

**Please ask for Democratic Services**

Phone (01283) 595722/ 595848  
Typetalk 18001  
DX 23912 Swadlincote  
[Democratic.services@southderbyshire.gov.uk](mailto:Democratic.services@southderbyshire.gov.uk)

Our Ref  
Your Ref

Date: 6<sup>th</sup> September 2021

Dear Councillor,

**Planning Committee**

A Meeting of the **Planning Committee** will be held at **Grove Hall**, Greenbank Leisure Centre, Civic Way, Swadlincote, DE11 0AD on **Tuesday, 14 September 2021** at **18:00**. You are requested to attend.

Yours faithfully,

Chief Executive

To:- **Labour Group**  
Councillor Tilley (Chair), Councillor Shepherd (Vice-Chair) and  
Councillors Gee, Pearson and Southerd.

**Conservative Group**  
Councillors Bridgen, Brown, Lemmon, Muller and Watson.

**Independent Group**  
Councillors Angliss and Dawson.

## **AGENDA**

### **Open to Public and Press**

- 1** Apologies and to note any Substitutes appointed for the Meeting.
- 2** To note any declarations of interest arising from any items on the Agenda
- 3** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 4** REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY) **3 - 47**

### **Exclusion of the Public and Press:**

- 5** 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.
- 6** To receive any Exempt questions by Members of the Council pursuant to Council procedure Rule No. 11.

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

## **Section 1: Planning Applications**

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

-----

## 1. Planning Applications

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

Reference	Item	Place	Ward	Page
<a href="#">DMPA/2020/0808</a>	<a href="#">1.1</a>	Repton	Repton	7
<a href="#">DMPA/2021/0893</a>	<a href="#">1.2</a>	Swadlincote	Swadlincote	26
<a href="#">DMPA/2021/0579</a>	<a href="#">1.3</a>	Castle Gresley	Church Gresley	31

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

14/09/2021

Ref. No. DMPA/2020/0808

**Valid date:** 04/08/2020

**Applicant:** Repton Trust 2012

**Agent:** Pegasus Planning Group

**Proposal:** Outline planning application for up to 7 bungalows, together with associated landscaping and drainage infrastructure, with all matters reserved for future approval except for access on Land at SK3126 0097, Milton Road, Repton, Derby

**Ward:** Repton

### **Reason for committee determination**

The application has been referred to Planning Committee to be determined as the proposed development does not accord with the Development Plan.

### **Site Description**

The site is allocated under planning policy H23(G) of the Local Plan which is a housing allocation policy allocated for around 25 dwellings with open space. Consent was granted for the erection of up to 25 dwellings to the south of the site with open space to the east of the site, of which this approved development is currently being built out. The site is located adjacent to existing residential development to the west and northern edge, with the proposed 25 dwellings to the south of the site, the site is therefore enclosed on three sides by existing residential dwellings and development. The site has a steep gradient and slopes downwards in a westerly direction towards the existing development along the western edge of the site along Burdett Way, with a footpath running along the south of the site. The proposed site would be accessed off the existing access road that runs through the existing development to the south of the site off Milton Road.

### **The proposal**

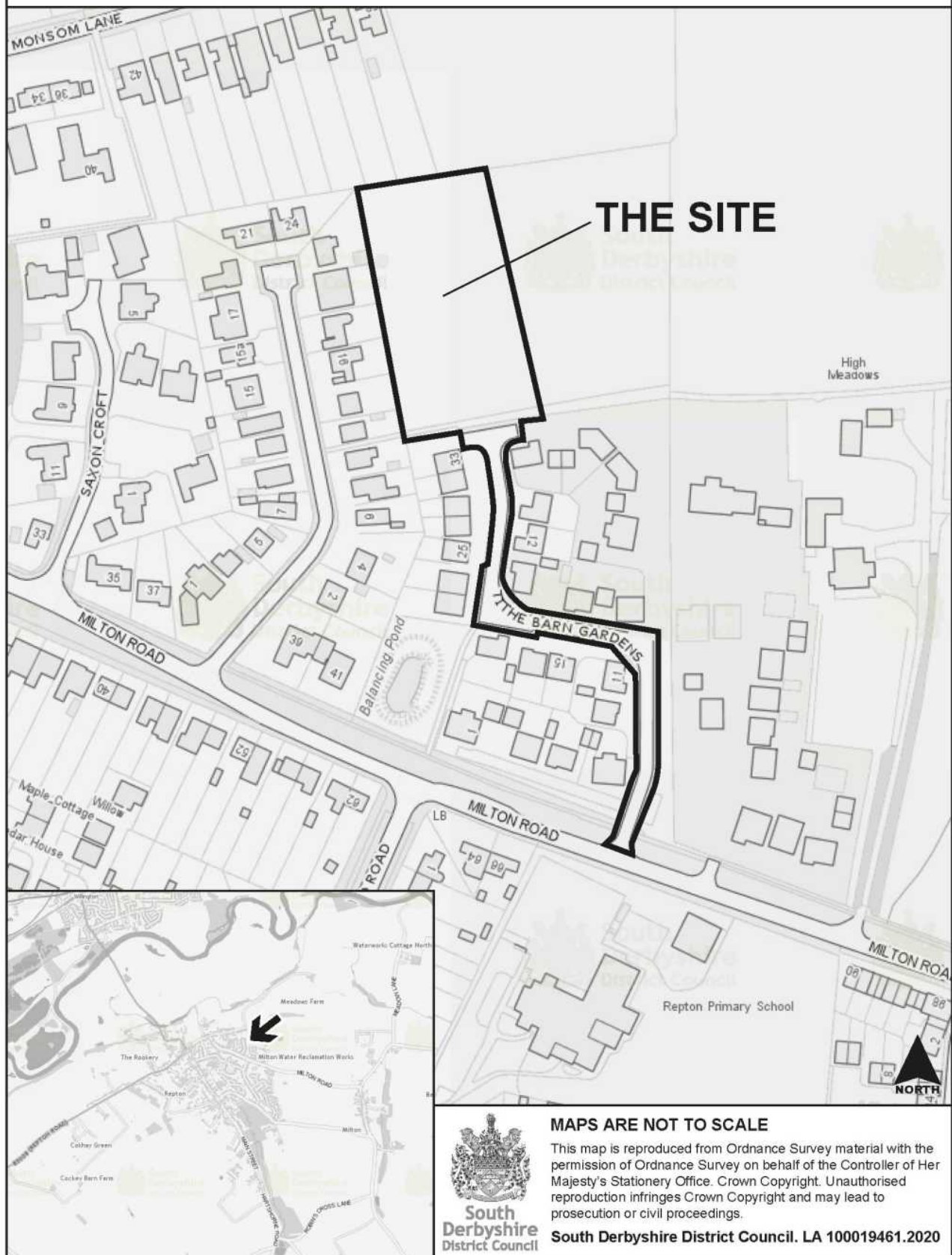
Consent is sought for up to seven bungalows with access, car parking and associated works.

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

Design and Access Statement -The proposals include the creation of a new residential development, set within an established residential landscape setting. The purpose of this document is to demonstrate a full assessment of the potential of the site informing that the proposals for residential development on land furthest north of Milton Road, Repton fully adheres to the site constraints and opportunities which have informed this planning application. The masterplan presents an opportunity to provide new housing for Repton by creating a development with new neighbourhoods seamlessly connected to its town centre surroundings. The proposed development therefore 'closes' the urban block north of Milton Road fulfilling the potential of the site by creating a positive edge that responds to surrounding land uses. With reference to the local geography of the site throughout, the proposal has subsequently evolved through a well informed that has successfully considered the most efficient and sustainable approach to a new development. The proposed masterplan is grounded in best practice of urban design and sustainable development and will create a new community which is responsive and sympathetic to its environment.

Landscape Visual Assessment (LVA) - This addendum has been prepared in response to queries raised in respect of landscape and visual impacts, and specifically the height of the proposals and potential interference with views to the spire of St Wystan's Church. This addendum has made reference to Policy OS2 of the Repton Neighbourhood Development Plan (RNDP), and the FPCR landscape character study which was prepared as part of the evidence base to the RNDP. Additional viewpoints have been addressed, each with views toward the church spire, including from the Public

**DMPA/2020/0808 - Land at SK3126 0097, Milton Road, Repton, Derby  
DE65 6SL**





Right of Way and from the adjacent area of proposed public open space (associated with the current development under construction). An illustrative landscape cross section has also been prepared, demonstrating the line of sight from the public footpath (and associated viewpoint), over the roofline of the proposed dwellings, and to the church spire. Consequently, the proposed development does not conflict with Policy OS2 of the RNDP in respect of landscape and visual matters. The process has highlighted that the available view from the proposed area of public open space, to the north of the PROW and east of the proposed development, affords a wider reaching view across Repton and clearer views of the church. This is due to the more elevated position in this part of the open space, compared to the trodden route of the PROW which sits in a slightly 'sunken' route.

**Heritage Statement** - This archaeological desk-based assessment draws together the available archaeological, historic, topographic and land-use information in order to clarify the significance and archaeological potential of land proposed for development north of Milton Road, Repton, Derbyshire. It addresses the information requirements set out in the National Planning Policy Framework (NPPF) and provides the proportionate response sought by the NPPF. There are no designated heritage assets on the proposed development site and there will be no direct or indirect impact upon the significance of any designated heritage assets, or their setting, in the wider area. Earthworks and cropmarks of Medieval ridge and furrow have been identified from aerial photographs on the study site (HER 24594). However, LiDAR data and modern satellite imagery demonstrates that the vast majority of the earthwork features have been ploughed out. Should any remain extant on site, it is considered to be of no archaeological interest. The site is assessed as having a low potential for mid to late Prehistoric evidence and a low/negligible potential for significant remains dating to all other periods. No previous archaeological fieldwork is recorded within the site. However investigation of sites on the south side of Milton Road has produced no indication of significant archaeological remains in the vicinity. There is no suggestion that the study site is likely to contain archaeological remains that would prohibit development or require to be designed around. Any further archaeological investigation and recording of any remains required by the Local Planning Authority to safeguard the archaeological interest in the site may be undertaken as part of a conditioned scheme of works following planning consent.

**Planning Statement** - Repton is identified as a Key Service Village in the South Derbyshire Local Plan Part 1, whereby development within settlement boundaries is considered appropriate. The site lies within the settlement boundary and forms part of a housing allocation for 25 dwellings (Policy H23G). The Cameron Homes consented development provides for 25 dwellings, however this additional parcel can accommodate small scale development, whilst also providing sufficient landscaping and amenity space. Release of this site for development will help to ensure that the Council can demonstrate a five year supply of housing land as required by the NPPF and in accordance with the Council's published five year land supply assessment. Repton has a range of local services, including primary schools and an independent secondary school, a convenience store and post office, public houses, takeaways and the village hall. There is a regular bus service through Repton, running between Derby, Repton and Burton, with bus stops located approximately 800m from the centre of the site. The Design and Access Statement confirms that the development proposed will build upon the traditional character of the surrounding area, complimenting the identity of the surrounding neighbourhoods, whilst delivering a scheme with its own unique identity. Given site topography, the dwellings proposed are single storey which are sympathetic to the proximity to existing dwellings, seeking to minimise any impact in terms of light and view, and alleviating privacy issues as much as possible. Low level shrubs and trees are proposed to soften boundaries and enhance the local character, and tree planting will enhance the street scene and surrounding context. A high quality built environment will be achieved, delivering a distinctive and traditional housing development. The planning application has been informed by a range of supporting technical studies, which confirm that there are no technical constraints that would prevent the development of the application site for this quantum of development. This statement has detailed the benefits and impacts of the proposed development and the extent to which mitigation measures are proposed to limit any impact. Careful consideration has been given to the overall form and layout of development, and the Design and Access Statement outlines the key design principles and highlights how a high quality scheme can be delivered at this location. There are no areas or assets of particular importance that provide a clear reason for refusing the development proposed. This statement demonstrates that any adverse impacts do not significantly and demonstrably outweigh the benefits of delivering housing on the application, and in light of this, and the presumption in favour of sustainable

development, planning permission should be granted.

Ecology Survey - No evidence of badgers or waterbodies, hedgerows are sought to be retained and protected through the construction period with no works to hedgerows carried out during bird nesting season.

Arboricultural Report - Due to the location of the trees being around the boundaries or outside of the site the design of the layout has allowed for the retention of the majority of tree cover with the exception of a small section of a group of trees which will be removed to facilitate the vehicular entrance into the site; where the existing gated entrance will be widened. The proposed development would be considered as arboriculturally sound allowing for the retention of the vast majority of the existing trees on site and the additional proposed new tree planting set to greatly increase the tree cover on site and within the local area.

Transport Statement - Was submitted for the 25 dwellings that were permitted to the south of the site, the proposed access into the site would be accessed from the existing development to the south which is accessed off Milton Road via a "T" junction.

Phase 1 Desk Study - An intrusive site investigation to identify ground conditions to allow suitable foundation solutions and to confirm the contaminative status of the Site is recommended.

### **Relevant planning history**

9/2016/1118 - Land to the south of the current application site - Outline application with access for approval now and all other matters reserved for future approval for residential development comprising of up to 25 dwellings, open space and other associated works – Approved with conditions – 16/05/2017

9/2018/1184 - Land to the south of the current application site - Approval of reserved matters for layout, scale, appearance and landscaping of outline permission ref. 9/2016/1118 for 25 dwellings - Approved with conditions - 06/03/2019

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

There have been no objections raised by Derbyshire Wildlife Trust. The application has been supported by an Ecological Appraisal prepared by FPCR dated May 2020. The appraisal is based upon an Extended Phase 1 Habitat Survey conducted on 18th May 2020 which identified the site to comprise un-managed improved grassland with hedgerows on the western and northern boundaries and areas of tall ruderal vegetation, scrub and scattered tree saplings. Derbyshire Wildlife Trust have assessed these details and concur that the habitats present are of limited diversity and support the recommendations for the retention and protection of the boundary hedgerows. Whilst it is difficult to see how their retention can be achieved given that they will form the boundary between the existing and new properties, it may be difficult to secure their long-term retention and uniform management. In accordance with the National Planning Policy Framework and policy BNE3 of the Local Plan, developments should aspire to provide a net gain for wildlife. Given the limited value of existing habitats on the site the provision of a net gain of biodiversity should not be difficult to achieve. However, no indication of securing a net biodiversity gain is provided by the submitted Illustrative Masterplan. It is therefore, recommended that the Masterplan is revised and improved to clearly demonstrate a net gain of biodiversity as this will be required at the reserved matters stage. In addition, the hedgerows, trees and bramble scrub provide suitable habitat for nesting birds and a condition to protect nesting birds should be attached.

There have been no objections raised by the Lead Local Flood Authority. However, the location of the proposed below ground tank is shown under the proposed access road which may not be suitable and should be reconsidered by the applicant, as the access road will not be adopted by highways with the tank under the access road, equally the proposed tank will not be adopted by the sewerage undertaker. If these are to be adopted, the applicant would need to provide an agreement to be submitted to Lead Local Flood Authority. To ensure adherence to National Planning Policy Framework, DEFRA's Non-statutory technical standards for sustainable drainage systems and local guidance, it is recommended

that conditions should be attached that no development shall commence until a suitable and detailed drainage and management strategy is submitted to and approved in writing by the Local Planning Authority and that works are implemented in accordance with the approved details.

The access to the site would be through the access road for the adjoining site to the south under planning references 9/2018/1184 and 9/2016/1118. Also to the southern boundary of site is a Public Right of Way (PROW) (Footpath/ Bridleway number 29 Repton on the Derbyshire Definitive Map and this has also been made apparent in previous planning application. The County Highway Authority have raised no objection to the application subject to the inclusion of planning conditions relating to visibility splays for vehicles and pedestrians.

The Strategic Housing Officer has raised no objections to the application subject to securing of 30% of the site as affordable units through a relevant Section 106 Agreement. This would equate to up to two units as affordable rent or one unit as affordable rent and one unit as shared ownership.

Derby and Derbyshire CCG have raised no comments to the proposal and have not sought contributions towards healthcare provision.

Derbyshire County Council Policy Team (Education) has assessed primary and secondary education needs and notes the following:

#### *Primary level*

The proposed development falls within and directly relates to the normal area of Repton Primary School. The proposed development of 7 dwellings would generate the need to provide for an additional 2 pupils. Repton Primary School has a net capacity for 248 pupils, with 205 pupils currently on roll. The number of pupils on roll is projected to increase during the next five years to 219. An evaluation of recently approved major residential developments within the normal area of Repton Primary School shows new development totaling 13 dwellings, amounting to an additional 3 primary pupils. Analysis of the current and future projected number of pupils on roll, together with the impact of approved planning applications shows that the normal area primary school would have sufficient capacity to accommodate the 2 primary pupils arising from the proposed development.

#### *Secondary Level*

The proposed development falls within and directly relates to the normal area of John Port Spencer Academy. The proposed development of 7 dwellings would generate the need to provide for an additional 1 secondary and 1 post16 pupil. John Port Spencer Academy has a net capacity for 2,070 pupils with 1,967 pupils currently on roll. The number of pupils on roll is projected to decrease to 1,929 during the next five years. An evaluation of recently approved major residential developments within the normal area of John Port Spencer Academy shows new development totalling 2,025 dwellings, amounting to an additional 405 secondary and 162 post16 pupils. Analysis of the current and future projected number of pupils on roll, together with the impact of approved planning applications shows that the normal area secondary school would not have sufficient capacity to accommodate the 1 secondary and 1 post 16 pupils arising from the proposed development.

The above analysis indicates that there would be a need to mitigate the impact of the proposed development on school places in order to make the development acceptable in planning terms. If the proposed 7 bungalows are of 2 bedrooms or more and the County Council requests financial contributions as follows:

- £52,692.52 towards the provision of 1 secondary and 1 post16 places at John Port Spencer Academy + additional education facilities.

However, if the proposed 7 bungalows are aimed at the retirement population and/or 1 bedroom properties, we would not require the above financial contribution.

County Footpaths have raised no objection, provided that the full legal width of Footpath 29 Repton remains unobstructed at all times. It is recognised by the applicant that this path provides links for

residents to walk to local shops and other facilities and to the network of public paths in the wider countryside for recreation. Therefore, it would be important that the surface of this path, on and off-site, is improved as necessary to permit its safe and convenient use by the public. Where the path would cross the access road to the site, it would improve the safety of walkers if there was a change in the nature of the surface of the road so that vehicle users were aware of the possible presence of walkers crossing the road.

The Development Control Archaeologist has raised no objections. The site in question is part of a wider application area (9/2016/1118) that the Development Control Adviser advised on in 2015 and 2016. At that time the whole site was the subject of field evaluation by means of geophysical survey. However, the results of this assessment did not indicate significant archaeological remains within the area and no additional archaeological input was necessary.

The Environment Agency has raised no objections, the site falls within flood zone 1 and there are no other environmental constraints associated with the site and no formal comments have been made on this basis.

The Environmental Health Officer has raised no objections subject to conditions relating to air quality and sufficient residential electrical charging points to be incorporated for future car use.

The Landscape Architect requires further details to increase biodiversity would be required as well as a plan showing any vegetation to be removed or protected and proposed planting.

#### Repton Parish Council

The site specific wording relating to this policy is:(LP policy 23G)

- Up to 25 dwellings
- Access to be made to the existing PROW across the site and pedestrian access to Milton Road.
- Minimise the loss of hedgerow to front of the site
- Enhancement of existing hedgerows and trees across the site
- No built development to the north of the existing PROW (running eastwest) on the site
- Open space to be provided north of the PROW

This is reaffirmed in an email from Tony Sylvester on February 13th 2017 regarding the Planning Committee discussion on Application 9/2016/1118

*'The report to the committee last Tuesday set out the contributions that were being recommended. Members approved these along with an additional clause to guard against the development of land north of the public footpath.'*

On the Application form, the answer to 'Will the proposal increase the flood risk elsewhere', was NO. Since the new building up Milton Road, there has been an increase in the flooding at Brookend, including housing. As this development is again on the same higher ground, this will increase the water run off to that area round the Brook. Therefore the answer should be YES, there is a risk. This is clearly in contradiction with policy 23G of the Local Plan Part 2, which states: "No built development to the north of the existing Public Right of Way (running east-west) on the site and open space to be provided north of the Public Right of Way".

There has been thirty five letters/emails of objection received raising the following points:

- a) This is clearly in contradiction with policy 23G of the Local Plan Part 2, which states: "No built development to the north of the existing Public Right of Way (running east-west) on the site and open space to be provided north of the Public Right of Way".
- b) The development is outside of the development line and would reduce green space.
- c) Contrary to the Repton Neighbourhood Plan in that development should not extend past the settlement boundary.

- d) If the Local Plan (which was carefully prepared and assessed to be a document of value) is ignored for one development, who's to say it shouldn't be ignored for other proposed development? This would be setting an important and worrying precedent.
- e) This proposal is beginning to encroach on parts of Askew Hill that antiquarians note as having historical importance. There should be more substantial archaeological work carried out at the site.
- f) The planning application suggests that a few bungalows are not going to affect the underlying concerns about visual impact on the wider landscape. However, the view from the top of Askew Hill includes this area and they would be clearly visible from there.
- g) The application also refers to the need for housing for older people in the community. While that may be the case, this particular site is not ideal because it is up a hill from the village centre (and even from Milton Road) and over half a mile walking distance to the shops and bus. Residents would need to have cars, and the issues of traffic on the sharp bend at the bottom of Milton Road, past the parked cars in the area of The Boot Inn, up the narrow hill to The Cross and then around the roundabout which is frequently a congested point taking up to 10 minutes to negotiate at peak times, would just be made worse.
- h) Concerns about the increased traffic that will be generated from this proposal. There are the 25 homes already built near the proposed site and along with a further 13 homes at the site of Askew Lodge. The access to the new proposal will use the same access as the 25 dwellings already agreed and the access to the 13 dwellings is just further up the road from that. The road it joins is busy.
- i) The access is very near to Repton primary school and is already bordering on dangerous as it is on the route to Repton Preparatory school (Foremarke Hall) with the increased traffic at 0800 - 0830 and 1530 - 1800. Just how much more traffic can safely be allowed to join the road at this point and travel through the villages of Repton and Milton? The residents of Repton and Milton have already had to contend with major disruptions to travel due to road works, flooding and the general weight of traffic through the village.
- j) The height differences between the new properties and existing will mean the new property will massively over-look the existing properties and the new properties will tower over the existing due to the height differences. This is also very obvious as the height of the bungalows at the other site already built, over-shadow the existing properties and all this will result in a loss of privacy.
- k) There will be a danger of flooding due to the design of the new properties as shown on the plans which are very creatively drawn to give a false perception of the distances between old and new we are already seeing the effects from the other site due to water run off from the site into Burdett way and the main Milton road difficult to see how they can manage the water run off after allowing the buildings.
- l) The proposed development will create light pollution, noise pollution and dust pollution. The site is a green field site, once development is allowed this is lost for future generations.
- m) The increase in dwellings is not supported by any infrastructure (schools shop etc overloaded roads especially during school terms).
- n) The site benefits from all types of wildlife such as all types of birds from owls to peregrine falcons. The proposed development would take away green space and destroy these ecosystems.
- o) The new proposed road will potentially effect safety from people using the footpath. The plans are not clear for the amount of parking, this is also clearly not taken into account on the other building sites in Repton with the amount of parking on foot paths.
- p) Flooding from the field has often been a problem in the past because of the slope towards the houses in Burdett Way and with more hard landscaping this will obviously get worse.
- q) Hedgerows are an important consideration as there are many nesting birds that use the hawthorn hedge every year. The deeds for existing properties state that a cattle proof hedge must be maintained as the field at one time was used for cows. Consideration should be given for any hedgerows.
- r) Cameron Homes have actually put 6ft wooden boards in front of the hedge to hide it which is not very sensitive. Cameron Homes are already using this field as a tip and storage without planning permission.



- s) Planning Committee discussion on application 9/2016/1118 specified that members approved the recommended contributions along with an additional clause to guard against the development of land north of the public footpath.
- t) The new housing has all been on the same side of the village. Infilling could be done off Pinfold Lane if development is insisted on and the Dales is derelict.
- u) The Public Right of Way would have to have a road crossing it and the bungalows are positioned too close to the bungalows and chalet bungalows in Burdett Way.
- v) Repton is a key place to pass through to cross the River Trent via the Willington Bridge. Can developers and the Council not realise that until there is a relief road and new bridge, for example where the Twyford ferry used to run, to then connect with the A50, that further development puts an unreasonable strain on all roads in the village. The village is well accessed to the A38 and the A50 but these are all accessed by smaller, more minor roads.
- w) Following the development of the south side of the footpath severe issues are being experienced by residents on Burdett Way with severe flooding when prolonged rain is experienced resulting in flooding of garages and gardens. The road drainage on Milton Road and Springfield road can no longer cope with excessive run off resulting an increased risk of flooding at Brook End.
- x) Given the flood risk survey quoted in the plans being made prior to this development my concern is that when 40+% of the land is laid to road infrastructure and property development this will adversely impact on the currently worsening situation with rain water runoff in the surrounding area.
- y) The development will reduce neighbours already reduced natural light in the garden and the height of the properties albeit bungalows will overlook adjacent properties as is the case with the recent development. Natural light will also be reduced with the proposed planting of trees specified in the plan.
- z) The proposed layout appears cramped.
- aa) Creating a road allowing vehicular access across the existing public footpath is of detriment to the local amenity. The footpath is widely used by ramblers, dog walkers and family groups with young children. Vehicles traversing a public footpath are a potential hazard.
- bb) The site slopes steeply down from east to west. The building developers will make this area as level as possible which means increasing the ground level considerably at the west end of the field. The existing bungalows in the hollow behind three of the seven proposed bungalows would undoubtedly be towered over.

Following amendments

- a) Cameron Homes are using this site without planning permission, the site is currently an absolute tip and should be tidied up and cleared as soon as possible.
- b) Are these 7 bungalows going to be affordable? or reserved for the senior residents of Repton?
- c) The traffic along Milton Road as and will increase when Repton Manor and Coppice Rise is fully occupied giving to more chaotic traffic near the school at Drop-off/Pick-up time.

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

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), INF2 (Sustainable Transport) and INF9 (Open Space, Sport and Recreation).
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development), H23(G) (Non Strategic Housing Allocations- Milton Road, Repton), BNE7 (Trees, Woodland and Hedgerows) and BNE10 (Heritage).
- Parish of Repton Neighbourhood Development Plan 2016 - 2028.

## National Guidance

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

### Local Guidance

- South Derbyshire Design Guide SPD

### **Planning considerations**

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

- Principle of Development;
- Section 106 Legacy;
- Access and Footpath;
- Impact on Amenity; and
- Other.

### **Planning assessment**

#### Principle of Development

The site is located within the settlement boundary of the village of Repton and the development of the site for residential units would broadly accord with the principles of policies H1 and SDT1 of the Local Plan as well as policy H1 of the Repton Neighbourhood Plan, in that the proposed development for residential dwellings would be located within the settlement boundary for the village of Repton.

In addition, the site is located within housing allocation policy H23G of the Local Plan. This policy sought to create around 25 dwellings associated works and open space and policy H23(G) stipulates that the site allocation should provide:

- Around 25 dwellings;
- Access to be made to the existing Public Right of Way across the site and pedestrian access to Milton Road;
- Minimise the loss of hedgerow to front of the site;
- Enhancement of existing hedgerows and trees across the site;
- No built development to the north of the existing Public Right of Way (running east–west) on the site;
- Open space to be provided north of the Public Right of Way; and
- The housing mix of the site will include at least two bungalows.

The housing allocation site is split into two halves with the north and south of the site divided by an existing footpath (County Footpath 29) which bisects the site in an east to westerly direction. Outline consent was granted under application 9/2016/1118 for the erection of 25 dwellings to the site south of the existing footpath with open space positioned to the south and to the north of the existing footpath and other associated works. A reserved matters application was approved for the details of access, layout and appearance under application 9/2018/1184. These applications were consistent with the requirements and specifications of policy H23(G).

The current application would be positioned to the north of the existing footpath and proposes the erection of up to seven dwellings in addition to the 25 dwellings to the south of the footpath. This would bring the full housing number across the housing allocation site to a combined total of 32 dwellings; the proposed development would therefore, not accord with the following requirements of policy H23(G):

- Around 25 dwellings; and
- No built development to the north of the existing Public Right of Way (running east–west) on the site.

The requirement within policy H23(G) to restrict development to the north of the public footpath was underpinned by the need to preserve public views of the spire of St Wystan's church in the centre of

Repton from the public footpath that runs through the site, as it was anticipated that the development to the north of the footpath would result in obstructing and interfering with the current public views of the spire from this location. This was further compounded and strengthened by policy OS2 of the Repton Neighbourhood Plan which stipulates that "Development which impinges on the skyline or which results in significant blocking of views of the historic centre of Repton, including St Wystan's church and The Cross, will not be permitted." Given that the north of the site was not considered to be suitable for development for this reason, the policy limited the number of dwellings to the south of the site to around 25 was to ensure a well balanced layout and to minimise overcrowding within the land available to the south of the site.

### *Visual Impact*

A Landscape Impact Assessment (LVA) has been submitted as additional information by the applicant which provided detailed cross sections of the site and the scale of view from various points along the footpath back towards St Wystan's spire. The submitted cross sections and details demonstrate that the proposed bungalows could be positioned to the north of the footpath and would have no greater impact on the views of the spire than the current interruption that is experienced by existing development that is already located on Burdett Way and further development to the west. However, for the proposed development to accord with these findings, it would be necessary to restrict the height of the proposed dwellings to being no more than single storey in height, of which this could be controlled through the use of planning conditions.

The rationale that underpins the requirements of both policy H23(G) of the Local Plan and policy OS2 of the Repton Neighbourhood Plan is to ensure that development within this site would not compromise the current views of St Wystan's spire and development was restricted to the south of the site under policy H23(G) in order to achieve this. However, owing to the additional information that has been provided through the LVA, which provides a more detailed analysis of the impacts to the views of the spire than was available at time policy H23(G) was examined; this demonstrates that the erection of dwellings to the north of the site would not harm or interrupt the views of St Wystan's spire and for this reason, the proposed development would be consistent with the intent of policies H23(G) of the Local Plan and policy OS2 of the Repton Neighbourhood Plan.

Policy H2 of the Repton Neighbourhood Plan specifies that development should reflect the size and character of the village, should infill a small gap, be surrounded by existing buildings and should not adversely affect neighbouring properties. The application site is open to the east and abuts the wider sites open space, but the west of the site represents a contained section of land that is already enclosed to the south by the development approved under applications 9/2016/1118 and 9/2018/1184, to the west by Burdett Way and to the north by the existing position of the dwellings along Monsom Lane. The current development pattern surrounding the site has a "dog leg" appearance which creates a small, linear strip that would be contained by existing development and would accord with the principles of policy H2 of the Repton Neighbourhood Plan.

Whilst the proposed illustrative masterplan shows an indicative layout, it is noted that the proposed dwellings could be pushed back to fall in line with the development pattern to the south and to be in line with the dwellings that project outwards from Monsom Lane and would be contained within the settlement boundary of the village of Repton.

The dwellings along the western edge of the southern site and the existing dwellings along Burdett Way are single storey bungalows with some one and a half storey dwellings which utilise dormer windows. The proposed development seeks consent for bungalows, of which the scale would be commensurate with the neighbouring and surrounding dwellings and would reduce the visual impact of the proposed development. Therefore, whilst the finer details would need to be assessed at reserved matter stage it is noted that the site is capable of producing a suitable layout with dwellings of a suitable scale that could be contained within an existing area of the site that is already enclosed to the south, west and north by existing residential development. Policy H2 of the Repton Neighbourhood Plan.

Whilst the proposed development would not accord with certain requirements of policy H23(G) for the



reasons outlined above, the proposed development would infill an existing gap within the existing development pattern of the settlement, would not encroach out past the existing footprint of existing development and would not interfere with public views of the St Wystan's spire. The proposed development would be capable of accommodating residential development that would not have a harmful visual impact on the northern edge of the housing allocation site and would be consistent with the rationale and intent of policy H23(G) of the Local Plan.

#### *Open space*

The current application site does not form part of the open space for the wider site and was not identified as open space within application 9/2016/1118. The current application would not represent the encroachment of development on designated open space or the loss of open space and would fully accord with the principles of policy INF9 of the Local Plan.

#### *Overall Principle*

The proposed development would fully accord with the principles of policies H1, SDT1 and BNE1 of the Local Plan and policies H1, H2 and OS2 of the Repton Neighbourhood Plan, in that the proposed development would be contained within the existing settlement boundary of the village of Repton, would be contained by existing buildings and the existing development pattern and would be of a scale that would be commensurate with the size of the existing village. It is noted that the proposed development would not accord with site specific points; 1) and 5) of policy H23(G) but for the reasons outlined above, the proposed development would not result in harm to the public views of St Wystan's spire and would therefore, remain consistent with the principles and intention of policy H23(G). On the basis of this, the principle of development in this location would be suitable.

#### Section 106 Legacy

Consent is sought for up to seven bungalows at the site and whilst a development of this size would not normally trigger a need to enter into a Section 106 Agreement for contributions towards affordable housing, open space and education in the local area, given the strong relationship between the current application and the previous submissions to the south, (which combined would consist of up to 32 dwellings) it would be consistent with the requirements within Regulation 122(2) of the CIL Regulations 2010 to secure sums for open space, affordable housing and education provided that the sums would be:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

#### *Open space*

There is sufficient land within the wider site to accommodate the required onsite open space contributions to serve the proposed development and the existing 25 dwellings to the south of the site. However, there would be a Built Facilities sum and Outdoor Sports Facilities sum to be secured, of which this would be secured using the same methodology and formula used as part of application 9/2016/0118, which would be based on the proposed number of bedrooms that would come forward at reserved matters stage as part of the original S106 for application 9/2016/0118.

#### *Affordable Housing*

Based on there being up to seven proposed bungalows, there would be a requirement for 2.1 units to be brought forward as affordable units. Therefore, two bungalows would need to be secured as affordable rent or one secured as affordable rent and one secured as shared ownership. This would secure 30% affordable housing across the current application and would accord with the principles of policy H21 of the Local Plan.

#### *Education*

Following consultation with the County Council, the County would seek an amount of £52,692.52 towards the provision of 1 secondary and 1 post 16 place at John Port Spencer Academy and additional education facilities. This is based on there being seven bungalows with two bedrooms each that come forward at reserved matters stage. If the proposed bungalows were to come forward as one

bedroom units or accommodation for the elderly at reserved matters stage then this education sum would not be necessary. However, the methodology and the sums would be included within a proposed Section 106 Agreement to ensure that this sum can be collected if the future occupants were to use school places.

With regard to health provision, Derby and Derbyshire CCG have been consulted and did not wish to comment further or secure further contributions. On the basis of this, the sums secured for the original application 9/2016/0118 would be considered suitable and proportionate to take into account the proposed development as well.

Whilst the proposed development would not accord with site specific requirements; 1) and 5) of policy H23(G), the proposed contributions for affordable housing, open space and education would weigh as a strong material consideration in support of the application. The securing of the proposed sums through a Section 106 Agreement would fully accord with the principles of policy INF1 of the Local Plan and policy CLE1 of the Repton Neighbourhood Plan.

#### Access and Footpath

Policy INF2 of the Local Plan stipulates that appropriate provision shall be made for safe and convenient access into and within development for pedestrians and private car users. The proposed access into the site which would run from the existing development to the south of the site which was approved under applications 9/2016/1118 and 9/2018/1184. The proposed access would cross over the existing footpath (CFP29). Concerns have been raised by local residents with regard to the impact on pedestrian safety if the access into the site crosses over an existing designated footpath. However, when accessing the site, the proposed access would appear as a continuation of the existing access road to the south of the site and amended plans have shown that there would be a changed or raised surface to indicate to drivers the presence of a pedestrian right of way at this point. On the basis that a safe and suitable access could be accommodated into the site and would provide a safe and improved crossing place for pedestrians, there have been no objections raised by the County Highway Authority subject to the inclusion of conditions and the proposed works would accord with the principles of policy INF2 of the Local Plan and policy T2 of the Repton Neighbourhood Plan.

#### Impact on Amenity and Layout

Policy SD1 of the Local Plan stipulates that the development should not lead to adverse impacts on the environment or the amenity of existing and future occupiers within or around proposed development. Whilst the application has been submitted as an outline application with all matters reserved except for access, it would be necessary to ensure that the site is capable of providing a good level of amenity for both existing and future occupiers and that a suitable layout could be brought forward at reserved matters stage.

The proposed development seeks to create up to seven dwellings on the site which would be bungalows and single storey in height. The Councils Design SPD specifies that single storey buildings should be assessed on their merits in terms of the distances between existing and proposed development. However, the site is located on a higher land level with around a 2m high difference in land levels which slopes down in a westerly direction towards the existing dwellings at Burdett Way and downwards towards the south of the site.

Concerns have been raised by local residents regarding the impact of the proposed development on the amenity of existing dwellings by way of overshadowing and overlooking, in particular due to the difference in land levels. If the proposed dwellings would be two storey in height, they would be expected to accommodate a minimum of a 21m distance between proposed and existing dwellings. Despite the proposed dwellings being single storey in height and would be assessed on its merits, given the difference in topography between existing and proposed residents, the ability for the site to accommodate a 21m separation distance between the proposed dwellings and existing adjacent dwellings along Burdett Way and be assessed as a two storey development would be a sufficient way to ensure that the impact of the difference in levels would be sufficiently offset. It would be possible to accommodate a 21m separation distance between the proposed and existing dwellings along Burdett Way and still ensure that the proposed development would sit behind the forward building line set by

the existing dwellings along Monsom Way.

Consent is sought for the erection of up to seven bungalows at the site; whilst aspects of layout and appearance remain as reserved matters to be assessed as a later application the proposed site would need to demonstrate that there is scope for it could accommodate the necessary separation distances to ensure a good level of amenity for existing and future occupiers, sufficient turning and manoeuvring space, as well as design requirements such as side parking to improve the street scene and frontages when viewed from the rural edges and the stepping back of the proposed dwellings towards the western boundary in line with the existing line of bungalows to the south. In taking all of these broad requirements into account, this would put a squeeze on the site and would likely reduce the number of dwellings that could be achieved on the site. Whilst it is noted that these are all aspects that would be explored at reserved matters stage, the ability of the site to deliver the proposed number of dwellings would need to be identified as a matter of principle as part of the outline application. For these reasons, the reduction of the number of dwellings to up to six bungalows, or if seven bungalows were to be brought forward, these would need to be of a reduced footprint to allow more space within the site and around the dwellings to accommodate the proposed design requirements such as side parking and not frontage parking.

Whilst the finer details of the development would need to be assessed in detail as a reserved matters application, there would be scope for the proposed development of up to six bungalows, or seven smaller bungalows to accord with the principles of policies SD1 and BNE1 of the Local Plan.

#### Other

Concerns have been raised by local residents with regard to the potential for underground archaeology and for further archaeological study around Askew Hill in more detail than a desk top study. As part of application 9/2016/1118 a geophysical survey was carried out across the entire field including the current application site, however, the results of the assessment did not indicate significant archaeological remains and further surveying and assessments were not deemed necessary. On the basis of this, there has been no objections raised by the Development Control Archaeologist and the proposed works would be consistent with the principles of policies BNE2 and BNE10 of the Local Plan.

#### Conclusion

The proposed development would fully accord with the principles of policies H1, SDT1 and BNE1 of the Local Plan and policies H1, H2 and OS2 of the Repton Neighbourhood Plan. It is noted that the proposed development would not accord with site specific points; 1) and 5) of policy H23(G) but for the reasons outlined above, the proposed development would not result in harm to the public views of St Wystan's spire; which underpinned the rationale for restricting development to the north of the site under policy H23(G). The proposed development would therefore, remain consistent with the principles and intention of policy H23(G). In addition, the proposed contributions for affordable housing, open space and education would weigh as a strong material consideration in support of the application and would fully accord with the principles of policy INF1 of the Local Plan and policy CLE1 of the Repton Neighbourhood Plan. It is therefore, recommended that the application is approved subject to planning conditions and a Section 106 Agreement.

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

#### **Recommendation**

A. Delegated authority for Section 106 Agreement; and

B. Approve subject to the following conditions

1. (a) Application for approval of the reserved matters listed at condition 2 shall be made to the Local Planning Authority before the expiration of three years from the date of this permission; and  
(b) The development hereby permitted shall be commenced before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

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

2. The access shall be carried out in accordance with plan(s)/drawing(s) ref.ADC1245-DR-002 Rev P2 and P19-0618-002-Sheet 1-Rev A; the reserved matters shall include the following specific requirements and/or be supported by the following documents in so far as relevant to that matter:
  - (a) External material details,
  - (b) Details of cills/verges and lintels,
  - (c) Boundary treatment positions and details,
  - (d) Hard and soft landscaping details,
  - (e) A detailed internal road layout, and
  - (e) Bin storage details.

Reason: To ensure that the relevant details are submitted as part of the reserved matters application to access matters of design, layout and landscaping.

3. Before any development is commenced the further approval of the Local Planning Authority is required with respect to the following matters on an application made in that regard:
  - (a) appearance,
  - (c) landscaping,
  - (d) layout, and
  - (e) scale.

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

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

Reason: In the interest of highway safety and to ensure that surface water does not discharge onto the highway during the construction period.

5. No development shall take place until construction details of the residential estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of highway safety.

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

Reason:

7. Throughout the period of development vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving

the site in order to prevent the deposition of mud and other extraneous material on the public highway.

Reason: In the interest of highway safety and to ensure that debris does not fall onto the highway during the construction period.

8. The reserved matters to be submitted for scale and appearance shall ensure the proposed dwellings would be single storey bungalows.

Reason: To protect the visual character and scale of the surrounding area.

9. No development, including preparatory works, shall commence until details of the finished floor levels of the buildings hereby approved, and of the proposed ground levels of the site relative to the finished floor levels and adjoining land levels, shall be submitted to and approved in writing by the Local Planning Authority. Such details shall be supplemented with locations, cross-sections and appearance of any retaining features required to facilitate the proposed levels. The development shall be constructed in accordance with the approved details.

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

10. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:
  - a. The Flood Risk Assessment and Drainage Strategy Version 2 Dated 16/07/29 Author: Richard Winn and "including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team"
  - b. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Local Planning Authority.

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

11. No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 reference ID: 7-080-20150323 of the planning practice guidance.

Reason: To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

- I. into the ground (infiltration);
- II. to a surface water body;
- III. to a surface water sewer, highway drain, or another drainage system;
- IV. to a combined sewer.

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



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

13. No removal of trees, hedges or bramble scrub shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason: To protect protected species through the construction period and to ensure biodiversity gain through enhancement requirements and to comply with policy BNE3 of the Local Plan.

14. Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

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

15. Residential charging points shall be provided with an IP65 rated domestic socket 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. This socket should be located where it can later be changed to a 32amp EVCP. Non-residential charging points shall be supplied by an independent 32 amp radial circuit and equipped with a type 2, mode 3, 7-pin socket conforming to IEC62196-2. Alternative provision to this specification must be approved in writing, by the local planning authority. The electric vehicle charging points shall be provided in accordance with the stated criteria prior to occupation and shall be maintained for the life of the approved development.

Reason: In order to safeguard the amenities of the occupiers of the proposed development in respect of atmospheric pollution in compliance with the South Derbyshire Design SPD & policy BNE1.

16. 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.

20. Notwithstanding the submitted information a subsequent reserved matters or full application shall include design of the internal layout of the site in accordance with the current Derbyshire County Council's guidance contained in 'Delivering Streets and Places' Design Guide.

Reason: In the interest of highway safety.

21. Notwithstanding the submitted information a subsequent reserved matters or full application shall include provision for 2m x 2m x 450 pedestrian intervisibility splays either side of the access at the back of footway for all private access drives, the splay area being maintained throughout the life of the development clear of any object greater than 0.6m in height relative to footway level.

Reason: In the interest of vehicular and pedestrian highway safety.

22. The proposed access roads shall be no steeper than 1:30 for the first 10m from the nearside carriageway channel at junctions and no steeper than 1:20 thereafter.

Reason: In the interest of highway safety.

23. Notwithstanding the submitted information a subsequent reserved matters or full application shall show detail design for the pedestrian crossing point at the Public Right of Way Footpath 29 (referred to in Note under 'A' below) and also details for the link to the road with the adjoining site to the south.

Reason: In the interest of highway safety for footpath users and pedestrian safety.

24. Notwithstanding the submitted information a subsequent reserved matters or full application shall show details of arrangements for location of bin storage required within the site adjacent to the highway for bin collection, clear of all accesses, parking spaces and turning.

Reason: In the interest of highway safety and to ensure that bins will not block the footway or carriageway.

25. No dwelling shall be occupied until space has been provided within the application site for the parking and manoeuvring of residents and visitors vehicles (including secure covered cycle parking), laid out in accordance with the scheme approved, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interest of highway safety.

#### Informatives:

1. A. The County Council does not adopt any SuDS schemes at present (although may consider ones which are served by highway drainage only). As such, it should be confirmed prior to commencement of works who will be responsible for SuDS maintenance/management once the development is completed.

B. Any works in or nearby an ordinary watercourse may require consent under the Land Drainage Act (1991) from the County Council. For further advice, or to make an application please contact [Flood.Team@derbyshire.gov.uk](mailto:Flood.Team@derbyshire.gov.uk).

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

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

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

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

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

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

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

I. Surface water drainage plans should include the following:

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

J. On Site Surface Water Management;

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

2. For greenfield developments, the peak run-off rate from the development to any highway drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100 year rainfall event, should never exceed the peak greenfield run-off rate for the same event.

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

3. For greenfield developments, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must not exceed the greenfield runoff volume for the same event.

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

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

Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.

Where cellular storage is proposed and is within areas where it may be susceptible to damage by excavation by other utility contractors, warning signage should be provided to inform of its presence. Cellular storage and infiltration systems should not be positioned within the highway.

Guidance on flood pathways can be found in BS EN 752.

The Greenfield runoff rate which is to be used for assessing the requirements for limiting discharge flow rates and attenuation storage for a site should be calculated for the whole development area (paved and pervious surfaces - houses, gardens, roads, and other open space) that is within the area served by the drainage network, whatever the size of the site and type of drainage system. Significant green areas such as recreation parks, general public open space, etc., which are not served by the drainage system and do not play a part in the runoff management for the site, and which can be assumed to have a runoff response which is similar to that prior to the development taking place, may be excluded from the greenfield analysis.



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

Ground percolation tests to BRE 365.

Ground water levels records. Minimum 1m clearance from maximum seasonal groundwater level to base of infiltration compound. This should include assessment of relevant groundwater borehole records, maps and on-site monitoring in wells.

Soil / rock descriptions in accordance with BS EN ISO 14688-1:2002 or BS EN ISO 14689- 1:2003.

Volume design calculations to 1% probability annual rainfall event + 40% climate change standard. An appropriate factor of safety should be applied to the design in accordance with CIRIA C753 – Table 25.2.

4. A. The application site is affected by a Public Right of Way (Footpath/ Bridleway number 29 Repton 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. Further advice can be obtained by calling 01629 533190.

- 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. Please contact 08456 058 058 for further information and an application form.
- If a right of way is required to be permanently diverted then the Council that determines the planning application (The 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 (obtainable from the planning authority) has 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.
- To avoid delays, where there is reasonable expectation that planning permission will be forthcoming, the proposals for any permanent stopping up or diversion of a public right of way can be considered concurrently with the application for proposed development rather than await the granting of permission.

B. Car parking provision should be made on the basis of a maximum ratio of 1.5, 2 and 3 spaces per 1 bedroom/ 2-3 bedroom/ 4+ bedroom dwelling respectively). Each parking space measuring a minimum of 2.5m x 5.5m, increased to 6.5m if fronting a garage. The minimum internal dimensions for garage are 3.6m x 6.5m (absolute minimum 3.0m x 6.0m) for a single garage and 7.2m x 6.5m (absolute minimum 6.0m x 6.0m) for a double garage. Reference made to 'Delivering Streets and Places 2017' under Table 8.13.

C. Pursuant to Sections 219/220 of the Highways Act 1980, relating to the Advance Payments Code, where development takes place fronting new estate streets the Highway Authority is obliged to serve notice on the developer, under the provisions of the Act, to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980.

D. Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Executive Director of Economy Transport and Transport at County Hall, Matlock (tel: 01629 538578). [highwaynotices@derbyshire.gov.uk](mailto:highwaynotices@derbyshire.gov.uk)

Item No. 1.2

14/09/2021

Ref. No. DMPA/2021/0893

**Valid date:** 01/07/2021

**Applicant:** Mike Roylance

**Agent:** None

**Proposal:** Alterations to the shop fronts at ground and first floor and alterations to the windows (re-submission of application 9/2017/1040) at 5-15 West Street, Swadlincote, DE11 9DG

**Ward:** Swadlincote

### **Reason for committee determination**

The item is presented to Committee as the Council is the applicant.

### **Site Description**

The properties form a row of relatively modern two-storey buildings that front The Delph which were constructed around the 1960s/70s and used for a range of shopping and commercial uses. The buildings are not listed and are not of any special architectural or historic interest. They carry an appearance of that era and are not reflective of the more traditional buildings which are more prevalent around The Delph and elsewhere within the Swadlincote Conservation Area. The Delph is an important open space and hence the properties are prominent within the town centre.

### **The proposal**

Consent is sought for the replacement of the existing windows on the first floor to aluminum, as well as the removal of the existing cladding along the top to be replaced with dark aluminum cladding and the replacement of the shopfront at number seven. The windows and cladding shall be finished in a dark grey colour to give a more contemporary appearance. The application is almost entirely the same as one previously approved back in 2017 under application reference 9/2017/1040, the only difference in the current submission is that the transom light above the doors to the shopfront of number 7 would be an inward opening trough light for additional ventilation rather than a fixed light that was previously approved under application 9/2017/1040.

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

#### **Relevant planning history**

9/2017/1040 - Alterations to the shop fronts at ground and first floor and alterations to the windows - Approved with conditions - 8th November 2017

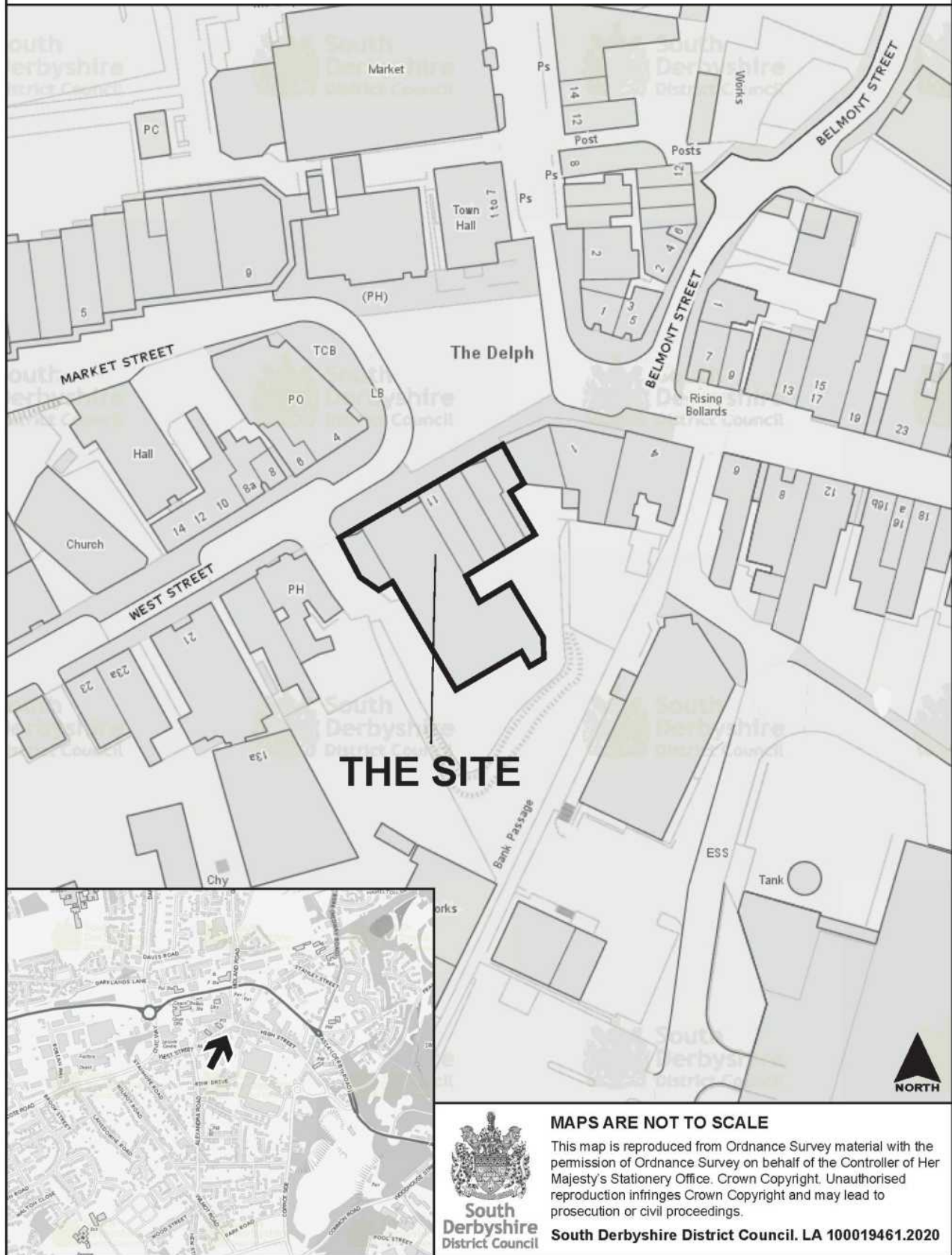
9/2017/1039 - The display of vinyl adverts to the frontages - Approved with conditions - 8th November 2017

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

The Conservation Officer notes that the proposals do not seek to fundamentally alter the properties but do seek to make some improvements to existing materials (replacing existing mismatching cladding at high level with consistent aluminum cladding) and replacing windows/doors to create greater consistency and harmony, particularly at first floor.

Overall the works would not transform the row such that it would have a positive contribution to local character, however the works would still be beneficial in architectural terms and whilst the group of properties would continue to have an at best neutral contribution to local character, the work would nonetheless represent a minor improvement and would certainly 'preserve' and cause no harm to the special architectural and historic character and appearance of the conservation area and would be described as a 'desirable' objective within section 72 of the Planning (Listed Buildings and

**DMPA/2021/0893 - 5-15 West Street, Swadlincote DE11 9DG**



Conservation Areas) Act 1990. For similar reasons it would be concluded that to the extent to which these buildings contribute to the special significance of the listed former Town Hall through its setting, the proposed works would not affect that significance, therefore, 'preserving' it as is described as a desirable objective within section 66 of the aforementioned 1990 Act. Subject to the inclusion of a condition that the cladding shall be installed in accordance with the submitted sample of Vulcalap Aluminium Weatherboarding, unless an alternative sample of the proposed cladding material to be used has first been submitted to and approved in writing by the Local Planning Authority prior to the cladding being fitted.

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

The relevant policies are:

- Local Plan Part 1 2017: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S7 (Retail), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets), INF2 (Sustainable Transport) and INF6 (Community Facilities).
- Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE10 (Heritage), BNE11 (Shopfronts) and RTL1 (Swadlincote Town Centre).

### National Guidance

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

### Local Guidance

South Derbyshire Design Guide SPD  
Swadlincote Conservation Area Management Plan

### **Planning considerations**

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

- Appearance of the works to the frontage; and
- Other.

### **Planning assessment**

The properties are a terraced row of modern retail units along the southern side of The Delph. The buildings are not listed and are not of any special architectural or historic interest and owing to their detailing and poor quality materials, make a poor contribution to the character and appearance of the conservation area.

#### Appearance of the works to the frontage

Policies BNE1 and BNE11 of the Local Plan stipulate that development should be well designed and visually attractive and that proposed shopfronts should be well proportioned in relation to the existing building and should use high quality, sympathetic materials that respond positively to the surrounding context. In addition, policies BNE2 and BNE10 of the Local Plan specify that proposed development should seek to protect, preserve and enhance existing heritage assets and should be sympathetic to minimise harm to the heritage assets.

The proposed windows, cladding and new shopfront would help improve and enhance the existing row of buildings. Whilst the use of aluminum windows and fascias would be discouraged elsewhere within the Conservation Area, owing to the modern style of the buildings it is considered that their use would be in keeping and appropriate in this instance. The aluminum windows and cladding would respond well to the modern proportions of the existing row of buildings and by incorporating materials that would be more visually acceptable than those currently present, the proposed development would provide an opportunity to significantly improve the appearance of the street scene and character of the immediate



area. The proposed development would fully accord with the principles of policies BNE1, BNE2, BNE10 and BNE11 of the Local Plan.

The current application is a re-submission of proposed works submitted for application 9/2017/1040 that were approved with conditions. The proposed application seeks a minor change for the proposed transom light above the doors to the shopfront of number 7 be an inward opening trough light. This will allow for additional ventilation within the shop rather than a fixed light as was previously approved as part of application 9/2017/1040. The proposed change would be minor and would not alter any of the original appearance or principles of the original application submitted under 9/2017/1040.

#### Other

Whilst the current application seeks consent for the alterations to the windows, cladding and a shopfront, there was an advertisement consent for the display of vinyl adverts to the frontages of the buildings and a hanging sign which were approved with conditions under application 9/2017/1039. This advertisement consent remains valid and implementable and subject to the determination of the current application, would allow for the display vinyl adverts to the frontages and a hanging sign at the buildings should the current application be allowed subject to conditions.

#### Conclusion

The proposed windows, cladding and shopfront alterations would be in keeping with the style and appearance of the host building. Whilst not presenting a perfect solution given not all units are to undergo changes to their shopfronts, this application sets a 'marker' against which future proposed changes can be considered. The proposed development would fully accord with policies BNE1, BNE2, BNE10 and BNE11 of the Local Plan, the principles within the Councils Design Guide and the Swadlincote Conservation Area Management Plan and it is recommended that planning permission be granted subject to planning 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 permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with plan/drawing Location Plan, received on 1st June 2021, AMB-195-002 and the submitted Design Brief, received on 1st June 2021; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

3. The cladding and window details shall be installed in accordance with the submitted Design Brief, received 1st June 2021, unless an alternative sample of the proposed cladding material to be used has first been submitted to and approved in writing by the Local Planning Authority prior to the cladding being fitted. The work shall be carried out in accordance with the approved details.

Reason: To safeguard the appearance of the existing building and the locality generally.

Valid date: 07/04/2021

Applicant: Ruairi Scullin

Agent: JVH Town Planning Consultants Ltd

**Proposal:** Proposed engineering operation to form an extension to the existing Keystone storage yard and creation of car parking for existing staff, including bunding fencing and landscaping on Land off Ryder Close, Castle Gresley, Swadlincote, DE11 9EU

**Ward:** Church Gresley**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 number of objections received in respect of the application.

**Site Description**

The site is approximately 1.4 hectares and lies within the Swadlincote urban area, with existing industrial premises to the north and north-west. The site forms part of a larger allocated employment site (Policy E1A of the Part 1 Local Plan). There is a more recent residential development to the south and further residential to the east. The land is currently vacant and appears to have been used for the storage of materials in association with the residential development to the south. There is a ditch running along the southern boundary in part and a number of mature trees along the eastern boundary. The land levels currently fall from east to west with a difference of approximately 3 - 3.5m, with the highest part being the north-eastern corner. The existing boundaries are made up of a mixture of vegetation, timber close boarded fencing to the new residential properties to the south and palisade fencing to the existing yard. There is a pond towards the south east of the site.

**The proposal**

The proposed development is for the change of use of land and associated engineering operations to form an extension to the existing Keystone Lintels storage yard together with the creation of 75 car parking spaces. The proposals include:

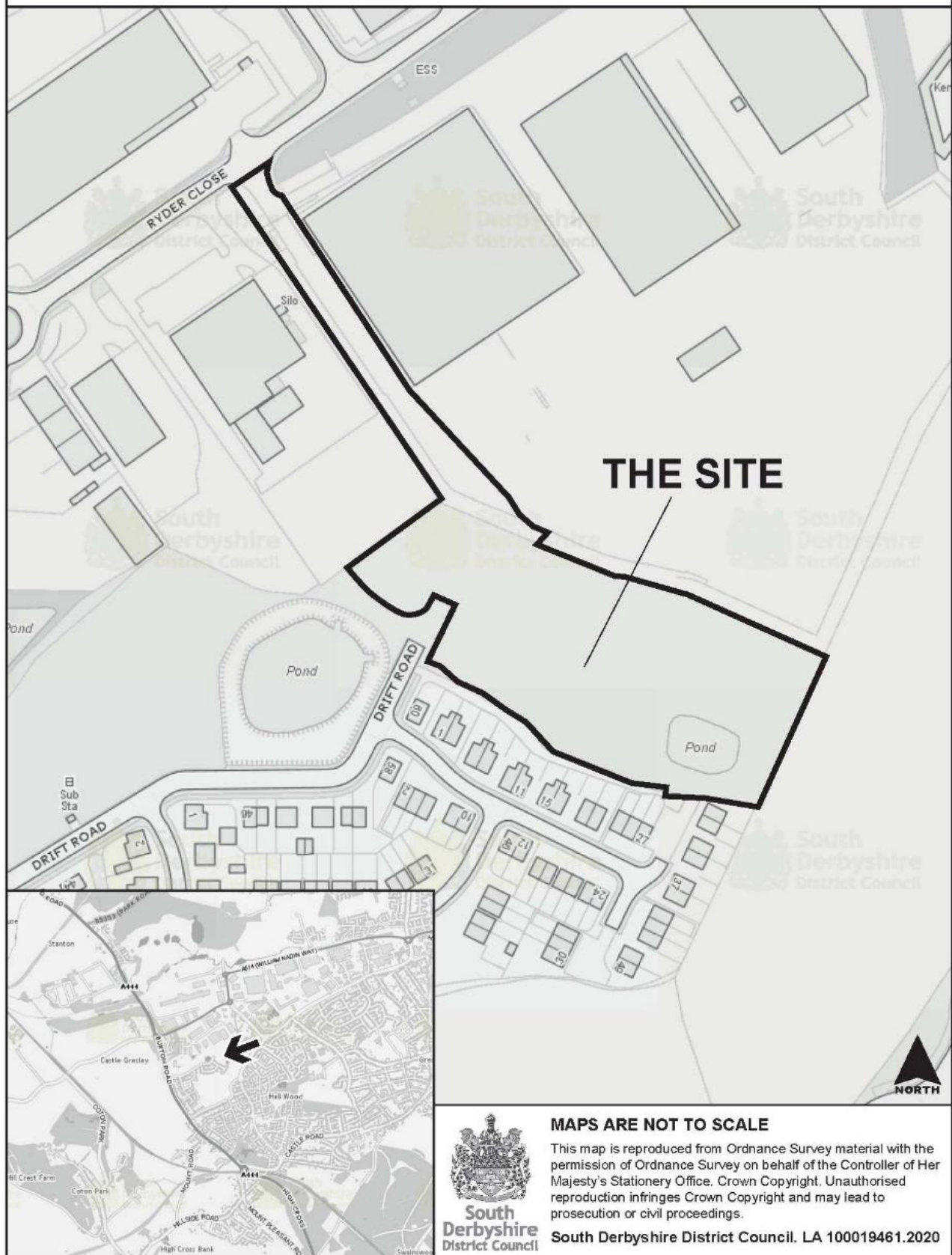
- The use of the existing access from Ryder Close only
- An area to the west to accommodate a further 75 car parking spaces, marked out and hard surfaced
- Removal of spoil heaps and leveling of the site
- erection of 3m high bund and 3m high acoustic fence (combined height of 6m)
- landscaping of the bund and areas to the eastern and south-western boundary
- A short stretch of cycle path along the southern boundary of the site.

**Applicant's supporting information**

Planning, Design and Access Statement - The applicants state that the site is well-established manufacturing facility and that the proposal is needed to increase the storage area, provide more staff parking and create a suitable relationship to existing residential properties to the south through bunding and landscaping. The applicants consider the development to be in compliance with local and national planning policies, specifically those relating to employment and that the proposal will not result in harm to amenity.

Preliminary Ecological Appraisal - In this document the applicants undertook a PEA which comprised an extended Phase 1 Habitat Survey. This appraisal identified a range of habitats, including: Short ephemeral vegetation, ditch, defunct hedge, trees, scrub, tall ruderal, bare ground and standing water. The appraisal notes that these habitats could support a number of species including reptiles, foraging

**DMPA/2021/0579 - Land off Ryder Close, Castle Gresley, Swadlincote  
DE11 9EU**





bats, hedgehogs and GRN. In light of which the appraisal recommends that further surveys are carried out for reptiles, the standing water areas are surveyed for GCN and the undertaking of an open mosaic habitat assessment. The appraisal also recommends that tree lines are maintained where possible and where removed replaced with native species. Vegetation clearance should also be outside of the bird nesting season where possible and suitable hibernation areas should only be cleared outside of the hibernation period. Additional opportunities for enhancement are also identified and include: wildlife friendly lighting, bat and bird boxes, habitat piles and the plating of native species.

Noise Assessment - The report presents details of previous noise surveys to determine the existing noise climate and an assessment of the noise impact from the proposed operations against the relevant standards and criteria (BS44142:2014). It identifies noise sources as being from forklift manoeuvring and loading. The report predicts the daytime and night-time noise levels at the three closest noise sensitive locations and identifies that according to the relevant standards the context of the noise must be taken into consideration and in this instance existing consents could result in higher noise levels from increased traffic along Furnace Lane than the proposed development.

Flood Risk Assessment - The assessment considers that the development would be a 'Less Vulnerable' development in appraising it against Table 2 of the PPG. The EA Flood Map for Planning shows the site to be located entirely in Flood Zone 1 and therefore a sequential test is not required. The assessment identifies the site as being at low to medium risk of surface water flooding, with an existing pond currently collecting surface water to be removed. Whilst the pond to the south west corner of the site was designed to accommodate surface water from this site into this feature at a rate of 10l/s controlled by a flow control chamber with a vortex flow control the drainage strategy for the site is to discharge directly into an existing surface water sewer.

Drainage Technical Note (dated July 2021) - This note is provided in response to comments received from the LLFA and advises that due to the levels being significantly altered (by up to 3m) the existing swales are 'cut off', that the proposed discharge rates were agreed as part of the St Modwens Homes development, that they consider the site to be brownfield and the discharge rate should be on this basis and that due to the engineering works proposed infiltration is not possible due to the material being too consolidated at these depths.

Drainage Technical Note (dated 31 August 2021) - This note is provided in response to comments received from the LLFA and provides assumed calculations for the sewer capacity which demonstrate sufficient capacity. The note provides calculations for greenfield run-off rates which significantly increases the required attenuation. The note comments that a more favourable discharge rate should be agreed based on the additional capacity available in the sewer. The notes author considers that final discharge and attenuation calculations can be reached within a detailed design which can be agreed.

Highways Technical Note - This note describes the proposed development the existing traffic conditions, anticipated impact from the development and existing access to different modes of transport available. It confirms that access will be from Ryder Close which is an adopted single carriageway and that no changes to the existing site access is proposed. The note identifies risks and notes that no fatal accidents have taken place at the intersection between Ryder Close and Cadley Hill Road. The note identifies that there are no expected changes to traffic generation, times of operation or staffing levels as a result of the proposals and as such the proposal would have no unacceptable impacts on highway safety and is in accordance with the relevant national policy.

A further Technical Note dated 23.7.21 confirms that there is currently an under provision of parking on the site (currently 105 spaces, up to date guidance suggests this should be 135), details of floorspace of the existing units are provided and the note confirms that there will be no expected increase in HGV movements.

Coal Mining Risk Assessment - The assessment identifies recorded workings in 8 seams within the site at a depth of between 36m and 281m and a probable presence of shallow unrecorded workings and it is these which are considered to present the highest risk. No known coal mining entries are within 100m of the site, however mine gassing emissions have been recorded within 500m of the site. The

assessment makes a number of assumptions relating to the ground strata, geology and depths based on previous findings, works and information contained by the Coal Authority. A number of mitigation measures are proposed including: Rotary probe drilling and drilling and grouting stabilisation if the probe drilling confirms shallow workings.

Arboricultural report - This report identifies that the significant trees at the site grow around the perimeter only and include an Oak Tree covered by a TPO. It notes that those to the southern boundary (which includes the Oak) can be protected/retained by ensuring that there is no development (including changes to ground levels) within 2m of the existing ditch/bank. To the east of the site the trees and hedges require no disturbance within the full extent of their root protection areas. It identifies that some trees are suffering from ash die-back but that it difficult to predict their life expectancy and that new tree planting around the sites perimeter will result in betterment to screening whilst retaining a landscaping corridor. Tree species are recommended as containing English Oak, Field Maple, Wild Cherry and Rowan.

GCN Pressence Report - This report is informed by a Habitat Suitability Index Assessment of all ponds within 500m of the site, followed by 4 survey visits to the suitable ponds to establish presence or likely-absence. GCN were discovered to be present and so the survey was extended to estimate the relative size of the population. The highest count was found to be five which is classified as 'low'. Suitable terrestrial habitat was also found to be present on site. The report identifies that a European Protected Species Mitigation Liscence is required from Natural England and any planning permission should be conditional upon this. The granting of this would be subject to the detailed design of a suitable avoidance/mitigation/compensation strategy.

Open Mosaic Habitat Report - The report notes that the site meets all 5 criteria required for it to be considered as a OMH and is therefore a habitat of Principle Importance, containing rare plants, mosses, lichen, rare invertebrates, including bees, wasps and beetles. It advises that a mitigation plan will be required and this should be incorporated into an Construction Ecological Mitigation Plan (CEMP) for the site as a whole and controlled by condition.

Reptile Presence/Absence Survey - The report seeks to demonstrate the absence/presence of reptiles on the site by undertaking survey work in accordance with current standards. Seven visits to site were undertaken within a 6 week period to inform the survey. No reptile species were seen on site during the site surveys which suggests a likely absence and as such no implications as a result of the development. Suggestions are made in the recommendations section of the report for enhancement measures including a part-buried hibernacula.

Biodiversity Impact Assessment Calculator Tool - This tool demonstrates the baseline data for the site specific to biodiversity and assesses the on-site post development data to provide an indication of the change the development will have on the site to understand whether there will be any net gain or loss to biodiversity as a result of the development. The habitats are split into three areas: habitat, hedgerow and river. The calculator demonstrates a loss in habitat units and a significant gain in hedgerow units with no change to river habitats.

### **Relevant planning history**

9/2005/0341 - The erection of a distribution warehouse and marshallng yard and access - Approved June 2005

9/2011/0685 - Change of use of approx 2.5 hectares of grassland into hard standing for use as a stock yard - Approved Nov 2011

9/2013/0370 - The erection of 3 buildings to form additional fabrication unit, spray shop, storage and distribution unit and additional parking - Approved Aug 2013

9/2014/0411- Revised scheme to previously approved application 9/2013/0370 for the erection of 3 buildings to form additional fabrication unit, spray shop, storage and distribution unit and additional

parking - Approved Aug 2014

9/2015/0605 - Variation of condition 15 of planning permission 9/2014/0411 relating to the hours of use of external areas - Approved Oct 2015

9/2017/0103 - Variation of condition 14 of planning permission 9/2015/0605 relating to the hours of use of external areas - Approved Aug 2017

9/2018/0871 - The erection of a new packaging area canopy - Approved Oct 2018

9/2019/0421 - The variation of condition 3 & 4 of planning permission ref: 9/2018/0871 relating to the erection of a new packaging area canopy - Approved June 2019

DMPA/2020/0201 - Infill extension to existing industrial buildings - Approved June 2020

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

Environmental Health – No objections subject to conditions relating to the submission, implementation and maintenance of the noise mitigation scheme, hours restrictions on use, Electric Vehicle Charging points and the submission and implementation of a lighting scheme.

Landscape Officer - Makes a number of observations about the application and requests additional information including:

- A detail drawing of the Acoustic fencing.
- A detail drawing of the boundary fencing.
- A detail drawing of the car park layout with tree planting, and native species hedgerow to the south west boundaries.
- Further detail regarding the cycle path.
- A drawing showing the proposed tree protection for the onsite TPO trees.
- A landscape planting plan, with plant schedule and planting specification
- A plan showing the position of the proposed bird and bat boxes.

#### Comments on plans received on 03.08.2021:

- The plant schedule to give the tree size in a girth measurement where possible, these should be of various sizes from 14cm.
- Increase the tree planting to form a tree belt to the south west edge of the car park, as the site is within the National Forest.
- Suggested changes to species of tree proposed

#### Comments on plan received 18.8.2021:

- Tree planting to the car park to be 2/3 mixed native species.
- Tree size in a girth measurement where possible, these should be of various sizes from 14cm.
- Suggested changes to species of tree proposed

Policy Officer - Need to secure a 3m wide cycle and pedestrian access connecting the Castleton Park at Swadlincote Lane with Ryder Close, to the north of the application site. The link is identified in the South Derbyshire Cycling Strategy, 2001, and this piece of infrastructure should not be compromised by the current proposal. The plans make reference to the path but there is no indication of how the link will be secured or the alignment of the path, specifically toward Drift Road.

Trees protected by TPO within the application site.

Derbyshire Wildlife Trust – Agrees with the need for further surveys as recommended by the PEA and that these should be provided prior to determination.

#### Comments on additional information received 03.08.2021:

- Open Mosaic Habitat is a Habitat of Principal Importance (priority habitat). The loss of this habitat from the site, in the absence of mitigation and/or compensation, represents a significant net loss of biodiversity.

- A Biodiversity Impact Assessment is required, using a recognised Metric Calculator to identify the level of biodiversity impact resulting from the proposed development so that appropriate mitigation and compensation can be provided.
- We are also aware that no further information has been submitted to confirm the presence/absence of protected species at the site, namely reptiles and great crested newt as advised in our previous consultation response.

County Highways Authority – Raises a number of points of clarification in respect of the increase in parking, the implementation of sustainable measures, net and gross floor areas for the existing site, whether there will be any increase in HGV movements, information regarding visibility at the existing junction.

Comments on additional information received 03.08.2021:

No objections, subject to conditions

LLFA – Raises a number of points of clarification in respect of the drainage strategy and plan to discharge into the surface water sewer, the run-off rate proposed and the consideration of SuDS measures in the design.

Comments on additional information received 03.08.2021:

Request for additional information including:

- Evidence that the existing S104 surface water sewer has the capacity to accept this additional flow.
- Justification as to why it is not possible to discharge at, or closer to, to the greenfield runoff rate and evidence of the existing runoff rate of the site

Comments on additional information received 02.09.2021

No objections subject to conditions relating to the detailed design and assessment of surface water drainage

Designing Out Crime Officer – No objections.

The National Forest Company - 20% of the site area (0.28ha) should be provided as dedicated National Forest planting. Insufficient details of tree size, species and density of planting. The recommendations of the PEA at Section 4.3 should be conditioned. The existing trees should be retained and protected during construction.

Comments on additional information received 03.08.2021:

- 0.28ha of the site should be provided dedicated woodland planting.
- Alternatively, the applicant could provide a commuted sum towards off site planting which would be of the order of £9800 (£35k x 0.28).
- The applicant has not identified the planting towards the southern boundary on the gradient as National Forest planting. Question whether the 1:2 slope is an appropriate location for woodland creation and long term management.
- Unclear how bird boxes would be provide in areas of new planting.

The Coal Authority - Objects. The site falls within the Development High Risk Area and a Coal Mining Risk Assessment is therefore required to support the application.

Comments on additional information received 03.08.2021:

Removes objection to application subject to conditions relating to site investigations, remedial works and declarations by a competent person related to the works undertaken.

11 no. letters of objections have been received from the public during the original consultation period raising the following comments:

- a) increased pollution, from cars and machinery
- b) noise, existing noise levels already poor, expansion will make this worse
- c) privacy issues - being able to look directly into properties;
- d) removal of existing wildlife from the area, including a number of birds and ducks
- e) The plan states the expansion will be used 24 hours a day. This is not acceptable to have it operating all day and night this close to a residential housing area

- f) Additional stress and health issues as it will effect people's rest and relaxation times
- g) Light Pollution from flood lighting
- h) No consideration of disruption to pets in noise and use of land
- i) the proposed fence and walls are going to be an eyesore
- j) 3 meter wide cycle path is not going to have any sort of benefit to anyone the field to the right is not a public pathway
- k) The noise level measured along Swadlincote Lane is abysmal . The street is 0.5 miles from the keystone factory and our house is only 200 yards away.
- l) Loss of property value
- m) Outside there is ubiquitous dust; if the facility will be next to our fence there will be more dust.
- n) the fencing and supposed trees will be enough to stop the noise, My house is a 3 story house and the noise is even more noticeable on the top floor.
- o) Due to my line of work I work shifts and can be very disturbing
- p) If access to the car park is going to be via Drift Road I feel this also puts my childrens safety in question as the traffic will increase at the quiet end of the residential estate.
- q) Understood the land was going to be a nature area for the estate.
- r) Concern for the existing wildlife and habitats as these will be more than likely destroyed and disrupted by the development.
- s) car park will create additional noise when workers are coming and going from the factory
- t) impact on the traffic.
- u) unpleasant view of 3 foot walls along with a 2.4metre mesh wall.
- v) Work has already commenced on site with worker starting before 7am
- w) Photos submitted of a newt within the rear garden of a property on Furnace Lane.

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

The relevant Development Plan policies are:

Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S5 (Employment Land Need), S6 (Sustainable Access), E1 (Strategic Employment Land Allocation), E2 (Other Industrial ad Business Development), E3 (Existing Employment Areas), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE3 (Biodiversity), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF7 (Green Infrastructure), INF8 (The National Forest)

Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE7 (Trees, Woodland and Hedgerows)

The relevant local guidance is:

Trees and Development SPD  
South Derbyshire Design Guide SPD  
SDDC Cycling Strategy 2001

The relevant national policy and guidance is:

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

## **Planning considerations**

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

- The principle of the development
- The impact of the development on biodiversity and trees
- The impact of the development on highways safety



- The impact of the development on residential amenity
- The impact of the development on flood risk and water management

## **Planning assessment**

### Principle of Development

The site is located within the Swadlincote Urban Area, adjacent to a number of existing industrial buildings and uses, together with residential properties and is allocated within employment policy allocation E1A of the Local Plan. Policy E1A of the Local Plan supports the creation and retention of industrial and business uses to support local employment needs and reduce the level of out-commuting within the area for employment.

The proposed development seeks consent to form an extension to the service yard of the adjacent business and create an additional car park for employees. This would comply with the requirements of policy E1A, allowing an existing business to expand, which would cater for the identified needs of the business and enable them to continue to operate from the site. The development would therefore be acceptable in principle.

### Biodiversity, Trees and Landscaping

The application was supported by a Preliminary Ecological Appraisal, which identified a number of additional surveys which were required. As a result of this and the initial comments of DWT the applicants have since submitted additional surveys and information to support the application, including an Open Mosaic Habitat report and a GCN Presence report. DWT have raised concerns relating to the loss of the site as Open Mosaic Habitat, which is a Habitat of Principle Importance and have requested a Biodiversity Metric Calculator be undertaken to identify the level of biodiversity impact resulting from the proposed development so that appropriate mitigation and compensation can be provided. This should demonstrate that the proposal would not result in significant harm through biodiversity loss, in accordance with the NPPF and Policy BNE3 of the Local Plan. The Biodiversity Metric Calculator has since been provided and DWT have been consulted on this. The calculator demonstrates a loss of habitat units but a significant increase (net gain) in hedgerow units. It is noted that this does not offer like for like mitigation however and comments from the DWT will provide additional clarity on this point, its acceptability and the need for conditions to secure any mitigation/enhancements necessary.

GCN have also been discovered on the site and the survey work was able to estimate the relative size of the population as 'low' (5 in total). Suitable terrestrial habitat was also found to be present on site. The presence of GCN on site does not necessarily mean that the proposal should be refused, however having regard to their presence suitable mitigation and/or compensation measures should be identified and implemented relative to the population and impact. It is considered that a condition should be attached to any planning permission which requires the detailed design of a suitable avoidance/mitigation/compensation strategy to be submitted, approved and implemented. A European Protected Species Mitigation License would also be required from Natural England, which whilst outside of the planning process would also afford a further level of scrutiny to the proposals in respect of these species.

The site is located within The National Forest and accordingly the Local Plan requires the incorporation of woodland planting of approximately 0.28ha within the site. In addition there are a number of existing trees along the perimeter of the site, specifically to the south and east. The Arboricultural Impact Assessment submitted during the course of the application sets out how the proposals would impact on this existing vegetation and measures which would need to be put in place during construction and occupation of the site. It is considered that suitable measures could be secured by condition to ensure that the proposal did not have any significantly detrimental impact on the health and well-being of the most important of the existing vegetation, specifically that along the southern boundary, where a single TPO is located and along the eastern boundary where there are a number of mature trees.

Whilst the NFC welcome the inclusion of a number of hibernacula/refuge areas they question whether the planting at gradient, as shown on the submitted plan, would offer effective long term delivery of

National Forest Planting, acknowledging the benefits this may provide for amenity and ecological mitigation. Whilst it is considered to be a substantial benefit to accommodate National Forest Planting required by new developments within the site Policy INF8 of the Local Plan does allow in exceptional circumstances for a commuted sum to be paid towards tree planting, purchasing land for planting and maintaining these areas. The sum in this instance would amount to £9,800. In light of the industrial nature of the site and adjacent units, the constraints of the site, its employment land allocation and, whilst not acceptable in securing a 'distinctive National Forest character', the significant amount of planting within the site, it is considered that in this instance an off-site contribution would be acceptable.

Subject to a number of minor amendments to the tree species proposed, the planting mix and size of species being confirmed the Council's Landscape Officer considers the proposals to provide appropriate landscaping of the site and secure biodiversity enhancements and mitigation with the use of native species and the provision of bird and bat boxes distributed throughout the scheme. A condition should be used to secure this detail, its implementation and maintenance for the required periods.

#### Highway Safety

The site is currently serviced from Ryder Close and this will remain the sole access into the site, with no additional access points proposed. A car park providing spaces for 75 additional vehicles will be created and accessed through the existing site. This will be hard-surfaced and laid out to accommodate these spaces and allow for the safe manoeuvring of vehicles, with some soft landscaping proposed throughout. The additional car parking will provide for the short fall in existing car parking within the site and alleviate some of the on-street parking on roads surrounding the site. Whilst the proposal would result in a surplus of parking it is not considered that this would be any justification to refuse the application. The Highways Authority raise no objections on highway safety grounds and consider the existing access and associated visibility acceptable to accommodate the proposed development subject to conditions.

#### Residential Amenity

A number of comments have been received from local residents raising concerns relating to residential amenity including; increased pollution, from cars and machinery; increased noise; loss of privacy; health concerns due to increased noise; light pollution; overbearing impacts of fencing; and increased dust.

In regard to increases in noise, the applicants have submitted a noise assessment in support of the proposals which has been reviewed by the Council's Head of Environmental Services. The proposals involve engineering works to level the site, removing any spoil mounds and the erection of a 3m high concrete retaining wall, which will be hidden from the view of adjacent residential properties on Furnace Lane by the vegetated bank. On top of this retaining wall a 3m high close boarded timber acoustic fence will be attached. As the planted vegetation grows this will also become less visible to residents along Furnace Lane. The Head of Environmental Services considers the report in detail, he also draws on evidence regarding existing noise complaints, 'Best Standard' information and planning conditions attached to previous permissions. He is of the view that whilst there have been complaints relating to noise that the existing situation provides a reasonable balance between the needs of the business and the amenity of the local community. It is identified that the potential adverse noise impacts of the proposed development are that it will bring existing noisy stockyard activities much closer to the existing residential receptors at Furnace Lane and it will also increase the footprint of the existing stockyard and thus increase movements of materials and frequency of noise events. Whilst the potential noise implications of developments can only be predicted due to the current absence of the source, it is considered that appropriate data has been used and the Head of Environmental Services is of the view that with mitigation the development is capable of reducing the magnitude of exposure to individual peak noise events at Furnace Lane compared to the current conditions. However due to the increase in stockyard area, the frequency of these peak events is likely to increase. Nonetheless based on the information submitted he has no objections to the proposals subject to conditions to control the detailed design of the mitigation and operating hours.

In regard to air quality and additional traffic to the site. The proposal would not result in a significant

increase of employment figure but is to allow for sufficient parking within the site and improve the manoeuvrability and capacity of the existing service yard. In this regard there is considered to be no significant implications for air quality and a condition is recommended in relation to EVCP.

The security fencing proposed to the boundary is a open mesh design and provides a largely open aspect onto the landscaped bund from Furnace Lane. It is considered that this is of an appropriate design and would not be overbearing. Whilst the retaining wall and acoustic fence create a much taller structure this is a distance away from the rear of the properties on Furnace Lane and the vegetation proposed will provide some screening and a green backdrop. It is not considered that this would be overbearing on the occupants of the adjacent residential properties. Furthermore it is considered that this would provide screening for these neighbours so that the proposal would not result in any loss of privacy.

It is considered that any new lighting proposed can be designed so as to not have any significantly detrimental effect on the occupants of adjoining properties and this can be secured by way of a condition.

Accordingly whilst the proposal will bring the existing industrial activities closer to existing residential properties, it is not considered that it would result in any significant adverse impacts on the amenity of existing residents and is in accordance with Policy SD1 of the Local Plan.

#### Flood Risk

A FRA has been submitted in support of the application and to support this an additional Drainage Technical Note. The site is located in Flood Zone 1 and is classified as 'Less Vulnerable' development. Whilst the pond to the south west corner of the site was designed to accommodate surface water from this site into this feature at a rate of 10l/s controlled by a flow control chamber with a vortex flow control the drainage strategy for the site is to discharge directly into an existing surface water sewer. This is due to the fact that the levels on site are being significantly altered (by up to 3m), which has the effect of cutting off the existing swales. The LLFA have no objections to the proposal subject to the provision of evidence which demonstrates that the existing S104 surface water sewer has the capacity to accept this additional flow and the provision of justification as to why it is not possible to discharge at, or closer to, to the greenfield runoff rate and evidence of the existing runoff rate of the site, as set out in best practice technical guidance. The applicants have since submitted additional information to address these comments which, based on assumed capacity, demonstrates in excess of sufficient capacity of the sewer. They have also provided greenfield run off calculations for the site. These demonstrate a greater need to attenuate than had been proposed but suggest that based on the additional capacity within the sewer there would be the ability to increase the run-off rates more akin to greenfield and the detailed design of this can be secured by condition. The LLFA have been consulted on this latest information and raise no objections subject to conditions.

#### Other

The Coal Mining Authority initially objected to the proposals due to the location of the site within a Development High Risk Area and the lack of a suitable assessment being submitted with the application. Further works were undertaken by the applicant which identifies and provides an assessment of the site specific risks, which includes recorded workings and shallow unrecorded workings. Based on the findings and assessments of risk the applicants propose mitigation measures to include rotary probe drilling and subject to the findings of this drilling and grouting stabilization and a precautionary approach to footings. Subject to conditions to secure appropriate mitigation undertaken by a competent person the Coal Authority has no objections to the proposals and it is considered therefore that the proposal is in accordance with Policy SD4 of the Local Plan and the risk to human health from the proposed development can be appropriately mitigated.

The South Derbyshire Cycling Strategy 2001 identifies a link connecting the Castleton Park at Swadlincote Lane with Ryder Close, to the north of the application site. The applicants have identified the link on their site plan where it runs adjacent to and through the site. They would be willing to construct this within their site but that where it runs adjacent to this would be on land beyond their control (owned by St Modwen). It is considered that the detailed design of the cycle path within the site



could be secured by condition and that whilst the proposal would not secure the whole length of the path in this area the development does not necessary prejudice the extension of the path through 3rd party land in the future should additional funding become available.

Loss of property value is not a planning matter and as such cannot be taken into consideration in the determination of the application.

### Conclusion

The site is allocated as an employment site within the Local Plan. Whilst the proposed use would bring industrial activities closer to existing residential properties than is the case currently it is considered that in light of the findings of the noise report and the mitigation proposed to address the noise issues, including by condition that the proposal would not result in significant detriment to residential amenity. Whilst there would be some impact on specific wildlife species it is considered that these can be mitigated for and in all other matters it is considered that appropriate conditions can be used to ensure that the proposals accord with the relevant policies of the Local Plan.

It is therefore, recommended that the application is approved subject to planning conditions and a Section 106 Agreement to secure off-site contributions towards National Forest planting.

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

### **Recommendation**

A. Grant delegated authority to the Head of Planning and Strategic Housing to complete an agreement under section 106 of the Town and Country Planning Act 1990 so to secure the planning obligations outlined in this report relating to a commuted sum towards National Forest Planting; and

B. Subject to A, Approve the application subject to the following condition(s):

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 Whole Site 221-04-04c, General Arrangement Visibility Splay 190702 Rev P0, Typical Retaining Wall Fence Details 221-04.07, Typical Cross Sections 221-04.06 and 221-04.05, Site Local Plan 221-04.01, Proposed Site Plan Whole Site 221-04-08c and Topographical Survey 221-04.02 unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. No development shall commence until:
  - a) a scheme of intrusive site investigations 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 investigation and remedial works shall be carried out in accordance with authoritative UK guidance.

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

4. Prior to the occupation of the development, or it being taken into beneficial use, 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: To protect the health of the public and the environment from hazards arising from past coal mining which might be brought to light by development of the site.

5. The proposed 3.0m retaining wall and 3.0m acoustic fence shall be constructed as shown on the approved drawing prior to the first use of the site as a storage yard or car park. The noise mitigation scheme shall be maintained for the life of the approved development and shall not be altered without the prior written approval of the local planning authority.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers in accordance with policies SD1 and BNE1 of the Local Plan Part 1.

6. Prior to the commencement of the use hereby approved a stockyard noise mitigation plan shall be submitted to and approved in writing by the local planning authority detailing measures that will be implemented to provide best practicable means of minimising noise from the development. The stockyard noise mitigation plan shall thereafter be implemented for the lifetime of the approved development.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers in accordance with policies SD1 and BNE1 of the Local Plan Part 1.

7. The use of the land hereby permitted shall not be for loading and unloading of vehicles (other than cars for private use) and/or stacking/unstacking of products outside the following times, or at any time on Sunday, Bank or Public Holidays: 07:00 to 21:00hours Monday - Friday and 08:00 to 16:00hours on Saturday.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers in accordance with policies E7, SD1 and BNE1 of the Local Plan.

8. Prior to the commencement of the use hereby approved recharge points for electric vehicles shall be provided at a ratio of 1 charging point per 10 spaces (or part thereof). To prepare for increased demand in future years suitable and appropriate cable provision shall be included in the scheme design in accordance with details first submitted to and approved in writing by the Local Planning Authority. The electric vehicle charging points shall be provided in accordance with the approved details prior to the first use of the site and shall thereafter be maintained in working order and remain available for use throughout the life of the development.

Reason: In order to safeguard the amenities of the occupiers of the proposed development in respect of atmospheric pollution in compliance with the South Derbyshire Design SPD & policy BNE1 of the Local Plan.

9. Prior to the commencement of the use hereby approved a written scheme shall be submitted to and agreed in writing by the local planning authority that specifies the provisions to be made for the level of illumination of the site and to control light pollution. The scheme shall be implemented and maintained for the lifetime of the approved development and shall not be altered without the prior written approval of the local planning authority. The scheme shall be designed to ensure that

light intrusion into neighbouring residential windows from the development shall not exceed 2 Ev (lux) measured as vertical luminance.

The lighting scheme floodlighting shall be designed and operated to have full horizontal cut-off such that the Upward Waste Light Ratio does not exceed 5%.

Reason: In order to protect the amenity of the area and the occupants of adjoining residential properties in accordance with policy BNE1 of the Local Plan.

10. Prior to the car park first coming into use the area shall be hard surfaced and laid out in accordance with the details shown on the approved site plan and maintained in that form for the life of the development.

Reason: To ensure satisfactory car parking and safe manoeuvrability within the site is maintained in the interests of highway safety.

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

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

12. There shall be no changes in ground levels within 2m of the north bank of the existing ditch which runs along the southern boundary of the site, unless further details are first submitted to and approved in writing by the local planning authority prior to any works in these areas being undertaken. Thereafter the root protection areas for the trees along the southern and eastern boundaries as set out on pages 15 and 16 of the Arboricultural Impact Assessment shall be adhered to. The protective fencing shown on Proposed Site Plan Whole Site 221-04-08c shall be erected around all trees and hedgerows shown to be retained prior to the commencement of any works on site. The fencing shall conform to best practice as set out in British Standard 5837:2012 (or equivalent document which may update or supersede that Standard) and ensure that no vehicles can access, and no storage of materials or equipment can take place within, the root and canopy protection areas. The fences shall be retained in situ during the course of ground and construction works, with the protected areas kept clear of any building materials, plant, debris and trenching; and there shall be no entry to those areas except for approved arboricultural or landscape works.

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

13. Prior to the development first coming into use, the section of the cycle path shown on the approved plan and identified within the site by red markers shall be constructed in accordance with details to be first submitted and approved in writing by the local planning authority. The path shall thereafter be maintained and available for use by members of the public.

Reason: In the interests of encouraging sustainable modes of transport and to provide a safe and suitable path for all users in the interests of highway safety.

14. No development, including preparatory works, shall commence until a suitable avoidance/mitigation/compensation strategy, which is likely to include suitable habitat opportunities within the site to support the existing Great Vested Newt population, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.

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

15. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:
- SDA Design Consultants. (31 August 2021). Drainage Technical Note – Addendum 2 (Letter from SDA Design Consultants to Keystone dated 31 August 2021, including annexures), including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team,
  - And DEFRA’s Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Local Planning Authority.

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

16. No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 reference ID: 7-080-20150323 of the planning practice guidance

Reason: To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

- into the ground (infiltration);
- to a surface water body;
- to a surface water sewer, highway drain, or another drainage system;
- to a combined sewer.

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

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

18. Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

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

#### Informatives:

- This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990. All formal submissions to discharge obligations of the undertaking or agreement, or queries relating to such matters, must be made in writing to [s106@southderbyshire.gov.uk](mailto:s106@southderbyshire.gov.uk) with the application reference included in correspondence.
- The applicant/developer is reminded that it is an offence to damage or destroy species protected under separate legislation, which includes, but is not limited to, nesting birds which may be present in hedgerows, trees or ground habitats on the site. Planning permission for a development does not provide a defence against prosecution under wildlife protection legislation. You are advised that it may be necessary, shortly

before development commences, to commission an ecological survey from suitably qualified and experienced professionals to determine the presence or otherwise of such protected species. If protected species are found to be present, reference should be made to Natural England's standing advice and/or the Derbyshire Wildlife Trust should be consulted for advice.

- c. The County Council does not adopt any SuDS schemes at present (although may consider ones which are served by highway drainage only). As such, it should be confirmed prior to commencement of works who will be responsible for SuDS maintenance/management once the development is completed.

A. Any works in or nearby an ordinary watercourse may require consent under the Land Drainage Act (1991) from the County Council. For further advice, or to make an application please contact [Flood.Team@derbyshire.gov.uk](mailto:Flood.Team@derbyshire.gov.uk).

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

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

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

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

F. Surface water drainage plans should include the following:

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

G. On Site Surface Water Management;

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

Peak Flow Control

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



development for the same rainfall event, but should never exceed the rate of discharge from the development, prior to redevelopment for that event.

#### Volume Control

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

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

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

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

- Ground percolation tests to BRE 365.
- Ground water levels records. Minimum 1m clearance from maximum seasonal groundwater level to base of infiltration compound. This should include assessment of relevant groundwater borehole records, maps and on-site monitoring in wells.
- Soil / rock descriptions in accordance with BS EN ISO 14688-1:2002 or BS EN ISO 14689-1:2003.
- Volume design calculations to 1% probability annual rainfall event + 40% climate change standard. An appropriate factor of safety should be applied to the design in accordance with CIRIA C753 – Table 25.2.
- Location plans indicating position (soakaways serving more than one property must be located in an accessible position for maintenance). Soakaways should not be used within 5m of buildings or the highway or any other structure.
- Drawing details including sizes and material.
- Details of a sedimentation chamber (silt trap) upstream of the inlet should be included. Soakaway detailed design guidance is given in CIRIA Report 753, CIRIA Report 156 and BRE Digest 365.

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

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

