/St Peter's Bridge Roundabout with the new 2023 traffic survey and an explanation of how this was derived.
- The provision of a comparison of the 2023 classified turning count survey data with available Automatic Traffic Count (ATC) data to confirm that the former were undertaken on a representative day. The data collected shows this to be the case.
- Provision of an extract of the TRICS data from the original TA that supported the earlier residential trip generation rates.

Staffordshire County Council Highways Authority were involved in a teams call in mid-December. During the call the developers and the two highways authorities (SCC and DCC who were also

present) agreed an approach to progress the application including the submission of a revised TA to include all the information in the technical notes and the additional survey work. It also runs all updated survey work through the various assessments to show trip rates and distributions. This was submitted on 20<sup>th</sup> December and consulted on the same day.

Derbyshire County Council Highways Authority have reviewed this and raise no objections to the amended trigger point subject to consideration of any mitigation required.

SCC responded on 10<sup>th</sup> January and are of the view that the implications of the increased number of dwellings would not result in severe highways impacts and therefore they raise no objections. They comment that the thresholds outlined in condition 48 of the outline planning permission are likely to be reached by approximately 590 dwellings and the mitigation identified in this condition will be required at this point. The amendment to the S106 Agreement would have no impact on this condition and Countryside would need to comply with the requirements of this in full. They also request that Countryside are also required to install a temporary highway scheme to allow commercial vehicles to turn until the bridge/ bypass is open. They do not consider the mitigation measures at A444/St Peter's Bridge roundabout are required or deliverable due to land ownership, provided that the bridge/ bypass is delivered in the timescales proposed. These points have been raised with Countryside and there is agreement with SCC's request which is included in the recommendation at point 4 (Tucklesholme Nature reserve scheme).

The Council also instructed an independent highway consultant to assess the information provided by Countryside, including a review of their methodology for the TA work submitted. They have also undertaken their own survey work to test the information which Countryside have provided. These surveys were through Automated Traffic Count (ATC) and Manual Traffic Count (MTA) which were undertaken at a traffic neutral period in November. The MTC took place on 29<sup>th</sup> November from 8 locations between 7-10am and 4-7pm.

They have submitted a report to the council which sets out analysis of the impact of the development on the highway network, prepared using standard methodology and assumptions considered appropriate for the scheme. Their survey work shows fewer total vehicles on all roundabouts in the peak hour periods and therefore concludes that the surveys undertaken by Countryside in March 2023 are considered to be a worst-case scenario. It concludes that the results of the further October 2023 traffic survey provides no cause for concern that the survey undertaken should not be seen as accurate and acceptable. It reflects typical traffic flows resulting in a reasonable number of vehicles being predicted to enter the site at the Interim Phase (800 dwellings).

The NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The Highways Authorities are now content that Countryside have considered all committed development in their submission, and they have undertaken a review of crash data within their submission. Given the independent review of the information submitted by Watermans and the lack of any highways objection from DCC and SCC it is considered that the proposal would be acceptable in terms of highway impact, such that there would be no severe highways implications, it is therefore considered that these tests are met.

#### Viability implications

Countryside have confirmed that their focus and commitment remains to provide the bridge and bypass with the need for the amendment to the trigger being wholly driven by the time needed to complete the process of securing technical approval for the scheme and then to build it. They have submitted information which demonstrates that it is not in their financial interests to stop work at 785 homes and not complete the bridge/ bypass scheme with the profit for the development beyond this number being substantially greater, even with the additional finance that would be required to be spent on the bridge/ bypass scheme and the contributions within the S106.

They have provided information which demonstrates a viability comparison for providing the bridge at 400 dwellings compared to providing it at 785 dwellings. The summary provided shows

revenues as an average of the achieved sales price and rental revenues, with costs averaged across the tenures. There are greater S106 costs with the full build as triggers are hit.

This demonstrates that the 785 would offer a profit margin of 9.79%, compared with the full build profit of 15.57%, a monetary difference of approximately £40m. This is based on the bridge costing approximately £20m and the land costs remaining constant across the two at £30m.

This information was reviewed by colleagues in the council's economic development team who raised initial concerns that the information provided didn't provide enough context or comfort that the bridge and bypass would come forward.

Countryside have since provided additional information which demonstrates that there is a need to continue beyond the 800 trigger (autumn 2025) as the scheme is not cash flow positive until 2031. They have also accepted that further comfort can be provided through the use of an Escrow account or similar in which they would put 1 million pounds which could only ever be drawn by them to assist in the delivery of the bridge and bypass. This is considered to be a considerable sum of money and one which they would not want to lose due to the implications for profit margins.

Discussions have also taken place as to the potential to install measurable milestones into the revised S106 Agreement such that Countryside would need to submit a planning application to the council for the amended bridge and bypass scheme prior to a certain date, or else no more houses can be built and occupied and that a material start on site has to be commenced within a number of months from planning approval, with an ultimate opening date of the bridge and bypass as a backstop date. It is considered that this approach would give the council comfort and controls over the amended trigger point such that it could halt development unless it sees that these measurable targets are being met and development is progressing in such a way that demonstrates that the delivery of the bridge and bypass is a priority. These milestones are:

1. A planning application for the bridge and bypass scheme will be submitted to South Derbyshire District Council and East Staffordshire Borough Council by 31<sup>st</sup> March 2024.
2. Within 3 months of receiving planning permission for the bridge/bypass and written confirmation from the two Highways Authorities that the designs are suitable for adoption as public highway, there will have been a material start on the construction of the bridge/bypass scheme, including the discharge of all relevant pre-commencement conditions.
3. Prior to the occupation of 785 homes or 31<sup>st</sup> December 2025, whichever is the sooner the bridge will be completed and open to vehicles.

and they are included in the recommendation.

It is also worth noting that Countryside has a different business model to most housebuilders in that they front load affordable housing within the site, entering into partnerships with RPs. There are two partners at the site at Drakelow; Midland Heart and Sigma. It is understood that Countryside have a contract with these RP's and that they are obliged by such to build the bridge/ bypass.

#### Subsequent issues of bridge delivery

Countryside have provided the following table to demonstrate the speed at which they are delivering housing on the site.

Date	Milestone	Occupations			Total	
		Countryside	David Wilson	Bovis		
Jul-23		100	193	0	293	
Aug-23		16	2		18	311
Sep-23		16	2		18	329
Oct-23		16	2		18	347
Nov-23	Planning submission for Revised Bridge & Bypass	16	2		18	365
Dec-23		16	2		18	383
Jan-24	Riverside Parcel - Start on Site	15	2		17	400
Feb-24	Technical Approval submission for Revised Bridge & Bypass	15	2		17	417
Mar-24	Planning approval for Revised Bridge & Bypass	15	2		17	434
Apr-24		15	2		17	451
May-24		15	2		17	468
Jun-24	Technical Approval for Revised Bridge & Bypass	15	2		17	485
Jul-24	Start on site for Bridge & Bypass	15	2	3	20	505
Aug-24		15	2	3	20	525
Sep-24		15	2	3	20	545
Oct-24		15	2	3	20	565
Nov-24		15	2	3	20	585
Dec-24		15	2	3	20	605
Jan-25		15	2	3	20	625
Feb-25		15	2	3	20	645
Mar-25		15	2	3	20	665
Apr-25		15	2	3	20	685
May-25		15	2	3	20	705
Jun-25		15	2	3	20	725
Jul-25		15	2	3	20	745
Aug-25		15	2	3	20	765
Sep-25	Completion of Bridge and Bypass (14 months from SoS)	15	2	3	20	785
		<b>495</b>	<b>245</b>	<b>45</b>	<b>785</b>	

This demonstrates a speed of housing delivery which is not replicated at any other site within the district. This is a key consideration in respect of housing delivery, which is particularly pertinent given that a number of the housing completions are handed over to a registered provider, ensuring that the site delivers affordable housing options within the area.

The latest reported housing land supply (Jan 2023) demonstrates that SDDC currently has a supply of approximately 6.29 years. This figure relies heavily on the delivery of housing on this site and at Wragley Way. Based on this data the loss of 21 months of delivery from Drakelow would result in a 5 year housing land supply of 5.96 years. If housing delivery at Drakelow was capped at 400 with no further delivery this would result in a 5 year housing land supply of 5.33 years.

The Policy team have been updating figures using the latest information and changed formula for reporting land supply taken from the latest version of the NPPF which are due to be reported to EDS Committee later this month. This report will be made public in advance of Planning Committee and members will be verbally updated as to the latest figures on the night.

The purpose of the planning system is to contribute to the achievement of sustainable development, including the provision of homes, commercial development, and supporting infrastructure in a sustainable manner. There is a presumption in favour of sustainable development which for decision-taking means approving development proposals without delay where there are no adverse impacts which would significantly and demonstrably outweigh the benefits.

In addition, the S106 Agreement requires the developer to provide certain additional infrastructure at specific points of the build programme, this includes the provision of (or finance towards) a health centre, a school and POS. The submission of details of a healthcare facility have to be provided prior to the occupation of 800 dwellings. The school specification needs to be submitted within 12 months of receiving notification that there is a need which has to be prior to 1 December 2024. The developers are required to build a 1FE school with the potential to be a 2FE school. Due to the delays in build rates should the trigger point not be increased there will be delays in reaching these trigger points which may have implications for the provision of other infrastructure across the site. There are meetings underway now regarding the provision of the school and the Health Centre.

## PHASE TWO: Summary of Schedules 1-10

<i>Trigger point</i>	<i>Schedule and Obligation/s</i>
Prior to Commencement (of each phase)	<b>Sch8</b> The submission of the Open Space Strategy - Which shall be delivered in accordance with the strategy
Prior to 1st Occupation	<b>Sch6</b> Creation of Drakelow Park Steering Group (SCC) <b>Sch6</b> Appointment of Lead Travel Plan Co-Ordinator <b>Sch6</b> Compliance with the Framework Travel Plan <b>Sch6</b> Installation of the Traffic Counting Equipment
Prior to 50th Occupation	<b>Sch9</b> Submit Listed Building Specification for approval
Prior to 100th Occupation	The procurement of the 2 & 2A Bus Service to go through the site
Prior to 150th Occupation	<b>Sch9</b> Obtain Listed Building Consent for Phase 1 Works
Prior to 1st December 2024	<b>Sch3</b> DCC Issue determination they wish a Primary School to be built
Prior to Feb 2024	<b>Sch4</b> Countryside to provide the Primary School Specification to DCC for approval
Prior to 300th Occupation	<b>Sch3</b> Pay £690,000 + Index to SCC ( Secondary Education to JTFS)
Prior to 301	<b>Sch8</b> Pay £275,000 + Index - Built Facilities to SDDC
Prior to 407th Occupation	<b>Sch4</b> Pay 1st ESITS Contribution (East Staffordshire Integrated Transport Strategy) + Index to SCC <b>Sch4</b> Pay Highways Contribution to DCC (£130,000 - Caldwell Road / Rosliston Road South Junction Improvements) <b>Sch4</b> Pay TRO Contribution (Traffic Regulation Order) to DCC <b>Sch4</b> Walton Bypass open to traffic
Prior to 657 Dwellings	<b>Sch4</b> Pay A38 Stage 2 Contribution
Prior to Occupation of 800 Dwellings	<b>Sch3</b> <b>Delivery of Primary School</b> <b>Sch7</b> Approval of the Healthcare Facility <b>Sch10</b> Ensure marketing strategy for Extra care is received
Prior to 816 Occupation	<b>Sch4</b> Pay 2nd ESITS + Index to SCC
Prior to Occupation of 1,200 Dwellings	<b>Sch7</b> <b>Healthcare Facility is Practically Complete</b>
Prior to 1225 Occupation	<b>Sch4</b> Pay 3rd ESITS + Index to SCC
Prior to 1780 Occupation	<b>Sch4</b> Pay 4th ESITS + Index to SCC
Prior to 1607 Occupation	<b>Sch9</b> The Listed Buildings to be Transferred to a community use occupier

Monitoring of the S106 Agreement is being undertaken by the council and it is understood that the requirements of each schedule are largely being complied with. Where there are issues of non-compliance, specifically the travel plan and the requirement to have an operational bus service servicing the site there are considered to be reasons behind this which were not necessarily fully realised on the formation of the S106 Agreement. Countryside have provided a short-term solution to the bus service (until this is an option with an operator) which involves a taxi service to the nearest bus stop to allow an onward journey. Whilst it is recognised that this is not the ideal long-term solution, it is understood that the requirements of a bus operative are to allow travel through the site (along the entire spine road), although it is understood that they may allow a service with a temporary turning provision within the site which is also being investigated.

The site also provides a number of jobs currently, both within the construction trade and other indirect roles such as suppliers, drivers etc. If works were halted on site this would equate to roughly £41m per year.

### Other matters

Countryside have been responsive to issues raised during the course of the construction works to date.

In response to the issue of construction vehicles taking an unauthorised route to the site they have put CCTV in place to record the direction of travel for lorries. It is understood that there have been no complaints in the last 10 weeks regarding HGVs using an unauthorised route.

In addition, it is understood that they have now got consent from the HA to display additional signage to direct traffic.

Due to issues in providing a bus service to the development whilst under construction Countryside have made arrangements with a local taxi service to collect occupants and take them to the bus stop for their onward journey.

A temporary footpath is open and has been made available through the site. It is understood that the conditions of the last 50m of this route are not ideal, but that Countryside do not own this land (owned by the County Council) and that there have been discussions with them to try and improve this.

In addition to the above and given concerns about connectivity through the site whilst the development is under construction, which will take a number of years to complete, Countryside have also reviewed their build programme in an attempt to address this.

They have provided the table below to demonstrate how they intend to bring the spine road and footpath links through the site as soon as possible to ensure that issues surrounding connectivity are addressed sooner than has been envisaged.

<b>Work Stream</b>	<b>Date to Commence</b>	<b>Date to Complete</b>
Reserved Matters Planning submission and approval for Phase 3 and 4	January 2024	June 2024
Discharge of planning conditions	May 2024	July 2024
Demobilisation of Existing Business Park	November 2023	June 2025
Spine Road Technical Approval submission and approval	June 2024	October 2024
Spine construction from Technical	October 2024	June 2025
Provision of permanent pedestrian link to Phase 1 (DWH)	May 2025	June 2025
Green Way (Phased Delivery to suit build programme)	April 2025	December 2025

### **Conclusion and Planning Balance**

It is acknowledged that there will be some additional highway implications in having the bridge in place by the occupation of 785 homes or 31<sup>st</sup> December 2025 as opposed to now. However, the TA concludes that the Current Scheme would generate significantly less traffic generation than the Original Scheme due to the reduced scale of employment land uses and that:

- The new traffic surveys undertaken in 2023 show that traffic flows on Station Lane west of Walton-on-Trent and across the existing Bailey Bridge are significantly lower than those that were previously forecast to arise by 2026.
- Updated traffic forecasts for the Bailey Bridge with 800 dwellings occupied would be 17% to 24% lower than previously accepted.
- There is no evidence of existing road safety issues in the local area around Walton-on-Trent that require intervention.
- Possible road safety issues have been identified in the Stapenhill area south of the St Peter's Bridge roundabout.
- Without the Walton Bypass, a greater proportion of development traffic might use the road network to the north of Drakelow Park, requiring further assessment of short-term traffic impacts at the A444/St Peters Bridge roundabout. These assessments indicate that in the

2026 Interim Phase of 800 dwellings, the roundabout would be operating close to or marginally above capacity.

- A mitigation scheme comprising minor physical improvements to the junction has been identified for further discussion with SCC if considered necessary. The mitigation scheme would mitigate the impact of the Interim Phase of development at Drakelow Park.

Therefore, it is considered that the amended trigger of 785 dwellings or 31<sup>st</sup> December 2025 would not result in significant adverse traffic impacts on the local highway.

Should the trigger point not be raised the implications are four-fold:

- The delivery of housing across the district would be reduced within the 21 month period which would have implications for the 5 year housing land supply and in turn may put the council in a less strong position when determining applications or responding to appeals for housing.
- Loss of jobs and impact on the economy.
- Delay (or potentially loss) in the provision of infrastructure across the site, such as the provision of the school, healthcare facility, contributions to secondary education, built facilities and connectivity across the wider site.
- Potential that the developers may moth ball the site and walk away, or potentially revisit the S106 Agreement and seek to reduce contributions due to the additional financial burdens that the delay would have.

It would appear that the developer has been reasonable in its attempts to resolve the situation regarding the redesign of the bridge and that they have actively engaged with the relevant stakeholders to get to a position where a re-designed bridge can come forward shortly. With the amended s106 this will be required to be complete by 31 December 2025 which arguably is an even more robust mechanism than that in place currently.

Countryside have also engaged with SDDC in attempts to resolve issues and bring forward parts of the development (internal footways) sooner than they otherwise might. However due to the length of the technical and planning approval processes the bridge cannot be completed any sooner than forecast. Should the council not amend the trigger point the development will halt until autumn 2025 at least and may cease altogether.

The transport survey work undertaken by both the applicant and the council's independent advisor concludes that the proposals would not result in any severe highways implications and the increased trigger point of 785 with the opening of the bridge and bypass before 2026 can be accommodated within the existing road network. This finding is agreed with DCC.

The viability work presented demonstrates the increased profit from a scheme beyond the proposed amended trigger point and in addition to this the developers are proposing to put 1 million pounds into an Escrow account. It is considered that this demonstrates Countryside's commitment to building the bridge and bypass. In addition, it is considered that the introduction of additional milestones which are required to be reached at certain time intervals would ensure that the progress of the bridge and bypass scheme remained on track with an ultimate delivery date prior to 2026.

### **Recommendation**

The Committee is asked to approve the increased trigger of the occupation of 785 homes in advance of the opening of the bridge and bypass scheme. In addition to this the additional milestones should be included:

7. Planning applications for the bridge and bypass scheme will be submitted to South Derbyshire District Council and East Staffordshire Borough Council by 31<sup>st</sup> March 2024
8. Within 3 months of receiving planning permission for the bridge/bypass and written confirmation from the two Highways Authorities that the designs are suitable for adoption as public highway, there will have been a material start on the construction of the

bridge/bypass scheme, including the discharge of all relevant pre-commencement conditions.

9. Prior to the occupation of 785 homes or 31<sup>st</sup> December 2025, whichever is the sooner the bridge will be completed and open to vehicles.
10. Countryside will provide a temporary highway scheme just after the entrance to the Tucklesholme Nature Reserve/Quarry on Station Lane until such a time that the Walton Bypass is constructed and fully open to all traffic, in order to reduce the likelihood of commercial vehicles trying to gain access to the Drakelow site via the existing bailey bridge. Works to provide this will commence within 3 weeks of the scheme gaining technical approval from Staffordshire County Council, and the scheme will be completed no later than 2 months from commencement.
11. The sum of 1 million pounds to be secured in an Escrow account. Provision shall be made so that this can be drawn by the developer only to assist in the building of the bridge and bypass scheme and for no other purposes.

**Item No.** 1.2

**Ref No.** [DMPA/2023/1346](#)

**Valid Date:** 23/10/2023

**Applicant:** Homer

**Proposal:** **Erection of two, two-storey dwellings to the rear of 12 & 13 Wilson Close 13 Wilson Close, Micklegate, Derby, DE3 0DT**

**Ward:** **Etwall**

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

This item is presented to the Committee at the discretion of the Head of Planning and Strategic Housing due to the proposal not being in conformity with H1 of BNE5.

#### **Update Report**

The application was previously considered at the meeting held on 9 January 2024 but was deferred to allow for a site visit. The previous report is attached as an appendix. Since the original report was written a further consultation response has been received and further neighbour representations which are set out below.

#### **Additional Responses to Consultation and Publicity**

DWT Response – ‘We have now reviewed the Habitats & Protected Species Report and Biodiversity Net Gain Metric Report (Paul Hicking Associates, September, 2023). The assessments are considered to provide sufficient information in relation to potential impacts at the site and have identified suitable mitigation and biodiversity enhancements. Provided the development is implemented in accordance with the mitigation and biodiversity enhancements and habitat is retained/created as detailed in the reports, the development should be able to provide a net gain for biodiversity in line with Local Plan policies and the NPPF. The Biodiversity Metric calculation predicts a 11.97% gain for Habitat Units although the second figure of 11.3% is more realistic given that the higher figure relies on modified grassland achieving ‘good’ condition. DWT Recommend conditions relating to Lighting, Breeding birds, Reasonable avoidance measures and a Landscape and Biodiversity Enhancement and Management Plan (LBEMP). The LBEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery’.

Note: Whilst DWT do suggest conditions, they do not set out reasons for the condition. The reasons set out below are included by the allocated Officer from standard conditions.

#### Conditions:

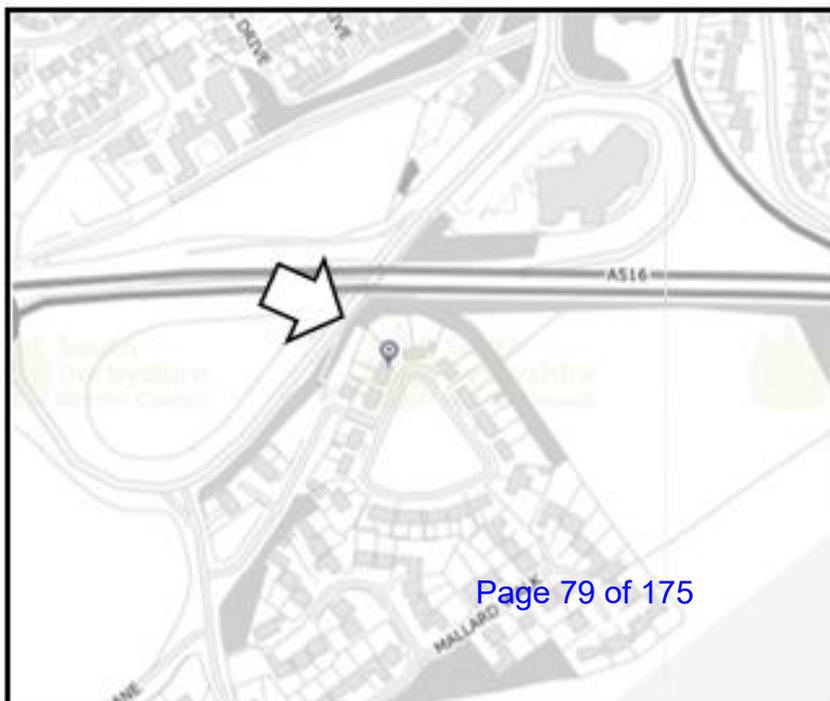
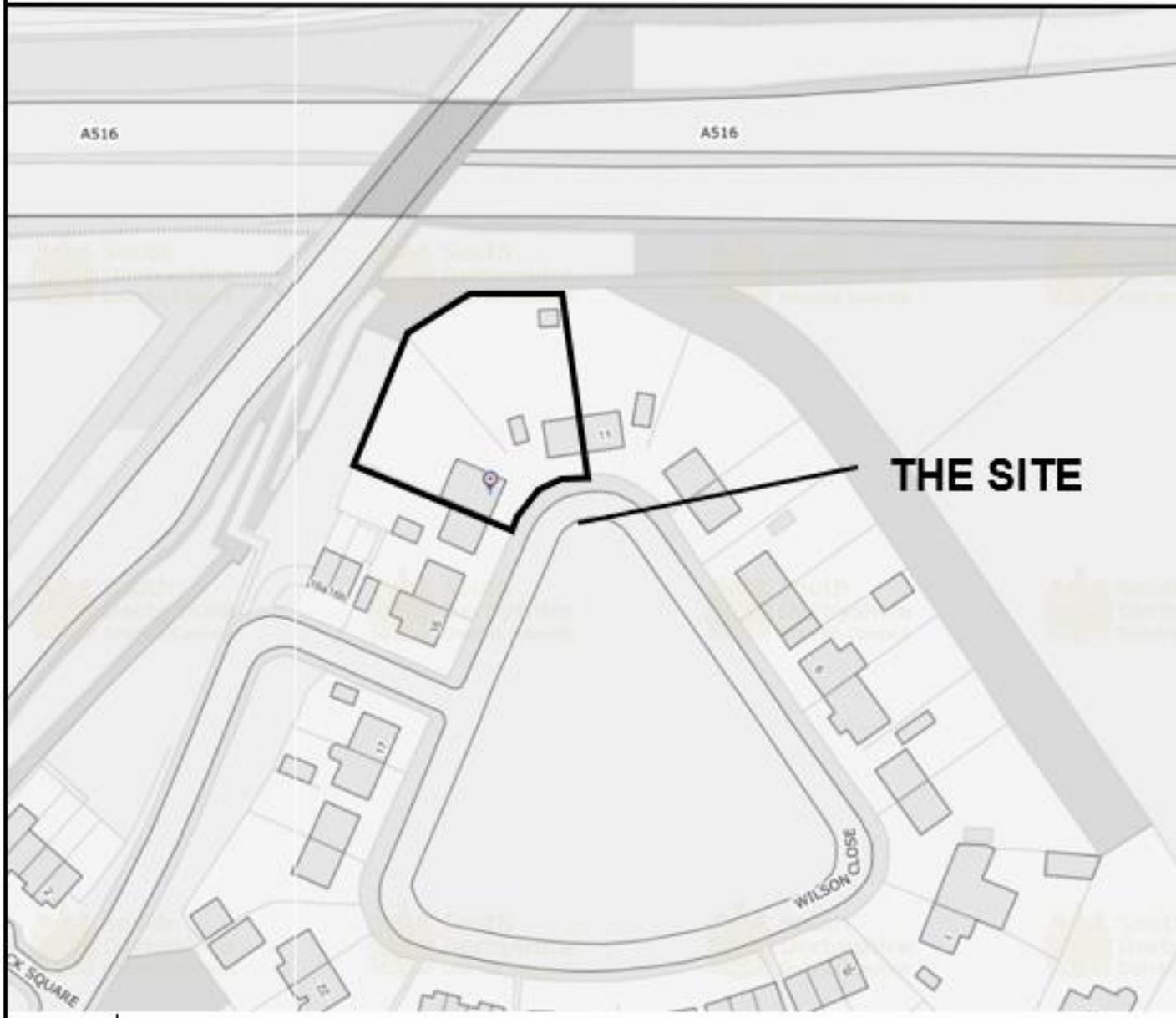
##### **Lighting**

Prior to the installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of light spill to any sensitive ecological zones/features. Guidelines can be found in Guidance Note 08/23 - Bats and Artificial Lighting at Night (BCT and ILP, 2023). Such approved measures will be implemented in full. The lighting design should avoid introduced lighting to adjacent habitats particularly the woodland and Local Wildlife Site along the western boundary and any new bat/bird enhancement features provided as part of the enhancement of the site.

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

##### **Breeding birds**

**DMPA/2023/1346– 13 Wilson Close, Mickleover, Derby, DE3 0DT**



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No vegetation clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.

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

#### **Reasonable avoidance measures**

Due to the low risk to wildlife including amphibians, bats, and hedgehogs during construction, safe working methods should be employed. This will ensure that any risk to protected/notable species during construction activities will be minimised.

The development shall not commence until a Reasonable Avoidance Measures Statement (RAMS) has been submitted to and approved in writing by the Local Planning Authority. It should detail precautionary methods of working during the site clearance, ground disturbance and other development activities which have the potential to harm, kill or trap species of amphibians or mammals and should be in accordance with B.S. 42020:2013 Biodiversity – Code of Practice for Planning and Development. It shall include instructions in the event that amphibians or hedgehogs are encountered. The approved statement shall be implemented in full and a short statement of compliance submitted to the LPA upon completion of clearance works.

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

#### **Landscape and Biodiversity Enhancement and Management Plan (LBEMP)**

A Landscape and Biodiversity Enhancement and Management Plan (LBEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the LBEMP is to enhance and sympathetically manage the biodiversity value of onsite habitats, in accordance with the proposals set out in the BNG Report (Paul Hicking Associates, September, 2023). The LBEMP should combine both the ecology and landscape disciplines and shall be suitable to provide to the management body responsible for the site. It shall include the following: -

- a) Description and location of features to be retained, created, enhanced and managed.
- b) Aims and objectives of management, in line with desired habitat conditions detailed in the metric.
- c) Appropriate management methods and practices to achieve aims and objectives.
- d) Prescriptions for management actions.
- e) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
- f) Details of the body or organization responsible for implementation of the plan.
- g) A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 3, 5, 10, 15, 20, 25 and 30 years.
- h) Monitoring reports to be sent to the Council at each of the intervals above
- i) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
- j) Detailed habitat enhancements for wildlife, in line with British Standard BS 42021:2022 including but not limited to bat boxes, bird boxes, swift bricks and fencing gaps 130 mm x 130 mm to maintain connectivity for hedgehogs
- k) Requirement for a statement of compliance upon completion of planting and enhancement works.

The LBEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

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

#### **Additional Neighbour Objections**

Three further neighbour objections have been received and a further email raising objections on behalf of the occupants of 12 properties on Wilson Close has been received raising the following issues:

- They were not consulted (they live at no 7 and therefore were not within 4m of the red line);
- Previously only 3 neighbours consulted and 2 objected – the majority.
- Not all neighbours affected were notified. Everyone should be consulted;
- As two neighbours objected, this is not a minority;
- Parking and highway safety concerns;
- As the proposal affects all residents of Wilson Close they should all have been notified;
- Where will the bins go? Refuse vehicle already struggles to get round, as would a fire engine;
- Water services are old and shared between several houses. Frequent problems with drainage too;
- Insufficient parking – more cars parked on verges;
- Rear gardens should not extend as far back unless land has been included without permission.

## **Conclusion**

A recommendation for approval was made and conditions attached prior to the response from DWT being received. Condition 10 seeking compliance with the Habitat and Protected Species Report and Biodiversity Metric was included which is one way of securing the Biodiversity Net Gain. An alternative approach set out by DWT would be to remove condition 10 and include the four suggested conditions by DWT which, where necessary, would mean that DWT would need to be consulted where conditions need to be discharged. This would be the case for the lighting and Landscape and Biodiversity Enhancement and Management Plan conditions. The LBEMP condition is also a pre-commencement condition which needs agreement from the applicant prior to inclusion in any decision.

The publicity undertaken for this application is consistent with the requirements of the Council's Statement of Community Involvement. Notwithstanding this, when neighbours submit comment these are given the same consideration irrespective of whether the neighbour was initially sent a consultation letter.

Committee is asked to resolve that planning permission be granted in accordance with the recommendations in the previous report subject to the addition of the conditions set out above from DWT in place of condition 10.

## Appendix 1

[09/01/2024](#)

Item No. 1.2

Ref. No. [DMPA/2023/1346](#)

Valid date: 23/10/2023

Applicant: Homer

Agent: Sigma Architects Limited

Proposal: **Erection of two, two-storey dwellings to the rear of 12 & 13 Wilson Close 13 Wilson Close, Mickleover, Derby, DE3 0DT**

Ward: **Etwall**

### Reason for committee determination

This item is presented to the Committee at the discretion of the Head of Planning and Strategic Housing due to the proposal not being in conformity with H1 of BNE5.

### Site Description

The broadly flat site forms part of the rear gardens of the existing No 12 and 13 Wilson Close, residential dwellings previously associated with the former hospital site which was redeveloped in the early 2000s. The host dwellings front an area of green space and along the rear of the application site is a belt of trees separating the site from the A516 and Etwall Road.

### The proposal

The proposal seeks permission for one three bedroomed two storey dwelling and one four bedroomed two storey dwelling with single garage in the rear of 12 and 13 Wilson Close.

### Applicant's supporting information

In addition to the application form, certificate and relevant plans and elevations the applicant has submitted the following information:

Habitat and Protected Species Report - Desktop and site surveys were undertaken to determine the potential for protected species including bats birds and newts and other amphibians, reptiles and invertebrates. The report concludes that no designated sites or protected species will be directly or indirectly impacted by the proposals and sets out recommendations to secure net gain.

Tree Constraints and Protection Plans - Assesses the existing trees and categorises their value. The Tree Protection plan identifies the trees to be retained/lost.

Biodiversity Metric - Assesses the site in terms of potential biodiversity loss and concludes that the proposed landscaping would provide an above 10% net gain.

Swept Path Analysis - Several plans have been provided to demonstrate sufficient space has been provided for cars to enter the site and park in the spaces provided within the site.

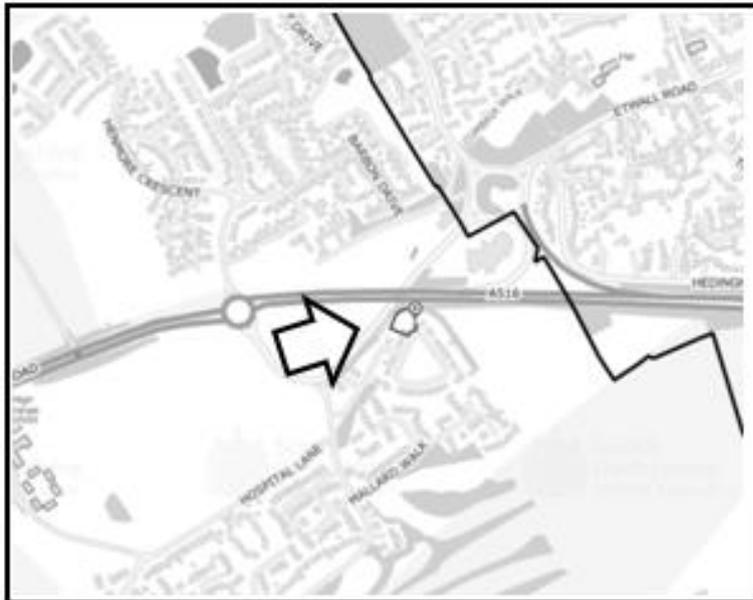
### Relevant planning history

None.

## **Responses to consultations and publicity**

County Highways - No objection subject to conditions relating to access, parking and turning, construction management plan and bin collection points.

DMPA/2023/1346 - 13 Wilson Close, Mickleover, Derby, DE3 0DT



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Environmental Health - No objections subject to conditions relating to hours of construction/deliveries and no burning of vegetation or other materials.

Two objections have been received from members of the public raising the following issues:

- a) Loss of garden space;
- b) new dwellings will cast a shadow over neighbouring gardens and existing dwellings;
- c) Loss of view;
- d) Loss of privacy/overlooking;
- e) Additional traffic/parking;
- f) Noise/light pollution;
- g) devalue neighbouring houses;
- h) New houses not in keeping with neighbouring houses;
- i) Parking on road a problem;
- j) Lack of parking provision;
- k) Visibility of children a problem with parked cars;
- l) Strain on existing water pipes;

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

The relevant Development Plan policies are:

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

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

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

### **Planning considerations**

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

- Principle of development;
- Character, design and residential amenity;
- Impact on Biodiversity
- Highway safety and parking;

### **Planning assessment**

Principle of development:

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

The site is outside any defined settlement boundary, the site being neither within the urban area of Swadlincote, nor within any of the key, local or rural villages listed in Policy H1 and the site is not an allocation site under the Local Plan Part 1 (LP1) or LP2, the application falls to be assessed

under BNE5. However, Whilst the proposal does not fall within any of the criteria set out in BNE5, the proposal is within an existing housing development - the former Pastures Hospital site granted consent for redevelopment in the late 1990s and built out in the early 2000s - and on the edge of the urban area of Derby City. The site is therefore close to existing services and facilities. Given the site is considered to be a sustainable location, it is therefore considered to be appropriate for the development of two additional dwellings.

Character, design and residential amenity:

The most applicable policies to consider in this assessment are BNE1 and SD1 of the LP1 supported by the Design SPD which seeks to ensure that new development is of an appropriate size, siting, scale, material componentry and character with regards to characteristics of the area in which they are located.

The proposal is for one large and one medium sized family home of contemporary appearance being partially rendered and partially timber clad. The host dwellings are semi-detached dwellings and the existing housing in the area is of functional character, the host dwellings being rendered. Whilst not semi-detached, the new dwellings would not be out of character as they will not be viewed as part of the existing streetscene - the new dwellings being to the rear of the existing houses, approached down a private driveway and views into the site will be screened by either the existing development or the established tree screening on the northern boundary - itself bounded by the A516/Etwall Rd. Although of a more contemporary appearance the new dwellings are of a scale and mass appropriate to the location and will add to the housing mix within the surrounding area, as such the proposal is considered to comply with BNE1 .

The new dwellings are located at the rear of existing gardens to the north and therefore the new development will have limited impact on the existing dwellings in terms of shadow and are orientated side on to the rear of 12 and 13 Wilson Close creating their own courtyard/parking and turning area. Both dwellings have no side windows and there is no overlooking of the existing dwellings. Whilst the gardens of the two new properties overlook the rear gardens of 11 and 14, this is away from the rear of the house, the most well used part of a rear garden and in any event the rear first floor windows of the new dwellings are set back the distance of the gardens which are approximately 9m. This is smaller than most of the adjoining gardens but not dissimilar to most new gardens on more recent housing developments and are considered to provide acceptable levels of amenity. The proposal is considered to comply with SD1 of the Local Plan part 1.

Impact on Biodiversity

Policy BNE3 seeks to support, protect and enhance the biodiversity and geodiversity of the district and deliver a net gain in biodiversity wherever possible. The large gardens of 12 and 13 are largely laid to grass or paved and therefore of low biodiversity value. Whilst it is not currently mandatory to use the BNG Metrics to deliver a minimum of 10% net gain, one was provided in this case alongside a Habitats and Protected Species Report as part of the application which concluded that a biodiversity net gain can be achieved of 11.9%. A condition has been added to ensure the recommendations of the Habitats and Protected Species Report are implemented in full. As such the proposal is considered to comply with BNE3.

Highway safety and parking:

Policy INF2 states that planning permission will be granted for development where travel generated would have no undue detrimental impact upon local amenity, the environment, highway safety and the efficiency of the transport infrastructure and availability of public transport services. It also requires that appropriate provision is made for safe and convenient access to and within the development, and car travel is minimised, the NPPF supports these principles.

The existing access and driveway is proposed to be used as an access for all four dwellings with parking provided for one car at the front of each of the existing dwellings and a further eight parking spaces at the rear in addition to a turning head and a single garage associated with the four bedroomed dwelling at the rear of No 12. The Highway Authority raised no objection to the proposal subject to conditions relating to access, parking and turning, a construction management plan and bin location points. Subject to the inclusion of these conditions the proposal complies with INF2.

## Conclusion and Planning Balance

Whilst the proposal is contrary to policies H1, SDT1 and BNE5 the proposal is considered to be in a sustainable location being located on an established housing estate with services and facilities in close proximity. The proposal would therefore add to housing delivery and mix and would not unduly impact on landscape character and quality and deliver a biodiversity net gain of a minimum of 11.3%, as such on balance the proposal is considered to be acceptable.

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

## **Recommendation**

Approve subject to conditions.

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

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

2. The development hereby permitted shall be carried out in accordance with drawing refs:  
00010 S3-P01 (Proposed Site Plan)  
00011 S3-P01 (Proposed Plans - Unit 12A)  
00012 S3-P01 (Proposed Plans - Unit 12B)  
00017 S3-P01 (Proposed Elevations - Unit 12A)  
00018 S3-P01 (Proposed Elevations - Unit 12B)  
23.1764.001 - (Tree Constraints Plan)  
23.1764.002 - (Tree Protection Plan)  
00021 S3-P01 (Proposed Site Plan - BNG Areas)  
unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. Prior to commencement of the development hereby permitted details of a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the construction period. The plan/statement shall include but not be restricted to:
  - Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
  - Advisory routes for construction traffic;
  - Any temporary access to the site;
  - Locations for loading/unloading and storage of plant, waste and construction materials;
  - Method of preventing mud and dust being carried onto the highway;
  - Arrangements for turning vehicles;
  - Arrangements to receive abnormal loads or unusually large vehicles;
  - Highway Condition survey;
  - Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

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

4. The Development hereby approved shall not be occupied until the access, parking and turning facilities have been provided as shown on the approved drawings and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, such space shall be maintained throughout the life of the development free of any impediment to its designated use.

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

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

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

6. Bin collection points shall be provided within private land at the entrance to the shared access, sufficient to accommodate two bins per dwelling served, in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority. The bin collection points shall be retained thereafter free from any impediment to their designated use as such.

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

7. Notwithstanding the submitted details, prior to their incorporation in to the buildings hereby approved, details of the facing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed using the approved facing materials.

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

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

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

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

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

10. The development shall be carried out in strict accordance with the enhancement recommendations detailed in Section 6 of the Habitat and Protected Species Report and Biodiversity Metric prepared by Paul Hickling Associates dated September 2023. Prior to their installation, the location and type of bird boxes and bat boxes/bricks shall be submitted to and approved in writing by the Local Planning Authority. The ecological enhancement measures shall be retained and maintained as such thereafter.

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

**Item No.** 1.3

**Ref. No.** [DMPA/2023/1376](#)

**Valid date:** 01/11/2023

**Applicant:** Derek Fentem

**Proposal:** Retention of an outbuilding at 20 Mansfields Croft, Etwall, Derby, DE65 6NJ

**Ward:** Etwall

### **Reason for committee determination**

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

### **Site Description**

20 Mansfields Croft (the Site) is a two storey detached property constructed in brick with a pitched tiled roof. The property dates to the 1960s and a two storey side extension, single storey rear extension and front porch were approved in 2019.

The Site is within the defined settlement boundary of Hilton and is set within a residential development with its northern rear boundary fronting Hilton Road.

### **The proposal**

Permission is sought for the retention of an outbuilding in the rear garden of 20 Mansfields Croft.

Under the Town and Country Planning (General Permitted Development) Order a homeowner can construct an ancillary outbuilding with a maximum eaves height of 2.5 metres and maximum overall height of four metres with a dual pitched roof, or three metres for any other roof where the building is more than 2 metres from a boundary. Where an outbuilding is less than 2 metres from a boundary its maximum overall height is limited to 2.5.

Whilst the outbuilding has been located more than 2 metres away from the boundary with the neighbouring property at 22 Mansfields Croft it is only 1.7 metres away from the rear boundary that runs adjacent with Hilton Road. There is a slope to the land so the height of the outbuilding varies from 2.8 metres at the back to 3.3m at the front.

Therefore, due to its height and proximity to the boundary of the Site the outbuilding exceeds permitted development rights. The outbuilding has largely been completed, although the external finish of cladding is yet to be finished.

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

The applicant has submitted drawing number 2023-10-65-01 which details the floor plans, elevations and site plan of the outbuilding.

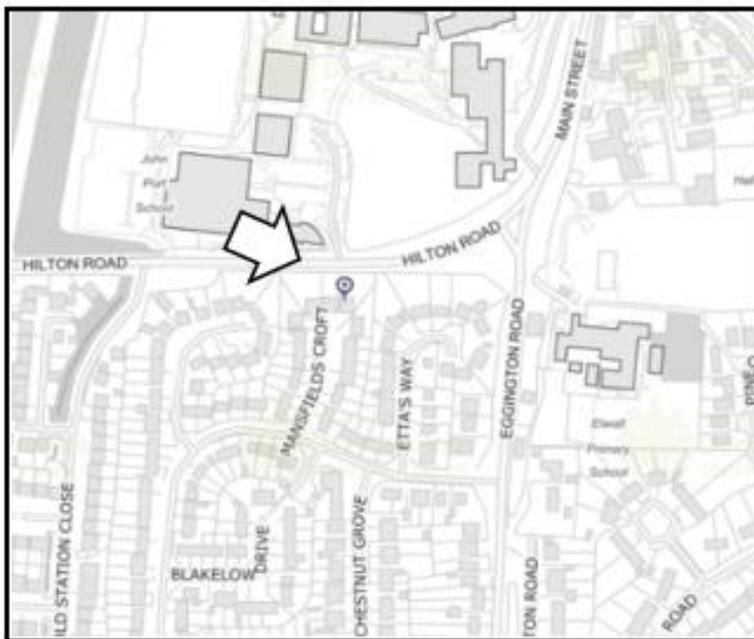
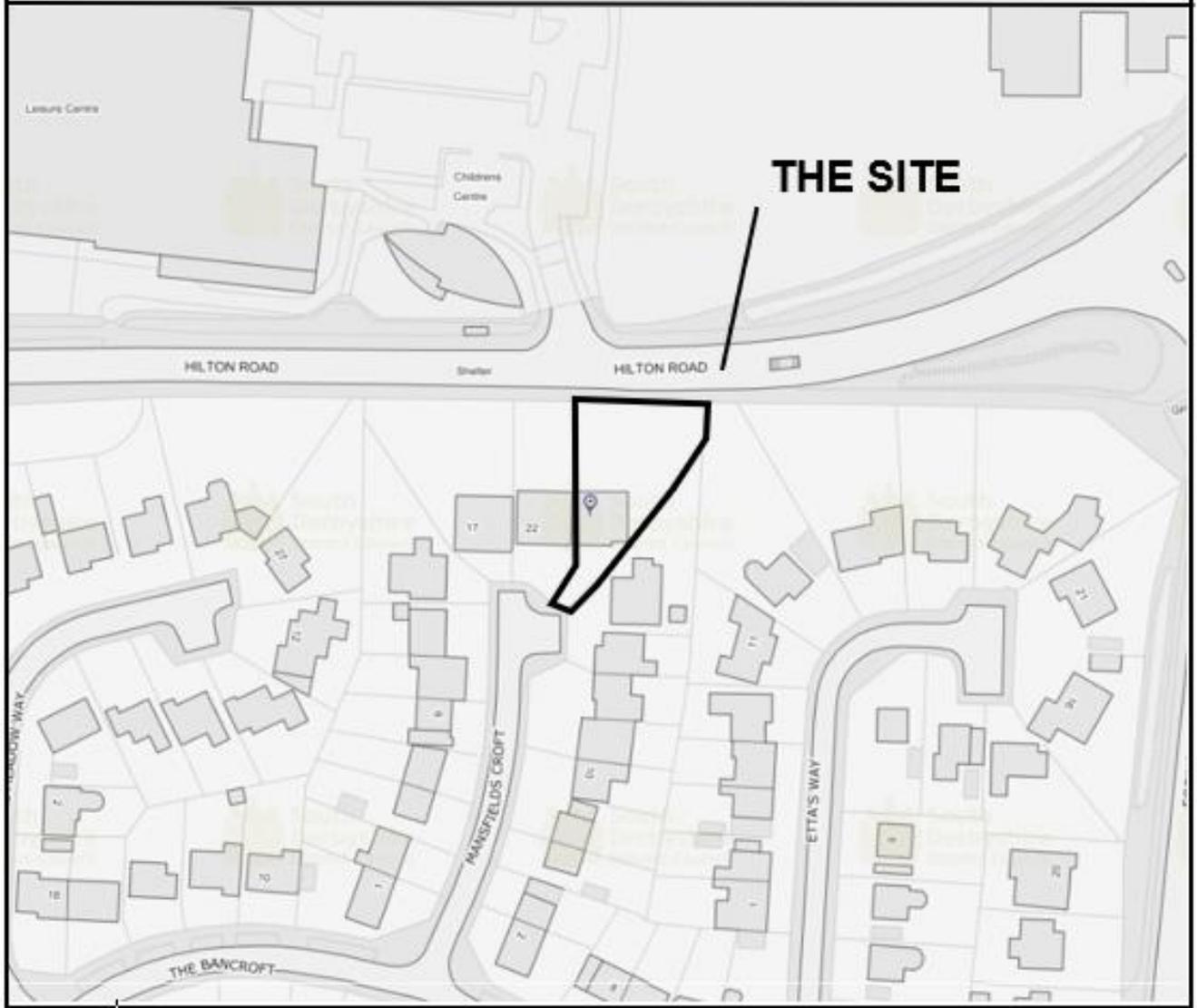
### **Relevant planning history**

DMPA/2019/1243 - Erection of two storey side extension, single storey rear extension and front porch - Approved with conditions 17/12/2019.

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

Etwall Parish Council – Raises no objection but questions whether vegetation could be used to help provide screening.

**DMPA/2023/1376– 20 Mansfields Croft, Etwall, Derby, DE65 6NJ**



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South Derbyshire District Council. LA 100019461.2020

One neighbour has raised an objection which can be summarised as follows:

- a) This application should be viewed, assessed and reviewed in conjunction with planning application DMPA/2023/0906 - an application for a 1.5 storey residential dwelling and associated parking.
- b) The erected outbuilding is of a substantial size both in width, length and of considerable height whilst being so close to the existing fence line and impacting on the boundary line between both properties, The structure is clearly visible and dominates the skyline from the rear of 22 but also when stood and/or walking on/along Hilton Road and/or Main Street, Etwall.
- c) The structure overshadows, overlooks and causes loss of privacy for residents of 22 Mansfields Croft and its rear garden, whilst it also overshadows the adjacent dwelling of 19 Mansfields Croft. This is exacerbated by the structure being built on stilts on one side.
- d) The local planning policy states there is a need to promote green infrastructure networks for nature and open space, to respect and enhance the varied character, landscape, cultural heritage and our natural environment of our fast growing district. In order to accommodate these two proposed planning applications the applicant has removed 4 large trees from his rear garden. I believe that the size and positioning of this current structure undermines these objectives.

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

The relevant Development Plan policies are:

(2016) Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development); SD1 (Amenity and Environmental Quality); BNE1 (Design Excellence); INF2 Sustainable Transport 2017 (Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development); H27 Residential Extensions and other Householder Development

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

### **Planning considerations**

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

- Impact upon the host dwelling, character and appearance of the area
- Residential amenity
- Adequacy of parking provision

### **Planning assessment**

#### Principle

Policies H27, BNE1, and SD1 of the development plan support in principle householder development, where it does not harm the character and appearance of the host dwelling and the character of the area, is of an appropriate design quality and is not unduly detrimental to the living conditions of adjoining properties. The SPD reinforces policies H27, SD1, and BNE1 by citing the importance of design, context, amenity and impact upon the host dwelling in the decision making process.

#### Impact upon the host dwelling, character and appearance of the area and residential amenity

Due to its size, and raised position as a result of land levels, the outbuilding is prominent in the street scene when viewed from Hilton Road. However, it is considered that once the grey cladding is completed it would blend in more than it currently does in its part finished condition. The requests of the Parish Council are noted however it is not considered that screening by way of

additional landscaping is needed to make the proposal acceptable, given its location within a residential area and the existing character of this part of Hilton Road whereby residential properties 'turn their back' on the road and ancillary structures and equipment associated with such are expected.

It is acknowledged that the outbuilding is of a substantial size. However, given the scale of the plot as a whole it is considered acceptable. The fallback position of permitted development rights, which would allow a building much larger than this if positioned slightly further back from the boundary, is also a material consideration in this regard.

To the west elevation, facing the boundary with 22 Mansfields Croft there will be a door accessing the storage area. It is not considered that this door and storage area would cause any more disturbance to neighbouring properties than a smaller shed type structure and given its location a significant distance away from the dwellinghouse it is considered that there would be no impact on amenity through loss of privacy, or overbearing impact.

To the east elevation there will be a tall, narrow window facing into the garden of the host dwelling. To the south elevation there will be a 3-pane bi-fold door also facing into the garden of the host dwelling and towards the house itself. It is not considered that these glazed elements would have any impact on the privacy of neighbouring properties.

Overall, due to the layout and orientation of surrounding properties and sufficient separation distances, it is not considered that the outbuilding would cause any undue overbearing effects, or lead to an unacceptable loss of privacy, overshadowing, or loss of sunlight to neighbouring properties.

#### Adequacy of parking provision

The outbuilding will consist of a sun room and storage area so it not expected to impact parking demand at the property. The proposals also no not affect the current parking arrangements.

#### Conclusion

For the reasons set out above it is considered that the proposal will not have an adverse impact upon the host dwelling, character and appearance of the area, residential amenity or adequacy of parking provision and therefore the accords with the aforementioned policies of the development plan. It should also be noted that if the outbuilding had been set just 300m further away from the rear boundary it would have been considered permitted development, this fallback position is a material consideration in the determination of this planning 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**

Approve subject to the following condition:

The development hereby permitted shall be carried out in accordance with the floor plan, elevations and site plan (ref. 2023-10-65-01) received 31/10/2023 unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

**Item No.** 1.4

**Ref. No.** [DMPA/2020/0599](#)

**Valid date:** 23/04/2021

**Applicant:** Mr Pickstock

**Agent:** Mr Porritt

**Proposal:** Demolition of ground floor store and extensions to the existing abattoir building and erection of extensions to form enclosed stock pens, enclosed storage areas, new water tanks and a covered stock entrance with widening of access to Coal Lane, additional access, the erection and retention of new boundary treatments and associated land grading and engineering works and installation of hardstanding at Pickstock Abattoir, 2 Coal Lane, Hartshorne, Swadlincote, DE11 7FN.

**Ward:** Woodville Ward

### **Reason for committee determination**

This planning submission is being reported to Planning Committee as it is a major application and due to comments of concern/ objection received.

### **Site Description**

The application site is addressed as Pickstock Abattoir, 2 Coal Lane, Hartshorne, Swadlincote, DE11 7FN. The site under consideration currently hosts an existing industrial abattoir business which facilitates meat production and associated activities. The site is situated to the south of Coal Lane, and close to the junction between Coal Lane and Ticknall Road in Hartshorne. The surrounding locality is predominantly rural in nature. The site is located outside of any settlement boundary and is therefore considered to be within the rural part of the district. The site is not situated within the Green Belt, does not comprise of any Listed Buildings, and is not situated within a Conservation Area. The site under consideration does not comprise of any Tree Preservation Orders. The application site is however situated within the National Forest. The site falls within Flood Zone 1.

### **The Proposal**

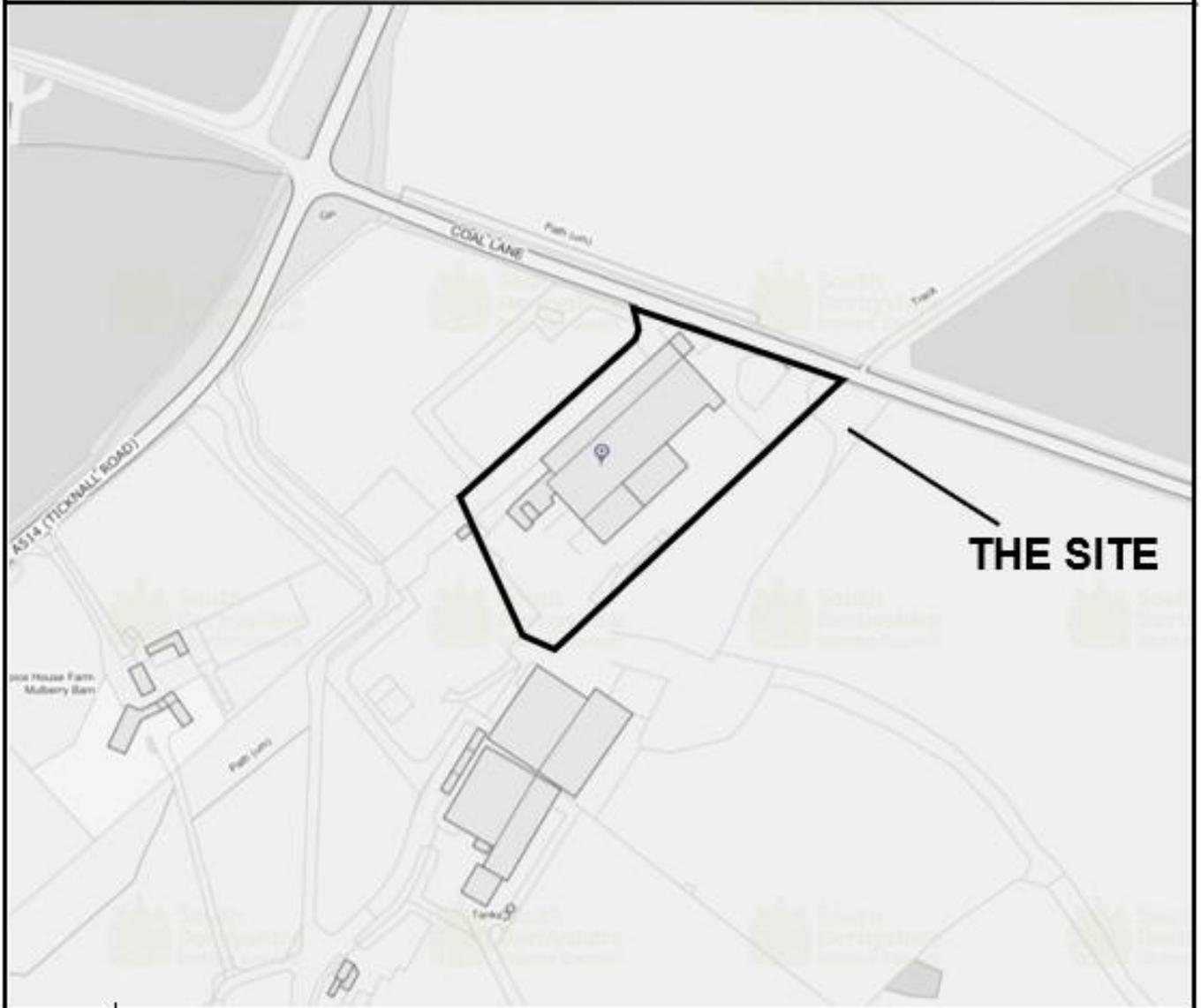
The applicant is seeking planning permission for the proposed demolition of ground floor store and extensions to the existing abattoir building and erection of extensions to form enclosed stock pens, enclosed storage areas, new water tanks and a covered stock entrance with widening of access to Coal Lane, additional access, the erection and retention of new boundary treatments and associated land grading and engineering works and installation of hardstanding at Pickstock Abattoir, 2 Coal Lane, Hartshorne, Swadlincote, DE11 7FN.

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

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

- Proposed Site Layout Plan (ref: 20/10485/108 Rev E)
- Proposed Elevations (ref: 20/10485/107 Rev B)
- Proposed Ground Floor Plan (ref: 20/10485/105 Rev A)
- Proposed First Floor Plan (ref: 20/10485/106 Rev A)
- Proposed Site Layout Plan (ref: 20/10485/108 Rev B)

**DMPA/2020/0599– Pickstock Abattoir, 2 Coal Lane, Hartshorne, Swadlincote, DE11 7FN**



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## Recent relevant planning history

9/2012/0592 - The erection of extensions and alterations at Pickstocks Meats Ltd, Ticknall Road, Hartshorne, Swadlincote - Approved 21 September 2012.

## Responses to consultations and publicity

Natural England: No objection. The proposed development will not have significant adverse impact on designated sites.

Lead Local Flood Authority: The LLFA initially objected to the proposed. However, following receipt of additional information on 25<sup>th</sup> April 2023, the LLFA has no objection to the proposals in principle.

Environmental Health: No objection subject to a condition requiring a detailed light strategy to be submitted prior to the installation of any external lighting.

DCC County Highways: No objection subject to a series of conditions in the interests of highway safety.

National Forest Company: The National Forest Company have provided a response seeking the provision of National Forest Planting as part of the development proposals.

Hartshorne Parish Council: The Parish Council object to the proposed development with reference to concerns regarding additional traffic, discharge of waste material, visual impact on the area, impact on public right of way network.

DCC Rights of Way Officer: The PROW Officer has highlighted that Hartshorne Public Footpath No.24 runs through the site and advised on the appropriate diversion of the footpath.

A total of 9 public responses have been received on the application that object to the proposed development:

- The time offered for residents to consider the proposal and respond is considered to be unreasonable.
- Requested a site visit with officers, with no positive response has been received.
- The application information is considered to be incomplete and out of date.
- Concerns regarding impacts on the public rights of way, drainage and tree loss.
- Concerns regarding further development of the site making the drainage report, site plans and any proposals to improve appearance obsolete.
- The solution is considered to be for planning staff to address the development of the site in its entirety to date.

## Relevant policy, guidance and/ or legislation

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

Guidance (PPG), together with the South Derbyshire Design Guide Supplementary Planning Document (SPD).

The relevant Development Plan policies are:

-Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), E3 (Existing Employment Areas), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF7 (Green Infrastructure), INF8 (The National Forest).

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

The relevant national policy and guidance is:

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

Additional local guidance is provided within the following:

-South Derbyshire Design Guide Supplementary Planning Document.

### **Planning considerations**

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

-Principle of development;  
-Design and amenity;  
-Access and highways;  
-Drainage; and  
-Other considerations.

### **Planning assessment**

#### Principle of development

The application seeks planning permission for an extension to the existing abattoir building at Pickstock Abattoir, 2 Coal Lane, Hartshorne, Swadlincote, DE11 7FN. The proposals also includes the widening of the existing access to Coal Lane, as well as the formation of a new car parking area to the south east of the building. In addition, the proposed development also includes the associated works necessary to facilitate the development including new landscaping and infrastructure works.

The application site is located outside of any defined settlement boundary, and is therefore, considered to be within the rural part of the District. In this location, development is governed by Policy BNE5 of the Local Plan Part 2, which enables development that is allowed for by other policies in the plan. This includes Policy E7 that states that development proposals which diversify and expand the range of sustainable employment activities on land outside of settlement boundaries will be supported by the Council where development is i). supported by a sound business case, ii). the local highway network is capable of accommodating the traffic generated, iii). development does not give rise to any undue impacts on neighbouring land; iv). it is well designed and of a scale commensurate with the proposed use, and v) visual intrusion and the impact on the character of the locality is minimised.

The application proposals are made in direct response to requirement stipulated by the Food Standards Agency, who have stated that additional built development is required at the site to ensure compliance with health and safety guidance. It is therefore understood that the works are business critical and have therefore already commenced. Whilst a specific business case has not been provided to give additional justification beyond the Food Standards Agency requirements, it is accepted that the proposals are needed to ensure the business can continue to operate to the required regulatory standards, which is considered to be sufficient to meet the required of limb i) of Policy E7. The accordance with the proposal with the other elements of Policy E7 are considered below.

In addition to the above, it should also be noted that the expansion of an existing industrial business is supported by Policy E2 of the Local Plan Part 1.

Planning permission was also granted in 2012 for a substantial expansion and re-organisation of the abattoir. The principle of expanding the facility has, therefore, previously been considered acceptable by the Council. This expansion was not however implemented. The extensions proposed as part of this application present a much smaller extension in comparison, and therefore, would be considered appropriate in this location.

The principle of development is, therefore, considered to be acceptable and in accordance with Policy E2 and Policy E7 of the Local Plan Part 1, and Policy BNE5 of the Local Plan Part 2.

### Design and amenity

The proposed development comprises of a number of extensions to the building that occupies the northern extents of the site adjacent to Coal Lane. This includes the addition of a single storey covered animal entrance on the northern elevation, and extension to lairage pens and provision of a water tank on the eastern elevation. It also includes the provision of a two-storey extension on the eastern elevation to provide additional open plan storage.

The proposed extensions are considered to be proportionate additions to the existing building to meet the operation requirements of the abattoir. The extensions are considered to be of an appropriate scale that is in keeping with the existing building. The extensions have also been constructed using the exact same material as that of the existing building. The extensions, therefore, effectively integrate into the existing built form on site, and are not considered to result in any unnecessary visual impact on the surrounding countryside. The extensions ensure that the existing building retains the appearance of an agricultural building, which is appropriate in the countryside location. Given the above and that the extensions have been made in direct response to the regulatory requirements of food production facilities, it is considered that the extensions are commensurate to the proposed use.

In terms of amenity, it is considered that on the basis that this is an established abattoir, set within a large site and that the extension are relatively minor, the proposed development would not result in an unacceptable impact on neighbouring amenity above that which is already established at the site. A number of conditions are recommended in relation to lighting, drainage and planting.

The applicants have proposed details of landscaping which is considered adequate to assimilate the building as extended in the rural landscape, with adequate planting proposed.

### Access and highways

Policy INF2 of the Local Plan Part 1 states planning permission will be granted for development where the travel generated by the proposed development has no undue impact upon local amenity, the environment, highway safety and the efficiency of transport infrastructure. Additionally, development will be granted where appropriate provision is made for safe and convenient access to and within the development for pedestrians, cyclists, public transport users and the private car.

The application proposals seeks to widen the existing vehicular access into the site taken from Coal Lane. In addition, the proposals include the creation of a new car parking area to the south east of the building.

The Highway Authority have reviewed the planning application and raise no objection on highway terms. A series of conditions are however recommended in respect of highway safety, which relate to the provision and implementation of the site access, parking arrangements and maintenance of visibility splays. The Highway Authority have not raised any concerns with regard to the impact of the proposed development on the local highway network in terms of increase in traffic.

Overall, it is considered that the proposals would lead to an improvement to the existing access and parking arrangements at the site, which is a significant benefit in favour of the proposed development.

Additionally, it is noted that the application proposals would prevent the need for some food processing operations to be undertaken offsite. As such, the proposals will result in an increase in the sustainability of the business through the reduction in the number of vehicles travelling to and from the site.

Subject to the proposed development proceeding in accordance with the proposed conditions, it is considered that it would be acceptable and in accordance with Policy INF2 of the Local Plan Part 1.

### Drainage

Policy SD3 of the Local Plan Part 1 states that the Council will seek to ensure that adequate water supply, sewerage and drainage infrastructure is delivered in tandem with identified growth.

Following an initial holding objection from the LLFA, the applicant submitted further information regarding the proposed surface drainage strategy and water quality impacts associated with the proposed development. This information highlights that the surface water drainage system is “no worse” than prior to the redevelopment and does provide a degree of betterment in terms of areas drained and run off from the site. Additionally, improvements are made in water quality run-off as virtually all of the hardstanding areas now drain to the foul system and Severn Trent Foul sewer under licences. On the basis of the above, the LLFA have removed their holding objection.

The proposed development is, therefore, considered to be acceptable and in accordance with Policy SD3.

### Other considerations - Public Rights of Way

Representations have raised the requirement for Hartshorne Public Footpath No.24, which runs through the application site, to be diverted. Whilst this process itself is independent to the planning assessment of the application, provisions have been made within the proposed plans to appropriately divert the footpath. Rerouting around the application site’s perimeter is considered to be a reasonable and deliverable diversion, without significant impact on users.

The application has been progressed by the Council’s consultants at Planning and Design Group and as a result a meeting has recently been held between some residents, the Head of Planning and Strategic Housing and one of the Directors and Planning and Design Group. At this meeting the concerns of neighbours were discussed.

### Conclusion and Planning Balance

The proposals subject to this planning application do result in some additional impact on the character and appearance of the area, neighbour amenity, and highway safety. It is considered that these points can be successfully addressed with the recommended conditions and that the application will result in positive benefits of job creation and supporting an existing business to expand.

## Recommendation

Approve with conditions.

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

## Proposed 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 Proposed Site Layout Plan (ref: 20/10485/108 Rev E), Proposed Elevations (ref: 20/10485/107 Rev B), Proposed Ground Floor Plan (ref: 20/10485/105 Rev A), Proposed First Floor Plan (ref: 20/10485/106 Rev A), unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

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

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

4. Prior to the premises hereby permitted first being taken into use, the accesses to the site shall be modified in accordance with application drawing 20/10485/108 Rev B, laid out and surfaced in a solid bound material for at least the first 10m into the site from the highway boundary.

Reason: In the interests of highway safety.

5. Prior to the premises hereby permitted first being taken into use, the entire frontage of the site shall be cleared of any obstruction exceeding 600mm in height relative to the nearside carriageway edge for a distance of 2.4m back from the carriageway edge in order to maximise the visibility available to drivers emerging from within the site onto the public highway.

Reason: In the interests of highway safety.

6. Prior to the premises hereby permitted first being taken into use, the redundant accesses shall be permanently closed in accordance with the application drawing (20/10485/108 Rev B) and the vehicular crossover reinstated as verge in accordance with a scheme first submitted to and approved in writing with the local Planning Authority.

Reason: In the interests of highway safety.

7. Prior to the premises hereby permitted first being taken into use, the car parking and manoeuvring space shall be laid out generally in accordance with the application drawing (20/10485/108 Rev B), however, notwithstanding the submitted details, each space shall measure at least 2.4m x 5.5m and be provided with 6m manoeuvring space. Thereafter, the parking and manoeuvring area shall be maintained throughout the lifetime of the development, free from any impediment to its designated use.

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

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

Reason: to ensure adequate landscaping arrangements.

9. The development hereby permitted shall be carried out in complete accordance with the Drainage Strategy '22-017 996' as received by the Local Planning Authority on 17 March 2023.

Reason: To ensure adequate drainage arrangements.

#### 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](http://www.derbyshire.gov.uk) email [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk) or telephone 01629 533190.
- b) Pursuant to Section 127 of the Highways Act 1980, no works may commence within the limits of the public highway to reinstate the footway/verge and redundant vehicular access without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 127 Agreements may be obtained by contacting the County Council via email – [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 127 Agreement.
- c) 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.
- d) The application site is affected by a Public Right of Way, Footpath 24 as shown on the Derbyshire Definitive Map. The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place - please note that the granting of planning permission is not consent to divert or obstruct a public right of way. If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Contact 01629 533190 or e-mail [ete.prow@derbyshire.gov.uk](mailto:ete.prow@derbyshire.gov.uk) for further information and an application form. However, if a right of way is required to be permanently diverted then the Council that determines the planning application i.e., Planning Authority, has the necessary powers to make a diversion order. Any development insofar as it will permanently affect a public right of way must not commence until a diversion order been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the County Council.

- e) Nuisance: The granting of this planning permission does not in any way indemnify against statutory nuisance action being taken should substantiated complaints within the remit of part III of the Environmental Protection Act 1990 be received. For further information please contact the Environmental Health Service.

**Item No.** 1.5

**Ref. No.** [DMPA/2023/1374](#)

**Valid date:** 06/11/2023

**Applicant:** W&S Cooper

**Agent:** Gwynfor Humphreys

**Proposal:** Change of use from a dwelling (use class C3) to a Children's Home (use class C3b) at 37 Winchester Drive, Linton, Swadlincote, DE12 6PP

**Ward:** Linton

**Reason for committee determination**

This item is presented to the Committee as it has been called in by Councillor Tilley.

**Site Description**

The application site is located on the northern side of Winchester Drive, inside the settlement boundary for Linton, a key service village. The site comprises a semi-detached dwelling with a parking area in front and amenity space to the rear. A large single storey adjoining garage is located on the western side in between the site and no. 35. The floor plan currently incorporates 3no. bedrooms and a bathroom at first floor level, 1no. reception room, kitchen, garage space and W/C at ground floor level.

**The proposal**

The proposal is for the change of use of the building from a dwelling (use class C3) to a children's home (use class C3b). There would be no external alterations to the building as part of the change of use. The home would be occupied by 1no. child with a staffing ratio of 2:1 ie. 2 carers to the 1 child. The Block Plan shows that there would be parking for 3. no vehicles.

**Applicant's supporting information**

Planning Application Drawings

- Location Plan (received 30/10/2023)
- Block Plan (received 30/10/2023)
- Existing and Proposed Floor Plans (received 30/10/2023)

Management Statement

This document has been prepared by the applicant. It sets out how information about the property and staffing information. (30/10/2023)

Additional Statement

This document has been prepared by the applicant. It sets out further information on staffing, shift patterns, traffic movements and parking, and other supporting information including the OFSTED rating (15/11/2023)

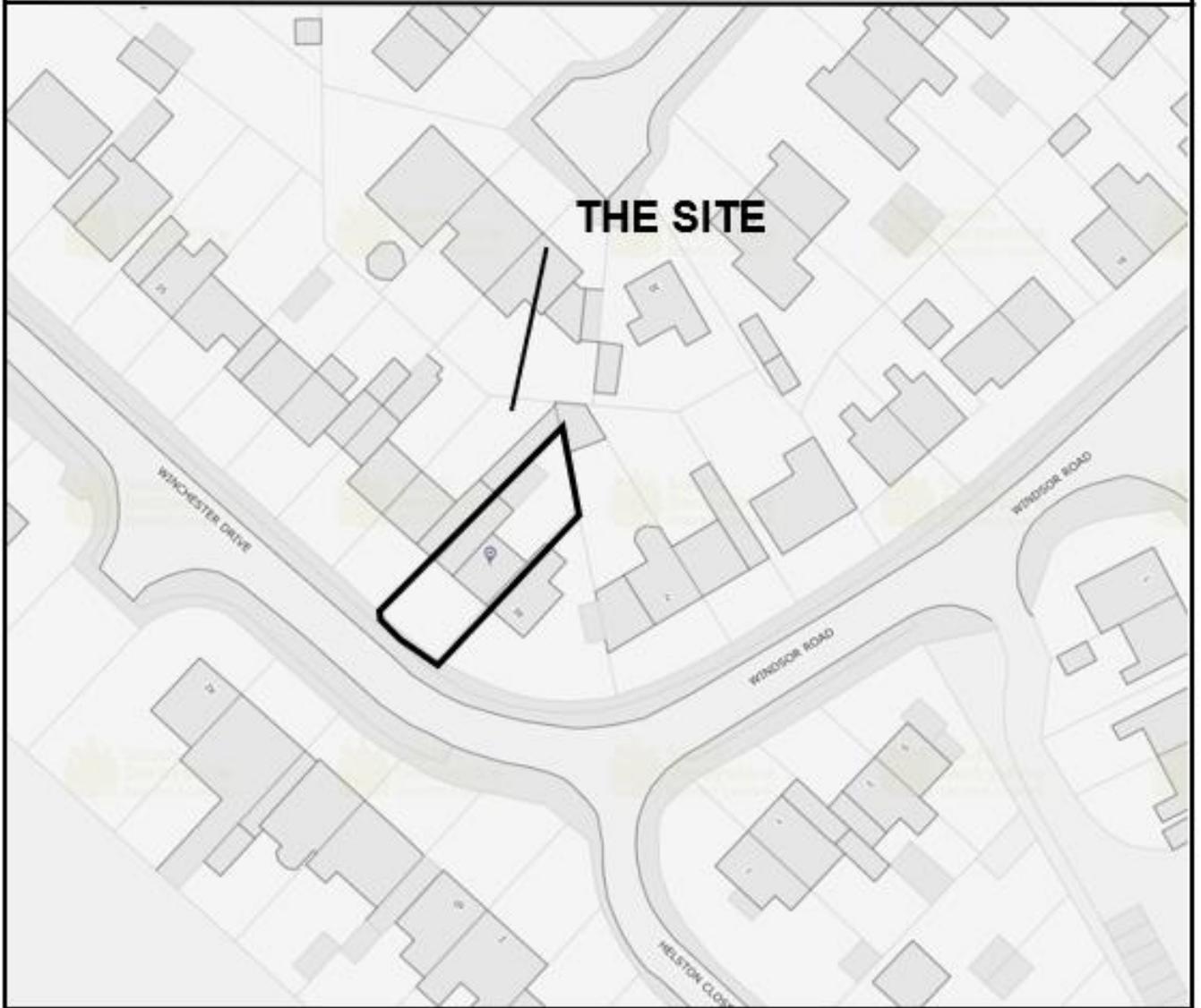
Email from Agent: Response to Consultation Feedback

Clarifications from the agent on the proposed use class and management of noise/disturbance (13/12/2023)

**Relevant planning history**

N/A

**Responses to consultations and publicity**



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South Derbyshire District Council. LA 100019461.2020

Objection to planning application DMPA/2023/1374 - Change of use from a dwelling (use class C3) to a Children's Home (use class C3b) - 37 Winchester Drive, Linton, Swadlincote, DE12 6PP

Linton Parish Council are not in agreement to the above application and would strongly object on the following grounds:

The Plans attached to the application when viewed by Councillors, prior to them making a decision, were not plans for 37 Winchester Drive, Linton. The plans shown were for a property in Welshpool. We note that this information has since been removed and correct plans have been added, but this does beg the question as to who is responsible for checking what information is provided to make sure that it is correct.

In light of this, the Parish Council have requested that District Councillor Alistair Tilley calls this application before a full Planning Committee Meeting for a decision to be made. We do not agree that this decision should be made under delegated authority by an officer alone.

1. Winchester Drive, Linton is a residential area and in our opinion it is not a suitable place for a Children's Home. In our opinion it will have a negative effect on amenity (neighbours and community), which if granted would include noise disturbance regarding shift changes.
2. The proposal is totally out of character for the area, and we feel it will have a negative/adverse impact to the surrounding residents in that particular locality. If the application were to be passed it would be entirely to the detriment of all local residents who have for many years enjoyed living in a community-spirited, quiet residential area.
3. Parking is also a concern as the properties were built entirely for residential use and as such are not intended to be used by companies to operate businesses from. No staff would be permanently living in the premises as the staff rota will operate on a shift basis. This will increase the traffic in that area, with the comings and goings, which is not acceptable.
4. The Parish Council and residents are also very concerned about any anti-social behaviour that could arise if the property was converted to a Children's Home.

For the above reasons the Parish Council would strongly suggest that this application be refused.  
(05/12/2023)

#### County Highways Authority

It is understood that there will be a maximum of 3 staff on site at any time. It is clear that on site parking is available for 3 cars which is considered satisfactory to serve the proposed development. The proposed use of the property may increase vehicle movements above that generated by a 3 bed residential dwelling but any increase would be minimal and, given that Winchester Drive is not a through route, would not be detrimental to the operation of the road network or on road safety. Taking the above into account there are no highway objections to the planning application.  
(29/11/2023)

#### Environmental Health

A response was initially received on 17 November 2023, however this was withdrawn and superseded with comments on 30 November 2023 as follows.

In regard to the above application, I have concerns regarding noise due to experiences with other homes of this nature on the district. The proposed residents are likely to have been exposed to significant trauma which may lead to behavioural problems. The semi-detached nature of the house means that noise generated within the property is likely to be audible next door.

I therefore recommend the following condition -

Prior to the permission being granted, a scheme for the control and mitigation of noise emanating from the building shall be submitted to and approved in writing by the Local Planning Authority.

The approved scheme shall be fully implemented before the use hereby permitted commences and thereafter operated in accordance with it with any mitigation maintained in situ/in working order. (30/11/2023).

*Subsequent Response* (following email from agent on 13/12/2023) - Thanks for the information. It is good to hear they intend to soundproof the property and a full specification for this works should be provided to address our proposed condition.

#### SDDC Environmental Services

The developer should contact the Environmental Health section on all matters related to food hygiene and health and safety. Food businesses must register with the local authority at least 28 days prior to opening for business. (14/11/2023).

#### Neighbour Reponses

2no. objections were received in response to the planning consultation. The comments highlighted the following matters:

- a) The property is semi-detached, not detached as highlighted in the Management Statement, which raises a significant difference that has not been taken into account by Environmental Health;
- b) Whether class 3b is the appropriate use class taking into account the shift patterns presented; and
- c) The potential for disruptive behaviour in an area with elderly residents.

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

The relevant Development Plan policies are:

- Local Plan Parts 1 and 2: H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), INF2 (Sustainable Transport), BNE1 (Design Excellence)

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

#### **Planning considerations**

The determining issues are as follows:

1. Principle of the development;
2. Highway Safety;
3. Residential Amenity;
4. Other Matters.

#### **Planning assessment**

##### Principle of the Development

There is no specific policy that relates to the principle of the provision of children's care homes within the Local Plan. The Department for Levelling Up, Housing and Communities Message from Chief Planner (dated 19 June 2023), which draws on the Planning for Accommodation for Looked After Children Ministerial Statement (dated 23 May 2023) however states:

*'The planning system should not be a barrier to providing homes for the most vulnerable children in society. The purpose of the statement is to remind local planning authorities that, as set out in paragraph 62 of the National Planning Policy Framework, local planning authorities should assess the size, type and tenure of housing needed for different groups in the community and reflect this in planning policies and decisions. Local planning authorities should consider whether it is appropriate to include accommodation for children in need of social services care as part of that assessment.'*

*Local planning authorities should give due weight to and be supportive of applications, where appropriate, for all types of accommodation for looked after children in their area that reflect local needs and all parties in the development process should work together closely to facilitate the timely delivery of such vital accommodation for children across the country'.*

Policy H1 of the Local Plan sets out the Settlement Hierarchy for the District which is based on the range of services and facilities that are offered by each settlement. Policy SDT1 identifies the locations for which settlement boundaries are defined. The application site is located within the key service village of Linton where development of all sizes is considered appropriate, and the specific context of comprises predominantly residential uses. The principle of the development for a children's home would accord with Policy H1.

Overall, the proposal would accord with national and local policy and would be acceptable in principle.

### Highway Safety

The NPPF (Paragraph 111) states that: *'development should only be prevented or refused on highways ground if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'*

Policy INF2 sets the policy framework for sustainable transport and states that planning permission will be granted for development where appropriate provision is made for safe and convenient access to and within the development for users of the private car and other modes of transport.

The proposal would use the existing access to the site. The applicant has provided information on the traffic movements, parking and staffing shift patterns in the Additional Statement (15/11/2023). Three parking spaces would be provided on site.

The concerns of the Parish Council related to the parking provision are noted. The Highway Authority however raised no objection to the proposals and confirmed that the level of parking provision would be satisfactory to serve the development, and noting specifically that vehicle movements would not be detrimental to the operation of the road network or on road safety.

It is considered that there would be sufficient parking to meet the requirements of the development taking into account the number of staff, which would comprise 2 no. carers. The applicant's Management Statement identifies that the third parking space would be available should the Manager visit the property, and staff team meetings would take place off-site. Taking all of this into account, and in particular the absence of any objection from the Highway Authority and wording of the NPPF, it would not be reasonable to recommend refusal on the potential impact of the development on the public highway.

The proposal is considered to accord with Policy INF2 of the Local Plan. It is recommended that a condition be added to secure the parking layout presented on the site plan prior to first use. Additionally, the matter of roadside parking and importance of using the parking onsite could be highlighted through an informative attached to any forthcoming decision.

### Amenity

Policy BNE1 sets out principles for design excellence, which is supported by the detail within the South Derbyshire Design Guide SPD. Policy SD1 states that the Council will support development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments.

The recent appeal decision 61 Ashby Road, Woodville (DMPA/2022/1202, appeal reference: APP/F1040/W/23/3319968) is noted. In this case the Planning Inspector recognised that there is a difference in use of a property as dwellinghouse or care home, however concluded that the proposal would not result in any unacceptable impacts on the living conditions of neighbouring occupants.

37 Winchester Drive includes a semi-detached dwelling and therefore has one neighbour (no. 39)

immediately adjacent. No. 35 is separated from the dwelling by its single storey garage. There are neighbouring dwellings also to the north and south.

The concerns of the Parish Council and local community are noted in respect to the potential for noise and disturbance to arise from the development, particularly given the semi-detached nature of the dwelling. The Council's Environmental Health Officer (EHO) has been consulted as part of the planning process and initially raised concerns due to experience with other children's homes within the District. It was noted that the semi-detached nature of the house would mean noise generated within the property would be audible next door, and a condition was recommended for a scheme for the control of noise mitigation to be submitted prior to determination.

The applicant responded to the EHO comments in the email received 13 December. This email confirmed that there would be a scheme of soundproofing and acoustic design to minimise sound transmission between rooms and areas; and provision of designated quiet areas within the existing garage floorspace. The email also highlighted that staff are trained with a view to minimising disruption from the home.

The EHO reviewed the applicant's response on 13 December and requested a full specification for the soundproofing works to be provided through planning condition. Although it is noted that the development would likely have a similar level of activity and disturbance as could occur from any C3 dwelling, this is considered to be a reasonable pre-commencement requirement in this instance due to the semi-detached nature of the dwelling. With this condition in place it is considered that the proposal would comply with policies BNE1 and SD1 and that there would be no undue impact on neighbouring land uses.

### Other Matters

The local community highlighted some additional matters which are addressed below.

One neighbour highlighted that the property is semi-detached and that this was not picked up in the initial EHO response. The initial EHO response on 17 November 2023 was withdrawn and an updated response provided taking into account the semi-detached nature of the property.

The use class of the development was queried with the applicant. It is noted that similar applications within the District have sought use class C2, however the current application is for use class C3b. The definition of use class C3b is for 'use as a dwellinghouse b) accommodating not more than six residents living together as a single household with care for residents', which the applicant has confirmed is appropriate. The application relates to provision of care for a single child with two carers and would therefore meet this definition.

The Parish Council commented that the proposal would be out of character for the area and that the property was not intended to be used by companies to operate businesses from. It is noted that the application would not result in any external modifications to the dwelling. The use class that is applied for would not result in a material difference in character from that of an ordinary C3 dwelling, as is emphasised through the recent appeal decision for 61 Ashby Road (DMPA/2022/1202, appeal reference: APP/F1040/W/23/3319968).

The Parish Council raised concerns about anti-social behaviour that could arise. It is noted that the behaviour of occupants cannot be controlled by the Use Class, and the same safety concerns could arise for any C3 (dwelling). In the case of the children's care home proposed, the applicant has set out policies and procedures in the Management Statement and Additional Statement that should provide some reassurance as to how the home would be managed to avoid such concerns. It is also noted that the building would accommodate only 1no. child, who would be supervised by professional carers, which would limit the potential for such occurrences.

It is recommended that the comments from Environmental Services related to food hygiene and health and safety be attached to any forthcoming planning permission by informative.

### Conclusion

Section 38 (6) of the Planning and Compulsory Purchase Act (2004) sets out that the determination of applications must be made in accordance with the development plan, unless

material considerations indicate otherwise. In this case there is no specific policy that relates to the principle of the provision of children's care homes within the Local Plan, and the Department for Levelling Up, Housing and Communities Message from Chief Planner (dated 19 June 2023) and Planning for Accommodation for Looked After Children Ministerial Statement (dated 23 May 2023) are material in the principle of this case. The proposal would provide sufficient parking for the use and the Highway Authority is satisfied that there would be no material impact on the safety of the public highway. The Council's EHO requested specification details for the proposed soundproofing and noise mitigation which could be secured by planning condition. It is also noted that the building would be occupied by only 1 no. child. With conditions in place to control the intensity of the use, it is considered that the proposal would be in accordance with the development plan policies related to highways and amenity. Accordingly, the application is recommended for approval subject to conditions.

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

### **Recommendation**

Approve 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: Location Plan (received 30/10/2023), Block Plan (received 30/10/2023), Existing and Proposed Floor Plans (received 30/10/2023), Management Statement (received 30/10/2023), Additional Statement (received 15/11/2023), and Email from Agent (received 13/12/2023), unless 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: In accordance with policy BNE1 of the Local Plan and for the avoidance of doubt and in the interests of achieving sustainable development.

3. Prior to commencement of the development, a scheme for the control and mitigation of noise emanating from the building shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the use hereby permitted commences and thereafter operated in accordance with it with any mitigation maintained in situ/in working order.

Reason: In the interest of the amenity of the locality and in accordance with Policies BNE1 and SD1 of the Local Plan.

4. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 2015 (as amended) the premises shall be used solely for the purposes of a children's home, as defined by Class C3(b) of that legislation, and for no other purposes whatsoever. Proposals to use the premises for any other purpose within that class shall not take place unless a separate formal planning application has first been submitted to and approved in writing by the Local Planning Authority.

Reason: To enable the Local Planning Authority to retain a degree of control over the development with respect to amenity considerations and parking, and to avoid unsustainable development in accordance with Policies BNE1 and INF2 of the Local Plan.

5. The use hereby approved will accommodate a maximum of 1 no. child and 3 no. carers (including 1 no. manager) within the site at any one time as per the Additional Statement (received 15/11/2023). This arrangement will be retained for the lifetime of the development.

Reason: To enable the Local Planning Authority to retain a degree of control over the development with respect to amenity considerations and parking, and to avoid unsustainable development in accordance with Policies BNE1 and INF2 of the Local Plan.

6. Prior to first use of the development, the parking arrangement for the site shall be set out as shown on the approved Block Plan (received 30/10/2023). The parking arrangement shall be retained as such for the lifetime of the development.

Reason: In the interests of ensuring sufficient parking for the development and promoting sustainable modes of transport in accordance with policy INF2 of the Local Plan.

Informatives:

- a. The developer should contact the Environmental Health Section on all matters relating to food hygiene and health and safety. Food businesses must register with the local authority at least 28 days prior to opening for business.

**Item No.** 1.6

**Ref. No.** [DMPA/2023/1229](#)

**Valid date:** 19/10/2023

**Applicant:** Mark Earp **Agent:** Andrew Large Surveyors

**Proposal:** Conversion of agricultural buildings to B8 use (Storage and Distribution) and retention and change of use of 23 shipping containers to B8 use at The Stables, Cockshut Lane, Melbourne, Derby, DE73 8DG

**Ward:** Melbourne

### **Reason for committee determination**

The case has been called in by Councillor Carroll as local concern has been expressed on a particular issue and it is considered that the issues in the case are very finely balanced.

### **Site Description**

The site is located on the western side of Cockshut Lane within the rural area to the west of the settlement boundary for Melbourne. It comprises a gravelled area that was formerly used for horticulture and incorporates 3no. former agricultural buildings, a telecommunications mast, and an existing access to Cockshut Lane, opposite Hope Street, that was granted planning permission retrospectively (ref. DMPA/2023/0359). The site is bordered by mature trees to the east, south and west, beyond which are agricultural fields. The farmhouse and The Butts dwellings are located to the north-west of the site together with other agricultural buildings and the original site access road. The topography in the area is generally flat.

A review of Google Earth imagery related to the site shows that the land was occupied by polytunnels with hardstanding pathways in between and immature boundary planting in 1999. By 2007 the polytunnels had mostly been removed. By 2016 some containers were present onsite, and the site appears potentially overgrown, as there is green vegetation coverage. By 2021 the site appears to have been cleared from vegetation, and by 2022 hardstanding, a new access road from Cockshut Lane and additional containers were apparent.

### **The proposal**

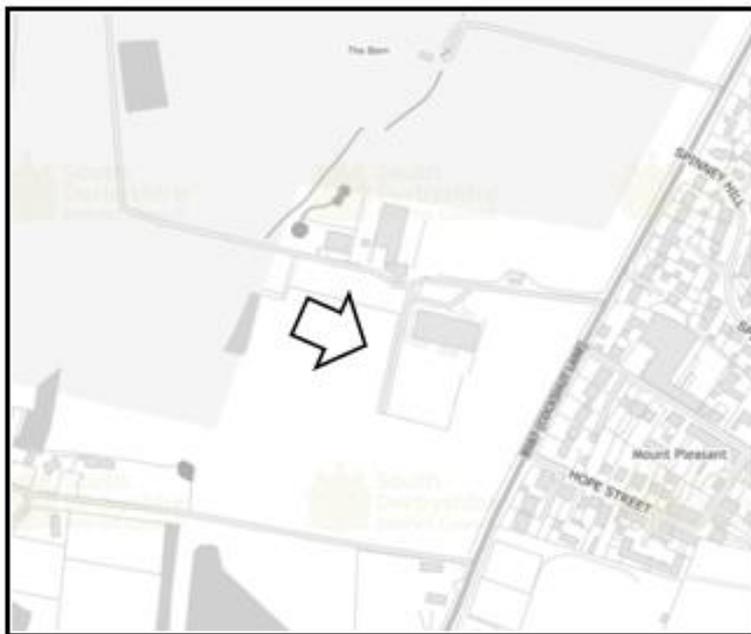
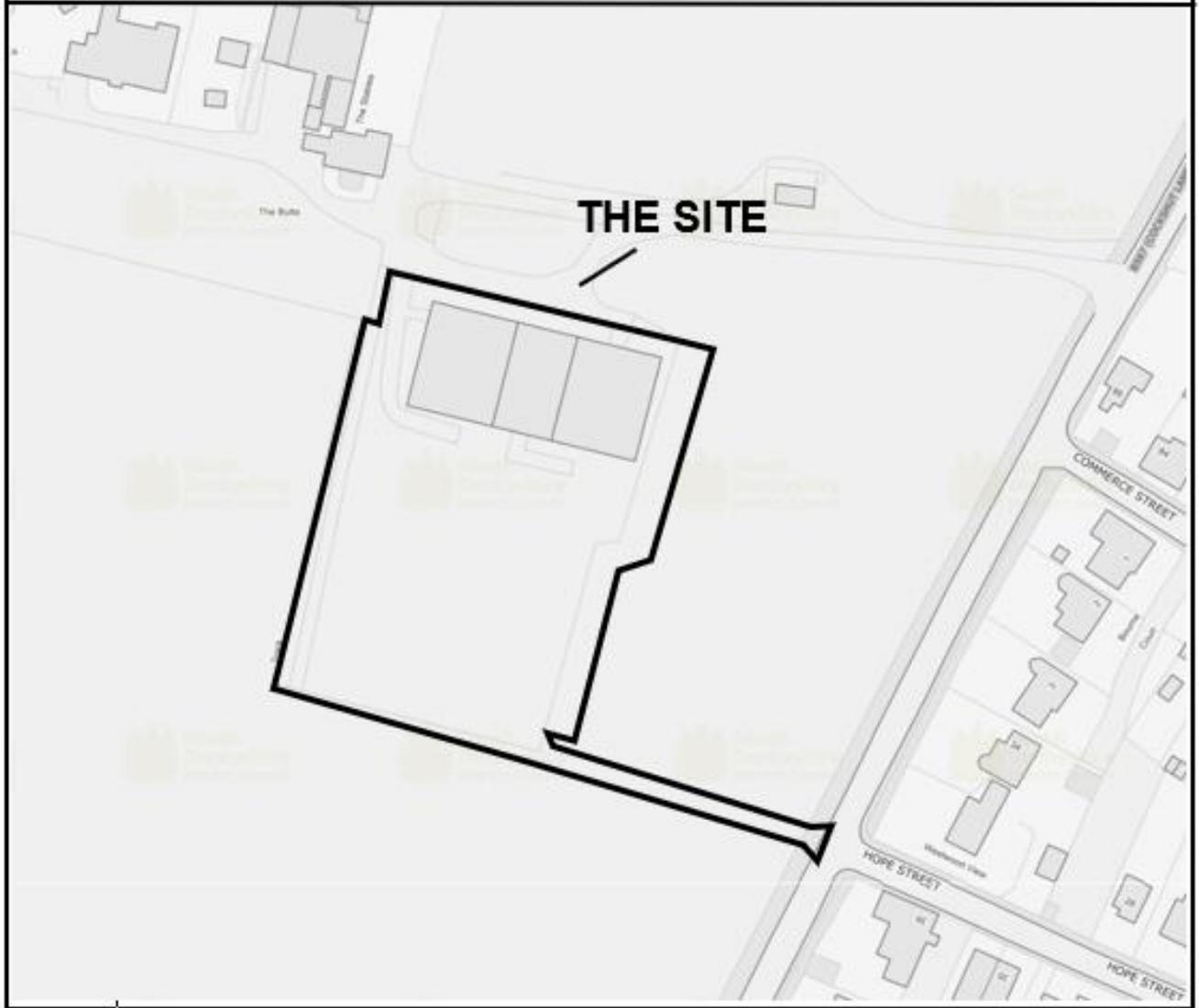
The application seeks planning permission for the conversion of agricultural buildings for B8 use (Storage and Distribution) and retention and change of use of 23 shipping containers to B8 use. No changes are proposed to the existing buildings which comprise 3no. adjoining steel buildings (green painted) with gable roof design, 3no. roller doors (1 on each unit) on the northern elevation, and 1no. roller door on the central unit on the southern elevation. Two types of container are proposed for retention within the site: nine of c. 12m length; and the remainder of c. 6m length. Both types of container are c. 2.4m in height. The containers, which were present at the time of the Officer's site visit, would be repositioned from their current placement to the linear arrangement following the western site boundary as shown on the proposed site plan. The proposed site plan shows that there would be additional woodland planting along the eastern and southern boundaries, together with close board fencing that has been incorporated into the plans at the request of Officers. The development would use the access from Cockshut Lane that was permitted under ref. DMPA/2023/0359.

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

#### Application Drawings

- Location Plan, Revision A (25 September 2023)

**DMPA/2023/1229– The Stables, Cockshut Lane, Melbourne, Derby, DE73 8DG**



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South Derbyshire District Council. LA 100019461.2020

- Proposed Site Plan, Revision F (17 January 2023) – updated to incorporate clarifications in landscape labelling, repositioning of screening fences, and vehicle restrictions compared to earlier version
- Existing Building Elevations and Floor Plans (4 October 2023)
- Proposed Building Elevations and Floor Plans (4 October 2023)
- Existing Container Drawings (4 October 2023)
- Proposed Container Drawings (4 October 2023)
- Swept Path Analysis (28 November 2023)
- Materials Details (4 October 2023)

Planning Statement (25 September 2023)

An assessment of the proposed scheme against the development plan policies by the applicant's planning agent.

Economic Statement (25 September 2023)

An assessment of the viability and demand of the proposed development by the applicant's planning agent.

Landscape and Visual Appraisal (25 September 2023)

An assessment of the landscape and visual impact of the scheme following the Guidelines for Landscape and Visual Impact Assessment, Third Edition 2013 (GLVIA3) (Routledge, 2013) and prepared by the applicant's landscape consultant.

Transport Statement and Appendices (12 October 2023)

An assessment of the impact of the proposal on the public highway by the applicant's planning agent.

Email from Agent and Supporting Traffic Information (28 November 2023)

Supplementary explanation on transport impact from the applicant's agent, submitted in response to the initial Highways Officer comments.

Employment Statement (06 December 2023)

Statement clarifying expected employment generation from the applicant's agent.

Business Statement (08 December 2023)

Statement to demonstrate business case for the development as required under policy E7, prepared by the applicant's agent.

Email from Agent (08 December 2023)

Clarification on matters related to the proposed development including anticipated business users prepared by the applicant's agent.

**Relevant planning history**

9/2005/0169 The erection of a steel framed agricultural building - approved

9/2014/0875 The erection of a greenhouse and agricultural building - approved

9/2016/0970 Erection of 20m monopole telecommunications mast and installation of ancillary infrastructure and associated works – approved

9/2017/1005 Prior notification for the erection of an agricultural building for storage of horticultural equipment and use as a potting shed – prior approval not required

9/2018/0859 Prior notification for change of use of agricultural building to a dwelling house and for associated operational development - approved

DMPA/2021/1624 Removal of an existing 20m monopole supporting 6 no. antenna, 4 no. cabinets and 1 no. dish to be replaced by a 30m lattice tower supporting 6 no. antenna, 8 no cabinets, 1 no dish and development ancillary thereto - approved

DMPA/2023/0359 Retrospective application to tarmac the initial 20M of a driveway to the farm and telecoms mast situated on the farm - approved  
DMPN/2023/1438 Prior approval for the change of use from offices (Use Class E) to a dwelling house (Use Class C3) - withdrawn  
DMPA/2023/1624 Proposed change of use from offices to a dwelling house (Use Class C3) – pending determination

## **Responses to consultations and publicity**

### Melbourne Parish Council

Members of the public attended the meeting to express their concerns regarding the increase in traffic on Cockshut Lane, which may be a potential issue. Parish Councillors noted and agreed with these concern (17/11/2023)

### County Highways Authority

#### *Initial response –*

Access - It must be satisfactorily demonstrated that the conditions imposed on planning ref: DMPA/2023/0359 have been implemented i.e. The access will be retained with a minimum of 2.4 x 120m visibility sightlines in both directions for the lifetime of the development, unless otherwise agreed in writing by the Local Planning Authority. In addition, evidence must be provided to demonstrate that a Section 184 licence (Highways Act 1980) was granted to construct the access.

It is also considered that as the access is to be formalised for a B8 (storage and distribution) use then it should be able to accommodate all vehicles associated with a B8 land use, which includes large rigid and articulated HGV's. The applicant must therefore demonstrate that all vehicles associated with a B8 (storage and distribution) land use must be able to satisfactorily enter and leave the site without resulting in potential conflict with other road users. It must be shown that all vehicles can enter and leave the site at the same time to ensure vehicles do not have to wait on the highway to

enter the site. The access to the site must be provided with kerbed radii and for a distance of at least 15m into the site to ensure damage is not caused to highway verge and street furniture.

Site Layout - Swept path assessments must be shown for all types of vehicles associated with a potential B8 (storage and distribution) land use entering and leaving the site from the access road. The proposed area of hardstanding within the site must be shown with turning arrangements for all vehicles.

Proposed Trip Generation - It is noted that the trip generation of the proposal is based on data for an existing operation in Nuneaton. However, it is noted that data is only provided for 2 weeks in January 2023. This is not a neutral month and it is considered that the data may therefore not be typical for the operation. It is requested therefore that further data be provided that covers spring and summer months as it is considered that these are the peak months for this type of land use. Ideally a full years data should be submitted for review.

Hours of Operation - It is considered that the hours of operation of the proposed facility should be limited to 8am to 6pm to ensure the amenity of nearby residents is not compromised. Upon receipt of the requested information further comments will be issued.

*Subsequent response following receipt of further transport information –* The applicant has responded stating that they would be willing to accept a planning condition restricting use of the access to vehicles no greater than 7.5T. This is considered to be acceptable in principle but it must be ensured that the proposed condition is appropriate and enforceable. It is therefore required that such a planning condition requires the submission and approval of a Traffic Management Plan prior to any use of the access. The Traffic Management Plan should provide details of the vehicle restriction, how the applicant would make future occupiers aware of the restriction, how they would monitor and enforce the condition and what penalties would be imposed on occupiers should they break the condition. As previously stated no use of the access should be permitted until the Traffic Management Plan has been approved.

In addition the highway authority raised the issue of the access being constructed in accordance

with the approval of a Section 184 Licence. In response to this the applicant has stated that they were wrongly under the impression they could construct this access as they had done previously with other agricultural tracks. Having now been made fully aware of the requirements and obligations for a Section 184 license the applicant would work proactively in this regard to ensure all legislation is complied with. At this stage the exact specification is yet to be confirmed and on the basis the access is not presently being used, as the buildings are empty and redundant, it is thought prudent to adhere to any subsequent consent and conditions therein.

It is evident therefore that the access is currently not being used as this must remain the case until a Section 184 Licence has been applied for and approved by the LHA to ensure that the access has been constructed appropriately and is not detrimental to highway safety. It is considered that this requirement should be imposed by a planning condition. Taking the above into account the highway authority has no objections to conditions being imposed should approval be granted (08/12/2023).

#### Environmental Health Team

I have no objections to the proposal; however, I suggest it would be sensible to safeguard amenity if there was a condition regarding hours of use. I see they have suggested 7am to 9pm daily in the transport statement to fit in with other units in the area. Can you please verify these are the proposed hours. Additionally, details of external lighting requested prior to the installation (06/11/2023).

#### Economic Development Team

We are happy to support the project and agree with the need case and the business plan (20/12/2023).

#### Derbyshire Wildlife Trust

Based on the proposals and the information submitted, we advise that the application considered low impact and unlikely to have a substantive adverse effect on biodiversity. We do not consider ecological surveys or a Biodiversity Net Gain assessment necessary or proportionate in this instance. The existing site appears to consist of largely hardstanding area, and we do not consider the existing building to be suitable to support roosting bats. We welcome the proposed woodland planting and recommend that this is secured through a suitable worded landscape plan. We recommend that native species are planted. If the applicant wishes to secure further biodiversity enhancements, we recommend that the enhancement measures are secured. (28/11/2023)

#### Tree Officer

The site has a single line of mature hybrid poplar trees on the east west and south boundary of the site. The crowns of the poplar are up to 10.0m in width. The new woodland planting of 0.189ha (about 473 trees at 2.0m spacing) is proposed to consist of 50%(237) oak, 20% (95) holly and 30% (142) hawthorn. Oak is a light demanding tree and is unlikely to establish under the crowns of the existing hybrid poplars. The hawthorn and holly are shade bearing but will not establish in dense shade or in soil that has a moisture deficit. I suggest that oak transplants are planted in groups of at least 9 to 25 trees on the outside of the two planting blocks outside of the crowns of the hybrid poplars trees, with holly and hawthorn planted in groups of 9 to 25 trees at least 5.0m from the stems of the mature hybrid poplar trees. I am happy with the above 3 species of tree and shrub for this site. However, if more diversity of species is requested, I suggest field maple, hornbeam and hazel that are shade bearing trees and shrub species would be suitable on this site. (28/11/2023)

#### Other Consultees

Derbyshire County Council Lead Local Flood Authority and Severn Trent Water were consulted and made no comments. East Midlands Airport Safeguarding raised no objections (29/11/2023).

#### Melbourne Civic Society

A detailed response was received on 05/12/2023 from the Civic Society which is summarised as an objection to the application 'as a bad case of Urban Creep'. The response highlights that the site has a history of non conformity; asserts that the Local Plan does not support general warehousing in this location, that the business case is weak; and suggests that the site should be

considered as quasi green belt.

### Neighbour Responses

30 objections were received from 26 members of the local community, with some members commenting multiple times with points made summarised:

- a) Local plan does not support general warehousing / self storage in this rural location;
- b) There is a lack of benefits to the local community or environment;
- c) There are other more suitable sites locally and the proposal risks setting a precedent that will encourage further similar development;
- d) Inaccuracy in the development description which did not initially refer to the existing agricultural use of the site and then confusion when the development description was changed to reflect this;
- e) Ambiguity in the B8 use which could allow open storage and dangerous substances, and unrestricted vehicle movements under the remit of 'distribution';
- f) Request for the B8 use to be restricted to agricultural storage;
- g) Previous planning decisions for agricultural uses would be breached;
- h) Safety of the proposed access and significant increase in traffic movements opposite Hope Street with reports of speeding vehicles, traffic accidents along Cockshut Lane and particular concern related to conflict with the Melbourne Sports Partnership site and activities hosted there (rugby, sports groups etc. cited), school bus stops, pedestrians as well as other vehicles;
- i) Traffic accessing the development would be on smaller roads within the network as lorries are unable to use Swarkestone bridge;
- j) The new access from Cockshut Lane sought retrospectively comprised a 'stealth' measure to prepare for the storage proposal, its proximity to the high voltage power transformer and publicity for the previous planning application DMPA/2023/0359, together with assertion that the visibility splays cannot be achieved;
- k) The new access road is not shown on the site plan;
- l) The access from Cockshut Lane would need to be widened to allow for B8 use, and the 7.5tonne weight limit would allow vehicles that fall within the definition of a Heavy Goods Vehicle;
- m) A request for permanent speed cameras;
- n) The positioning of the gates (request for them to be closer Cockshut Lane to prevent parking on the access road;
- o) Transport Statement is not reliable as relies on data from a comparable site in Nuneaton, instead of site specific data;
- p) The required visibility splays cannot be achieved.
- q) Loss of greenspace and biodiversity, the impact on views of the rural area and inadequacy of trees (which could be felled in future) for screening;
- r) Impact on the Conservation Area;
- s) Retrospective nature of the application with shipping containers in place and buildings used for storage;
- t) Gradual erosion of small horticultural distribution unit to an industrial operation, and references to changes within the site over time;

- u) Inaccuracies on the distances cited in the landscape assessment, concern about the time of year the survey was undertaken and disregard for disturbance impacts, lighting and other matters;
- v) Amenity concerns related to noise and light pollution (including from vehicle headlights);
- w) The opening hours would be very long;
- x) Impact on property values;
- y) The telephone mast and previously approved access.

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

The relevant Development Plan policies are:

- Local Plan Parts 1 and 2: E7, BNE5, INF2, BNE1, BNE4, INF8, BNE3
- Melbourne Neighbourhood Plan: DP2, OS3, OS4

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

### **Planning considerations**

The determining issues are as follows:

1. Principle of the Development;
2. Highways and Parking;
3. Design and Impact on the Character of the Surrounding Area
4. Other Matters.

### **Planning assessment**

#### Principle of the Development

The site is located outside of a defined settlement and within the rural area. Policies BNE5 and E7 of the Local Plan and Policy DP2 of the Melbourne Neighbourhood Plan relate to development in the rural area. Policy BNE5 supports development that is allowed for under Policy E7 provided it would not unduly impact landscape character and quality, biodiversity, best and most versatile agricultural land, and heritage assets. Policy E7 states that Council will support development proposal which diversify the range of sustainable employment activities on land outside of settlement boundaries provided they support the social and economic needs of the rural communities in the District. Also, that the Council will support proposals for the reuse, conversion and replacement of existing buildings and development of new buildings where: it is supported by a sound business case, the local highway network is capable of accommodating the traffic generated, the development will not give rise to any undue impacts on neighbouring land, it is well designed and of a scale commensurate with the proposed use, and visual intrusion and the impact on the character of the locality is minimised.

Policy E7 therefore offers support for a proposal of this nature in the rural area, provided it can demonstrate that that the proposal is for a business that can support the social and economic needs of rural communities, that is supported by a sound business case, and is acceptable within the context of the criteria stated (traffic, impacts on neighbouring land etc.) in the policy wording and also in Policy BNE5.

#### Employment Activities and Need

An Economic Assessment was submitted as part of the planning application. This was supplemented with an Employment Statement on the request of Officers. The Economic Assessment states that the applicant has been approached by both local businesses and private

individuals for the rental of storage space. It states that there is one other storage facility within a 5 mile radius of the site (Newton Self Storage, which is 1.3 miles distant), and that there is a demand for storage in the area. It is noted that the comments from the neighbouring community highlighted other storage facilities, however on review of these alternatives they are within the 6-10 mile radius from the site, and the applicant's statement that there is one other storage facility within a 5 mile radius is not disputed. The Council's Economic Development team has also reviewed the Economic Assessment and confirmed that there is a need for such facilities in the locality.

Additionally, the Case Officer met with the Head of Economic Development on 17/01/2024 to further understand the need for B8 use in the local area following feedback from a member of the local community on this aspect. It was confirmed that there is a clear need for this type of development, as there is very little business space available in the District and in Melbourne in particular (examples such as the Castle Lane industrial estate and development on the northern edge of settlement were referenced). However, there are a lot of businesses in Melbourne, many of which are smaller enterprises or home based, which would undoubtedly benefit from the provision of storage. It was noted that if businesses can utilise storage offsite, it would likely increase production onsite. The search area of 5 miles for other storage providers was also acknowledged as reasonable for the locality, with only one other competitor in this radius for businesses to choose from.

In terms of employment, it is acknowledged that there would be modest employment generated from the development, as Officers would agree is typical for storage uses. Although it is difficult to quantify, the statement suggests the space could support 10 full time equivalent jobs, which is based on '*employment densities seen elsewhere in the self-storage sector*'. The statement highlights that it would be a low scale enterprise, with self-storage managed by the applicant. It anticipates that there would indirect employment related to van drivers. Other than employment it is noted that there would be benefits through provision of excess storage to local businesses, with the following examples of the types of users that may utilise the building: surveyors that are obligated to keep files for a prescribed number of years; personal storage during house transitions; and contractors that have equipment with no fixed place of work.

### Business Case

A Business Statement has also been submitted as part of the application, which has been reviewed by the Council's Economic Development team. The Economic Development team made enquiries related to the users that the units would be aimed at (households or businesses), the security provision, and other clarifications related to whether users would be able to register as trading from the site. It was confirmed by the applicant's agent that the units would be aimed at domestic householders and small to medium sized businesses, there would be a security gate (the details of which could be confirmed as part of planning conditions), and users would not be able to use the site as a registered trading address. Following these clarifications, Economic Development confirmed support for the project and agreement with the business plan.

Provided that the other criteria of Policies E7 and BNE5 of the Local Plan, and Policy DP2 of the Melbourne Neighbourhood Development Plan can be met (appraised below), it is considered that the proposed development would be acceptable in principle.

### Highways and Parking

The NPPF (Paragraph 111) states that: '*development should only be prevented or refused on highways ground if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*'

Policy INF2 sets the local policy framework for sustainable transport and states that planning permission will be granted for development where appropriate provision is made for safe and convenient access to and within the development for users of the private car and other modes of transport. As above, Policy E7 also requires consideration of whether the local highway network can accommodate the traffic generated.

A Transport Statement has been submitted as part of the application which contained traffic data from a comparable site (i.e. 1,225m<sup>2</sup> B8 Use, Storage and Distribution, at Extra Room Storage, Drayton Grange Farm, Fenny Drayton in Nuneaton). The Highway Authority initially requested further traffic data, as the Transport Statement referred only to data from 2 weeks in January 2023 which was not considered to be a 'neutral month'. In response the applicant provided further traffic data for the proxy site in April 2023 and confirmed that the type of vehicles observed were: 60% cars; 8% small vans; 33% users in transit vans; and no HGVs. The average daily trips were identified as 18 vehicles (36 two-way movements) per day for January and 23 vehicles (35 two-way movements) per day for April. A member of the local community challenged the use of the proxy site. Whilst site specific data would be ideal, the use of proxy sites is not uncommon in the assessment of transport impacts and the approach was not disputed by the Highways Authority. Based on the information provided, the Highways Officer confirmed that the volume of trips would be acceptable. It is considered the local highway network would be able to accommodate the level of traffic generated as required by Policy E7.

The local community and Parish Council raised concerns about the safety of the access and impact of the proposal on the public highway as noted above. On initial review of the scheme the County Highways Authority also expressed concerns. Initially, it was requested that the site access be formalised and swept path analysis provided for a B8 storage use in anticipation of larger vehicles. Queries related to the traffic data and section 184 licence were also raised. There has been considerable dialogue between Officers, the Highways Authority and planning agent on matters of highways during the application process. In order to overcome the concerns of the Highway Authority the applicant proposed a restriction on vehicles entering the site of 7.5T and provided swept path analysis accordingly. Officers considered whether such a restriction on the size of vehicles would be enforceable. It was determined that the vehicle restriction would be enforceable, subject to the submission and approval of a Traffic Management Plan prior to first use. The Traffic Management Plan would require further submission of details related to how future users of the site would be made aware of the vehicle restriction and how the applicant would monitor and enforce the limit. It is noted that the latest site plan incorporates proposed signage of the weight restriction at the point of access. On this basis it is considered that the proposal would not materially impact the safety of the public highway and would comply with policy INF2.

The Highways Authority also recommended a condition related to implementation of the section 184 licence for the access and implementation of the visibility splay as previously approved under ref. DMPA/2023/0359. As this falls under separate legislation (the Highways Act) it would not be appropriate to attach as a planning condition but is recommended that this requirement be emphasised through an appropriately worded informative.

The request for a Construction Management Plan is also noted, although not considered to meet the conditions test of 'necessary' as there would be no construction work as part of the proposed development, only the incorporation of landscaping.

#### Design and Impact on Character of the Surrounding Area (including Landscape)

As well as the requirements of Policy E7 and BNE5 related to design, scale and impact on landscape character, Policy BNE1 sets out principles for design excellence, which is supported by the detail within the South Derbyshire Design Guide SPD. Policy BNE4 requires developers to retain key valued landscape components (such as mature trees) and states that development which has an unacceptable impact on landscape character, visual amenity and sensitivity and cannot be satisfactorily be mitigated, will not be permitted. Policy INF8 sets planting requirements for development over 1 hectare size in the National Forest.

Policy DP2 of the Melbourne Neighbourhood Development Plan states that there is a general presumption against new development within the rural areas. All development proposals within the rural areas will be assessed in terms of their impact on the existing character and setting of Melbourne and Kings Newton. Proposals which would lead to adverse impacts upon those settlement features will not be supported.

In terms of impact on the landscape, the applicant has provided a Landscape and Visual

Assessment as part of the planning application using the GVLIA3 methodology. This highlights that the site is not subject to any landscape designations and assigns the landscape character of the site as low value with low susceptibility to change. It concludes that the proposed development would result in negligible change to the site on landscape character and views.

There would be no changes to the existing buildings within the site and therefore the primary design consideration relates to the containers. The containers were present at the time of the Officer's site visit although not in the arrangement shown on the proposed site plan, and not fully painted in accordance with the materials details put forward as part of the application. Containers would not typically be considered good design within the remit of Policy BNE1, although it is accepted that they are functional and the use of such structures is fairly commonplace. The proposed realignment of the structures alongside the western boundary, with exteriors fully painted in green, would however limit the visual intrusion from the public realm.

No existing landscape features (trees, hedgerows) would be removed as part of the proposal. Looking at the Google Earth imagery for the site however it is apparent (as has been raised in comments from both the Civic Society and local community) that as well as the introduction of containers, there is also likely to have been a change in the ground cover of the site from vegetated to hardstanding/aggregate over time which does not appear to have previously been regularised. Whilst this is acknowledged, it is unlikely to materially affect the impact of the proposed development on the landscape or views when taking into account the existing and proposed screening. Specifically, the close boarded fence that has been incorporated into the proposed site layout on request of Officers; and the area of tree planting along the eastern and southern boundaries of the site. The application incorporates 0.189 hectares of additional tree planting which accords with the requirements set out in Policy INF8, despite the application site area falling below the 1 hectare threshold. Hard and soft landscaping details could be secured by planning condition, which would allow further consideration of these matters and for the species mix proposed by the Tree Officer to be accommodated. For avoidance of doubt, it would also be prudent to incorporate a planning condition to ensure that there is no external storage within the site.

With mitigation incorporated as part of the proposal and additional conditions to require the details of landscaping, it is considered that the proposal would comply with the requirements of Policies E7, BNE5, BNE1, BNE4 and INF8 of the Local Plan and would have no material impact on landscape character or views. This in turn would mean that there would be no material impact on the character of the settlement of Melbourne and the proposal would comply with Policy DP2 of the Neighbourhood Plan.

### Other Matters

The proposal relates to the change of use of existing buildings with the introduction of containers for a self-storage use which would be sufficiently distanced so as not to affect the amenity of neighbouring dwellings through loss of light etc. There is a potential for disturbance from vehicle movements to the site, although this would be in the context of the traffic already travelling on Cockshut Lane, and any such impact is not considered to be significant. The Council's EHO has raised no objections to the proposal and agreed to the condition proposed by the applicant to limit deliveries to daytime hours (0800am to 1800 Monday to Saturday, with no deliveries on Sundays or Bank Holidays). The proposal would therefore comply with the requirements of Policies BNE1 and E7 in this regard.

Derbyshire Wildlife Trust has been consulted and advised that the application would have low impact on biodiversity. The feedback from Derbyshire Wildlife Trust notes that the site is currently hardstanding. Officers acknowledge that there was vegetation coverage previously (based on the Google Earth imagery), however as formerly managed agricultural land this is unlikely to have offered significant potential for wildlife. The woodland planting is supported and it is recommended that conditions be attached to secure further biodiversity enhancements, which would be reasonable and in accordance with Policy BNE3 and Policy OS3 of the Neighbourhood Plan.

Policy BNE5 also requires consideration as to the impact on heritage assets and best and most

versatile agricultural land. Policy OS4 of the Neighbourhood Plan states that proposals for new development in the 'permanent loss' of Grades 1, 2 and 3a agricultural land will not be supported. There are no designated heritage assets within the vicinity of the site. The site comprises Grade 2 i.e. best and most versatile (BMV) agricultural land as does much of the land to the west of Melbourne. There would be a 'loss' of c. 0.5 hectares BMV land (excluding the existing buildings from the site area) due to the change of use, however it is noted that the containers could easily be removed in future such that impact would be reversible and the land would not be permanently sterilised. Hard landscaping details are recommended to be reviewed by planning condition.

Many of the points raised by the local community have been considered as part of the preceding assessment. For avoidance of doubt, some of the detailed points raised are responded to as follows:

- The development description was updated to reflect the current planning status of the site and buildings, which comprises agricultural;
- Class B8 is defined within the Use Classes Order and not considered ambiguous. Additionally the applicant has committed to this comprising self-storage, which could be incorporated in a suitably worded planning condition. It is not considered reasonable or necessary to provide further definition of the types of storage proposed in this instance.
- In relation to the concern that the conditions of previous planning permissions would be breached if this development were permitted, it is noted that there appears to be a misunderstanding of the planning system, as one planning permission does not preclude the application for further development which is to be considered on its own merits.
- The specific highways concerns related to interactions with other uses/users in the vicinity raised are noted (e.g. Melbourne Sports Pavilion, school bus stops, pedestrians). With the measures proposed by condition in place, the Highways Authority has concluded that the scheme would be acceptable, and it is considered that there would be no material impact on the public highway including these other uses/users.
- The new access from Cockshut Lane is included in the red line boundary for the current application. The proposal does not seek to widen the access point and the maximum type of vehicle is illustrated on the Swept Path Analysis.
- The provision/requirement for further gates along the access road could be reviewed as part of the Transport Management Plan;
- The applicant was requested to incorporate a close boarded fence to provide additional screening of the containers in acknowledgement that the mitigation provided by existing and proposed tree cover would likely reduce in the winter;
- The proposal would not impact Melbourne Conservation Area which is located c. 0.5km to the east and separated by built development;
- The landscape and visual assessment has been reviewed by Officers as part of the application and provides useful indication of the likely impact of the proposal. Officers have however made an independent planning assessment of the impact of the proposal on landscape character etc. in the policy context, and the matters raised in comments on the landscape and visual assessment (e.g. inaccuracies in the distances from residential dwellings) do not alter the view that the proposal is acceptable in terms of impact on the landscape.
- No lighting is proposed as part of the development. A condition related to details of lighting could be incorporated as part of the planning permission.
- The proposed hours have been reduced as the application has progressed from 0800-2100 to 0800-1800, which may overcome concerns related to the length of opening hours.

- The impact of the proposal on property values, request for speed cameras, comments related to the existing telephone mast, and related directly to the previously permitted access ref. DMPA/2023/0359 (its proximity to the high voltage power transformer, publicity for the previous application, and visibility splays) are not material in consideration of this application.

It is acknowledged that the containers were brought onto site prior to submission of the application, that the land within the site has been cleared (based on aerial imagery). The planning assessment has taken into account the site clearance and assessed the scheme compared to this baseline. The public raised concern generally about the 'gradual erosion' of the site and potential lack of transparency in previous applications, particularly with the application for the new access having been submitted retrospectively. These factors have not aided community perception of the scheme, however they are not material planning considerations and must be put aside in determination of the application.

### Conclusion

Section 38 (6) of the Planning and Compulsory Purchase Act (2004) sets out that the determination of applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise. Non planning matters should not be given weight in the determination. The principle of rural economic/employment development is supported by Policy E7, which allows for the development of new buildings, conversion and replacements in the rural area subject to a number of criteria. It has been confirmed that there is a need for the type of development proposed in this area, and whilst the direct employment provision would be modest, there would be benefits to existing businesses within the locality. The business case for the site has also been confirmed as sound and therefore the proposal would be acceptable in principle. The key material considerations in determination of the case relate to highway safety and the impact of the proposal on the landscape, which can be adequately addressed through appropriate planning conditions. The other material considerations (amenity, agricultural land, biodiversity etc.) are attributed lesser weight for the reasons discussed. Taking all of the above into consideration, the application would comply with the requirements of the Development Plan and is therefore recommended for approval subject to conditions.

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

### **Recommendation**

Approve with 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 following plans/drawings, 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:

- Location Plan, Revision A (25 September 2023)
- Proposed Site Plan, Revision F (17 January 2023)
- Existing Building Elevations and Floor Plans (4 October 2023)

- Proposed Building Elevations and Floor Plans (4 October 2023)
- Existing Container Drawings (4 October 2023)
- Proposed Container Drawings (4 October 2023)
- Swept Path Analysis (28 November 2023)

Reason: In accordance with policy BNE1 of the Local Plan and for the avoidance of doubt and in the interests of achieving sustainable development.

3. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) and Article 3 and Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), this permission shall relate to the use of the premises for self-storage (Class B8), and for no other purpose.

Reason: In order that the Local Planning Authority may retain control over the future use of the premises and in the interests of the amenity of the area.

4. No deliveries shall be made to or dispatched from the site other than between 8:00am hours and 6:00pm hours Mondays to Saturday. There shall be no deliveries to or from site on Sundays, public holidays and bank holidays.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers and in accordance with Policy BNE1 of the Local Plan.

5. There shall be no external storage of materials.

Reason: In the interests of protecting the amenity of the area and in accordance with Policy BNE1 of the Local Plan.

6. Prior to first use, the containers hereby approved shall be fully painted in juniper green to match the buildings onsite and in accordance with the materials details (email from agent, 4 October 2023).

Reason: In the interests of protecting the amenity of the area and in accordance with Policy BNE1 of the Local Plan.

7. Notwithstanding the plans hereby approved, prior to the installation of the close boarded fence, details of the height (relative to the containers and ground level), appearance and materials of this shall be submitted to and approved in writing by the Local Planning Authority. The fencing shall be completed in accordance with the approved details prior to first use of the development or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure adequate screening of the containers in the visual interest of the area and in accordance with Policies BNE1 and BNE4 of the Local Plan.

8. A detailed scheme of hard and soft landscaping, including National Forest planting, shall be submitted to and approved in writing by the Local Planning Authority. The hard landscaping should incorporate details of proposed surfacing. The soft landscaping should evidence the proposed locations of each tree species, the size of each type of tree (standard, select standard, or heavy standard with girth dimensions), the mix of any proposed grass areas, and the proposed locations and sizes of any ornamental shrubs (in litre pots). The works shall be undertaken in accordance with the agreed details prior to occupation of the development. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the date of this decision; 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 visual interest of the area and in accordance with Policies BNE1 and BNE4 of the Local Plan.

9. Prior to any use of the site access, including construction, a Traffic Management Plan should be submitted to and approved in writing by the Local Planning Authority. The Traffic Management Plan should provide details of the restriction of vehicles using the access to no greater than 7.5T, how the applicant would make future occupiers aware of the restriction, how they would monitor and enforce the condition. The approved Transport Management Plan shall thereafter be implemented and adhered to for the lifetime of the development.

Reason: In accordance with policy INF2 of the Local Plan and in the interest of highway safety.

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

Reason: In the visual interest of the area and in accordance with Policies BNE1 and BNE4 of the Local Plan.

11. Prior to the completion of development, the following biodiversity enhancement measures shall be implemented:

- 1x External Universal Nest Box (To be installed on a mature tree or suitable building)
- 1x External Bat Box (To be installed on a mature tree or suitable building)

Evidence that these measures have been implemented should be submitted to the Local Planning Authority for approval within one month of completion of development.

Reason: To secure a biodiversity gain in accordance with Policy BNE3 of the Local Plan.

Informatives:

- a. The applicant is reminded that a licence is required for the new access from Cockshut Lane in accordance with the Highways Act 1980 - Section 184 by Derbyshire Highways, details can be found at [www.derbyshire.gov.uk/transport-roads/roads-traffic/licences-enforcements/vehicular-access/vehicle-accesses-crossovers-and-dropped-kerbs.aspx](http://www.derbyshire.gov.uk/transport-roads/roads-traffic/licences-enforcements/vehicular-access/vehicle-accesses-crossovers-and-dropped-kerbs.aspx) or email [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk)

**Item No.** 1.7

**Ref. No.** [DMPA/2023/1517](#)

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

**Applicant:** Melbourne Sports Partnership      **Agent:** Malcolm Roseburgh

**Proposal:** Installation of a water borehole, water storage tank, and mechanical and electrical equipment kiosk at Melbourne Sporting Partnership , Cockshut Lane, Melbourne, Derby, DE73 8DG

**Ward:** Melbourne

### **Reason for committee determination**

This item is presented to the Committee as South Derbyshire District Council owns the land to which the planning application relates.

### **Site Description**

The site forms part of Melbourne Sports Pavilion, located on the eastern side of Cockshut Lane and to the south of the built edge of Melbourne. The sports facility site includes a clubhouse with 6 changing rooms, 2 grass football pitches, an artificial grass pitch, three grass rugby pitches and a training area, a cricket pitch and secondary artificial strip, a 3 court multi-use games area (MUGA) primarily used for tennis and netball and 3 artificial grass tennis courts. The site is not located within Melbourne Conservation Area. The nearest residential properties are located to the north on Hope Street and Hatton Court, and to the west on Cockshut Lane.

### **The proposal**

The proposal is to install a water borehole with associated storage tank, and mechanical and electrical equipment kiosk to the rear (east) of the clubhouse. The water borehole would be 40m deep as shown on the Borehole Construction Drawing. It would be used to provide water for the pitches. The installation drawing (MSP-GSS-1001) shows the elevations and layout of the above ground equipment including the approx. 2m high kiosk and approx. 3.6m high 20,000 litre capacity water storage tank.

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

#### Application Drawings and Specifications

- Location Plan (05 December 2023)
- Block Plan (05 December 2023)
- Installation Layout and Elevations MSP-GSS-1001 (dated 21 November 2023, received 05 December 2023)
- Borehole Construction Drawing (05 December 2023)
- Specification Information (05 December 2023)
- Technical Specification Sheets (DP Pumps, received 03 January 2024)

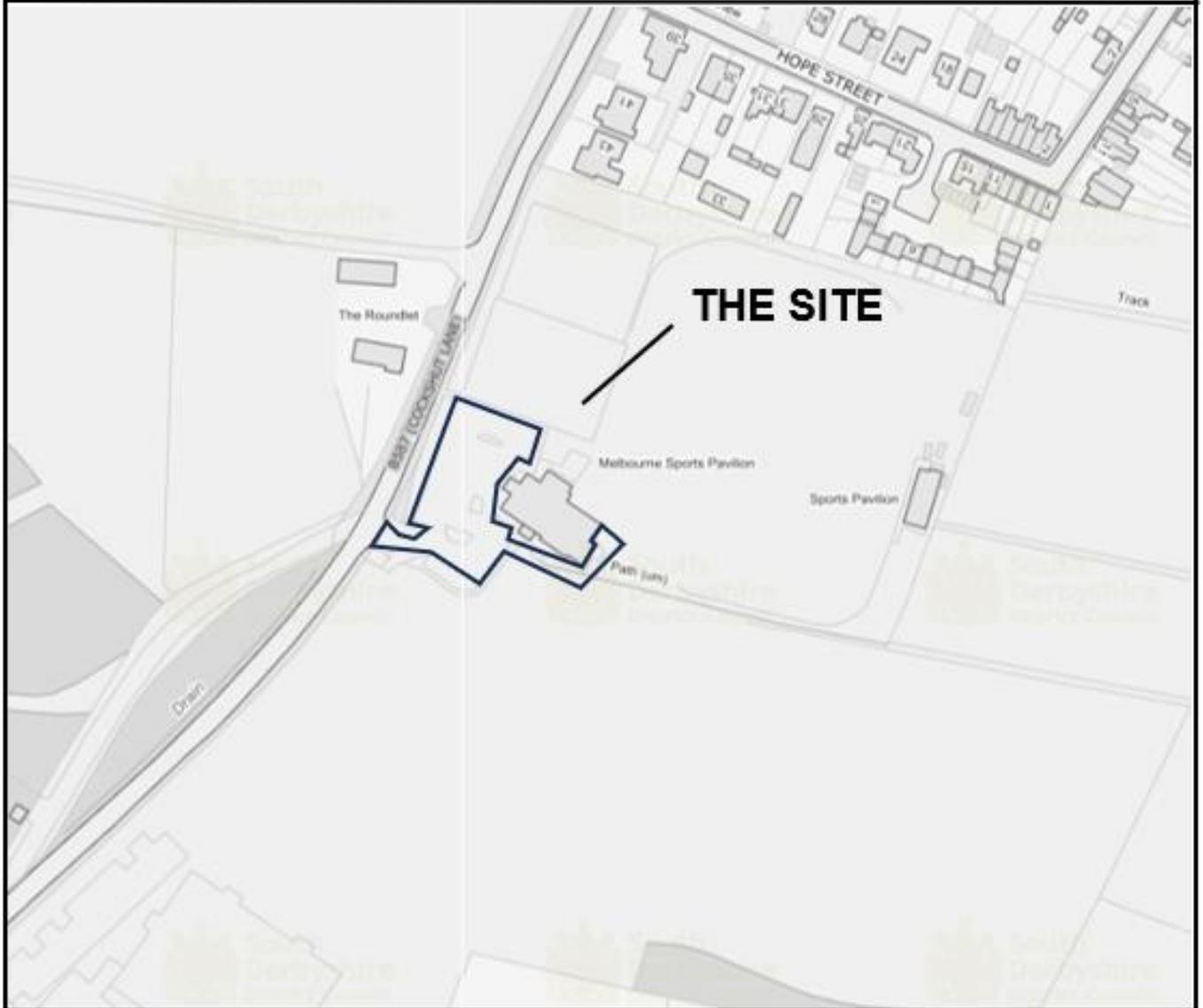
#### Schedule of Works

Construction schedule indicating works would be carried out over a four week period.

#### Planning Statement

This document sets out an assessment of the scheme against the local development framework

**DMPA/2023/1517– Melbourne Sporting Partnership, Cockshut Lane, Melbourne, Derby, DE73 8DG**



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that has been undertaken by the applicant.

### Design and Access Statement

Supporting document with dimensions for the equipment, rationale for the location and statement of benefits anticipated from the proposal.

### **Relevant planning history**

- 9/2011/0910 Proposed redevelopment to form new facilities for rugby, cricket, tennis and bowls. The erection of a new club house, floodlighting and creation of parking facilities – approved February 2012.
- 9/2013/079 Development of FA compliant 7V7 artificial turf pitch with associated fencing, floodlighting and access pathway – approved November 2013.
- 9/2018/1378 Creation of 3no. artificial grass tennis courts with 3m high perimeter fencing – approved November 2020.
- DMPA/2021/0487 Formation of pedestrian access to car park – approved October 2022.
- DMPA/2022/0865 Portal steel framed structure for the storage of equipment – approved October 2022.
- DMPA/2023/0579 Installation of floodlighting system to the northern most tennis courts – approved August 2023.

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

Melbourne Parish Council  
No objections (03/01/2024)

### Environmental Health

*Initial response* - Can you please ask the applicant for the sound power level of proposed infrastructure associated with the pump for the bore hole so that I can be assured that this isn't likely to impact amenity from a noise perspective? (13/12/2023)

*Subsequent response on receipt of sound power levels* – I am happy from the information that has been provided that the scheme is unlikely to impact amenity, subject to the acoustic pump meeting the stipulated specification (18/01/2024).

### DCC Rights of Way

The Rights 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 that the footpath must remain open, unobstructed and on its legal alignment (20/12/2023)

### Environment Agency

We have reviewed the submitted documents and on this occasion the Environment Agency will not be making any formal comment on the submission. We would like to draw the applicant's attention to the following informative comments related to abstraction licencing requirements.

Melbourne Civic Society  
No objection (01/01/2024)

### Neighbour Reponses

Two members of the local community commented on the application which are summarised as follows:

- The installation and operation of water pumping equipment would increase the disturbance from the site;
- Use of a borehole to extract groundwater for a playground appears contrary to sustainability;
- It is suggested that the maintenance regime (mowing, scalping) of the grounds is the cause for the grass die back in summer 2023;
- The water storage tank should be underground;
- It was questioned whether rainwater harvesting had been considered;
- Other activities were highlighted as causing disturbance from the site currently (a mower/tractor and parties);
- Boundary trees were noted to have been pollarded back to 'telegraph poles' with tree work noted to have been undertaken during the breeding bird season.

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

The relevant Development Plan policies are:

- Local Plan Part 1 (LP1): SD2, BNE1, SD1, INF9
- Melbourne Neighbourhood Plan: DP2

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

### **Planning considerations**

The determining issues are as follows:

1. Principle of the development;
2. Amenity and Design Considerations;
3. Other Matters.

### **Planning assessment**

#### Principle of the Development

There is no specific planning policy related to the provision of a borehole within Local Plan Parts 1 or 2. There are policies related to the provision of open space, sports and recreation facilities, and Policy INF9 of the Local Plan states that the current provision of open space, sports and recreation facilities in the District is not sufficient; and opportunities for creating new or enhanced facilities will be sought. The site is located within the established Melbourne Sports Partnership (MSP) complex. The proposal for a borehole seeks to enhance the existing facility through securing a water supply to for the management of the sports pitches, as explained further in the applicant's Planning Statement and Design and Access Statement (December 2023). The proposal would therefore be in accordance with the aims of policy INF9 and acceptable in principle.

#### Amenity and Design Considerations

Policy BNE1 sets out principles for design excellence, which is supported by the detail within the South Derbyshire Design Guide SPD. Policy SD1 states that the Council will support development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments. Policy DP2 of the Neighbourhood Plan states that 'All development proposals within the rural areas will be assessed in terms of their impact on the existing character and setting of Melbourne (and Kings Newton), and proposals that would adversely impact those settlements' features would not be supported.'

One neighbour commented about the appearance of the above ground equipment and suggested that the water tank should be stored underground. The equipment would be smaller in scale than the adjacent clubhouse, and it would be placed to the rear of the building (away from Cockshut Lane) which would reduce its impact on the public realm generally. Whilst the storage tank and kiosk would not be considered an example of 'architectural quality', such equipment is functional and not uncommon in the rural area, and it is therefore considered it would not cause detriment due to the scale and placement. In this respect it would be appropriate within the context and acceptable under Policy BNE1 of the Local Plan and Policy DP2 of the Neighbourhood Plan.

The local concern raised about the noise generated by the equipment is also noted. The EHO has been consulted on the planning application and initially requested that the sound power levels from the pump be provided. Once this information had been received it was confirmed that there would be no adverse impact from noise generated by the equipment, subject to condition to ensure the sound power level within the equipment specification as provided is adhered to. With such conditions in place it is considered that the proposal would meet the requirements of policies BNE1 and SD1 in relation to amenity.

### Other Matters

The Environment Agency raised no objection to the proposal although highlighted the potential need for an abstraction licence. It is recommended that this be incorporated as an informative.

A public right of way runs through the Melbourne Sports Pavilion site, however Derbyshire County Council (DCC) has confirmed no objections to the proposal and advised that the right of way would not be affected. An informative is recommended to highlight that the right of way would need to remain free from obstruction etc.

The local community questioned the need for the borehole (as it was suggested that the previous grass die back was not due to drought) and requested alternative measures for rainwater collection, including harvesting. The question of 'need' is not a material planning consideration in this case. It is relevant to an extent in the consideration of the principle of development (as discussed above) for the specific policy INF9 and some explanation for the proposal the rationale set out in the Design and Access Statement (December 2023). Additionally, the applicant has responded to these comments as follows:

*'Rainwater harvesting was considered as part of the MSP's overall decarbonisation and energy audit and plan and remains on our project list. However, it is not suitable to supply water in the same manner as a borehole and for grass pitch irrigation. Rainwater harvesting is weather dependant and couldn't guarantee sufficient water to irrigate the sports pitches especially in the driest conditions when water would be most needed... Rainwater harvesting does however remain an MSP ambition which could supplement the borehole, support other water needs on the site and demonstrate green credentials...'*

The applicant also advised that whilst it would be possible to install an underground water storage tank an above ground tank was a considered a better solution for reasons including cost, soil suitability, maintenance, economy of space.

The references to other activities highlighted as causing disturbance from the site currently (a mower/tractor and parties); and pruning works to boundary trees would not be material in determination of this application.

### Conclusion

The proposal for a borehole and related equipment within the established Melbourne Sports Partnership complex would be in accordance with the aims of policy INF9 and acceptable in principle. Having reviewed the material considerations related to the potential impact on the amenities of the area and design, it is considered that the proposal would comply with the requirements of Policies SD1 and BNE1 and Policy DP2 of the Melbourne Neighbourhood Plan and accordingly is recommended for approval.

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

## **Recommendation**

Approve with conditions

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

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

2. The development hereby permitted shall be carried out in accordance with the following plans/drawings and details: Location Plan (05 December 2023), Block Plan (05 December), Installation Layout and Elevations MSP-GSS-1001 (dated 21 November 2023, received 05 December 2023), Borehole Construction Drawing (05 December 2023), and Specification Information (05 December 2023), unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason: For the avoidance of and in accordance with Policies BNE1 and SD1 of the Local Plan.

3. The above ground pump installed shall meet the acoustic specification as per the DP Pumps Technical Specification Sheet (ref. 290102351150V), and any future replacements of the pump shall not exceed this specification.

Reason: To protect the amenity of neighbouring occupiers and in accordance with Policies BNE1 and SD1 of the Local Plan.

### Informatives:

- b. If you intend to abstract more than 20 cubic metres of water per day from a surface water source e.g. a stream or from underground strata (via borehole or well) for any particular purpose then you will need an abstraction licence from the Environment Agency. There is no guarantee that a licence will be granted as this is dependent on available water resources and existing protected rights.
- c. Melbourne Public Right of Way no.18 is located within the site. The applicant is advised that:
  - 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.

**Item No.** 1.8

**Ref. No.** [DMPA/2022/0008](#)

**Valid date:** 06/01/2022

**Applicant:** Croake **Agent:** Lathams

**Proposal:** Conversion and extension of a Grade II listed barn in the grounds of Castle Farm to a 3 bed dwelling at Castle Farm, Castle Street, Melbourne, Derby , DE73 8DY

**Ward:** Melbourne

### **Reason for committee determination**

Cllr Martin Fitzpatrick, Ward Member for Melbourne, has requested that the application is determined by the Planning Committee due to local concerns which need to be considered.

### **Site Description**

The application relates to a Grade II Listed former Threshing Barn within the site of Castle Farm in Melbourne.

The barn was originally constructed in the 16th century and is part of a larger site classed as the Scheduled Ancient Monument of Melbourne Castle fortified manor, the remains of which are still visible and lie to the south of the application building.

The barn is a single storey, three bay rectangular building. It is set back from the road, to the rear of Castle Farmhouse, which is also a Grade II Listed Building. The application site also lies within the Melbourne Conservation Area.

### **The proposal**

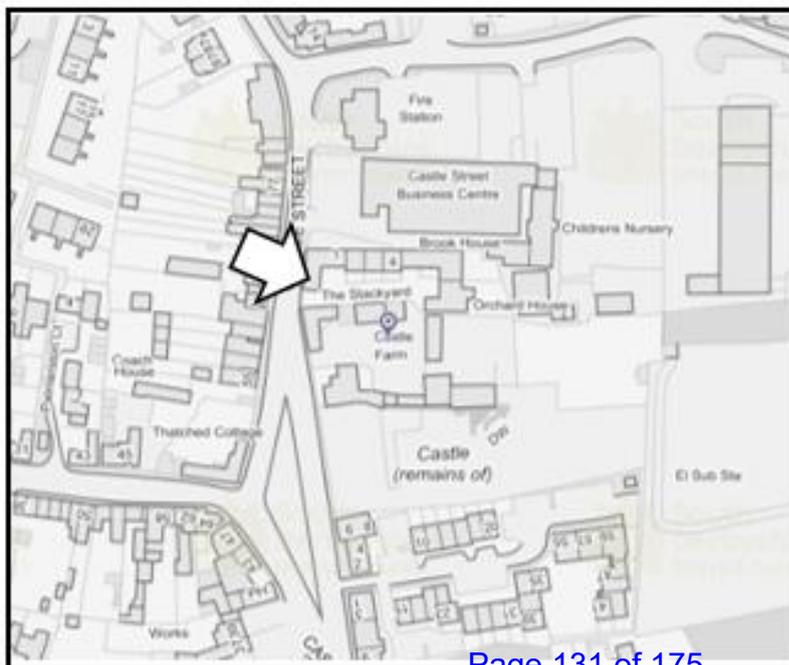
Planning permission is sought for the conversion of the Listed barn to a three bedroom residential dwelling. To facilitate the conversion an extension is proposed to the eastern elevation, which will extend back along the northern boundary wall of the site. The scheme will include a courtyard garden and new areas of hard landscaping. An existing cart shed, which currently forms one of the outbuildings attached to the rear of Castle Farmhouse, is to be incorporated into the curtilage of the new dwelling and will be used for parking and refuse storage.

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

The application is supported with the following plans and documents :

Design and Access Statement  
Heritage Statement by Phillip E Heath  
Structural Appraisal by GCA (UK) Ltd  
Archaeological Desk Based Assessment by Trent & Peak Archaeology  
Preliminary Ecological Appraisal by Astute Ecology Ecological Consultants  
Bat Survey by Astute Ecology Ecological Consultants  
Topographical Survey  
Underground Utility Survey  
Site Location Plan  
Proposed Site Plan  
Existing Floor Plans and Elevation drawings  
Proposed Floor Plans and Elevation drawings  
Proposed Cart Shed drawings  
Proposed Sections

DMPA/2022/0008– Castle Farm, Castle Street, Melbourne, Derby, DE73 8DY



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South Derbyshire District Council. LA 100019461.2020

## **Relevant planning history**

DMPA/2021/1680 & DMPA/2022/0129 – Erection of a garden room. Approved September 2022.

9/2006/1263 – The raising of the boundary wall along Castle Street frontage. Approved 8 March 2007

9/2003/1512 – The replacement of the existing timber fence with a brick wall and gateway. Approved 10 February 2004

9/2003/1513 – The bricking up of two windows and the replacement of the existing timber fence with a brick wall and gateway and retention of gate. Approved 10 February 2004

This application relates to the following application:

DMPA/2022/0111 : Listed Building Consent for conversion and extension of a Grade II listed barn in the grounds of Castle Farm to a 3 bed dwelling.

Concurrent application to this application for Listed Building Consent, under consideration.

## **Responses to consultations and publicity**

Cllr Martin Fitzpatrick, Ward Member for Melbourne – Concerns are raised in relation to potential loss of light to a neighbouring property. Concerns are raised that the proposal will be overbearing, and it is believed that a more sympathetic design could have seen the extension placed at the other end of the existing structure or even running of the centre of the existing structure to form a T shaped property. Either of these alternatives would still provide the same living floor space but not have such a dramatic effect on the neighbouring property.

Melbourne Parish Council – No objections.

Melbourne Civic Society - The present semi-rural feel of the building will be missed but no objections to the application.

County Highways Authority – No objection. The site access, parking and servicing arrangements to the site are considered to be acceptable. The proposed gates must be located a minimum of 5m back from the footway in the interest of highway and pedestrian safety.

Historic England - Given the sensitivities of the site and its immediate environs, if the local authority is minded to granted consent, we recommend that this should be subject to agreement with the Council's Conservation Officer regarding the materials, finishes and landscaping so that the historic character of the area is respected.

Scheduled Monument Consent will need to be obtained before any works commence.

County Council Archaeologist –

Before the applications are determined the applicant should commission a suitably qualified and experienced archaeological contractor to undertake an archaeological assessment including an evaluation of the areas of proposed development groundworks.

Derbyshire Wildlife Trust – No objection, subject to conditions. The trust advise that bats should not present a constraint to development. The proposed development does provide opportunities to achieve a net gain in biodiversity and thus a condition is proposed seeking a biodiversity enhancement scheme.

Environmental Health - No environmental concerns about these applications and therefore no comments or conditions.

Responses to publicity

1 public representation has been received. In summary the following points are made.

a) Concerns are raised in relation to the proposed extension and the impact on the amenity of Orchard House, to the north of the application site. Concerns are raised in relation to the impact of the proposed extension on the light to the living room of this property. It is considered that the extent of this projection, coupled with the close proximity of the proposed extension to Orchard House, would significantly reduce daylight to both the living room window on the east elevation and the two smaller windows on the south elevation. It is considered that this is contrary to Council guidance set out in Appendix 4 of the design guide, which specifies a minimum distance of 12 metres between a living room window and the blank elevation of a neighbouring extension.

b) It is also considered that the proposed extension would also have an overbearing effect and significantly diminish any feeling of openness within the living room and create an oppressive environment.

c) A previous application which sought a similar addition to the barn to create a swimming pool was amended during its course to omit the extension (LPA reference 9/2006/1263). It is clear from the pre-application advice set out in Section 5.3 of the Design and Access Statement that concerns had been raised regarding the impact of the proposals on Orchard House.

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

The relevant Development Plan policies are:

(2016) Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity) and INF2 (Sustainable Transport).

(2017) Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), and BNE10 (Heritage).

(2022) Melbourne Neighbourhood Development Plan : DP1 (New development within the defined settlement boundaries), DP3 (Development within settlement boundaries), HC1 (Preservation of the historical and cultural heritage assets and existing Conservation Areas).

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant Legislation is:

Sections 66 & 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

### **Planning considerations**

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

- Principle of development
- Heritage impact
- Archaeological impact
- Design and amenity
- Highways and access

### **Planning assessment**

#### Principle of development

The application seeks approval for the conversion and extension of the Grade II listed Barn at Castle Farm to a 3-bed dwelling at Castle Farm, Castle Street, Melbourne, Derby, DE73 8DY.

The site is located within the settlement boundary of the Key Service Village of Melbourne where

residential development is considered appropriate under Policy H1 of the Local Plan Part 1 and Policy SDT1 of the Local Plan Part 2. The site is located in an area that has a mix of residential and commercial uses and is within close proximity to the range of services and facilities contained within the local centre of Melbourne.

Additionally, new development in the settlement boundary of Melbourne is also supported by the Melbourne Neighbourhood Plan under Policy DP1. In particular, Policy DP3 of the Melbourne Neighbourhood Plan supports new development of four bedrooms or fewer in order to encourage the development of smaller dwellings.

The principle of development is, therefore, considered to be acceptable and in accordance with Policy H1 and H20 of the Local Plan Part 1 and Policy SDT1 of the Local Plan Part 2. The development is also in accordance with Policy DP1 and DP3 of the Melbourne Neighbourhood Plan.

#### Heritage Impact

The existing barn that is proposed for residential conversion is Grade II listed (ref: 1096407). The site is also located within the Melbourne Conservation Area. The site is also within the scheduling of the 'Melbourne Castle fortified manor and earlier medieval manorial remains' Scheduled Ancient Monument. The site, therefore, has a sensitive historic context that must be fully considered in the determination of this application.

The Design and Access Statement submitted in support of the application sets out the detailed analysis and assessment of the historical context that has been undertaken as part of the evolution of the proposals. This includes an analysis of the opportunities and constraints to the site, as well as a Statement of the Significance of the building and the potential for change and adaptation. This confirms that there is the potential for the conversion of the building to provide residential development whilst being sensitive to the surrounding context.

An outbuilding has previously been sited in the location of the proposed extension adjacent to the barn, which is evidenced by historic imagery of the site from between 1840's up until the 1980's. The proposed development has been designed to match the footprint of the previous built form in this part of the site, as closely as possible. The proposed development would, therefore, result in the reintroduction of built form adjacent to the listed barn.

In addition to the above, it is noted that the extension is located in a part of the site that is more private and informal in character, and as such, is less sensitive and capable of accommodating the proposed development without result in a harmful impact on the historical context including the Melbourne Conservation Area and Scheduled Ancient Monument.

The existing barn is visible from the streetscene via the vehicular entrance to the site. However, this will be retained and improved as part of the proposed development. There will be limited visibility of the proposed extension from the streetscene, and as such, it is considered that there will be no impact on the character and appearance of the Conservation Area in that regard.

The scheme proposals have also evolved and responded to pre-application advice undertaken with the Council, the Council's Conservation Officer and with Historic England. Concerns were originally raised regarding the original proposal for a two-storey extension, which was considered to result in an overbearing impact on the historic building in terms of both its scale and understanding of its historic function. The proposals have subsequently been redesigned to a reduced scale such that they are much more sensitive to the historical context and are more subservient to the barn.

It is noted that as part of the pre-application Historic England objected to the proposed development. However, do not raise any objection to the revised scheme proposals. They do, however, advise that given the sensitivities of the historic environment of the site and its immediate environs that details of the materials, finishes and landscaping should be secured via condition so that the historic character of the area is respected.

Overall, it is recognised that the Grade II listed barn is redundant, in a poor condition and at risk of falling into further disrepair if an alternative use is not established. The proposed development would put the building into a positive use the benefit of which is considered to outweigh the harm that would result from the introduction of a contemporary extension. Moreover, it is not considered that the proposed development will result in a harmful impact on the character and appearance of the Conservation Area.

The proposed development is, therefore considered to be acceptable and in accordance with Policy BNE2 and BNE10 of the Local Plan and Policy HC1 of the Melbourne Neighbourhood Development Plan.

#### Archaeological Impact

The NPPF states that where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require development to submit an appropriate desk-based assessment and, where necessary, a field evaluation (Paragraph 200).

An Archaeological Desk-based Assessment prepared by Trent and Peak Archaeology was submitted as part of the application that concluded that there was a high potential for medieval remains of national significance to be present within the application site. The Archaeological Officer, therefore, advised that further archaeological evaluation of the site been undertaken prior to the determination of the application to ascertain the nature, date and extent of any subsurface archaeological remains.

An Archaeological Trial Trenching Evaluation was undertaken of the application site. The trial trenching concluded that there is no indication of medieval or early post-medieval remains pertaining to the castle or initial construction of the Grade II listed barn being present in this part of the site.

On the basis of the evidence submitted it is considered that there is low potential for the site to contain medieval remains of national significance.

The proposed development is, therefore, considered to be acceptable and in accordance with Policies BN2 and BNE10 of the Local Plan and Policy HC1 of the Melbourne Neighbourhood Development Plan.

#### Design and amenity

Policy BNE1 of the Local Plan Part 1 states all new development will be expected to be well designed and should not have any undue adverse effect on the privacy and amenity of nearby occupiers.

The proposed extension is located along the northern boundary of the site in close proximity to the adjacent property, Orchard House. It is noted that there is an objection to the application from the owners of the neighbouring property. This raise concerns with regard to the impact of the proposed development on neighbouring amenity with particular reference to loss of natural light, overbearing impact and enclosure of private amenity space.

As part of the pre-application consultation concerns were raised regarding the impact of the proposed extension on the neighbouring Orchard House. However, that was on the basis a development of two-storey. It was, therefore, advised that the height and size of the extension be reduced to address this issue.

In respect of the above, the proposed development comprises of a single-storey extension the eaves of which sit lower than the existing boundary wall that currently separates the site from the neighbouring property. Whilst the roof of the extension would be visible from the neighbouring property, it is not considered that this would result in an overbearing impact or loss of light that would be significant enough to warrant refusal of the planning application.

In design terms the proposed extension to the barns present a contemporary addition to the property that is considered to be appropriate in the context. This includes the provision of a glazed link that will connect the existing and new, and the use of timber cladding to the walls that will respect the historic farmhouse setting of the barn.

The proposed development is, therefore, considered to be acceptable and in accordance with Policy BNE1 of the Local Plan Part 1.

#### Highways and access

Policy INF2 states planning permission will be granted for development appropriate provision is made for safe and convenient access to and within the development and that would not result in an undue detrimental impact on the efficiency of the highway network.

The proposed development will be accessed via the existing vehicular entrance from Castle Street. The proposed development includes the addition of gates at the existing entrance that will be set back 5m from the highway to avoid the requirement for cars accessing the site to wait on the highway. A gravel courtyard is provided to the front of the proposed development that provides sufficient space for car parking to serve the development.

The Highway Authority have reviewed the proposed development and confirm that the site access, parking and servicing arrange are acceptable, as such, there is no objection in principle.

The proposed development is, therefore, considered to be in accordance with Policy INF2 of the Local Plan Part 1.

#### Ecology

Policy BNE3 of the Local Plan Part 1 states planning proposals that could have a direct or indirect effect on sites with potential or actual ecological importance including priority habitats and species will need to be supported by appropriate surveys or assessments sufficient to allow the authority to fully understand the likely impacts of the scheme and the mitigation proposed.

The application is supported by a Preliminary Ecological Appraisal (PEA) that confirms that the site will not impact upon any sites of designated ecological appraisal due to the significant proximity of the site away from designated sites and that it is a relatively small-scale development. The PEA also highlights the potential risk to roosting bats associated with the proposed development, and therefore, recommends that further surveys are undertaken.

A series of dusk emergence and dawn re-entry surveys were undertaken of the existing buildings at Castle Farm to confirm the likely presence of roosting bats within features of the building. No active bat roost were recorded during the surveys and as such the surveys concluded that it is unlikely that roosting bats would be impact by the proposed development. As such, a Natural England bat development licence is not required for the development to proceed, and no further surveys or mitigation is required.

The Derbyshire Wildlife Trust have reviewed the proposals and have no objection to the proposed development. The Trust advise that bats should not present a constraint to development but highlight that the proposed development does provide opportunities to achieve a net gain in biodiversity and thus a condition is proposed seeking a biodiversity enhancement scheme.

The proposed development is, therefore, considered to be in accordance with Policy BNE3 of the Local Plan Part 1.

#### Conclusion

The proposal to convert the Grade II Listed Barn to residential use is acceptable in principle, given the conservation benefits of securing a viable long term use for buildings of historic and architectural significance. The design of the conversion and extension is sympathetic to the historic fabric and character and there are no undue concerns regarding the wider Conservation Area. The scheme is also considered acceptable in terms of the impact on the residential amenity

of the neighbouring property. The proposal therefore complies with the relevant planning policies and is recommended for approval.

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

## **Recommendation**

**Approve**, subject to conditions.

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

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

2. The development hereby permitted shall be carried out in accordance with plans/drawings ref:

- Proposed Site Plan – ref: 7478-LAT-XX-RL-DP-A-1100-S3-P05
- Proposed Ground Floor Plan – ref: 7478-LAT-XX-GF-DP-A-2100-S3-P07
- Proposed First Floor Plan – ref: 7478-LAT-XX-1F-DP-A-2101-S3-P07
- Proposed Elevations – ref: 7478-LAT-XX-XX-DE-A-3201-S3-P04

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

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

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

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

4. Prior to their incorporation in to the building hereby approved, details of the door, window frame and fascia colours shall be submitted to and approved in writing by the Local Planning Authority. Such details shall be set out on a drawing/plan where multiple dwellings are proposed. The door, window frame and fascia colours shall be installed in accordance with the approved details.

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

5. Prior to their incorporation in to the building hereby approved, details of the rooflights shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflights shall be installed.

Reason: In the visual interest of the building and local distinctiveness (including historic context).

6. Any entrance gates erected in the private driveway shall be hung to open away from the highway and set back by a minimum distance of 5 metres as measured from the nearside edge of the carriageway.

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

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

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

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, no hard surfaces or gates, walls, fences or other means of enclosure (except as authorised by this permission or allowed by any condition attached thereto) shall be created on the site without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

Reason: To maintain control in the interest of the character and amenity of the Conservation Area and the setting of the Listed Building.

9. Prior to any construction above foundations level, a scheme of biodiversity enhancement based on the recommendations in the Bat Emergence & Re-entry surveys report prepared by Astute Ecology dated September 2021 shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include, as a minimum, the incorporation of an integrated (inbuilt) feature within the development for roosting bats. The enhancement scheme shall be implemented in accordance with the agreed details as construction proceeds and completed prior to the first occupation of the development.

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

**Item No.** 1.9

**Ref. No.** [DMPA/2022/0111](#)

**Valid date:** 06/01/2022

**Applicant:** Croake **Agent:** Lathams

**Proposal:** **Listed Building Consent for conversion and extension of a Grade II listed barn in the grounds of Castle Farm to a 3 bed dwelling at Castle Farm, Castle Street, Melbourne, Derby, DE73 8DY**

**Ward:** **Melbourne**

### **Reason for committee determination**

Cllr Martin Fitzpatrick, Ward Member for Melbourne, has requested that the application is determined by the Planning Committee due to local concerns which need to be considered.

### **Site Description**

The planning application seeks listed building consent for the conversion and extension of the Grade II listed barn in the grounds of Castle Farm, Castle Street, Melbourne, Derby, DE73 8DY. The Official List Entry describes the barn, as follows:

*“C16 and C18 with later additions and alterations. Square panel timber framing with corner braces to upper panels, on stone plinth and with brick nogging, plus later red brick, and pantile roof. Single storey and three bays. West elevation has two panels of timber framing with diamond patterned-breathers in the nogging, to either side of a full height central opening with plank doors. Beyond to either side there are later brick bays with timber framing painted on. East facade is C19 with a central full height opening. Interior has the original king post roof trusses with staggered single purlins and wind braces below from the supporting posts. Included for group value only.”*

The significance of the listed building is understood to relate to its historical association with the wider Castle Farm context. It is a recognisable example of a threshing barn and forms a remaining part of the evolution of the castle site since the castle disappeared in the 17<sup>th</sup> Century.

### **The proposal**

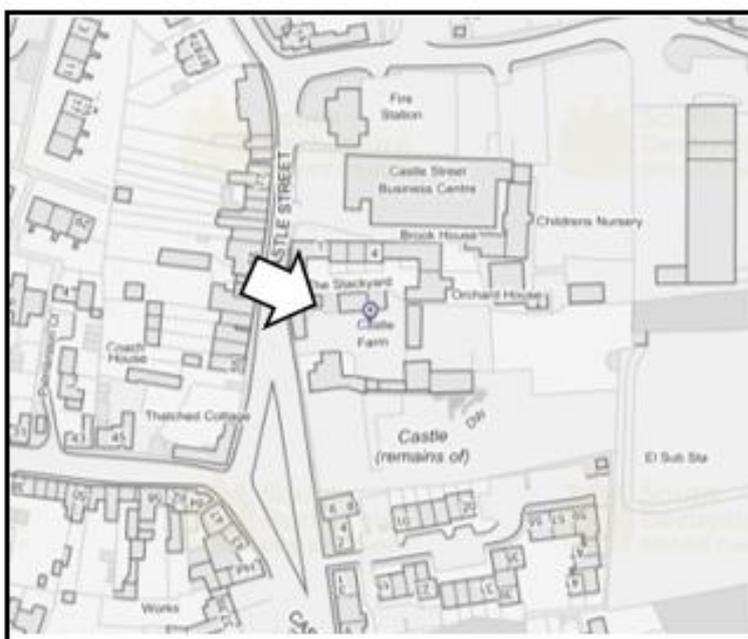
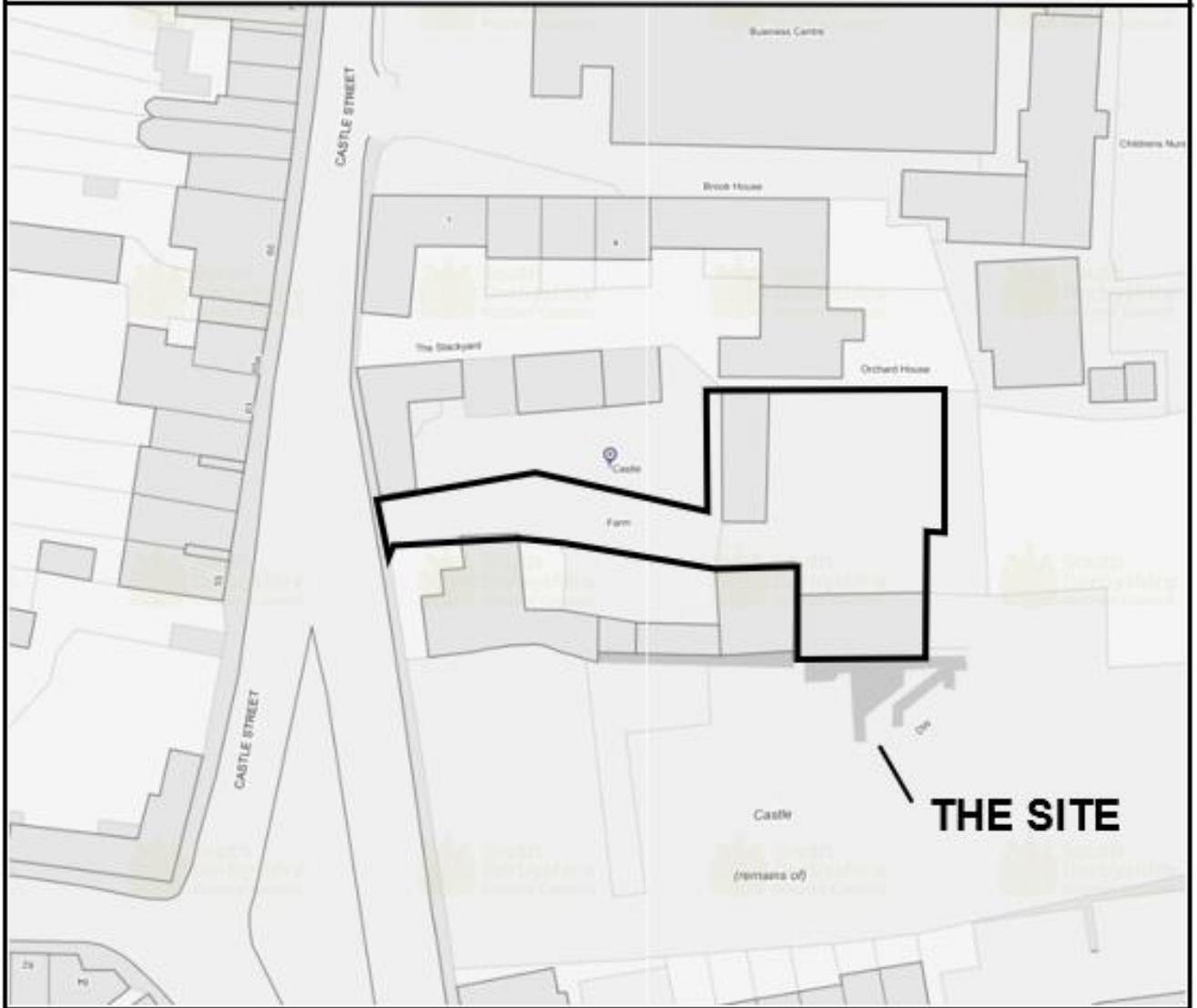
Listed building consent is sought for works to the Listed barn to allow the conversion of the structure to a three bedroom residential dwelling. To facilitate the conversion an extension is proposed to the eastern elevation, which will extend back along the northern boundary wall of the site. The scheme will include a courtyard garden and new areas of hard landscaping. An existing cart shed, which currently forms one of the outbuildings attached to the rear of Castle Farmhouse, is to be incorporated into the curtilage of the new dwelling and will be used for parking and refuse storage.

### **Applicant’s supporting information**

The application is supported with the following plans and documents :

Design and Access Statement  
Heritage Statement by Phillip E Heath  
Structural Appraisal by GCA (UK) Ltd  
Archaeological Desk Based Assessment by Trent & Peak Archaeology  
Preliminary Ecological Appraisal by Astute Ecology Ecological Consultants  
Bat Survey by Astute Ecology Ecological Consultants  
Topographical Survey  
Underground Utility Survey  
Site Location Plan

**DMPA/2022/0111– Castle Farm, Castle Street, Melbourne, Derby, DE73 8DY**



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South Derbyshire District Council, LA 100019461.2020

Proposed Site Plan

Existing Floor Plans and Elevation drawings

Proposed Floor Plans and Elevation drawings  
Proposed Cart Shed drawings  
Proposed Sections

### **Relevant planning history**

DMPA/2021/1680 & DMPA/2022/0129 – Erection of a garden room. Approved September 2022.

9/2006/1263 – The raising of the boundary wall along Castle Street frontage. Approved 8 March 2007

9/2003/1512 – The replacement of the existing timber fence with a brick wall and gateway.  
Approved 10 February 2004

9/2003/1513 – The bricking up of two windows and the replacement of the existing timber fence with a brick wall and gateway and retention of gate. Approved 10 February 2004

This application relates to the following application:

DMPA/2022/0008 – Conversion and extension of a Grade II listed barn in the grounds of Castle Farm to a 3-bed dwelling at Castle Farm, Castle Street, Melbourne, Derby, DE73 8DY – Pending consideration.

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

Historic England – Given the sensitivities of the site and its immediate environs, if the local authority is minded to grant consent we recommend that this should be subject to agreement with the Council's Conservation Officer regarding the materials, finishes and landscaping so that the historic character of the area is respected.

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

#### Legislation

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that:

*"In considering whether to grant planning permission for General duty as development which affects a listed building or its setting, the local respects listed planning authority or, as the case may be, the Secretary of State shall have buildings in special regard to the desirability of preserving the building or its setting or exercise of any features of special architectural or historic interest which it possesses."*

The decision maker is required to give considerable importance and weight to the desirability of preserving listed buildings and their settings, and where there is conflict with the statutory objective in section 66(1), the question for the decision maker is whether the presumption is overridden by other considerations of public interest.

#### Policy

The relevant Development Plan policies are:

(2016) Local Plan Part 1 (LP1): BNE2 (Heritage Assets).

(2017) Local Plan Part 2 (LP2): BNE10 (Heritage).

Melbourne Neighbourhood Development Plan: HC1 (Heritage Assets).

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG); and

Historic England Guidance

The relevant legislation is:

Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Planning considerations**

The 1990 Planning (Listed Buildings and Conservation Areas) Act places a duty on local planning authorities to preserve or enhance listed buildings and their settings. This is underpinned by Paragraph 205 of the NPPF which states that great weight should be given to the conservation of heritage assets.

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

- Whether the proposal preserves or enhances the special architectural or historic interest of the listed building.

### **Planning assessment**

A Heritage Impact Assessment has been submitted in support of the application, which highlights that the internal alterations required to provide residential accommodation will lead to a change that will amount of 'less than substantial harm'. This includes the subdivision of the space and the concealment of historical elements such as the timber frame and trusses. It is, however, acknowledged that much of the internal historic fabric is in poor condition and would need to be repaired as part of the proposed development. These repairs are considered necessary to secure the long-term future of the barn and will contribute to the preservation of the heritage asset.

The proposed development includes an extension to the east of the barn. It is noted, however, that this is located within an area of the site that previously accommodated built form and is within the secondary yard of the wider farmstead. This area is more private and informal in character than the main yard and thus is more capable of accommodating the scale of development proposed.

Whilst contemporary in appearance, the extension has been designed to be sensitive to the barn building including the proposed use of materials that ensure the agricultural character is retained. Further details of the materials and appearance can be sought through condition to further control the impact of the character and appearance of the extension on the listed building.

The application proposals have evolved through pre-application consultation with the Council, the Conservation Officer and Historic England. Initial concerns regarding the scale of development have been resolved through the submission of a reduced scale of development that is considered to be more in keeping within the historical context of the site, and additionally, it is considered that these ensure the extensions appear more subservient to the barn than originally proposed.

Para 208 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

It is recognised that there would be less than substantial harm to the listed building and that this harm carries great weight against the proposal. However, it is considered that this harm is necessary in order to secure a long-term use for the barn that will in turn preserve the listed asset. The public benefit of securing the optimum viable use of the building by putting the barn back into a positive use is considered to outweigh the harm that would be caused by the proposed development.

## Conclusion and the planning balance

In accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 special regard has been given to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. It is considered that the proposals would preserve the heritage asset and due consideration has been given in accordance with Section 66(1).

The proposal is considered to be in accordance with Policy BNE2, BNE10 of the Local Plan and Policy HC1 of the Melbourne Neighbourhood Development Plan in that it will be sympathetic to the heritage asset. It is, therefore, considered that listed building consent be granted for the proposed conversion and extension of the Grade II Listed barn.

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 18 of the Planning (Listed Buildings and Conservation Areas) 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:

- Proposed Site Plan – ref: 7478-LAT-XX-RL-DP-A-1100-S3-P05
- Proposed Ground Floor Plan – ref: 7478-LAT-XX-GF-DP-A-2100-S3-P07
- Proposed First Floor Plan – ref: 7478-LAT-XX-1F-DP-A-2101-S3-P07
- Proposed Elevations – ref: 7478-LAT-XX-XX-DE-A-3201-S3-P04

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

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

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

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

4. Prior to their incorporation into the building, details of the door, window frame and fascia colours shall be submitted to and approved in writing by the Local Planning Authority. Such details shall be set out on a drawing/plan where multiple dwellings are proposed. The door, window frame and fascia colours shall be installed in accordance with the approved details.

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

5. Prior to their incorporation into the building, details of the rooflights shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflights shall be installed.

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

**Item No.** 1.10

**Ref. No.** [DMPA/2023/1368](#)

**Valid date:** 27/10/2023

**Applicant:** First Fence Holding Ltd. **Agent:** T Beavin

**Proposal:** **Proposed extension to existing workshop and provision of additional office space, together with a change of use of existing land and turning head resulting from the development of the Kiln Way Link Road for the creation 47no. car parking spaces, including 24no. electric vehicle charging points, erection of 10no. cycle spaces, staff seating area and landscaping for First Fence Ltd. (3 parking spaces to be allocated for Sharpe's Brothers and Co Ltd). (resubmission of DMPA/2023/0177) at First Fence Ltd, Kiln Way, Woodville, Swadlincote, DE11 8EA.**

**Ward:** Woodville Ward

### **Reason for committee determination**

This planning submission is being reported to Planning Committee at the request of the Head of Planning and Strategic Housing given the previous committee decisions in relation to this site.

### **Site Description**

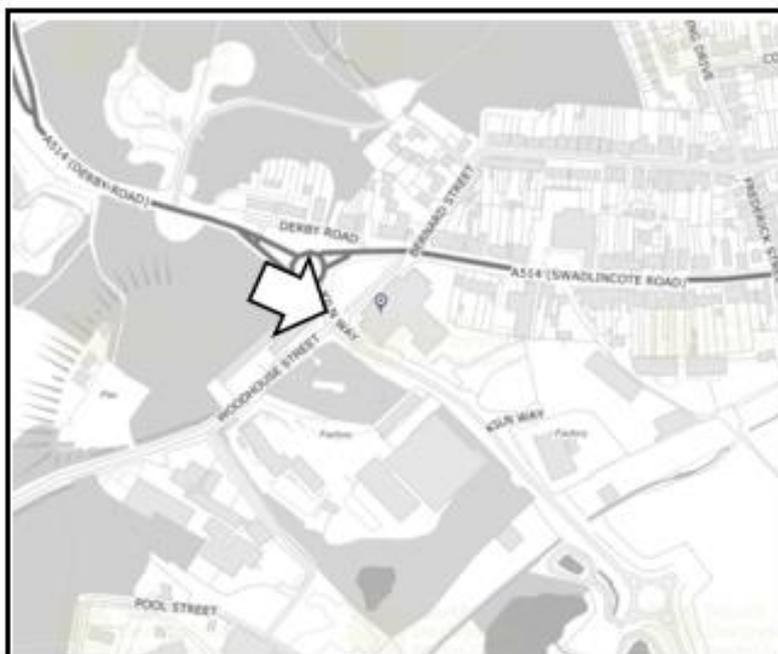
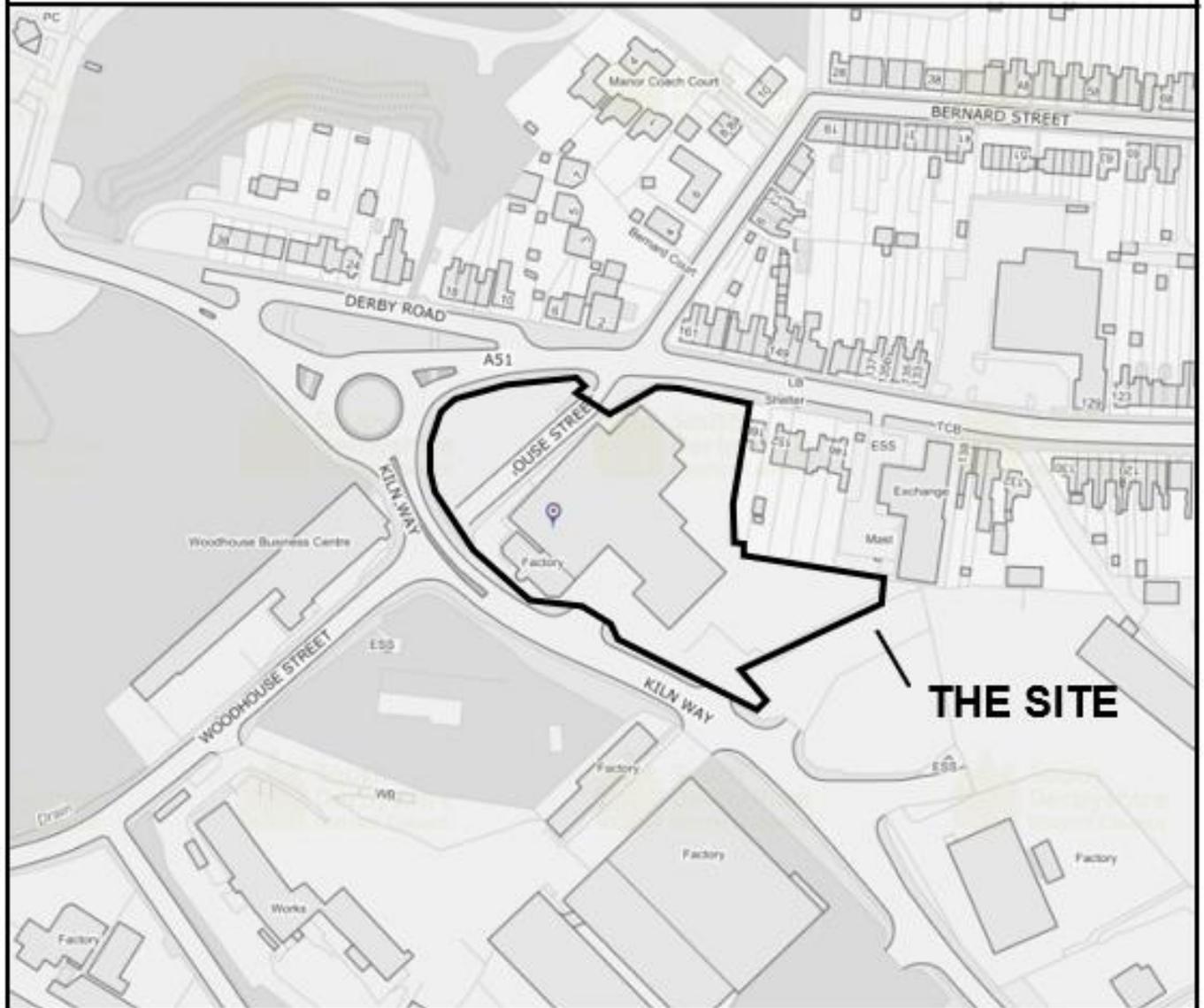
The application site is addressed as First Fence Ltd, Kiln Way, Woodville, Swadlincote, DE11 8EA.

The existing use of the First Fence Ltd. premises is considered to comprise of both B2 Industrial and B8 Storage uses. The site under consideration incorporates an existing yard space and land located immediately adjacent to the built form of First Fence Ltd. This is to the north-west of the site and east of the connecting roundabout from Kiln Way. This roundabout and the Link Road have recently been constructed. The site area for this application comprises of 9,905 square metres of land.

The application site is located within Woodville within the Swadlincote settlement boundary. Swadlincote is defined as an 'Urban Area' in the Local Plan Settlement Hierarchy. The application is within Woodville Parish. The site is surrounded to the north, west and south by the remodelled Swadlincote Road, roundabout, and Kiln Way, with Kiln Way being a Regeneration Route. To the east are neighbouring industrial premises. Surrounding development to the south is predominantly industrial units occupied by a range of businesses. Neighbouring residential ribbon development is focussed along Swadlincote Road, in predominantly modest terraced two storey style, however there are also several commercial premises along Swadlincote Road. To the west, on the opposite side of Kiln Way and south of Swadlincote Road, there is Gresley Common comprising of an expanse of woodland and established trees.

The site comprises of open landscaping and a turning head created from Woodhouse Street which was stopped up at this location during the highway works to create the Regeneration Route which remodelled the surrounding roads. The open landscaping was undertaken as part of the landscaping to the junction. There are established trees onsite planted as part of

**DMPA/2023/1368– First Fence Ltd, Kiln Way, Woodville, Swadlincote, DE11 8EA**



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the landscaping. Given the sites orientation and existing access to the turning head, this element of the site would be accessed south from Swadlincote Road.

The site hereby under consideration is not situated within a Conservation Area, does not fall within proximity of Heritage Assets, and does not fall within the River Mease Catchment. The site under consideration does not comprise of any Tree Preservation Orders but is however situated within the National Forest. The site lies wholly within Flood Zone 1 which has the lowest probability of flooding. The site is noted as being within an area subject to Low Risk of Surface Water flooding. The site is within a Coal Authority 'High Risk Coalfield Area'.

A site visit has been undertaken on Thursday 16 November 2023.

## **The Proposal**

The applicant is seeking planning permission for the proposed extension to existing workshop and provision of additional office space, together with a change of use of existing land and turning head resulting from the development of the Kiln Way Link Road for the creation 47no. car parking spaces, including 24no. electric vehicle charging points, erection of 10no. cycle spaces, staff seating area and landscaping for First Fence Ltd. (3 parking spaces to be allocated for Sharpe's Brothers and Co Ltd). (resubmission of DMPA/2023/0177) at First Fence Ltd, Kiln Way, Woodville, Swadlincote, DE11 8EA.

It has been outlined by the applicant that the company's success and continued growth requires an extension to the existing workshop and a need for more dedicated office space, to enable production to meet with the company's growing orders. The application will see an extension to the south-east facing side of the existing building at ground level with new office space above. This will provide for approximately 1,040 square metres of floorspace split between the two levels. External materials and finishes have been proposed to match that of the existing building. The elevations can be seen on the supporting proposed plans.

The applicant has stated that the provision of more dedicated parking is much needed by First Fence, with employees' cars currently parked wherever they can find space. A small section of the site was lost to make way for the Regeneration Route road, but even before this construction, staff have been double parking on site and park on nearby roads as the site currently has insufficient parking. The proposal is to change the use of the turning head to vehicular and cycle parking, whilst retaining the landscaping in support of First Fence Ltd. Such parking is identified as being needed to support the business and does not include HGV parking.

The perimeter adjacent to the roundabout will be landscaped with the introduction of approximately 157 metres of hedging, as well as relocated and new tree planting, which will both help screen the premises and add to the ecology and biodiversity of the site. The proposal will also result in a gain in the permeable area of the site, which will help reduce the potential of flooding in the area.

The scheme of development under consideration includes a change of use of existing land and turning head for the creation of 47no. car parking spaces, including 24no. electric vehicle charging points, erection of 10no. cycle spaces, staff seating area and landscaping. This element of the proposal is largely as permitted under the Planning Appeal reference of APP/F1040/W/23/3317999 which relates to the planning reference of DMPA/2022/0360.

The proposed two-storey extension to the south-east facing side of the existing building with a workshop expansion at ground floor and new office space above remains as submitted under the planning reference of DMPA/2023/0177. This application was refused at planning committee against officer recommendation, with reference drawn only to the land between the existing building and the roundabout. The reasoning for this refusal was as follows:

*The proposed development will introduce a built form of development into a visually prominent, open, naturally landscaped area, and would erode this visually significant landscaped gateway site. This would result in an undue adverse impact on the character, appearance and visual*

amenity of the area. As such, the proposal fails to accord with Local Plan Part 1 policies BNE1 and BNE4. This adverse impact is not considered to be outweighed by the increase in parking provision and additional planting proposed as part of this application.

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

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

- Location Plan - Ref: LP-222-48-11 - Received by the LPA: 27 Oct 2023
- Survey of Existing - Ref: 222-48-01a - Received by the LPA: 27 Oct 2023
- Proposed Site Plan - Ref: 222-48-02a - Received by the LPA: 27 Oct 2023
- Existing Elevations - Ref: 221-20.01 - Received by the LPA: 27 Oct 2023
- Proposed Ground Floor Plan - Ref: 222-48-04a - Received by the LPA: 27 Oct 2023
- Proposed First Floor Plan - Ref: 222-48-05a - Received by the LPA: 27 Oct 2023
- Proposed North East Elevation - Ref: 222-48-06a - Received by the LPA: 27 Oct 2023
- Proposed South East Elevation - Ref: 222-48-07a - Received by the LPA: 27 Oct 2023
- Proposed South West Elevation - Ref: 222-48-08a - Received by the LPA: 27 Oct 2023
- Proposed North West Elevation - Ref: 222-48-09a - Received by the LPA: 27 Oct 2023
- Proposed Section - Ref: 222-48-10a - Received by the LPA: 27 Oct 2023
- Comparison of Solid Surface Areas - Ref: 222-48-12D - Received by the LPA: 27 Oct 2023
- Bike Shelter Details - Ref: BXMWAP\_Apollo2018 - Received by the LPA: 27 Oct 2023
- Coal Mining Risk Assessment - Ref: EAL.245.22 - Received by the LPA: 27 Oct 2023
- Overview Sheet Charger Info - Ref: EVQRO-V06-R5 Quantum EV Range - Received by the LPA: 27 Oct 2023
- Transport Statement - Ref: LP-222-48-11ADC3029-RP-A-v2 - Received by the LPA: 27 Oct 2023
- Noise Assessment - Ref: P4458/R1/WJK - Received by the LPA: 27 Oct 2023
- Planning Design and Access Statement January 2023 - Received by the LPA: 27 Oct 2023

### **Relevant planning history**

The planning history available for the site is as follows:

DMPA/2023/0177 - Proposed extension to existing workshop and provision of additional office space, together with a change of use of existing land and turning head resulting from the development of the Kiln Way Link Road for the creation 45no. car parking spaces, including 24no. electric vehicle charging points, erection of 10 no. cycle spaces, staff seating area and landscaping for First Fence Ltd. (3 parking spaces to be allocated for Sharpe's Brothers and Co Ltd) - Refused: 22-Sept-2023.

The reason for this refusal was as follows: *The proposed development will introduce a built form of development into a visually prominent, open, naturally landscaped area, and would erode this visually significant landscaped gateway site. This would result in an undue adverse impact on the character, appearance and visual amenity of the area. As such, the proposal fails to accord with Local Plan Part 1 policies BNE1 and BNE4. This adverse impact is not considered to be outweighed by the increase in parking provision and additional planting proposed as part of this application.*

This reason relates only to the existing land and turning head area of the application site resulting from the development of the Kiln Way Link Road, and not the principle of the proposed extension to the existing workshop and provision of additional office space which also formed part of the proposed scheme of development. It is understood that the applicant may submit an appeal pending the outcome of the application currently under consideration referenced DMPA/2023/1368.

DMPA/2022/0360 - Proposed change of use to existing land and turning head resulting from the development of the Kiln Way Link Road for the creation 47no. car parking spaces, inc. 24no. electric vehicle charging points, erection of 10no. cycle spaces, staff seating area and landscaping

- Refused: 09-Sept-2022 - Appeal Allowed: 24-Oct-2023. (Appeal Reference: APP/F1040/W/23/3317999)

9/2017/1401 - Continued use of the site in connection with b2 (industrial) and b8 (storage) use along with retention of perimeter palisade fencing and re-painting of it, retaining wall, hardstanding and installation of dropped kerb to Swadlincote Road - Approved: 06-June-2018.

9/2017/1222 - Construction of a single carriageway road with verges, cycleways and footways along with three new roundabouts and associated infrastructure and the partial demolition of woodhouse business centre (Woodville regeneration route phase 2) affecting Derby Road, Swadlincote Road, Woodhouse Street and Kiln Way and across land at the former Dyson site occupation lane Woodville Swadlincote Derbyshire - Approved: 11-Apr-2018.

9/2016/0147 - Use of site in connection with b2/b8 use retention of perimeter palisade fencing installation of dropped kerb, retention of hardstanding and retention of retaining wall - Refused: 07-Sept-2017.

9/2016/0784 - Display of 4 no internally illuminated fascia signs - Approved 19-Oct-2016.

The relevant Derbyshire County Council planning permissions are as follows:

CD9/0520/8 - Section 73 Application for the variation of conditions 3 (Form of Development), 4 (Highways) and 24 (Construction Hours) of planning permission CD9/0519/20 for construction of an all purpose single carriageway complete with verges, cycleways and footpaths (including three roundabout junctions), connecting between the existing roundabout spur at Occupation Lane, Woodville and the A514 Derby Road, Swadlincote. Approved 30/07/20.

CD9/0519/20 - Construction of an all-purpose single carriageway complete with verges, cycleways and footways (including three new roundabout junctions), connecting between the existing roundabout spur at Occupation Lane, Woodville, and the A514 Derby Road, Swadlincote. Approved 23/09/19.

A Landscape Masterplan was subsequently submitted in respect of Condition 14 of planning permission ref. CD9/0520/8 which showed the retention of woodland and hedgerow as required by National Forest. Condition 15 of planning permission CD9/0520/8 requires the retention of planting as agreed for five years and this conflicts with the proposals currently under consideration as part of this application.

## **Responses to consultations and publicity**

### Summary of consultation responses ...

Woodville Ward & Parish, Cllr Taylor - No comments received.

### Environmental Health -

- No objections, subject to recommended planning conditions. Conditions recommended with regards to demolition and construction hours, and the submission and approval of a Construction Environmental Management Plan (CEMP). (16 November 2023).
- The planning conditions initially recommended under DMPA/2023/0177 have been reviewed. It has since been advised that a balanced approach would be to include a condition which requires the developer to take appropriate measures if issues of concern arise during the construction phase. (18 January 2024)

### County Highways Authority -

- No objections subject to recommended planning conditions:
  1. No works shall commence on site until such time as a Stopping Up Order to remove all highway rights subsisting on the section of Woodhouse Street enclosed within the red outline of the application site has been granted and all highway rights have been

successfully removed. For the avoidance of doubt, this must take place prior to commencement to comply with statutory requirements.

2. Prior to being taken into use, the parking and manoeuvring space within the site shall be laid out in accordance with the approved drawing 222-48-02 rev A and maintained throughout the lifetime of the development free from any impediment to its designated use.
  3. The use of the proposed parking and manoeuvring space within the application site shall be restricted to use by all vehicles with the exception of articulated vehicles due to insufficient space within the site for large vehicles to turn.
  4. The existing access to Swadlincote Road should be restricted to cars only and all HGVs should use Kiln Way accesses.
  5. Any gates shall be set back at least 5m into the site from the highway boundary and open inwards only.
- (29 November 2023).

#### The Coal Authority -

- No objections subject to recommended planning conditions with regards to a scheme of intrusive investigations, a scheme of remediations works and/ or mitigation measures, and safety and stability conformation. The incorporation of an informative note has also been requested. (04 December 2023).

#### Natural England -

- The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the proposals are not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not the proposals are consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of sites and the impacts of development proposals to assist the decision making process. We advise local planning authorities to obtain specialist ecological or other environmental advice when determining the environmental impacts of development. We recommend that local planning authorities use Natural England's Site of Special Scientific Interest Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. (08 December 2023).

#### Public Rights of Way -

- Swadlincote Public Footpath No. 18 runs east of the proposed development site. The Rights of Way Section has no objection to the proposals as it appears that the route will be ultimately unaffected by the proposed works. The incorporation of an informative note has been requested. (12 December 2023).

#### Economic Development -

- No comments. (13 December 2023).

#### Derbyshire Wildlife Trust -

- It is noted that this is a resubmission of DMPA/2023/0177. In our response to the former application, we made recommendations for conditions. These conditions are still applicable to this resubmission. - Construction Environmental Management Plan (CEMP: Biodiversity), Landscape and Ecological Management Plan (LEMP), and Lighting. (19 December 2023).

#### Responses to publicity ...

Following the formal consultation, which included neighbour notification letters dated 14 November 2023, a site notice displayed on 16 November 2023, and a press notice publicised on 24 November 2023 a total of x1 formal comment of neighbour representation has been received in response to such. These comments provide a stance of objection with a summary of the key points of concern arisen being as follow:

- *Green areas not required for the new road should be retained, enhanced, and landscaped.*
- *Lower section of Woodhouse Street should incorporate a public highway and public footpath.*
- *Plans should plant additional native trees and wildflowers.*

- *Encroaching onto residential area (area previously public footpaths and highway).*
- *Dangers for residents crossing busy roads.*
- *Concerns regarding commercial vehicles and HGV's turning and parking on Woodhouse Street.*
- *Evidence for additional parking questioned.*
- *Site notice stating 07 November 2023 as last date for submissions.*

These comments of representation have been considered in the assessment of this planning submission.

For clarity the site notice displayed on 16 November 2023 stated a deadline for comments of 07 December 2023.

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

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

#### The relevant Development Plan policies are:

South Derbyshire Local Plan Part 1 - LP1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S5 (Employment Land Need), S6 (Sustainable Access), H1 (Settlement Hierarchy), E2 (Other Industrial and Business Development), E6 (Woodville Regeneration Area), E7 (Rural Development), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF4 (Transport Infrastructure Improvement Schemes), INF7 (Green Infrastructure), and INF8 (National Forest).

South Derbyshire Local Plan Part 2 - LP2: SDT1 (Settlement Boundaries and Development), BNE7 (Trees, Woodland and Hedgerows), and BNE9 (Advertisements and Visual Pollution).

#### The relevant local guidance is:

South Derbyshire Design Guide SPD  
Trees & Development SPD

#### The relevant national guidance is:

National Planning Policy Framework (NPPF)  
Planning Practice Guidance (PPG)  
National Design Guide (NDG)

### **Planning Considerations**

Considering the application made, the documents submitted (amended where relevant) and the site and its environs; the main issues central to the determination of this application are:

- Principle of Development
- Design, Landscape, Character, and Visual Impacts
- Amenity
- Access and Highways
- Ecology and Biodiversity

- Other Matters

## Planning Assessment

### Principle of Development

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

The National Planning Policy Framework (NPPF) seeks to support the growth and expansion of local businesses and places significant weight on the need to support economic growth. The site under consideration is situated within the Woodville Regeneration Area which is allocated in the South Derbyshire District Local Plan Part 1 for employment led development. The Woodville Regeneration Area is the single highest priority for regeneration for South Derbyshire District Council, supported by the link road. Policy E6 (Woodville Regeneration Area) of the Local Plan seeks that redevelopment of this area should incorporate 12 hectares of employment development defined by use classes B1, B2 and B8.

Policy S1 (Sustainable Growth Strategy) of the Local Plan seeks to promote sustainable growth to meet its objectively assessed commercial needs in the plan period 2011- 2028. Point i) of this policy presumes in favour of the re-use of previously developed land.

Policy E2 (Other Industrial and Business Development) of the Local Plan presumes in favour of the expansion of existing businesses in Part A, part ii) of this policy where there would be no undue impacts on the local landscape or natural environment.

The turning head element of the site is brownfield land which has arisen from the delivery of the Woodville – Swadlincote Regeneration Route. The turning head is currently in use as informal parking. The development proposal hereby under consideration incorporates a range of parking to support the business operations and supports a modal shift away from petrol cars. A comprehensive scheme of retaining and enhancing landscaping and planting has been proposed.

This element of the proposal is largely as permitted under the Planning Appeal reference of APP/F1040/W/23/3317999 which relates to the planning reference of DMPA/2022/0360. The main issues, cited by the Planning Inspector, are in regard to the effect of the proposed development on the character and appearance of the surrounding area. The Planning Inspector has noted in the appeal decision letter that;

*‘Although the appeal site has a relatively open appearance, it does not make a significant contribution to the localised urban character of its surroundings. It is considered that the existing landscaping is fairly minimalistic and the site displays no notable features or characteristics to suggest that it plays any important gateway role. A considerable part of the open aspect in the vicinity of the roundabout would be retained with a large portion of the proposed car parking areas being partially screened by hedgerow planting. The planning inspectorate concluded that the proposal would not have a significant detrimental effect on the character and appearance of the surrounding area and would provide an opportunity to encourage more sustainable forms of transport in the longer term.’*

On this basis, the proposal is considered to reflect the aspirations of the Woodville Regeneration Area and will support the ongoing operations of an existing employment use in B1/ B2 use in line with Policy E6 (Woodville Regeneration Area). The site is brownfield land and therefore is considered in line with Policy S1 (Sustainable Growth Strategy). The development proposal is also supported when considered against Policy E2 (Other Industrial and Business Development).

The principle of the proposed scheme of development which relates to an established existing local business is considered to be acceptable, with the proposal supporting local economic development. Providing that material planning considerations are met the proposed scheme of development should be able to be supported.

### Design, Landscape, Character, and Visual Impacts

The most applicable policies and guidance to consider with regards to the design, character, and appearance related considerations are Policy S2 (Presumption in Favour of Sustainable Development), Policy BNE1 (Design Excellence), Policy BNE4 (Landscape Character and Local Distinctiveness), Policy INF8 (The National Forest), Policy BNE5 (Development in Rural Areas), and Policy BNE7 (Trees, Woodland and Hedgerows) of the South Derbyshire District Local Plan, the South Derbyshire Design Guide SPD, and the National Planning Policy Framework (NPPF).

The National Planning Policy Framework (NPPF) attaches great importance to design of the built environment and sets out that high quality and inclusive design should be applied to all development, including individual buildings, private spaces, and wider area development schemes. It also states that development should respond to local character and history and reflect the identity of local surroundings.

Paragraph 180 of Chapter 15 (Conserving and Enhancing the Natural Environment) of the National Planning Policy Framework (NPPF) seeks that planning policies and decisions should contribute to and enhance the natural and local environment. Point a) of this paragraph is specifically concerned with protecting and enhancing valued landscapes.

Point e) of Policy BNE1 (Design Excellence) of the Local Plan seeks that new development should create places with a locally inspired character that responds to its context and has regard to valued landscape characteristics. Policy BNE4 (Landscape Character and Local Distinctiveness) expects developers to retain key valued landscape components unless it can be demonstrated that the loss of features would not give rise to an unacceptable impact on landscape character. The policy presumes against development that would have an unacceptable impact on landscape character, including historic character, visual amenity and sensitivity. Policy BNE7 (Trees, Woodland and Hedgerows) is relevant where this policy seeks to appropriately mitigate, compensate for or off-set for the loss of trees, woodland or hedgerows. Policy INF8 (The National Forest) seeks to support the creation of a national forest across the area and favours tree planting alongside delivery of other natural landscapes, akin to the area.

The applicant is seeking planning permission for the proposed; two-storey extension to the south-east facing side of the existing building with a workshop expansion at ground floor and new office space above; delivery of additional car parking, including EV charging, and cycle stores on an existing turning head; and the incorporation of a scheme of landscaping and planting at the site under the address of First Fence Ltd, Kiln Way, Woodville, Swadlincote, DE11 8EA. The Local Planning Authority acknowledges and has considered comments and concerns arisen from the consultation undertaken regarding potential design related implications.

The design, character and appearance implications associated with the proposed built form have been carefully considered as part of the assessment of this planning submission, together with consultation responses received in this regard. In terms of scale, bulk, massing, and proportions the proposed scheme of development comprises of an acceptable form of design. The scale and design of the two-storey extension to the south-east facing side of the existing building is considered to be consistent with that expected for an extension of a premises of this nature. The materials as proposed are considered to be appropriate. Should planning approval be recommended planning conditions shall be incorporate to ensure an acceptable level of design is retained and implemented at the build out stage.

With regards to National Forest planting requirements, the site under consideration comprises of under 1 hectare. Policy INF8 (The National Forest) of the Local Plan requires normal landscaping appropriate to the sites setting in this instance. In the instance of this planning application the site

area is below the threshold requiring a set percentage of National Forest planting, and therefore formal comments from the National Forest Company are not sought.

In terms of the proposed scheme of additional car parking and landscaping and planting, these elements of the development proposal have also been given careful consideration in conjunction with the comments and concerns arisen from the consultation undertaken. The prominent location of this element of the development with such functioning as a 'gateway' has also been carefully considered. A comprehensive scheme of retaining and enhancing landscaping and planting is proposed. In terms of layout and visual amenity, the hedgerow would flank the highway and an increased provision of tree planting is proposed. This is considered to assist in helping create a green corridor along the south of Swadlincote Road linking up with the woodland further west. In effect, landscaping of a more substantial and green nature would be delivered and moved closer to the link road. Consequently, the users of Swadlincote Road will appreciate this from further along the highway, improving visual amenity, and enhancing the role of this junction as the 'gateway'. Should planning approval be recommended planning conditions shall be incorporate to ensure that an acceptable level of design is retained and implemented at the build out stage, and to ensure the delivery and retention of the landscaping and planting scheme in the interests of the visual amenities of the locality.

Overall, the proposed scheme of development is considered to be acceptable with regards to the design, character, and appearance consideration. The scheme would not result in unacceptable harm to the street-scene, neighbouring setting, or the wider locality, and is considered to be acceptable and in accordance with the relevant local and national level planning policies with regards to associated design, character, and appearance implications.

### Amenity

The most applicable policies and guidance to consider are Policy SD1 (Amenity and Environmental Quality) and Policy BNE1 (Design Excellence) of the South Derbyshire District Local Plan, and the South Derbyshire Design Guide SPD which between them seek that new development does not lead to adverse impacts on the environment or amenity of existing occupiers within or around proposed developments.

The proposed scheme of development has been carefully considered with regards to potential impacts on amenity. The Local Planning Authority acknowledges and has considered comments and concerns arisen from the consultation undertaken regarding potential amenity related implications.

The nearest neighbouring residential amenity to the application site hereby under consideration is located on the south side of Swadlincote Road. The nearest residential properties border the site of First Fencing Ltd. to the north/ north-east. The furthest rear element of the rear gardens which serve these properties are situated within relative proximity to the proposed two-storey extension to the south-east facing side of the existing building. Given the nature of the overall development proposal, the site context, and the associated distances between such, it is considered that the development proposal would not result in a harmful impact on the amenity of neighbouring properties.

Specialist input from the Environmental Health team at South Derbyshire District Council has been requested and received. The Environmental Health team have recommended that there are no objections on environmental health related grounds subject to the incorporation of relevant recommended planning conditions. Conditions have been recommended regarding protecting the amenity of the locality, especially for people living and/ or working nearby which shall be incorporated should planning approval be recommended.

Overall, given the distances of the development proposal from nearby residential properties, and the overall scale of that proposed, it is considered that significant unacceptable implications will not arise. The siting of the development proposal and the relationship with the nearest neighbouring properties ensures the proposed scheme of development is considered to not present any major issues with regards to loss of daylight, loss of sunlight, overbearing, or

overlooking. The proposed scheme of development, subject to the above-mentioned planning conditions, is therefore considered to be acceptable on amenity related grounds.

### Access and Highways

The County Highways team at Derbyshire County Council have been formally consulted with regards to this development proposal. A formal consultation response has since been provided with the County Highways team outlining no objections on highway related grounds. This is subject to the incorporation of relevant recommended planning conditions should planning approval be recommended. The Local Planning Authority acknowledges and has considered other comments and concerns arisen from the consultation undertaken including with regards to potential access and highways related implications.

A technical assessment of the development proposal and a consideration of the potential associated implications has been undertaken by the County Highways team at Derbyshire County Council. The applicant proposes to change the use of part of Woodhouse Street and incorporate it and adjacent land into their curtilage to provide additional on-site parking for the premises. The applicant has stated with the submitted Transport Statement that this part of Woodhouse Street has recently been stopped up as part of the Woodville – Swadlincote Regeneration Route works.

However, the National Casework Team has confirmed that, according to their records, this case is ongoing and is still at draft stage and therefore the stopping up has not been approved. The change of use will therefore need to complete the formal Stopping Up of part of Woodhouse Street under Section 247 of the Town & County Planning Act 1990 which will need to take place before any other works commence.

It is noted that there is insufficient space within the application site for articulated vehicles to turn and, as such, the proposed use of the land, the subject of the application, should be restricted to not include articulated vehicles. In addition, the premises benefits from two purpose built industrial accesses from Kiln Way and the Highway Authority would prefer to see the existing access onto Swadlincote Road permanently closed to HGV vehicles. This shall be secured via an appropriately worded planning condition should planning approval be granted.

Having reviewed the submitted Transport Statement it is considered that the additional traffic likely to be generated by the proposed development will have a minimal impact on the operation of the local road network. In addition, the proposed parking arrangements are considered acceptable and the provision of the electric vehicle charging spaces and cycle parking is welcomed.

In summary the County Highways team at Derbyshire County Council have formally advised of a stance of no objections to the application subject to relevant recommended planning conditions being imposed.

It is hereby worth noting that paragraph 115 of the National Planning Policy Framework states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Following the receipt of the professional County Highways advice it would be unreasonable to suggest that the scheme of development would be unacceptable on highway related grounds. Subject to the incorporation of the relevant recommended planning conditions, the proposed scheme of development is considered to be acceptable on access and highways related grounds.

### Ecology and Biodiversity

The most applicable policies and guidance to consider with regards to the ecological and biodiversity consideration are Policy S2 (Presumption in Favour of Sustainable Development), Policy E7 (Rural Development), BNE3 (Biodiversity), Policy INF8 (The National Forest), and Policy BNE7 (Trees, Woodland and Hedgerows) of the South Derbyshire Local Plan, the Natural Environment and Rural Communities Act, and the National Planning Policy Framework.

Policy BNE3 (Biodiversity) of the Local Plan supports development which contributes towards protecting or improving local biodiversity or geodiversity and delivering net gains in biodiversity wherever possible.

The application site is considered to have a relatively low ecological value. Established trees and proposed hedgerow and planting does however form part of the proposed scheme of development hereby under consideration. A comprehensive scheme of retaining and enhancing landscaping and planting is proposed. Should the Local Planning Authority be recommending planning approval planning conditions shall be incorporated to ensure the implementation of this scheme, and to ensure the replacement of any dead, removed, damaged or diseased species in the next planting season. In addition to this bird boxes will also be provided as part of any approved scheme of development.

Technical consultation has been undertaken with the Derbyshire Wildlife Trust at Derbyshire County Council with regards to this planning submission. A formal consultation response has since been provided advising that biodiversity issues can be addressed through the implementation of the landscaping and management proposals at the site. It has therefore been advised that recommended planning conditions are incorporated. Conditions have been detailed with regards to a Construction Environmental Management Plan (CEMP: Biodiversity), a Landscape and Ecological Management Plan (LEMP), and Lighting. Subject to the incorporation of these relevant recommended planning conditions, the proposed scheme of development is considered to be acceptable on ecology and biodiversity grounds.

Overall, it is considered that subject to the incorporation of relevant recommended planning conditions, the scheme of development can be considered to be in accordance with Policy BNE3 (Biodiversity) of the Local Plan and can therefore be supported in this regard.

#### Other Matters

The proposal will result in a gain in the permeable area of the site, which will improve the infiltration drainage on site and help reduce the potential of flooding in the area. Details of the landscaping and materials will be conditioned so this can be controlled. The site lies wholly within Flood Zone 1 which has the lowest probability of flooding. The site is noted as being within an area subject to Low Risk of Surface Water flooding. It is not envisaged that unacceptable drainage or flood risk related implications will arise. It is considered that the proposals would accord with the relevant local and national level planning policy in this regard. As such there are no flooding/ drainage related concerns in principle.

The application form shows that Derbyshire County Council is an interested party in the site. Derbyshire County Council like any other landowner has the ability to manage their estate accordingly. There is no planning reason for the site to remain as is, beyond that of the conditions attached to the link road consent which have been addressed. Indeed, in that context it is considered that the function of the site as a 'gateway' could be improved through the additional landscaping.

#### Planning Balance

In support of the established local business of First Fence Ltd. the scheme of development proposes a two-storey extension to the south-east facing side of the existing building with a workshop expansion at ground floor and new office space above; delivery of additional car parking, including EV charging, and cycle stores on an existing turning head; and the incorporation of a scheme of landscaping and planting.

The principle of the proposed scheme of development which relates to an established existing local business is firstly considered to be acceptable. The change of use of the existing land and turning head resulting from the development of the Kiln Way Link Road for the creation 47no. car parking spaces, including 24no. electric vehicle charging points, erection of 10no. cycle spaces is proposed. The details of parking on the site frontage as proposed are largely as permitted under

the Planning Appeal APP/F1040/W/23/3317999 which relates to the planning reference of DMPA/2022/0360. The key consideration and conclusions of the Planning Inspector are referenced above. The proposed extension to the existing workshop and provision of additional office space which also forms part of the proposed scheme of development, remains as previously considered under planning reference DMPA/2023/0177. The refusal of this planning application did not relate to this extension element. The site is situated within a designation for regeneration to support employment use. The proposal is considered to be in line with the regeneration objectives by supporting local business and the Woodville – Swadlincote Regeneration Route and represents sustainable use of brownfield land. In line with the NPPF this is afforded significant weight.

There will be some impacts both on the living conditions of neighbours as a result of the extension and in relation to additional vehicle movements. On balance it is considered that an acceptable form of design is presented and further to this subject to relevant planning conditions the proposal is considered to not have a significant adverse impact on the residential amenity of the nearest neighbouring properties. Furthermore, the scheme of development is considered to be acceptable with the Derbyshire Wildlife Trust and the County Highways team at Derbyshire County Council subject to relevant planning conditions.

The landscaping and planting, and rearranged layout are considered to improve and enhance the visual amenity offered at this junction, reflect local character in so far as additional tree planting in an area of National Forest and result in ecology benefits. These benefits will be delivered and controlled via the imposition of relevant planning conditions.

The development proposal is considered to be acceptable when considered against the aims and objectives of the South Derbyshire District Local Plan, Supplementary Planning Documentation, and the National Planning Policy Framework. There are no material considerations that would warrant refusal of planning permission in this instance.

## **Conclusion**

The proposed scheme of development at the site under the address of First Fence Ltd, Kiln Way, Woodville, Swadlincote, DE11 8EA is considered to be acceptable, and is considered to be in accordance with the relevant local and national level planning policy. None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

## **Recommendation**

### **Approve subject to the following conditions:**

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 full accordance with the following approved details:
  - Location Plan - Ref: LP-222-48-11 - Received by the LPA: 27 Oct 2023
  - Survey of Existing - Ref: 222-48-01a - Received by the LPA: 27 Oct 2023
  - Proposed Site Plan - Ref: 222-48-02a - Received by the LPA: 27 Oct 2023
  - Existing Elevations - Ref: 221-20.01 - Received by the LPA: 27 Oct 2023
  - Proposed Ground Floor Plan - Ref: 222-48-04a - Received by the LPA: 27 Oct 2023
  - Proposed First Floor Plan - Ref: 222-48-05a - Received by the LPA: 27 Oct 2023
  - Proposed North East Elevation - Ref: 222-48-06a - Received by the LPA: 27 Oct 2023

- Proposed South East Elevation - Ref: 222-48-07a - Received by the LPA: 27 Oct 2023
  - Proposed South West Elevation - Ref: 222-48-08a - Received by the LPA: 27 Oct 2023
  - Proposed North West Elevation - Ref: 222-48-09a - Received by the LPA: 27 Oct 2023
  - Proposed Section - Ref: 222-48-10a - Received by the LPA: 27 Oct 2023
  - Comparison of Solid Surface Areas - Ref: 222-48-12D - Received by the LPA: 27 Oct 2023
  - Bike Shelter Details - Ref: BXMWAP\_Apollo2018 - Received by the LPA: 27 Oct 2023
  - Coal Mining Risk Assessment - Ref: EAL.245.22 - Received by the LPA: 27 Oct 2023
  - Overview Sheet Charger Info - Ref: EVQRO-V06-R5 Quantum EV Range - Received by the LPA: 27 Oct 2023
  - Transport Statement - Ref: LP-222-48-11ADC3029-RP-A-v2 - Received by the LPA: 27 Oct 2023
  - Noise Assessment - Ref: P4458/R1/WJK - Received by the LPA: 27 Oct 2023
  - Planning Design and Access Statement January 2023 - Received by the LPA: 27 Oct 2023
- unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.  
Reason: For the avoidance of doubt and in the interests of achieving sustainable development.

3. Prior to the commencement (including demolition, ground works, vegetation clearance and movement of plant, machinery and materials) of the development hereby approved, a Construction Environmental Management Plan (CEMP), including details of how demolition and construction works are to be undertaken, shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following. a) Risk assessment of potentially damaging construction activities. b) Identification of “biodiversity protection zones”. c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction. d) The location and timing of sensitive works to avoid harm to biodiversity features. e) The times during construction when specialist ecologists need to be present on site to oversee works. f) Responsible persons and lines of communication. g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person. h) Use of protective fences, exclusion barriers and warning signs. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.  
Reason: In the interests of protecting and enhancing ecology and biodiversity.

4. Prior to the commencement of the development hereby approved, a landscape and ecological management plan (LEMP) shall be submitted to and be approved in writing by the Local Planning Authority. The LEMP should combine both the ecology and landscape disciplines and include the following: a) Description and extent/location of habitats including grassland, trees, and hedgerows to be created and / or planted. b) Details of planting composition and methods of establishment. c) Aims and objectives of management. d) Appropriate management options for achieving aims and objectives. e) Prescriptions for management actions. f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period). g) Details of the body or organization responsible for implementation of the plan. h) Ongoing monitoring visits, targets and remedial measures when conservation aims and objectives of the LEMP are not being met. i) Locations of 5 bird boxes (include specifications/ installation guidance/ numbers). The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.  
Reason: In the interests of protecting and enhancing ecology and biodiversity.

5. Prior to the commencement of the development hereby approved, a Stopping Up Order to remove all highway rights subsisting on the section of Woodhouse Street enclosed within the red outline of the application site shall be granted and all highway rights be successfully removed. For the avoidance of doubt, this must take place prior to commencement to comply with statutory requirements.  
Reason: In the interests of highway safety.

6. Prior to the commencement of the development hereby approved, a) a scheme of intrusive site investigations, and gas monitoring has been carried out on site to establish the risks posed to the development by past coal mining activity, and; b) any remediation works and/ or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed. The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.  
Reason: The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 189 and 190 of the National Planning Policy Framework.
7. Prior to the first use of the extension hereby approved, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/ or mitigation necessary to address the risks posed by past coal mining activity.  
Reason: The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 189 and 190 of the National Planning Policy Framework.
8. If during the construction phase, contamination is encountered which has not previously been identified, then the contamination shall be fully assessed, and appropriate mitigation measures taken as part of an appropriate remediation scheme which shall be submitted to and approved in writing by the Local Planning Authority.  
Reason: To protect future occupiers of the development, buildings, structures/ services, ecosystems and controlled waters, including deep and shallow ground water.
9. All external materials used in the development shall match those detailed within the approved plans and documentation. Any alternative details shall be first submitted to and approved in writing by the Local Planning Authority, whereafter the approved alternative details shall be incorporated into the development.  
Reason: In the visual interest of the built form and the surrounding area.
10. All planting, seeding and turfing, shown on the approved Proposed Site Plan - Ref: 222-48-02a - Received by the LPA: 27 Oct 2023, shall be carried out in the first planting and seeding season following the commencement of the development hereby approved, and any trees or plants which die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.  
Reason: To ensure that the approved planting schedule is implemented in a speedy and diligent way and that initial plant losses are overcome in the interests of the visual amenities of the locality.
11. Prior to the installation of external lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the Local Planning Authority to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of lightspill to any sensitive ecological zones/ features. Guidelines can be found in Guidance Note 08/23 - Bats and Artificial Lighting at Night (BCT and ILP, 2023). Such approved measures will be implemented in full.  
Reason: In the interests of protecting and enhancing ecology and biodiversity.

12. Prior to being taken into use, the parking and manoeuvring space within the site shall be laid out in accordance with the approved drawing Proposed Site Plan - Ref: 222-48-02a - Received by the LPA: 27 Oct 2023 and maintained throughout the lifetime of the development free from any impediment to its designated use.  
Reason: In the interests of highway safety.
13. The use of the proposed parking and manoeuvring space within the application site shall be restricted to use by all vehicles with the exception of articulated vehicles due to insufficient space within the site for large vehicles to turn.  
Reason: In the interests of highway safety.
14. The existing access to Swadlincote Road shall be restricted to exclude HGV's. All HGV's should use Kiln Way accesses.  
Reason: In the interests of highway safety.
15. Any gates shall be set back at least 5m into the site from the highway boundary and open inwards only.  
Reason: In the interests of highway safety.
16. During the period of construction, no ground, construction or fitting out works shall take place and no deliveries shall be taken at or dispatched from the site other than between 0800 and 1800 hours Monday to Friday and 0800 and 1300 hours on Saturdays. There shall be no construction works (except for works to address an emergency) or deliveries on Sundays or Bank Holidays.  
Reason: In the interests of neighbouring amenity.
17. All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive. If it is necessary for work to commence in the nesting season then a pre commencement inspection of the vegetation for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.  
Reason: In the interests of protecting nesting birds.
18. During the period of construction there must be no clearance of vegetation by burning, or disposal of other materials by burning.  
Reason: To protect the amenity of the locality, especially for people living and/ or working nearby.

## **Informatives**

- a. Planning permission does not give you approval to work on the public highway. The proposal requires the permanent removal ("stopping up") of highway to enable the development to take place. As such, you must complete the legal processes required before commencing works. Contact the National Transport Casework Team, Tyneside House, Skinnerburn Road, Newcastle Business Park, Newcastle upon Tyne NE4 7AR.
- b. Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- c. Pursuant to Section 127 of the Highways Act 1980, no works may commence within the limits of the public highway to reinstate the footway and redundant vehicular access without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 127 Agreements may be obtained by contacting the County Council via email [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 127 Agreement.

- d. The Rights of Way Section 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.
- e. Ground investigations and groundworks - Under the Coal Industry Act 1994 any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority since these activities can have serious public health and safety implications. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain permission to enter or disturb our property will result in the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at: [www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property](http://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property).
- f. Shallow coal seams - In areas where shallow coal seams are present caution should be taken when carrying out any on site burning or heat focused activities.

<b>REPORT TO:</b>	<b>Planning Committee</b>	<b>AGENDA ITEM: 1.11</b>
<b>DATE OF MEETING:</b>	<b>6 February 2024</b>	<b>CATEGORY: Delegated</b>
<b>REPORT FROM:</b>	<b>Strategic Director (Service Delivery)</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>Caroline Burn <a href="mailto:caroline.burn@southderbyshire.gov.uk">caroline.burn@southderbyshire.gov.uk</a></b>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>Tree Preservation Order 556: Stenson Fields Farm &amp; Industrial Estate</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	<b>Stenson</b>	<b>TERMS OF REFERENCE:</b>

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## **1.0 Recommendations**

1.1 That this tree preservation order should be confirmed.

## **2.0 Purpose of Report**

2.1 To consider confirmation of this Tree Preservation Order.

## **3.0 Detail**

3.1 This Tree Preservation Order (TPO) was made on 21 September 2023 in respect of a tree group comprising 4no. oaks and 2no. sycamore on the land at Stenson Fields Farm and Stenson Industrial Estate, to the northwest of Stenson Road, Stenson Fields. The tree group is prominent on Stenson Road.

3.2 The TPO was made in response to advice from the Council's Tree Officer in relation to planning application ref. DMPA/2023/0436. The Tree Officer commented (30<sup>th</sup> May 2023):

*I recently inspected the above site. I noted 4 mature oak trees T1, T2, T3, T4 on the frontage of the site and 2 mature sycamore trees T5 & T6 on the south-west boundary.*

*The 4 oak trees T1-T4 had the main stems lean east towards Stenson Road estimated stem diameter 60cm and height 17.0m. The BS 5837 root protection area (RPA) 163sq m with a nominal radius of 7.2m. The foliage in the crowns was in good condition and the crowns were asymmetric over the highway.*

*The 2 sycamore trees T5 & T6 had an estimated stem diameter of 50cm and height of 16.0m. RPA 113sq m and nominal radius of 6.0m. The foliage in the crown appeared in good condition.*

*The 6 trees have public amenity in the area and have a TEMPO score of 16 that would definitely merit protection of the trees with a TPO. (30 May 2023).*

**TPO 556 – Stenson Fields Farm, Stenson Road, Stenson, Derby, DE73 7FT**



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South Derbyshire District Council. LA 100019461.2020

3.3 One letter of objection has been received in response to the consultation on the making of the TPO which is summarised:

- The plan within the TPO is erroneous as it incorporates land within Stenson Fields Farmhouse whereas the descriptive text relates to Stenson Fields Farm and Stenson Industrial Estate.
- The TPO is to mitigate the impact of planning application DMPA/2023/0436 and in the Planning Committee meeting for this case, no reference was made to the trees within Stenson Fields Farmhouse.
- The trees on the front of Stenson Fields Farmhouse are ash trees not sycamores.

3.4 Whilst the application site for DMPA/2023/0436 related only to Stenson Industrial Estate land, the Tree Officer clearly recommended all 6 trees within the group, (including the 2no. mature sycamore trees to the south-west), be covered by TPO. The title within the TPO plan does state Stenson Fields Farm, opposed to 'Farmhouse'. This is due to a restriction of the number of digits that were able to be incorporated into the plan title block. The site boundary for the TPO is however sufficiently clear. The Tree Officer visited the site prior to making comments on the planning application DMPA/2023/0436 and identified the species as sycamore and oak.

3.5 It is noted that the 6 trees provide amenity value as a whole group. If the 2 sycamore trees were not incorporated in the group TPO and subsequently felled, it would be detrimental to the streetscene.

#### **4.0 Planning Assessment**

4.1 It is expedient in the interests of amenity to make the tree group the subject of a TPO in accordance with advice set out in the PPG and as per recommendations made by SDDC's Tree Officer.

#### **5.0 Conclusions**

5.1 It is expedient in the interests of amenity to preserve.

#### **6.0 Financial Implications**

6.1 None.

#### **7.0 Corporate Implications**

7.1 Protecting visually important trees contributes towards the Corporate Plan theme of Sustainable Development.

#### **8.0 Community Implications**

8.1 Trees that are protected for their good visual amenity value enhance the environment and character of an area and therefore are of community benefit for existing and future residents helping to achieve the vision for the Vibrant Communities theme of the Sustainable Community Strategy.

## **2. Appeal Decisions**

**This section includes appeal decisions and reports of applications either through delegated authority or determined at Planning Committee meetings.**

**[2.1](#) 19 Acresford Road, Overseal - Appeal Ref: APP/F1040/D/23/3333458**

**[2.2](#) 38 High Street, Melbourne - Appeal Ref: APP/F1040/Z/23/3314489**

**[2.3](#) Shortwood Farm, Green Lane, Overseal - Appeal Ref: APP/F1040/W/23/3325086**

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# Appeal Decision

Site visit made on 4 January 2024

**by K Savage BA(Hons) MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17<sup>th</sup> January 2024**

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## Appeal Ref: APP/F1040/D/23/3333458

**19 Acresford Road, Overseal, Swadlincote, Derbyshire DE12 6HX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Luke Fitzpatrick against the decision of South Derbyshire District Council.
  - The application Ref DMPA/2023/0999, dated 4 August 2023, was refused by notice dated 2 October 2023.
  - The development proposed is a large double garage with room above.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. A new version of the National Planning Policy Framework (the Framework) was published on 19 December 2023. The parts of the Framework most relevant to the appeal have not substantively changed from the previous iteration. Consequently, this update does not fundamentally alter the main parties' cases, and it is not necessary to seek further comments. References hereafter in the decision to the Framework are to the December 2023 version.

## Main Issue

3. The effect of the proposal on the character and appearance of the area.

## Reasons

4. The appeal site is located along the main road into Overseal from the south where linear development exists on both sides. The appeal site forms one of five dwellings on the eastern side of the road which are set well back into their sites. These dwellings have varied front boundaries, ranging from hedgerows to timber fencing to brick walls. Despite having a tall brick boundary wall, the front garden of No 19 and the dwelling itself are readily visible from the street.
5. The proposal seeks to erect a detached garage with a room in the roof space immediately behind the front boundary wall. The garage would stand some 5.5 metres tall, with a pitched roof and dormer windows facing into the site. At this height, the garage would stand significantly above the height of the front boundary wall and would be visible within the street scene.
6. As noted by the Council and confirmed on my site visit, the immediate area contains a mix of historic and modern development, including a number of listed buildings on the opposite side of the road. The older development tends to stand closer to the highway, with the later development, including the appeal site, occupying more recessed positions.

7. I saw no comparable examples of ancillary structures standing the front gardens of neighbouring dwellings. Within this context, therefore, the garage would form an isolated and uncharacteristic feature of the street scene. Due to its height and prominent position directly at the front boundary, it would dominate the frontage of the host property, obscuring views of the dwelling behind and undermining its prominence within the site, whilst upsetting the consistent pattern to development on this side of the road.
8. The appellant refers to several examples of garage structures to other properties. The nearest is 9 Acresford Road, a short distance to the north at the junction with Moira Road, which was allowed on appeal in 2009. However, this structure differs in being notably lower in height and set behind a tall established hedgerow. As a result, the structure does not appear prominently within the street scene. The proposed garage would not be able to achieve a similarly concealed effect as its greater height would require a much taller and more conspicuous hedge, which in any event appears unachievable as the position of the garage immediately next to the front boundary wall would not allow sufficient space for meaningful planting.
9. The other examples submitted are further from the appeal site in areas with different site contexts. I have no details regarding the planning history of these other schemes, but having considered the location and context of each, I note differences in terms of form, position, relationship to the main dwelling and the prevailing building line within the street. Consequently, I do not regard them as directly comparable to the appeal scheme, the suitability of which I have considered on the basis of its specific location and site context.
10. For these reasons, I conclude that the proposed garage would harm the character and appearance of the area, contrary to Policies S2, SD1 and BNE1 of the South Derbyshire Local Plan Part 1 (June 2016) and Policy H27 of the South Derbyshire Local Plan Part 2 (2 November 2017), which together support sustainable development that is well-designed, having regard to valued townscape characteristics, with outbuildings to be of a scale and character in keeping with the host property and not unduly detrimental to the character and appearance of the area. There would also be conflict with the Framework, which identifies good design as a key aspect of sustainable development.

## **Other Matters**

11. Despite referring to nearby listed buildings, the Council's reason for refusal did not specifically allege that the proposal would cause harm to their settings. I have nevertheless had regard to the statutory duty to have special regard to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they possess.
12. The listed buildings date from the 18th and 19th century. The Grade II\* listed Overseal House, originally a group of four dwellings and now one, derives its significance from its surviving internal and external architecture. 16 Acresford road is an adjoining mid-18th century dwelling forming part of the historic development along the road to Acresford. Grange Farmhouse is a prominent early 18th century farmhouse with the adjacent coach house and stables listed for group value. Both evoke the historic agricultural use of the land.
13. These listed buildings form a prominent stretch of historic townscape to the edge of Overseal, albeit that it has over time been surrounded by the

development opposite and dwellings to the north and west on Squirrel Walk. Consequently, the buildings are now experienced as part of the urban area, rather than within a rural or semi-rural setting when originally built. In this context, the proposed garage would be seen as part of the modern development on the eastern side of the road, which would not demonstrably alter the appreciation of the listed buildings on the western side, which would continue to be seen as a continuous group. Therefore, I find that the proposal would not cause harm to the significance of these listed buildings through harm to their settings.

14. No harm was identified by the Council in respect of neighbours' living conditions. Having observed the separation distances to the dwellings on either side, I have no reasons to disagree. However, this is a neutral factor weighing neither for nor against the proposal.
15. The appellant points to the potential for the garage to reduce noise pollution from traffic on the A444 and increase privacy. Such benefits may accrue for the appellant, but they would be minor in scope and not sufficient to outweigh the harm identified.
16. The appellant's efforts to improve his property in contrast to the deteriorating condition of Overseal House are noted, but this is not mitigation for the harm the proposed garage would cause to the character and appearance of the area.

### **Conclusion**

17. For the reasons set out, the proposal would conflict with the development plan, taken as a whole. Material considerations in this case do not indicate that planning permission should nevertheless be forthcoming despite this conflict. Therefore, the appeal should be dismissed.

*K Savage*

INSPECTOR



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## Appeal Decision

Site visit made on 30 November 2023

**by A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10<sup>th</sup> January 2024**

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**Appeal Ref: APP/F1040/Z/23/3314489**

**38 High Street, Melbourne, Derby DE73 8GJ**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Mr Matthew Clayton against the decision of South Derbyshire District Council.
  - The application Ref DMPA/2022/1000, dated 18 July 2022, was refused by notice dated 14 December 2022.
  - The advertisement proposed is for an illuminated projecting sign and a wall-mounted sign.
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### Decision

1. That part of the appeal that relates to a proposed wall-mounted fixed sign is dismissed. That part of the appeal that relates to the illuminated projecting sign as found on site (and described as on part of drawing ref: CLAYTON-IDS- 590-DR-A-00-10-007 as 'illuminated sign detail') is allowed and express consent granted for its display. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the following additional condition:-

- 1) The projecting sign hereby approved shall not be illuminated after 23:00 hours in any day.

### Preliminary Matter

2. The Council's refusal notice refers to the impact of the proposal upon the setting of the adjacent listed building, No.40 High Street and to Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. However these duties relate to the grant of planning permission, and not to advertisement consent. Consequently:-

### Main Issue

3. The main issue is the effect of the proposal on visual amenity having regard to the character and appearance of the Melbourne Conservation Area .

### Reasons

4. The appeal site is a three storey property, apparently nineteenth-century but potentially encasing something much earlier, set at the back of pavement in the small High Street of Melbourne and within its Conservation Area. The appeal site (No.38) is a short distance, around 100m, from Market Place where

a number of small commercial premises are clustered, many of these feature traditional shopfronts headed by console-bracketed sign-written fascias. The built form of the area is characterised by a mix of traditional typologies including, in the section of High Street which joins the appeal site to Market Place, smaller dwellings lining the street mixed in with some later insertions and community uses such as the Church, Assembly Rooms and public car park opposite the site.

5. No.38 stands as having a traditional shopfront to the ground floor, a modest fascia (but painted lettering absent) and the projecting sign, which is one of the subjects of this application, set adjacent. Above the fascia the upper storeys are set with single 4 light and 8-light twin sliding sashes to the upper and middle floors respectively, offset to the left within a rendered principal elevation devoid, above ground floor, of any indication of commercial activity or use. In that regard, the current character of the subject building bears strong similarities with the shopfronts in Market Place where signage appears to predominantly relate to the ground floor usage with lettered fascias over shopfronts. Upper storeys appear mostly void of displays, which lack would be consistent with the likely residential use of upper floors in such settings.
6. I consider the application of signage above the ground floor as proposed in the applied sign proposed would be inconsistent with the character of similar buildings and of the relevant parts of the MCA. It would visually clutter the upper wall surface and inappropriately extend the suggestion of commercial activity into the whole building. I note the appellant points to some examples, including the Melbourne Public House which sits between the appeal site and Market Place, and has a prominent post sign. That, however, is not inappropriate given the primary use of the whole of this early twentieth- century building which, also unlike its neighbours, is set back from its road frontage.
7. I now turn to the extant projecting sign. In outlining the policies and guidance relevant to the proposal, the Council acknowledge that premises such as public houses and similar may require (what they refer to as) 'sensitive and unobtrusive' illumination in relation to display where these are open in hours of darkness as would be the case with No.38. In this case the curvature of the street layout and the gap between the appeal site and what might be regarded as the more centrally-located premises in Market Place or other buildings in community use support the need for some identification in the hours of darkness and a projecting sign of a proportionate size and suitable design, as has been placed, would achieve that. However, it was apparent at the time of my visit that the sign's internal illumination might become obtrusive if it were to persist into night-time hours. However, as the use of the premises at ground floor level contributes positively to the 'high street' character of this part of the conservation area, no harm to amenity would arise if the signage were illuminated when necessary for identification, that is, during hours of darkness but limited to those hours when the premises would normally be open for custom.
8. My observations direct that there would be no significant harm to amenity from the proposed proportionately-sized illuminated projected sign if made acceptable (noting the appellant's indication of time limits for illumination) by conditions to reduce its illumination to the time when the premises might be expected to be open for use. The addition of a sign to the vacant wall surface

above the ground floor of No.38 would, however, undermine the visually settled character of the building frontage which, otherwise, accords well with the prevailing character and appearance of the MCA. I therefore consider the wall mounted sign would harm the character and appearance of this part of the High Street, and therefore, be harmful to amenity.

9. For the reasons given above I conclude that the Appeal should succeed in part only, that whilst the projecting sign as found at the time of my site visit would not harm amenity subject to a condition as to the time it is lit, however, for the reasons given, the proposed wall-mounted sign would unacceptably harm visual amenity.

*Andrew Boughton*

INSPECTOR

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# Appeal Decision

Site visit made on 16 January 2024

**by Samuel Watson BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23<sup>rd</sup> January 2024**

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## Appeal Ref: APP/F1040/W/23/3325086

### Shortwood Farm, Green Lane, Overseal, Swadlincote DE12 6JP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr James Robert Hall against the decision of South Derbyshire District Council.
  - The application Ref DMPA/2021/0394, dated 4 March 2021, was refused by notice dated 19 June 2023.
  - The development is described as a detached garage/outbuilding renovated for change of use to a personal training studio/gym.
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## Decision

1. The appeal is allowed and planning permission is granted for a detached garage/outbuilding renovated for change of use to a personal training studio/gym at Shortwood Farm, Green Lane, Overseal, Swadlincote DE12 6JP in accordance with the terms of the application, Ref DMPA/2021/0394, dated 4 March 2021, subject to the following conditions:
  - 1) The development shall be carried out in accordance with the following approved plans: SK2816SW and 2021-59-01
  - 2) The development hereby permitted shall not be used until the access, parking and turning facilities have been provided in accordance with that shown on drawing number 2021-59-01. This provision shall be maintained for use thereafter.
  - 3) The gym hereby permitted shall only operate between the hours of 06:00 and 21:00 Monday to Friday, and between 08:00 and 21:00 on Saturdays. The gym shall not operate on Sundays.
  - 4) The gym hereby permitted will only operate for a maximum of 10 people at any given time.
  - 5) No amplified noise equipment shall be used outside of the gym building at any time and no part of any sessions shall take place outside of the gym building before 07:00 on any given day.

## Preliminary Matters

2. At the time of my visit the development had already taken place and the gym was operational. The appeal therefore seeks retrospective permission for the development, and I have determined the appeal accordingly.
3. The description of development in the header above has been taken from the planning application form. In order to ensure the clarity of the description, superfluous details have been removed.

## Main Issue

4. The main issue is the effect of the proposal on the living conditions of nearby occupiers.

## Reasons

5. The appeal building is a small former outbuilding associated with the house at Shortwood Farm. It is set within a large residential curtilage which includes areas of lawn, hardstanding and parking. The site is located at the end of Sealwood Lane in a rural area between two settlements. During my observations on site, I noted a number of dwellings along Green Lane and Sealwood Lane. From the submissions before me I also understand that there are a number of agricultural and commercial uses on and around these lanes. In particular, my attention has been drawn to a building contractors, dog kennels and a dog racing business.
6. The gym building, as noted above, has already been converted and although a class wasn't running at the time of my visit, it is operational. I understand from the submissions before me that the classes operate outside of typical working hours with the earliest classes starting at 05:30 and the latest finishing at 19:45.
7. Given the uses on and around Green Lane and Sealwood Lane, the potential for a significant number of vehicular movements throughout the day already exists. In particular, these would largely stem from the various comings and goings associated with the residential dwellings, the dropping off, and picking up, of dogs from the kennels and the movement of plant and goods to and from the farm units. I understand that the dog kennels operates from 07:00 to 20:00 on weekdays and 09:00 to 17:00 over the weekend and during this time it is likely that there would be an audible level of dog noises, such as barking. Agricultural businesses often operate very early in the morning and late into the night to make the most of the daylight or dry days. It is also not uncommon for people to be up from 06:00 on a weekday and to stay up until at least 21:00. I therefore find that between, at least, the hours of 06:00 and 21:00 there would background noises associated with residents, motor vehicles and commercial operations.
8. Between these times therefore, I find that the increase in noises from vehicular movements associated with the development would not be so significant over and above the existing, as to be detrimental to the living conditions of neighbouring occupiers. However, I find that journeys to and from the site before 06:00 or after 21:00 would have the potential to detrimentally affect the living conditions of neighbouring occupiers. Lacking any substantive evidence to the contrary, and although the sound of passing vehicles would be short-lived, I find that the repetitive noise of up to 10 motor vehicles traveling to the 05:30 sessions would be disruptive in the quiet hours when residents are more likely to be sleeping.
9. Nevertheless, I find that a suitably worded condition could be imposed to ensure that the hours of operation are restricted to between 06:00 and 21:00 in order to limit the impact of vehicles traveling passed nearby properties.
10. Any light pollution from the headlights of vehicles passing properties would be very modest given the distance of the properties from the carriageway. I do

not find that the level of light pollution associated with the increase in vehicular movements to be so great as to unacceptably affect the sleep or general living conditions of neighbouring occupiers. Similarly, although there are a limited number of passing places along Green Lane and Sealwood Lane, I do not find the number to be so low as to unduly affect the living conditions of neighbouring occupiers.

11. Given its location on a public right of way and at a walkable distance between two settlements, it is possible that some clients may walk to and from the gym. However, I cannot be certain of how many, if any, clients would regularly walk to the gym. Given the nature of the road and the lack of street lighting along the whole route I find that, particularly during the hours of darkness and inclement weather, clients would be disinclined to walk. Similarly, although clients may car share, this may again be an irregular occurrence. Therefore, in my considerations above I have assumed all 10 clients driving separately.
12. By way of the scale of the development and the existing background noise levels, the increase in noise levels associated with the gym is not detrimental to the living conditions of neighbouring occupiers. The development therefore complies with Policies BNE1, INF2 and E7 of the South Derbyshire Local Plan Part 1 which, amongst other matters, require developments to not have any undue adverse or detrimental impacts on the amenity of nearby occupiers.

### **Other Matters**

13. I note the concerns raised by local residents as to the safety of the road network and the impact of the development on this safety. Green Lane and Sealwood Lane are narrow roads which, for the most part, only allow a single vehicle to pass at any one time. However, during my observations on site I noted a number of opportunities for vehicles to pass where the carriageway widens. I find that these would be sufficient to allow the safe flow of traffic along both roads and to accommodate the increase in traffic levels associated with the development. Although there are concerns about road speeds, I consider that motorists would drive at a speed safe for the context of the road up to the 30mph limit that covers the relevant parts of both lanes. I note that the Highway Authority have also found that there is no highway safety harm stemming from the development.

### **Conditions**

14. I have had regard to the conditions suggested by the Council and the advice on planning conditions set out by the Framework and the Planning Practice Guidance. In the interests of clarity and enforceability, I have made some changes to the wording.
15. As the development has already commenced, it would not be necessary to set out the timescale for the commencement of development. However, a condition is necessary, for certainty and enforceability, requiring that the development is carried out in accordance with the approved plans.
16. Given the lack of any on-street parking within the surrounding area it is necessary to attach a condition requiring that parking is provided and retained for the use of clients at the gym. This would ensure that the safety and useability of Sealwood Lane is protected.

17. As I have found that daytime vehicle movements associated with gym do not cause any unacceptable living conditions impacts, restricting the hours of operation during the day would be unnecessary. However, to ensure that the living conditions of neighbouring occupiers are protected overnight, it is necessary to attach a condition restricting the hours of operation to 06:00-21:00 during the week. As people are often not up as early on a weekend I find a smaller window, between 08:00 and 21:00 would be more appropriate for Saturdays. As background noise levels would be even lower on Sunday, and lacking any substantive evidence to the contrary, I find that it is necessary to restrict operations completely on this day. In the interest of living conditions and highway safety, it would also be necessary to restrict the number of clients on site at any one time.
18. It is likely that any voices and music amplified outside of the gym building would be audible from nearby residential properties and their gardens. Similarly, during the quieter hours of the morning, I find that non-amplified voices and music would also be audible from these properties given the lower background noise levels. However, given the nature of the gym building, the use of amplification within it would not be audible from neighbouring properties. Therefore, whilst I consider it would be necessary to control the operation of amplified noises and the operation of sessions outside, I have altered the condition from that suggested by the Council.
19. The Environmental Health team have suggested a condition be applied requiring the submission of a Noise Management Scheme. However, I do not find this would be necessary given the scale of the development and its distance from the nearest residential properties.

### **Conclusion**

20. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

*Samuel Watson*

INSPECTOR