

# **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.

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
<a href="#">DMPA/2022/1153</a>	<a href="#">1.1</a>	Etwall	Etwall	6
<a href="#">DMPA/2023/0583</a>	<a href="#">1.2</a>	Woodville	Woodville	23
<a href="#">DMPA/2022/1159</a>	<a href="#">1.3</a>	Woodville	Woodville	40
<a href="#">DMPA/2023/0559</a>	<a href="#">1.4</a>	Repton	Repton	69

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
BNG	Biodiversity Net Gain
PRoW	Public Right of Way
POS	Public Open Space
LAP	Local Area for Play
LEAP	Local Equipped Area for Play
NEAP	Neighbourhood Equipped Area for Play
SuDS	Sustainable Drainage System
LRN	Local Road Network (County Council controlled roads)
SRN	Strategic Road Network (Trunk roads and motorways)
DAS	Design and Access Statement
ES	Environmental Statement (under the EIA Regulations)
FRA	Flood Risk Assessment
GCN	Great Crested Newt(s)
LVIA	Landscape and Visual Impact Assessment
TA	Transport Assessment
CCG	(NHS) Clinical Commissioning Group
CHA	County Highway Authority
DCC	Derbyshire County Council
DWT	Derbyshire Wildlife Trust
EA	Environment Agency
EHO	Environmental Health Officer
LEP	(D2N2) Local Enterprise Partnership
LLFA	Lead Local Flood Authority
NFC	National Forest Company
STW	Severn Trent Water Ltd

**Item No.** 1.1

**Ref. No.** [DMPA/2022/1153](#)

**Valid date:** 19/09/2022

**Applicant:** Will Martin

**Agent:** Litchfields

**Proposal:** **The variation of condition 31 of outline permission ref. DMPA/2020/0543 (relating to the residential development of up to 1,100 dwellings, an extra care facility, a local centre comprising: a small supermarket with a floorspace not exceeding 1000 sqm (net); a smaller retail unit with a total floorspace not exceeding 200sqm (net); a cafe/restaurant with a floorspace not exceeding 200 sqm (net); a public house with a floorspace not exceeding 650 sqm (net); a doctors surgery or crèche; and a community facility, as well as a primary school together with associated playing fields and the provision of associated infrastructure (including roads, footpaths, cycleways, sustainable urban drainage and open space)) on Land at New House Farm, Etwall Road, Mickleover, Derby, DE3 0DN**

**Ward:** Etwall

*Additional wording is included in italics all other parts of the report remain as previously published.*

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

This application is presented to the Committee as it is a major application subject to more than 4 objections.

*Members had voted to approve the application at the meeting on 8<sup>th</sup> August. However, this item is presented to the Committee again as an error allowed the applicant to address Committee for a second time. In returning the item to Committee it will, in the interests of fairness, enable those objecting to the application to have the opportunity to address Committee for a second time.*

#### Update report

Members will recall that the application was previously considered at the meeting held on 7<sup>th</sup> March 2023 but was deferred to allow the applicant to submit an updated EIA to take into account extra air pollution from queuing vehicles, up to date traffic surveys/TA, and for National Highways to provide a response to Derby City Council's objection. The previous report is attached as an appendix.

The applicant has provided some information to address the Members' concerns, and this is Assessed below:

#### **Updated EIA**

The issue of re-opening the Environmental Impact Assessment as a result of anticipated traffic and associated air quality issues at the A38 Kingsway junction has been revisited and the applicant has provided a legal view as to whether this is warranted as a result of proposal. The applicant originally stated that in their opinion the original Environmental Statement submitted with the original outline application remains valid and that an Environmental Statement addendum is not required, taking into consideration the nature of the proposed amendment. The original Environmental Statement found transport and air quality impacts to be negligible and the submitted Transport Technical Note submitted with this application demonstrated that the development was adding significantly fewer trips to the A38 Kingsway junction than originally envisaged at outline application stage. This is a view shared by officers and the legal view provided by the applicant following the deferral of the decision at the previous meeting concludes the same. On this basis it is not considered reasonable or necessary to

delay the determination of the application on the basis of re-opening the Environmental Impact Assessment for air quality, as this is not considered reasonable or necessary.

It should be noted that according to data held by Derby City Council there is no Air Quality Management Area at the A38 Kingsway junction itself, although there is one nearby within the city's administrative boundary at the A516/A5111 junction, the traffic light controlled junction of Kingsway/Manor Road/Utttoxeter New Road. However, developments within the city will now result in the provision of signalisation at the southbound arm of the A38 Kingsway Junction, provided by Tilia Homes who are developing at Manor Kingsway, as part of their planning obligations. It is anticipated that this will ease traffic problems within the city and queuing that occurs on the A5111 approach to the A38 Kingsway junction. Since National Highways are also content with the proposal in terms of additional traffic on the A38 Kingsway junction before that junction is improved through grade separation, it could not reasonably be concluded that the proposal would create any undue additional impacts in terms of air quality in the context of the overall development of the housing at this allocated site.

### **Updated Traffic Surveys/Transport Assessment**

The applicant was asked to provide more up to date traffic survey work to support their application. However, the applicant has stated that they are content that the data provided is suitable, robust, and adequately demonstrates that the proposal would not adversely impact on both the Strategic Road Network and the Local Road Network. They have, however, sought to ease the concerns of Derby City Council in regard to the statistical confidence of the data submitted in support of the application by providing the Automatic Number Plate Recognition (ANPR) match rates between vehicles leaving the new housing development on New House Farm and then travelling through the Kingsway Island junction, information that Derby City Council had stated was missing. The applicants additional information shows these ANPR match rates ranged between 93.7% and 98% and they state that the evidence they have provided to support the application, alongside the ANPR match rate data requested, provides a very high level of confidence in the submission and its conclusions. Derby City Council were asked for their views on the application in light of the additional information that they had specifically requested, and which was provided by the applicant. However, in the City Council's response they have stated that their highways officers do not wish to make further comments on the application and that they do not wish to raise any other policy issues in respect of the submission.

### **National Highways**

National Highways were asked to comment on the concerns raised by Derby City Council. National Highways have responsibility for, manage, and improve motorways and major 'A' roads, the trunk road network. As such their interests relate only to the operation of the A38 approaches from both the north and the south and the A38/Kingsway junction itself. National Highways have reiterated their advice that they have no objection to the application and that their decision was reached following a modelling exercise using more realistic figures as opposed to the overly robust assessment carried out for the original application. They have stated that they have no further comments to make and on that basis it not considered reasonable or justified to refuse the application as there is no evidence to demonstrate that the proposal would have any undue impact on the strategic road network, which was the reason for the condition in the first place.

### **Conclusion**

In light of the above. the Committee is asked to resolve that planning permission be granted in accordance with the recommendations in the previous main report.

**Item No.** 1.2

**Ref. No.** [DMPA/2022/1153](#)

**Valid date:** 19/09/2022

**Applicant:** Will Martin

**Agent:** Litchfields

**Proposal:** The variation of condition 31 of outline permission ref. DMPA/2020/0543 (relating to the residential development of up to 1,100 dwellings, an extra care facility, a local centre comprising: a small supermarket with a floorspace not exceeding 1000 sqm (net); a smaller retail unit with a total floorspace not exceeding 200sqm (net); a cafe/restaurant with a floorspace not exceeding 200 sqm (net); a public house with a floorspace not exceeding 650 sqm (net); a doctors surgery or crèche; and a community facility, as well as a primary school together with associated playing fields and the provision of associated infrastructure (including roads, footpaths, cycleways, sustainable urban drainage and open space)) on Land at New House Farm, Etwall Road, Mickleover, Derby, DE3 0DN

**Ward:** Etwall

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

This application is presented to the Committee as it is a major application subject to more than 4 objections.

#### **Site Description**

The site is situated to the west of Mickleover and extends to approximately 50.9ha (125.9 acres) and comprises mainly improved grassland. A section of the site is now under development by Avant Homes, pursuant to a reserved matters approved under the existing outline permission (see below). The site is located to the north of the A516 Etwall Road, which connects Mickleover with the A38 to the east and the A50 further west. The northern boundary of the site is defined by the former railway line which is now part of the National Cycle Network (NCN) Route 54. Radbourne Public Footpath no. 8 runs along the eastern edge of the site but just off it, accessed off Greenwood Court and the new Bloor Homes development site.

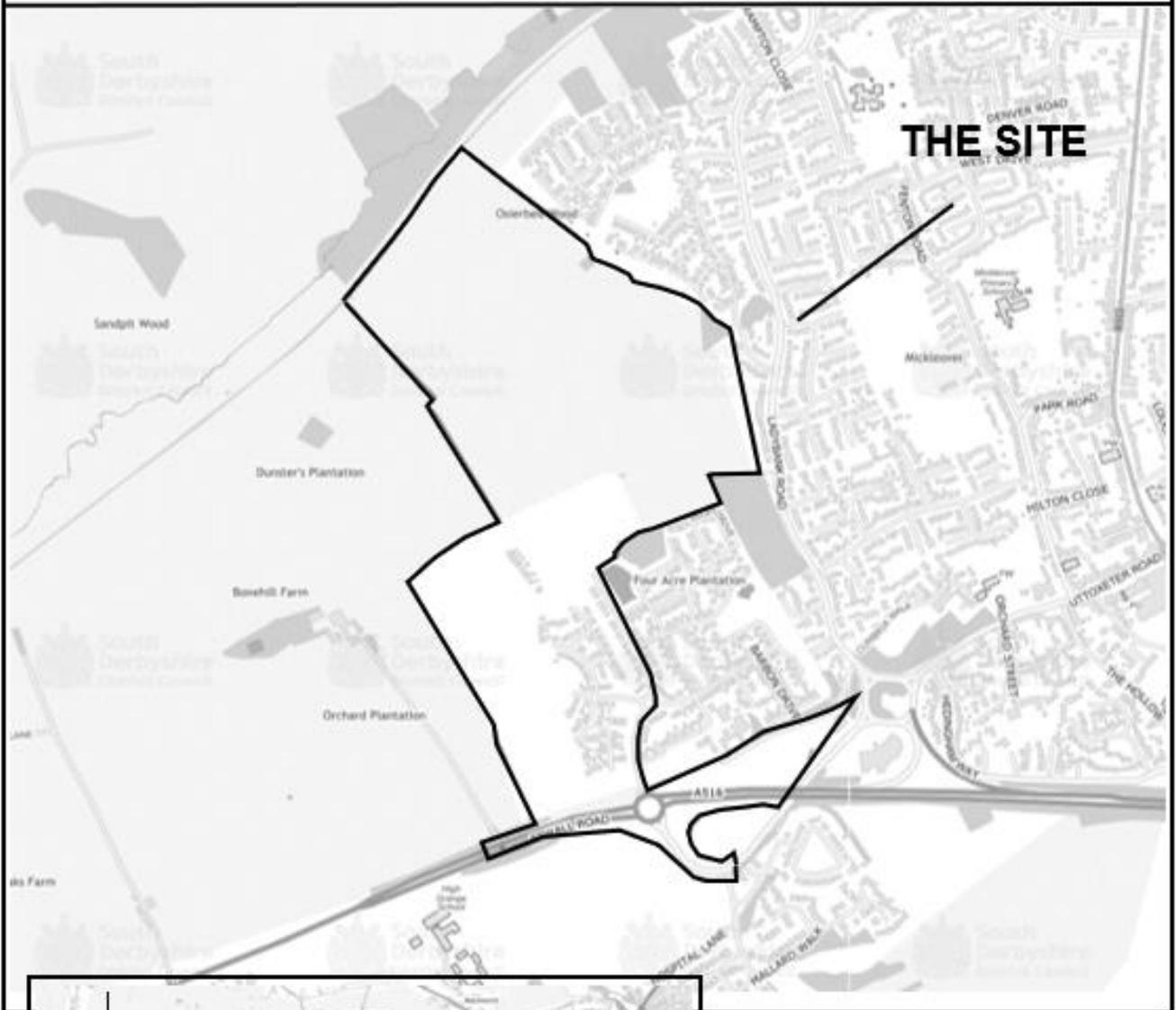
#### **The proposal**

The last outline permission was granted subject to a condition (number 31) which limits the number of dwellings which can be occupied prior to the commencement of the grade separation works at the A38/A5111 Kingsway junction, to 317 dwellings. This current application seeks to vary condition 31 to increase the number of dwellings that can be occupied to 617 dwellings.

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

A Covering Letter confirms that Highways England were consulted prior to submission and agreed that it would be reasonable to amend the condition. It is considered that, given this and the enclosed justification, the variation can take place without detriment to the purpose of the condition and allows for an increased housing delivery on an allocated, sustainable site in South Derbyshire.

**DMPA/2022/1153 – Land at New House Farm, Etwall Road, Mickleover, Derby, DE3 0DN**



**MAPS ARE NOT TO SCALE**

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

South Derbyshire District Council. LA 100019461.2020

A Supporting Statement states that there have been unexpected delays in issuing the Development Consent Order (DCO) e issuing of the DCO consent to allow the A38 Derby Junction to commence following the original DCO decision being quashed by the High Court Order on 8 July 2021 which is still being re-examined with no publicly available timeframe on when a decision is likely to be issued. As a result four years on from the grant of the original outline permission works have not yet started on the A38/A511 Kingsway junction.

It states that the applicants met with National Highways who advised that they would require additional survey work in order for them to consider any increase in the number of houses occupied before the A38/A511 Kingsway junction works start. The requisite survey work has been undertaken and accompanies this application, that document being the Technical Note - Impact of Development Generated Trips on A38 Kingsway Junction and at a subsequent meeting with National Highways an increase in the number of houses that could be occupied was agreed as being approximately 600.

A Technical Note - Impact of Development Generated Trips on A38 Kingsway Junction which concludes that the post occupation traffic surveys show there has been a material change to the level of development generated trips impacting on the existing A38/A51111 junction and that occupation of all 1,100 dwellings allowed under planning permission reference DMPA/2020/0543 will have no material impact upon the operation and levels of highway safety at the existing A38/A5111 junction. It states that the residual cumulative impact of the development is not significant and therefore is not severe and hence it is concluded that Condition No.31 is not now necessary and should be removed.

An EIA Supporting Statement notes the original outline application was supported by an Environmental Statement (ES) due to the development being within Schedule 2 of the Town & Country Planning (Environmental Impact Assessment) Regulations. It states the this current application does not change the scale, type or nature of development coming forward on this site and therefore does not alter the impacts nor the mitigation measures identified under the original ES. Nor does it change the mitigation proposed by the ES. The change will therefore not have a practical implication and the condition will remain effective in safeguarding the operation on the A38 and states that no further environmental information is required.

### **Relevant planning history**

9/2017/0349: Outline permission for the residential development of up to 1,100 dwellings, an extra care facility, a local centre comprising: a small supermarket with a floorspace not exceeding 1000 sqm (net); a smaller retail unit with a total floorspace not exceeding 200sqm (net); a cafe/restaurant with a floorspace not exceeding 200 sqm (net); a public house with a floorspace not exceeding 650 sqm (net); a doctors surgery or crèche; and a community facility, as well as a primary school together with associated playing fields and the provision of associated infrastructure (including roads, footpaths, cycleways, sustainable urban drainage and open space) - Approved October 2018

9/2018/1240: Approval of reserved matters of appearance, landscaping, layout and scale, pursuant to outline permission ref. 9/2017/0349 for the construction of 311 dwellings, public open space and associated infrastructure (New House Farm phase 3) - Approved March 2019

DMPA/2019/1459: Approval of reserved matters for layout, scale, appearance and landscaping of outline permission ref. 9/2017/0349 (for the erection of 317 plots in lieu of 311 plots) previously approved under reserved matters approval ref. 9/2018/1240 along with substitution of plot 101 - Approved August 2020

DMOT/2020/0342: Approval of details required by condition 8 (materials) attached to permission ref 9/2017/0349 (for the residential development of 311 dwellings, public open space and associated infrastructure pursuant to reserved matters approval ref. 9/2018/1240) – Approved September 2020.

DMPA/2020/0543: The variation of condition 39 of outline permission ref. 9/2017/0349 to increase the number of dwellings that can be occupied to 317 dwellings before works commence on the A38 Kingsway/A511 junction, rather than before those works are complete.

## Responses to consultations and publicity

County Highway Authority has no objection.

National Highways has no objection.

Planning Casework Unit at the Department for Levelling Up, Housing and Communities has no comments to make on the Environmental Statement.

Derby City Council objects to the application, stating that The City Council's concern with increasing the housing occupations is that the development was predicated on the construction of the A38 Junctions Scheme. Whilst the applicant has submitted evidence, through number plate matching surveys, that the distribution split through the Kingsway Junction is half the predicted volume estimated in the original transport assessment, no evidence has been provided on the overall percentage match and therefore the statistical confidence of the survey is questionable. They understand that the signalisation of the southbound arm of the A38 junction will now be triggered and provided by Tilia Homes as part of their planning obligations for the development at Kingway and this will provide some relief to the problems on Derby City's network and queuing that occurs on the A5111 approach to the Kingsway Junction.

They state that the Grampian style condition was placed on the development because of the uncertainty over the construction programme of the A38 Derby Junctions and that it has significant concern over the proposed variation of condition 31 to allow more housing to come forward before the A38 Grade Separation scheme commences. They request that they are involved in any future discussions and possible assessment of the impacts on the city's highway network. They also advise that there is still a need to secure a local distributor road through this site, and safeguarding land for a possible link north to join future possible growth. The acceptability of any potential further growth in this area will require additional infrastructure to provide access for public transport and to distribute traffic onto the most appropriate routes.

7 objections have been received raising the following concerns:

- a) Housing developments in the area has added significantly to road traffic.
- b) Covid offset increases in traffic in 2020, 2021, and early 2022, but since summer 2022 traffic has increased significantly, with traffic diverting from the A38 through Mickleover via Uttoxeter Road or Station Road.
- c) Avoiding obligations for the A38 upgrades will add to the existing problems.
- d) I would like the speed limit across the whole site to be reduced to 20mph, with buses route through the site as well as an additional entrance/exit.
- e) There have been accidents on the exit island, including one fatality, and this proposal will increase the potential for more unless an additional entrance/exit is provided, and traffic calming on the A616 to the A38.
- f) Issues on the A38 previously led to gridlock in Mickleover.
- g) I object as there is only one single access to the whole estate and that access, the roundabout on the A516, is the scene of many crashes and near misses – residents will be unable to enter/exit the estate if there is an accident on the roundabout or access road and this should have been considered
- h) Parking around schools is a major problem with no one walking any more – schools in Mickleover have had to establish no vehicle policies on the roads nearby.
- i) It will cause gridlock thorough the whole of our estate, especially when extra vehicles for the planned doctors/shops arrive.
- j) There should be a second access via the Bloor Homes estate on to Ladybank Road.
- k) As a resident of the Barrett estate and frequent user of the A516.A38 there has been a significant increase in traffic since these homes have been occupied with northbound A38 tailbacks back to Toyota to Kingsway Island.

- l) We wish to appeal commencing planning opposite our new hose and wish to speak to an adviser.
- m) Traffic in the area and on Kingsway/Markeaton is already unacceptable so expansion should not be allowed until the roads are rectified.

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

The relevant Development Plan policies are:

2016 Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), H19 (Land West of Mickleover) and INF2 (Sustainable Transport);

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

### **Planning considerations**

This application seeks to vary a condition attached to a previous approval, pursuant to section 73 of the Town and Country Planning Act 1990 (as amended). The principle of development has therefore been established and hence the following assessment takes into account only the matters which are relevant to the condition concerned. Taking this into account along with the documents submitted and the site and its environs, the main issue central to the determination of this application is whether the proposed variation of condition 31 would bring about unacceptable impacts on the strategic highway network – the reason that the condition was imposed in the first place, at the request of National Highways.

Furthermore, as a grant of permission under section 73 of the 1990 Act results in a further permission, leaving the original permission and its conditions intact, it subsequently open for the developer to implement either permission; consideration also needs to be given to the remaining conditions and whether they have been discharged (either in part or in whole).

### **Planning assessment**

#### The variation of condition 31

The existing outline permission was granted subject to condition 31 which limited the number of dwellings which might be occupied prior to the commencement of the grade separation works at the A38 Kingsway island:

"No more than 317 dwellings shall be occupied until construction works have commenced on the A38 Derby Junctions grade separation scheme at the A38/A5111 Kingsway junction."

The reason given for the condition was "to ensure that the A38 trunk road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980 by minimising disruption on the trunk road resulting from traffic entering and emerging from the application site and in the interests of road safety." It is thus important to note therefore that this condition was not intended to mitigate impact on the local highway network. Indeed, it was not requested by Derby City Council or the County Highway Authority.

The applicant seeks to vary the wording of the condition to:

"No more than 617 dwellings shall be occupied until construction works have commenced on the A38 Derby Junctions grade separation scheme at the A38/A5111 Kingsway junction unless otherwise agreed in writing with the Local Authority".

The main consideration for the application relates to the impact that increasing the number of dwellings that can be occupied on the site before the A38 Kingsway/A5111 junction works commence would have on the strategic highway network. The re-determination of National Highways submitted DCO, which is

the process for approving the project, has taken longer than expected, and there is no indication at this stage as to when that will occur. When the previous application to amend the condition on the permission to allow 317 homes to be occupied before the A38 Kingsway improvements works commenced, rather than be completed and open for traffic, it was anticipated that works would have commenced in Spring 2021 and be open to traffic by March 2023, but clearly this has not happened.

Condition 31 was imposed at the behest of Highways England, now National Highways, to ensure the safe operation of the strategic highway network, i.e., the A38. In terms of assessing the impact of the proposed uplift in the number of homes allowed to be occupied, the key consultation is with National Highways, who have advised that the original Transport Assessments were overly robust, and that based on the distribution changes alone, the trigger point could increase significantly without adversely impacting of the strategic road network. It is noted that Derby City Council raise an objection to the application and question the validity of the evidence which accompanies it. However, the evidence was produced on the advice of National Highways and they have also assessed the information supplied. National Highways have raised no objection. On that basis, notwithstanding the comments received, it is considered that in terms of the impact of the proposal on the strategic road network, the application is acceptable.

The revised wording for condition 31 proposed by the applicant also includes the tailpiece "...unless otherwise agreed in writing by the Local Planning Authority". The implications of this part of the wording is that should the delivery of the A38 Kingsway Junction works be subject to further delays, or, indeed, abandoned altogether, then rather than submit a further S73 which leads to a further planning permission needing to be being issued, then the matter can be dealt with through correspondence, still in conjunction with National Highways. This approach is considered to be appropriate in light of the reason for the condition being the safe operation of the strategic road network.

#### Other matters

Derby City Council also state that they continue to want a local distributor road to be provided through this site, and for there to be safeguarded land within if for a possible link north to join future possible growth. They state that the acceptability of any potential further growth in this area will require additional infrastructure to provide access for public transport and to distribute traffic onto the most appropriate routes. This matter is not relevant to the consideration of this application and imposing a condition requiring this to be provided at this stage would be unreasonable.

Delivery of homes on the site has continued apace with the developer, Avant Homes, anticipating that approximately 154 of the homes they have approval for will be completed by the end of March 2023. These 154 homes will form part of the 317 homes limit. Furthermore, a reserved matters application is currently under consideration for the remainder of the homes for this development, to the north of the existing homes, progresses which further demonstrates confidence that the site is likely to continue to help to deliver much need housing.

#### Status of remaining conditions

The existing conditions have been discharged in part where they relate to the Avant Homes site. They remain to be satisfied across the remainder of the site, so the wording of the conditions have been adjusted to reflect that are set out below. In addition, the necessity of various conditions have been revisited with it noted that conditions should not be used on outline permissions to control matters which would be expected under the reserved matters approvals. Furthermore, condition 32 limits the number of housebuilders that can operate on the site to 2 until July 2023, however, as the overall number of homes delivered is only a matter for the strategic road network, then condition 31 adequately controls this, and it is not considered necessary to repeat condition 32 as a result.

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.** Secure the completion of a section 106 agreement (a Deed of Variation) to carry forward the obligations from the existing outline permission, with delegated authority given to the Head of Planning and Strategic Housing to agree the finer detail of that agreement;

**B.** Subject to A, **APPROVE** permission subject to the following conditions:

### **Recommendation**

1. a) Application for approval of the reserved matters shall be made to the Local Planning Authority before 19 October 2028.

b) The development hereby permitted shall be begun 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(2) of the Town and Country Planning Act 1990.

2. Approval of the details of the appearance, landscaping, layout and scale (hereinafter called the reserved matters) for each phase or sub-phase of the development shall be obtained from the Local Planning Authority in writing before any development is commenced in that phase or sub-phase. Plans and particulars of the reserved matters for each phase or sub-phase of the development shall be submitted in writing to the Local Planning Authority and the development of each phase shall be carried out as approved.

Reason: The application is expressed to be in outline only and the Local Planning Authority must ensure that the details are satisfactory.

3. The development hereby approved shall be implemented in accordance with the following plans approved under outline permission ref. 9/2017/0349. The approved plans are:

- a) Site Location Plan (Ref: IL50105-000 Rev C);
- b) Parameter Plan - Land Use & Extents (Ref: PS50105-063 Rev C);
- c) Parameter Plan - Access & Movement (Ref: PS50105-067 Rev C);
- d) Parameter Plan - Heights (Ref: PS50105-065 Rev C);
- e) Parameter Plan - Density (Ref: PS50105-066 Rev C);
- f) Parameter Plan - Landscape & Open Space (Ref: PS50105-064 Rev C); and
- g) Proposed Shared Footway (Old Etwall Road) (Ref: 10-117-TR-048).

Reason: For the avoidance of doubt and to specify the plans to which the permission relates.

4. The Phase 2 Proposed Shared Footway/Cycleway on Old Etwall Road, Ref: 10-117-TR-048 shall be provided prior to the occupation of the 50th dwelling in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. The route shall be maintained throughout the lifetime of the development available for public use along its entire length.

Reason: In the interests of providing a sustainable development.

5. The development shall proceed in accordance with the phasing plan ref. AC50105 08 107 Rev F and the phasing scheme ref. 50105/11/JG/NMi (dated 18 December 2018), as approved pursuant to condition 6 of outline permission ref. 9/2017/0349 unless, prior to the commencement of a phase or sub-phase pursuant to this permission a revised scheme for phasing of the development has been submitted to and approved in writing by the Local Planning Authority. The

scheme for phasing shall show the boundaries of the proposed phases of the development and shall include reference to the provision of the children's play spaces and other open spaces. The development shall be carried out in accordance with the approved scheme.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory and that the development proceeds in an orderly manner.

6. Notwithstanding the submitted master plan, the reserved matters submitted in accordance with condition 2 shall include the following urban design principles and details with each application for a phase or sub-phase:

- a) the creation of separate character areas in accordance with the principles set out in the submitted Design and Access Statement [D&AS] [7.15-7.18];
- b) the provision of greenway routes/green corridors to connect key green spaces in accordance with the principles set but in the submitted D&AS [7.42-7.53 and the Green Infrastructure Plan, Planting Plan & Play Areas Plan];
- c) provision for future pedestrian and cycle access as indicated in the submitted D&AS [8.3-8.7 and the Movement Plan];
- d) the creation of a 'village centre' comprising an area of shops, community facilities and open space as described in the submitted D&AS [7.19-7.22 and 7.28-7.29] as well as Indicative Local Centre and Playing Field Detail ID50105-091;
- e) the provision of a centrally located primary school as described in the submitted D&AS [7.23-7.27];
- f) measures to minimise the risk of crime to meet the specific security needs of the application site and the development;
- g) details of the lighting to roads and footpaths, and where relevant the public areas, shared driveways and courtyards;
- h) the internal layout of the site shall accord with the Highway Authority's Design Guide and national guidance set out in Manual for Streets;
- i) the gradient of the new estate street junctions shall not exceed 1:30 for the first 10m and 1:20 thereafter, whilst driveway gradients shall not exceed 1:20 for the first 5m and never exceed 1:12;
- j) space for the parking of vehicles on the basis of 2 spaces for 2 or 3 bedroom dwellings, and 3 spaces for 4 or 4+ bedroom dwellings. For the avoidance of doubt, where a garage is classed as a parking space, the internal dimensions shall measure at least 3m x 6m for a single and 6m x 6m for a double garage;
- k) a swept path analysis to demonstrate that service and emergency vehicles can successfully enter and manoeuvre within the site;
- l) bin collection points placed within private land at the entrance to shared private accesses so to prevent refuse bins and collection vehicles standing on the new estate street for longer than necessary causing an obstruction or inconvenience for other road users;
- m) a detailed scheme of noise mitigation measures to demonstrate how the development will be protected from traffic noise as set out in the recommendations of the Chapter J of the Environmental Statement: Noise, dated March 2017, as received with application ref. 9/2017/0349.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory, and in the interests of sustainable development and highway safety.

7. Unless details are approved in conjunction with the matters of scale and/or landscaping under condition 2, no development of a particular phase or sub-phase shall commence before details of the finished floor levels of each building within the phase or sub-phase and any regrading works have first been submitted to and approved in writing by the Local Planning Authority. The buildings within that phase or sub-phase shall be constructed and external areas and levels laid out in accordance with the approved details.

Reason: To protect the amenities of adjoining properties and the locality generally.

8. Each dwelling or unit shall be constructed and fitted out so that the estimated consumption of wholesome water by persons occupying the dwelling or unit will not exceed 110 litres per person per day, consistent with the Optional Standard as set out in G2 of Part G of the Building Regulations (2015). The developer 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.

9. No development of the relevant phase or sub-phase of the development which includes playing field provision as set out in the Phasing Scheme (approved in accordance with condition 5) shall take place unless and until:
  - a) a detailed assessment of ground conditions of the land proposed for the new playing field land shall be undertaken (including drainage and topography) to identify constraints which could affect playing field quality; and
  - b) based on the results of this assessment to be carried out pursuant to (a) above of this condition, a detailed scheme to ensure that the playing fields will be provided to an acceptable quality (including appropriate drainage where necessary) shall be submitted to and approved in writing by the Local Planning Authority.

The works shall be carried out in accordance with the approved scheme within a timescale to be approved in writing by the Local Planning Authority

Reason: To ensure that the site surveys are undertaken for playing fields and that any ground condition constraints can be and are mitigated to ensure provision of an adequate quality of playing fields.

10. The playing fields laid out in accordance with condition 9 shall be used for Outdoor Sport and for no other purpose (including without limitation any other purpose in Class D2 of the Use Classes Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: To protect the playing field from loss and to maintain the quality of and secure the safe use of sports pitches.

11. The trading hours of the Class A1 floorspace hereby permitted shall be restricted to 07:00 to 23:00 daily and the Class A3/Class A4 floorspace hereby permitted shall not trade between the hours of 24:00 and 07:00 daily.

Reason: In order to minimise the impact of the proposed use upon the amenities of the residents of nearby properties.

12. All hard and soft landscape works approved pursuant to the landscaping reserved matters approval shall be carried out in accordance with the approved details and finished not later than the first planting season following completion of the relevant phase or sub-phase of the development. Any tree or shrub which forms part of the approved landscaping reserved matters approval which within a period of five years from planting (ten years for trees) fails to become, established, or becomes seriously damaged or diseased, or dies, or for any reason is removed, shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved in writing by the Local Planning Authority.

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

13. No site clearance works or development of a phase or sub-phase shall take place until there has been submitted to the Local Planning Authority for their written approval a scheme showing the type, height and position of protective fencing to be erected around each tree or hedgerow to be retained in that phase. The scheme shall comply with BS 5837:2012. The area within each phase or sub-phase surrounding each tree or hedgerow within the protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

- a) There shall be no changes in ground levels;
- b) No material or plant shall be stored;
- c) No buildings or temporary buildings shall be erected or stationed;
- d) No materials or waste shall be burnt within 20 metres of any retained tree or hedgerow; and
- e) No drain runs or other trenches shall be dug or otherwise created; without the prior written consent of the Local Planning Authority.

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

14. For any phase or sub-phase no works which include the creation of trenches or culverts or the presence of pipes within the phase shall commence until measures to protect badgers and hedgehogs from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the local planning authority. The measures may include:

- a) creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and
- b) open pipework greater than 150 mm outside diameter being blanked off at the end of each working day.

The approved measures shall be implemented as part of the development of the phase.

Reason: To ensure adequate protection of the species.

15. For any phase or sub-phase, no development shall take place until an Ecological Design Strategy (EDS) addressing mitigation, compensation and enhancement has been submitted to and approved in writing by the local planning authority.

The EDS shall include the following:

- a) details of retained habitats;
- b) details of newly created habitats including ponds and swales;
- c) identification of green corridors;
- d) locations and specifications for a range of bird boxes in line with the recommendations in section 5.2.12 of the Ecological Appraisal dated February 2017 to include the installation of boxes in the fabric of the new houses for house sparrow, swift and starling, the erection of boxes on trees for cavity dwelling species and the installation of a barn owl box.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To ensure ecology is adequately addressed.

16. For any phase or sub-phase, no development shall take place (including ground works and vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of biodiversity protection zones
- c) Practical measures (both physical measures and sensitive working practices) to avoid or

reduce impacts during construction (to include consideration of lighting) (may be provided as a set of method statements).

d) The location and timing of sensitive works to avoid harm to biodiversity features.

e) The times during construction when specialist ecologists need to be present on site to oversee works.

f) Responsible persons and lines of communication.

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

h) Use of protective fences, exclusion barriers and warning signs

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure ecology is adequately addressed.

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

Reason: In the interests of highway safety and amenity.

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

Reason: In the interests of highway safety.

19. For any phase or sub-phase, works shall not commence on site until a scheme for the disposal for highway surface water has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and retained accordingly thereafter.

Reason: In the interests of highway safety.

20. The bin collection facilities approved pursuant to the reserved matters shall be provided prior to the first occupation of the dwellings to which they relate and shall be retained thereafter free from any impediment to their designated use.

Reason: In the interests of highway safety and the visual appearance of the development.

21. A detailed Travel Plan, to accord with the updated Framework Travel Plan dated April 2019, as approved pursuant to condition 29 of outline permission ref. 9/2017/0349, shall be submitted with each application for approval of reserved matters for each phase or sub-phase, approved in writing and implemented in accordance with the timescales specified therein, to include those parts identified as being implemented prior to occupation and following occupation, unless alternative timescales are agreed in writing with the Local Planning Authority. The approved Travel Plan shall be monitored and reviewed in accordance with the agreed Travel Plan targets.

Reason: In the interests of highway safety and sustainability.

22. For any phase or sub-phase, no development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site, in accordance with DEFRA Non-statutory technical standards for sustainable drainage systems (March 2015) and the CIRIA SuDS Manual C753, has been submitted to and approved in writing by the Local Planning Authority. All attenuation ponds and swales shall be fully designed and constructed in line with CIRIA SuDS manual C753. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the use of the building commencing. Details to be submitted shall also include the regime for supervision, inspection and certification of each phase of the surface water system by suitably qualified professionals.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and sufficient detail of the construction, operation and maintenance of sustainable drainage systems is provided.

23. No building works which comprise the erection of a building required to be served by water services shall be undertaken in connection with any phase or sub-phase of the development hereby permitted until full details of a scheme including phasing, for the provision of mains foul sewage infrastructure on and off site has been submitted to and approved in writing by the Local Planning Authority. No building shall be occupied until the works have been carried out in accordance with the approved scheme.

Reason: To prevent flooding, pollution and detriment to public amenity through provision of suitable water infrastructure.

24. No rainwater, contaminated with silt/oil from ground disturbed as a result of the construction phase of the development, shall drain to a surface water sewer or watercourse, without sufficient settlement. Under the Environmental Permitting Regulations 2010, the prior agreement of the Environment Agency is required for any discharge of dewatering water, from excavations, to controlled waters.

Reason: To prevent pollution of the Etwall Brook and its tributaries.

25. a) For any phase of sub-phase, no development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the local planning authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the local planning authority. The scheme shall include an assessment of significance and research questions; and

- i. The programme and methodology of site investigation and recording;
- ii. The programme for post investigation assessment;
- iii. Provision to be made for analysis of the site investigation and recording;
- iv. Provision to be made for publication and dissemination of the analysis and records of the site investigation;
- v. Provision to be made for archive deposition of the analysis and records of the site investigation; and
- vi. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

The evaluation phase of the archaeological scheme shall have taken place, and the report submitted to the local planning authority, before the submission of a reserved matters application with details of layout.

- b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (a).

- c) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological

Written Scheme of Investigation approved under condition (a) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To enable items of archaeological interest to be recorded/and or preserved where possible.

26. No phase or sub-phase of the development shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority that specifies the provision to be made for dust mitigation measures and the control of noise emanating from the site during the period of construction of the phase. The approved measures shall be implemented throughout the construction period.

Reason: To protect the amenities of nearby residents.

27. During the period of construction, no construction work shall take place within 200 metres of the eastern boundary of the site outside the following times: 0730 - 1900 hours Monday to Friday and 0730 - 1330 hours on Saturdays and at any time on Sundays, Bank and Public Holidays.

Reason: To protect the amenities of nearby residents.

28. a) No phase or sub-phase the development shall be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the Local Planning Authority; and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing. Local Planning Authority

b) Prior to occupation of any phase of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

c) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

d) If required by the conceptual model, no development shall take place until monitoring at the site for the presence of ground gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the Local Planning Authority, which meets the requirements given in Box 4, section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Reason: In the interests of pollution control.

29. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the Local Planning Authority without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

Reason: In the interests of pollution control.

30. The development shall be implemented in accordance with the approved noise mitigation measures approved pursuant to the reserved matters and such measures retained as approved throughout the lifetime of the development.

Reason: To protect future occupiers from noise.

31. No more than 617 dwellings shall be occupied until construction works have commenced on the A38 Derby Junctions grade separation scheme at the A38/A5111 Kingsway junction unless otherwise agreed in writing with the Local Planning Authority.

**Reason:** To ensure that the A38 trunk road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980 by minimising disruption on the trunk road resulting from traffic entering and emerging from the application site and in the interests of road safety.

Informatives:

- a. For further assistance in complying with planning conditions and other legal requirements applicants should consult Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated. This document has been produced by local authorities in Derbyshire to assist developers, and is available from: [www.southderbyshire.gov.uk/our-services/environment/pollution/contaminated-land](http://www.southderbyshire.gov.uk/our-services/environment/pollution/contaminated-land). Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the Environmental Health Department. Further guidance can be obtained from the following:
- i. CLR 11: Model Procedures for the Management of Contaminated Land
  - ii. CLR guidance notes on Soil Guideline Values, DEFRA and EA
  - iii. Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
  - iv. Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.
  - v. Guidance for the Safe Development of Housing on Land Affected by Contamination Environment Agency. ISBN 0113101775.
  - vi. BS 8576:2013 Guidance on investigations for ground gas. Permanent gases and Volatile Organic Compounds (VOCs).
  - vii. BS 8485:2015 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings.
- b. Activities such as dust suppression during construction, filling of any ponds/lakes and maintaining pond/lake levels may require an abstraction license. The proposed development site lies within the Lower Trent and Erewash abstraction licensing strategy (ALS) area. Under the Water Resources Act 1991, any abstraction of water greater than 20 cubic metres per day, requires an abstraction licence from the Environment Agency. Whilst this catchment abstraction management strategy (CAMS) area is open to new applications for abstraction from ground and surface waters, local conditions may apply. Further information is available at: [www.gov.uk/guidance/water-managementabstract-or-impound-water](http://www.gov.uk/guidance/water-managementabstract-or-impound-water).
- c. The developer is advised that in regards to the surface water drainage condition they will need to demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water in line with Table 3.3 of the CIRIA SUDS Manual C697. This type of development usually requires at least 2 treatment stages before outfall into surface water body/system which may help towards attainment of the downstream receiving watercourse's Water Framework Directive good ecological status.
- d. The applicant is advised that in regards to the surface water drainage condition to ensure all of the below parameters have been satisfied:
- 1. The production and submission of a scheme design demonstrating full compliance with DEFRA's Non-statutory technical standards for sustainable drainage systems:
    - a) Limiting the discharge rate and storing the excess surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical duration rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site to comply with S2 & S3.
    - b) Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm to comply with S7 & S8.
    - c) Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.

- d) 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.
- e) Production of a plan showing above ground flood pathways where relevant for events in excess of 1 in 100 year rainfall event to comply with S9.
- f) Where reasonably practicable demonstrate that the runoff volume of the site reflects the requirements of S4.
- e. The applicant is advised that the reserved matters should include a footpath route along the western boundary to service that side of the development with a traffic free route.
- f. In granting planning permission the Local Planning Authority has taken into account the environmental information submitted in the original Environmental Impact Assessment, as now supplemented by the supported statement.
- g. This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990.
- h. In order to minimise the need to attach further conditions on a reserved matters approval, the developer is encouraged to provide the following information pursuant to the reserved matters listed under condition 2:
  - a) details of surfacing materials for roads, driveways, footpaths, car parking areas and courtyards, and details of facing materials to the external surfaces of the buildings;
  - b) details of the position and appearance of boundary treatments, including the provision of walls where gardens abut/face onto public areas, public routes and shared parking areas; and
  - c) details of verges, eaves, reveals, headers and cills.
- i. The landowner/developer should be aware, at an early stage, of the County Council's requirements as an adjoining landowner for a connection to the Great Northern Greenway, including contributions towards forward maintenance, design, satisfactory legal arrangements, etc.

**Item No.** 1.2  
**Ref. No.** [DMPA/2023/0583](#)  
**Valid date:** 12/05/2023  
**Applicant:** Robbie Locke (Cora)  
**Proposal:** The variation of condition no. 3b (Biodiversity Net Gain) of permission ref. DMPA/2019/0931  
**Ward:** Woodville

### Reason for committee determination

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

### Update Report

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

### Updated Details/ Clarifications

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

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

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

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

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

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

Existing Habitat	Area (HA)	Number of Biodiversity Units	Habitat Creation	Area (HA)	Number of Biodiversity Units
Modified Grassland	2.75	11	Vegetable Garden	0.65	1.25
Other Woodland Broadleaf	0.13	0.52	Sustainable Urban Drainage Feature	0.21	0.71
Bramble Scrub	0.25	1.00	Other Neutral	0.14	0.94

			Grassland		
Mixed Scrub	0.04	0.16	Modified Grassland	0.29	0.82
			Urban Trees	1.47	4.49
<b>Total</b>	<b>3.17</b>	<b>12.68</b>		<b>2.76</b>	<b>8.22</b>

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

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

4. What this equates to in land take

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

5. What this equates to in regard to housing provision

This would equate to a loss of 25 dwellings.

**Conclusion**

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

**Item No.** 1.3  
**Ref. No.** [DMPA/2023/0583](#)  
**Valid date:** 12/05/2023  
**Applicant:** Barwood Homes  
**Proposal:** The variation of condition no. 3b (Biodiversity Net Gain) of permission ref. DMPA/2019/0931  
**Ward:** Woodville

### Reason for committee determination

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

### Site Description

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

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

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

### The proposal

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

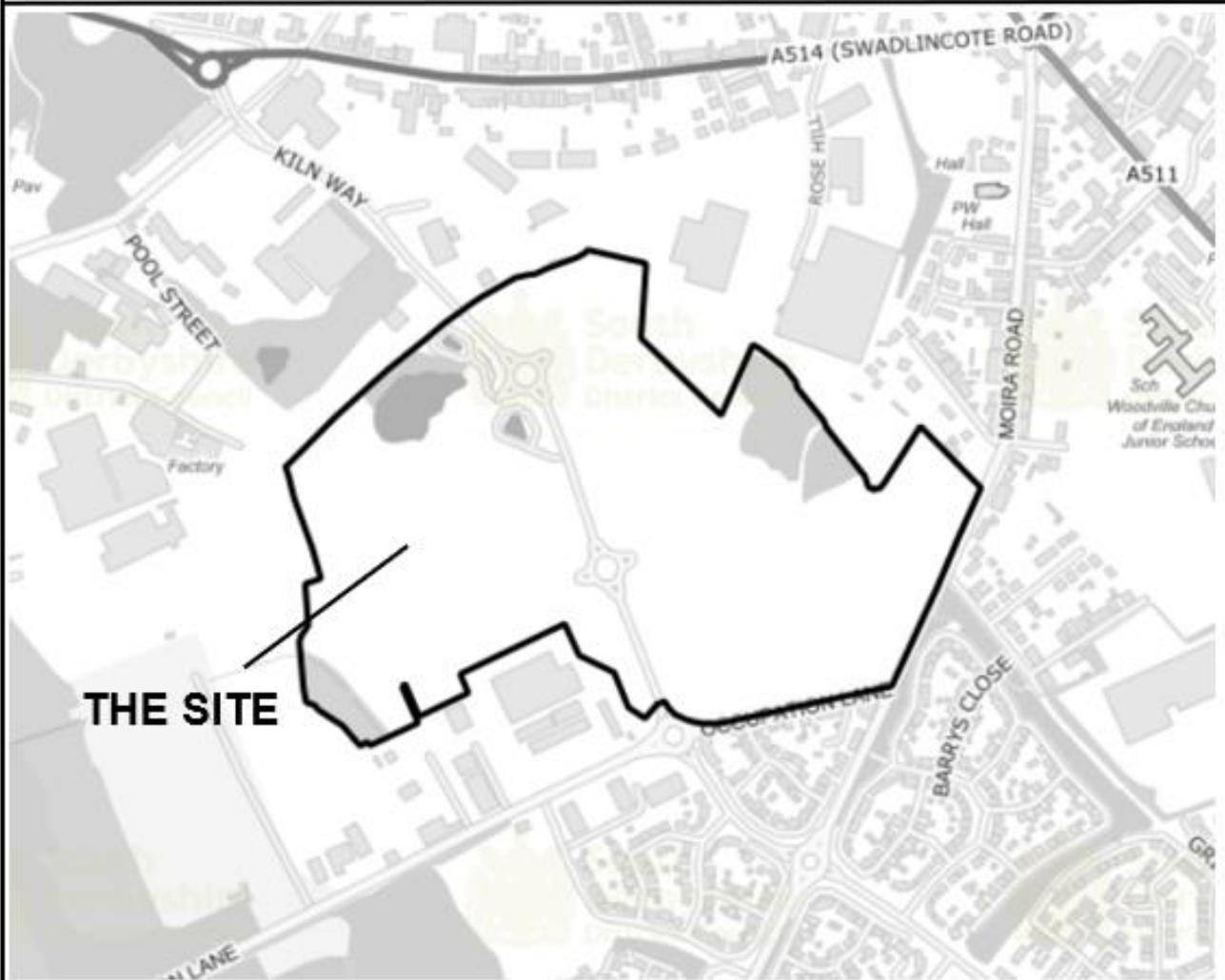
This application seeks to amend the wording of Condition no. 3b (Biodiversity Net Gain) to enable the delivery of biodiversity net-gain to off-site locations, through either a financial contribution or off-site biodiversity improvements. To facilitate this an amendment to the wording of Condition no.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

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

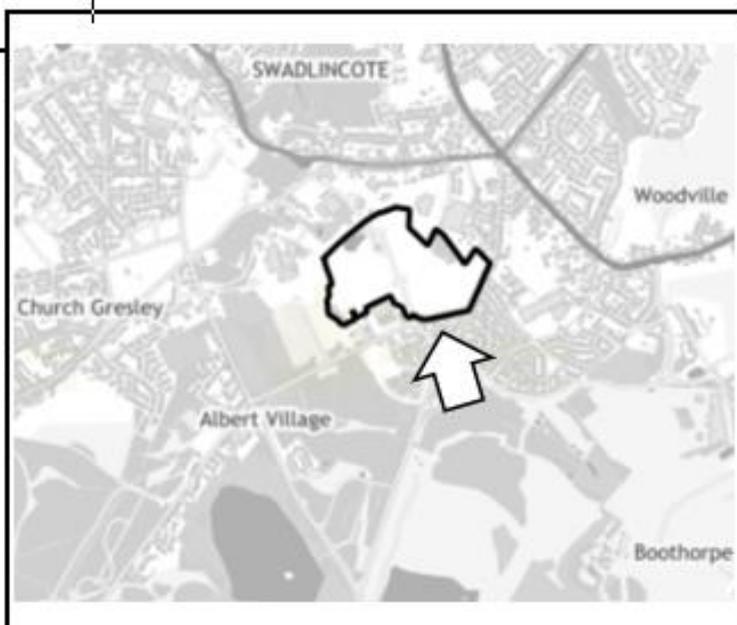
*Condition 3 - The reserved matters shall be designed broadly in accordance with the illustrative plan ref. P16-1422\_004 revision B and section 5 of the Design & Access Statement ref. P18-0670\_200B dated August 2019 with the exception of pages 44 to 45 where the principle and extent of 3 and 4 storey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

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

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



**THE SITE**



**MAPS ARE NOT TO SCALE**

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

South Derbyshire District Council, LA 100019461.2020

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

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

## **Applicant's supporting information**

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

## **Relevant planning history**

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

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

## **Responses to consultations and publicity**

Woodville Ward - No comments received.

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

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

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

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

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

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

Derbyshire Design Guide Supplementary Planning Document (SPD).

The relevant Development Plan policies are:

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

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

The relevant local guidance is:

South Derbyshire Design Guide SPD

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

South Derbyshire Affordable Housing SPD

Section 106 - A Guide for Developers

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF) (as updated)

Planning Practice Guidance (NPPG)

The relevant Development Plan policies are:

The relevant legislation is:

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

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

## **Planning considerations**

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

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

## **Planning assessment**

### Principle of the Development

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

### Ecology and Biodiversity

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

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

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

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

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

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

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

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

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

#### Other Matters

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

### Conclusion

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

### **Recommendation**

**Approve** subject to the following conditions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) employment units including associated parking and landscaping,

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

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

(e) sustainable drainage systems and associated infrastructure, and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Attenuation ponds shall be fully designed and constructed in line with CIRIA SuDS manual C753. The surface water drainage infrastructure shall be installed in conformity with the approved details prior to the first occupation/use of each respective building/road/hard surface served by the surface water drainage system within that phase or sub-phase or in accordance with a phasing plan first submitted to and approved in writing by the Local Planning Authority. Those elements of the surface water drainage system not adopted by a statutory undertaker shall thereafter be maintained and managed in accordance with the approved management and maintenance plan.

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

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

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

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

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

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

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

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

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

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

(a) a risk assessment of potentially damaging construction activities;

(b) identification of biodiversity protection zones (e.g. buffers to trees and hedges or to protected wildlife habitat);

(c) practical measures (both physical measures and sensitive working practices, such as protective fencing, exclusion barriers and warning signs) to avoid or reduce impacts during construction (particularly in relation to works within canopy and root protection areas for hedgerows or protected trees);

(d) the location and timing of sensitive works to avoid harm to biodiversity features (in relation to breeding birds in particular);

(e) the times during construction when specialist ecologists need to be present on site to oversee

works (as required);

(f) responsible persons and lines of communication; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Item No.** 1.3

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

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

**Applicant:** Barwood Homes

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

**Ward:** Woodville

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

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

#### **Update Report**

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

#### **Conclusion**

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

**Item No.** 1.4

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

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

**Applicant:** Barwood Homes

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

**Ward:** Woodville

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

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

#### **Site Description**

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

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

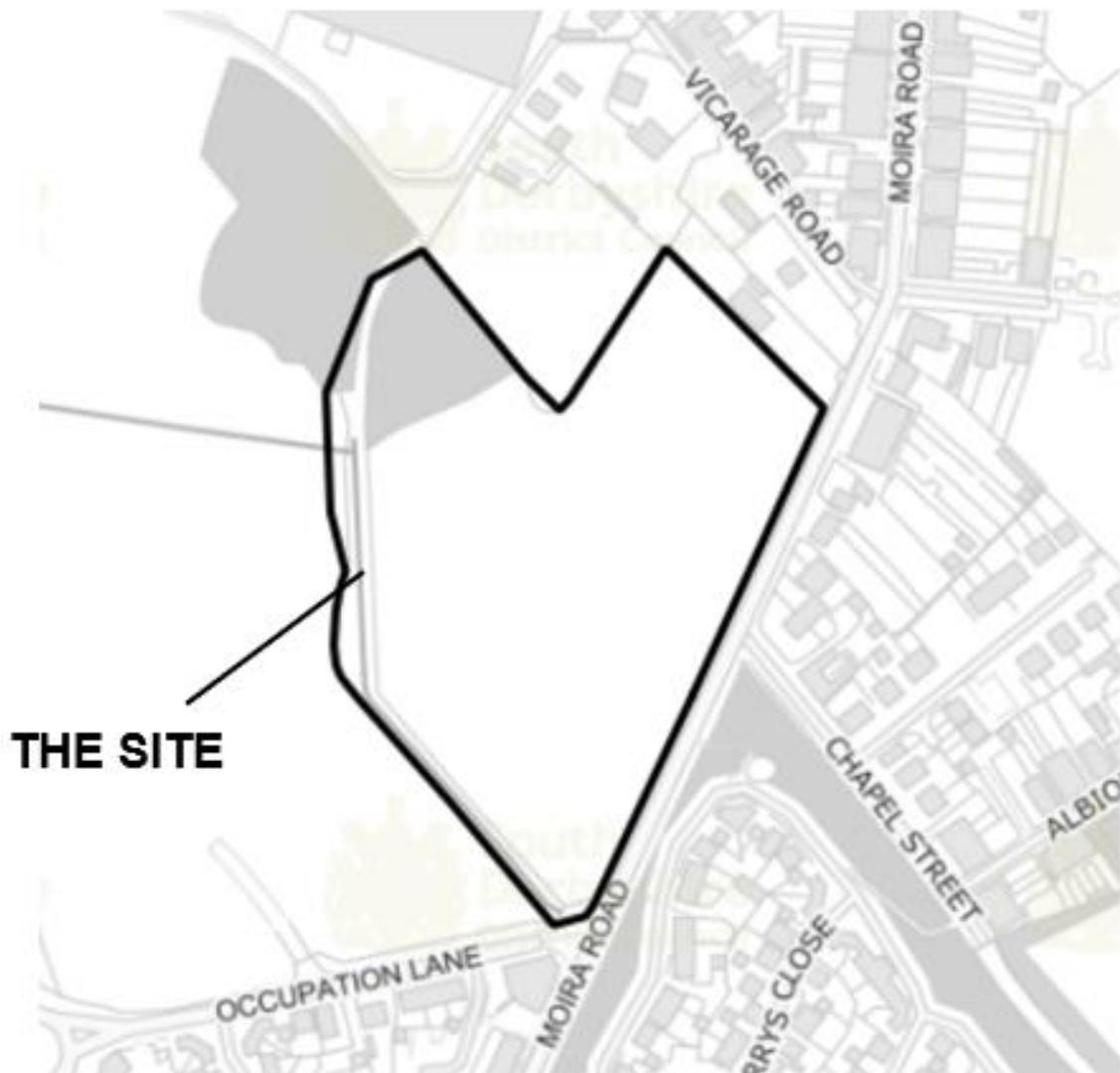
To the west is cleared vacant land within the wider outline permission. To the east is residential development and Moira Road. Moira Road provides access to a number of schools in the area.

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

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

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

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



South Derbyshire District Council

**MAPS ARE NOT TO SCALE**

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

South Derbyshire District Council, LA 100019461.2020

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

## The Proposal

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

The development description is as follows:

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

The scheme will provide the following mix of units:

14 no. 2beds 20%

27 no. 3beds 39%

29 no. 4beds 41%

Total 70 100%

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

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

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

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

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

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

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

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

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

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

#### Drawings and Plans:

Location Plan: P20-2301\_006

Planning Layout: 3746-002

Presentation Layout: 3746-003

Proposed Sections: 3746-011

Wood- PL- HOUSEPACK TYPE\_V1

Single Garage: 3746-51

Double Garage: 3746-50

Landscape and Ecology Management Plan: edp7597\_r001-A

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

Landscape Detailed Design – LAP: edp7597\_d003-C

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

#### Supporting Documents:

Design and Access Statement

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

Biodiversity Net Gain Technical Note – Part 2

Skylark Mitigation Report – edp7597\_r001-A

Woodville Travel Pack

Woodville Green Travel Plan

### **Relevant planning history**

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

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

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

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

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

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

#### Proposed layout

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

#### Open Space

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

#### Highways

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

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

Environmental Health – No comment

Environment Agency – No comment

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

North West Leicestershire District Council Planning – No objection

SDDC Planning Policy – No objection subject to amendments

Local Plan Part 2 Policy INF2 Part A states:

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

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

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

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

Condition 3 (h) of the above states:

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

circulation areas and the WSRR;”

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

DCC Archeology – No objection

Conservation Officer – No objection

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

DCC Highways – No objection subject to access and parking provision

Secure By Design – Comments

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

Subsequent comment

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

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

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

Natural England – No comments

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

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

Derbyshire County Council – No objection / comments

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

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

domiciliary care market

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

National Forest Company – No objection subject to S106 monies

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

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

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

Advise as follows:

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

Woodville Ward Councillor – Cllr Taylor

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

DCC Public Right of Way PROW – No objection / comments

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

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

The application received no public responses in objection or support.

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

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

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

The relevant Development Plan policies are:

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

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

The relevant local guidance is:

South Derbyshire Design Guide SPD

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

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF) (as updated)

Planning Practice Guidance (NPPG)

### **Planning considerations**

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

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

### **Planning assessment**

Principle of development and compliance with the Outline permission

The site is allocated for employment led regeneration via Policy E6. This reserved matters application is pursuant to the wider outline permission granted which reflects the objectives of employment led

regeneration of E6 but also permitted up to 300 dwellings. The policy notes that housing would also be delivered and assist in the viability of the overall scheme.

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

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

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

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

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

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

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

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

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

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

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

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

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

A LEMP, Biodiversity Report and Skylark Assessment are included within the RM submission. The Landscaping plans show details of bird/bat boxes, along with hedgehog tunnels. All of which have been consulted on by DWT who raise no objections. The process and provision for off site BNG is discussed below.

*Condition 3f: the layout shall accord with the Highway Authority's 6C's Design Guide and national*

guidance laid out in the Manual for Streets.

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

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

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

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

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

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

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

*Condition 3n: Not relevant.*

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

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

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

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

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

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

#### Housing Mix and Tenure

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

The proposed development provides a range of dwelling types with the majority focussed as 3 and 4 bed which aligns with the expected need for market housing as set out in Table 36 of the Strategic Housing Market Assessment. On this basis, the proposed housing mix is aligned to and would help meet the expected need for larger family housing which weighs in favour of the application.

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

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

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

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

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

### Design, Layout and Density

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

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

### *Layout and Housing Design*

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

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

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

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

### *Density*

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

### Landscaping, Open space and Connections

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

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

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

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

### Access, parking and servicing

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

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

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

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

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

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

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

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

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

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

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

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

Drainage, Flooding and the River Mease

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

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

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

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

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

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

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

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

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

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

The outline permission was subject to the following drainage conditions:

*No development, including preparatory works, shall commence within a phase or sub-phase until details of measures indicating how additional surface water run-off from the phase or sub-phase will be avoided during the construction works have been submitted to and approved in writing by the Local Planning Authority. The applicant may be required to provide collection, balancing and/or settlement*

systems for these flows. The approved measures and systems shall be brought into operation before any works to create buildings or hard surfaces within that phase or sub-phase commence.

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

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

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

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

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

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

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

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

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

These conditions control drainage on site during construction and operation and provide control to ensure the strategy is built out in accordance with and prior to occupation. The proposed development aligns with the drainage strategy principles and objectives, and it is understood that an attenuation

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

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

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

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

Overall, it is considered that the reserved matters align to the approved drainage strategy. Natural England raise no objection and the HRA undertaken for the outline permission is still applicable here in so far as the outline conditions bind this consent too which limit the pathway for possible impacts.

In summary, the proposed development is not at significant flood risk and a suitable drainage strategy can be implemented. The proposed development therefore accords with LPP1 Policies SD2 and SD3 and Section 14 of the NPPF.

#### Biodiversity, Ecology and Trees

The application is supported by a Biodiversity Report and Assessment, Landscape and Ecological Management Plan (LEMP) for all retained and created habitats, an off-site Skylark assessment and the supporting landscaping plan shows details of bat and bird boxes and hedgehog tunnels. This is in line with condition 3a-e in terms of required information.

The existing woodland is retained, and onsite grassland would be provided in terms of public open areas, further to this there would be soft landscaping hedgerows and an attenuation basin. Notwithstanding this, the ability of further gain is limited and the application seeks a Biodiversity Net Gain, both on and off site.

The outline permission granted a clear development parcel within the site, within which residential development would come forward, and the reserved matters layout is reflective of this indicative layout, retaining areas of open space, play and woodland. In addition to this Condition 3b states:

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

The effect of this condition as worded is that it is considered to only enable on site provision of BNG. The timing of the decision is noted and it is considered that on site provision of BNG may not have been fully appreciated at the time given the infancy of the Environment Act at that time, which is unfortunate as it has led to this matter.

The Environment Act which is the legislation behind which BNG is founded, allows for off site provision if on site gain has been maximised and even a commuted sum if further criteria are met, so it is not the case that off site provision should automatically lead to the refusal of an application on this basis.

Discussions have taken place with Derbyshire Wildlife Trust during the course of the application and their position on the matter is as follows:

*I have reviewed the letter from EDP Ltd (22nd March 2023) which sets out an approach to biodiversity net gain to comply with condition 3b. I've also reviewed the existing proposals on-site and the LEMP that was submitted earlier in the process. The net loss of 2.33 habitat units is acknowledged in the letter and previously within the Biodiversity Technical Note prepared by EDP. This loss has been calculated using a Biodiversity Metric. It is noted that some woodland habitat is retained on site and that the on-site proposals already include creating areas of species rich grassland as part of the public open space and in association with the drainage system. Further biodiversity gain on-site would be challenging unless the scale of the development was reduced.*

The shortfall of habitat units to secure a gain is 3 units rounded. An assessment was requested by Officers to confirm the extent of land required to achieve an on site net gain which found an additional 33% (1.03hectares) of the site would be required to deliver no net loss. This would result in a significant loss of housing. The housing delivery was considered in the outline application and was accepted to a greater degree across the outline site on the basis that such would enable the wider employment led regeneration in line with policy by making it viable. On this basis, it is considered unreasonable to provide an on site gain to the detriment of housing delivery and likely the viability of the entire outline permission. Overall, given DWT raise no objection and agree, it is considered that on site gain has been maximised and this opens the pathway for off site provision.

Subsequently, to enable both on and off site provision, the wording of Condition 3b is now proposed to be amended as follows:

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

This is the subject of the application reference DMPA/2023/0583, which is also to be considered by Committee.

On this basis, the on site BNG will be managed by the approval of the submitted LEMP. The off site delivery will require land outside of the redline, the matter will be controlled by a legal agreement. The matter has been discussed with the applicant and they are in agreement with this approach.

SDDC's legal team have been instructed on this matter and are in discussion with the applicant's solicitors.

The current drafting of the heads of terms is based on the following principles. These principles follow the standard LEMP condition wording provided by Derbyshire Wildlife Trust:

BNG Off Site Provisions:

1. to provide (insert size/area/habitat units as per DEFRA metric) of land off site
2. to provide the off-site land situated within the Parish of Woodville and if that cannot be satisfied, the District Ward and if that cannot be satisfied within the centre or south east of the District and if this cannot be satisfied in the south of the District and if this cannot be satisfied in the District
3. to submit to the Council for approval the BNG plan which shall include:
  - a. Description and location of features to be retained, created, enhanced and managed.
  - b. Details of bat and bird boxes to be installed including location, type and number
  - c. Details of hedgehog connectivity gaps including a plan showing locations
  - d. Aims and objectives of on-site and off-site management.
  - e. Ecological trends and constraints on site that might influence management.
  - f. Appropriate management methods and practices to achieve aims and objectives.
  - g. Prescriptions for management actions.

- h. *Preparation of a work schedule (including a five-year work plan capable of being rolled forward*
  - i. *in perpetuity).*
  - j. *Details of the body or organization responsible for implementation of the plan.*
  - k. *Ongoing monitoring and remedial measures including benchmarking of the site enhancement areas against the DEFRA conditions sheets reportable to the authority at 5-, 10-, 15- and 30- years post completion*
4. *details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.*
  5. *These obligations to be satisfied before occupation and in consideration with DWT*

It is considered that an obligation drafted inline with the principles above would be sufficient to control the off site provision of biodiversity net gain. In summary then there is a process which would secure BNG inline with the provisions of the Environment Act and the application is acceptable in this regard.

Further comments from DWT have raised that the Council should seek further information from the applicant regarding a location and agreement with the landowner for the delivery of the skylark mitigation. This has been forthcoming from the applicant and is being considered by DWT. It was also recommended that the number of integrated swift bricks is increased to 75 in line with the British Standard (BS 42021:2022 Integral nest boxes – Selection and installation for new developments) which can be secured by condition.

With regards to trees, the extent of tree retention and tree loss has been accepted at outline stage. The application site is within the National Forest Company (NFC) as designated by policy INF8. The outline permission accepted the principle of commuted sum for payments to the NFC if substantial woodland isn't planted on site. As set out above there are a number of pressures on Phase 1. It is considered that Phase 1 does not include woodland planting and discounts sporadic tree planting for the purposes of assessing contributions to the NFC. On this basis, *the NFC considers that the National Forest planting requirement should be met by a financial contribution, based on 30% of the site area, calculated at a rate of £35,000 per hectare. This is as per the provision in the outline S106 and the applicant has outlined that this is accepted.*

SDDC Tree Officer does not raise an objection and the proposed additional planting and trees proposed along the main residential street is welcomed and considered inline with BNE4.

It is accepted that there would be disruption to habitats and ecological impacts during construction. On this matter there are a suite of conditions attached to the outline which are considered to suitably manage the construction process; Condition 16 requires certain construction works to be undertaken outside of nesting season, Condition 17 requires a construction environmental plan which would include the information below and Condition 18 requires proposed tree and hedgerow protection measures as per best practice as set out in British Standard 5837:2012 prior to commencement. Condition 17 criteria:

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

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

On this basis, no objection is raised by DWT in terms of approach or gain and it is considered that the proposed development from an ecology perspective would be in accordance with LPP1 Policy BNE3 and paragraph 174 of the NPPF.

#### Cultural heritage

There are no heritage assets within the application site, nor is it considered that the development would impact any heritage settings.

The application has been consulted on with the Derbyshire County Council (DCC) Archaeologist given the potential for archaeological remains. The DCC Archaeologist has confirmed no objection subject to a written statement of investigation to guide archaeological field work and subsequent mitigation.

On this basis, it is considered there would be no unacceptable impact on archaeology and the application is inline with BNE10 and NPPF paragraph 205.

#### Other Matters

There are a range of further conditions attached to the outline permission that relate to Phase 1 and would still control matters. Where not already addressed within the report these are as follows:

Condition 4 requires an update to an agreed phasing which is required prior to commencement. No phasing has yet been agreed and phase 1 was already earmarked on this section of the wider outline and accessed by Miora Road by the outline permission to which this proposal accords.

Condition 5 relates to employment marketing and is not relevant.

Condition 6 limits the hours of construction limiting hours to standard working hours M-F and Saturday mornings. This condition will continue to control the construction of phase 1.

Condition 7 requires mitigation measures for air quality to be employed during construction. This condition will continue to control the construction of Phase 1.

Condition 8 relates to contamination and would require a remediation scheme for Phase 1 prior to commencement and subsequent verification prior to occupation. This condition will continue to control Phase 1 and is considered to satisfactorily address the risk of contamination on site.

Condition 9 requires the mitigation strategy to manage coal mining risk to be employed. This condition will continue to control the construction of Phase 1 and is considered to suitably address the risk of of hazards arising from coal mining legacy on the site.

Condition 10 requires the complete stop of construction and further investigation if further unidentified contamination is found during construction. This condition will continue to control Phase 1.

Condition 15 limits the amount of water usages through efficient fixtures and fittings in line with Building Regulation Part G2. This condition will continue to apply to the 73 dwellings constructed during Phase 1.

Condition 27 requires ventilation and glazing details approved via condition 3 to be retained and removes PD rights to amend these details. Whilst unlikely targeted at residential dwellings such as those proposed in Phase 1, this condition is still considered to bind Phase 1.

Condition 22, 23, 25, 26, 28 and 29 are not relevant and relate to other phases, employment uses, odour areas not within phase 1, mechanical plant, removal of PD rights for commercial uses and commercial floorplates respectively.

Construction access was raised in consultation with the ward Councillor and by a local resident. The points made was that: Moira Road given its restrictions, width, usage and that it provides access to schools was not suitable for construction access for such a significant development; and, Occupation Road to the south west of the site by virtue of it being a spur lane now closed off after highways works also is not suitable for construction access. The proposed most suitable route was from the new road built to serve the site which is to the west of the site.

The point was raised with the applicant who outlined that the wider site is under third party ownership, however they would be willing to explore the issue with the landowner especially given that this land is also likely to be subject to further phases development. It is not considered reasonable at this time to fix a condition requiring the use of access across third party land.

There is already condition 20 requiring the details of a temporary construction access, condition 19 requiring a construction management plan attached to the outline and whilst neither specifically preclude access from Moira or Occupation Road, this matter can be explored at the time of discharge. In addition, a further condition will be attached to this permission requiring evidencing that the applicant has asked for temporary access over third party land, but it would be unreasonable to require them to do so.

#### Section 106 obligations

As set out above it has been accepted that Biodiversity Net Gain will be achieved in part off site which will be secured via a legal agreement.

The application was considered by Derbyshire County Council and the NHS for its impacts on service provision who both raised no objections. It should be noted by members that there are already provisions in the outline consent to local infrastructure, services and open space. By way of summary, the total S106 contributions are as follows (\*based on 70 dwellings):

Infant education\* - 7 845.71  
Junior education\* – 133,337.10  
Secondary education\* - 82 754.11  
Recreation outdoor sports facilities – 220.00 per bedroom  
Recreation built facilities – 122.80 per bedroom  
Healthcare\* - 33 600

In addition to this the S106 also sets out arrangements for the long-term ownership and management of public open spaces and non-highway drainage on site as well as the funding for any management company/ies.

Further to this, open space contribution for on site was also considered however this was discounted on the basis of on-site provision was as per the outline permission.

#### Conclusion and Planning Balance

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

In terms of the Local Plan, this comprises SDDC Local Plan Part 1 (LP1) and SDDC Local Plan Part 2 (LP2). Which is considered to be up to date in terms of the relevant policies set out above. On this basis, Paragraph 11 of the NPPF is not 'triggered'.

The outline permission has approved this site for residential development which meets certain parameters. The report outlines that the proposal reflects the principle, layout, design approach, density, provision of open space and connections, drainage strategy, access and parking. It is compliant with the outline permission, subject to conditions and will realise in part the significant benefits upon which the outline permission was granted. This realisation of these benefits weighs heavily in favour of the application.

There are no objections from statutory consultees, and no public objections. Members are reminded that no affordable housing was approved at outline given what was at the time fragile viability. In response it is understood the applicant to date has been discussing additional funding and the proposal with RPs, who has been requested to update members at committee. On this basis, whilst not required there is also the possibility of affordable housing arising which would be a further benefit. The public benefits of S106 monies by virtue of the outline legal agreement are also outlined to members.

BNG is the sole reason for this application being heard at committee. The provision has been robustly discussed by the tripartite of SDDC, the applicant and DWT. The Environment Act which is the legislation upon which BNG is founded allows for off site provision. The requests of SDDC and DWT in evidencing on site is maximised have been satisfied and subsequently the criteria to allow off site provision. Subject to both conditions and legal agreement this matter is suitably addressed. Subject to an update on Skylarks, all other ecological impacts are addressed.

With specific regard to the historic environment, this proposed development has been considered with due regard for Section 66 and 72 of the Act and found to be acceptable.

Several conditions attached to the outline remain to control development and further conditions where relevant will be attached to this reserved matters to suitably control matters.

Overall, for the reasons set out above, the proposed development is considered inline with the outline permission, compliant with the Local Plan and will give rise to significant benefits as part of the wider outline permission. It is therefore recommended that the application is approved subject to conditions and the legal agreement securing BNG provision off site.

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

### **Recommendation**

- A. Grant delegated authority to the Head of Planning and Strategic Housing to conclude negotiations on and complete an agreement under section 106 of the Town and Country Planning Act 1990 as outlined in the report; and
- B. Subject to A, **Approve** the application subject to the following condition(s):

### Standard

1. The development hereby permitted shall be carried out in accordance with plans/drawings:

#### Drawings and Plans:

Location Plan: P20-2301\_006

Planning Layout: 3746-002 Rev E

Presentation Layout: 3746-003 Rev E

Proposed Sections: 3746-011

Wood- PL- HOUSEPACK TYPE\_V1

Single Garage: 3746-51

Double Garage: 3746-50

Landscape and Ecology Management Plan: edp7597\_r001-A

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

Landscape Detailed Design – LAP: edp7597\_d003-E

Landscape Detailed Design – POS: edp7597\_d001-F

Supporting Documents:

Design and Access Statement

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

Biodiversity Net Gain Technical Note – Part 2

Biodiversity Net Impact Plan (Wood-PL-014)

Biodiversity Net Gain Letter

Skylark Mitigation Report – edp7597\_r001-A

Woodville Travel Pack

Woodville Green Travel Plan

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

Reason: For the avoidance of doubt and to ensure a high-quality development.

2. Prior to the site being access by HGV vehicles for construction, evidence of reasonable endeavours seeking to secure construction access from the west of the site shall be submitted to the Local Planning Authority and approved in writing.

Reason: In the interests of securing the optimal construction access into the site and in the interests of highway safety and residential amenity.

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

Reason: To ensure the development complies with the outline permission reference DMPA/2019/0931

4. Prior to any works to the identified Public Rights of Way on site or in the event that construction is deemed to make the route unsafe, evidence to show necessary temporary closures agreed with Derbyshire County Council shall be provided, alongside the details of the proposed works which where directly affecting the route shall have prior authorisation from the Rights of Way Section at Derbyshire County Council. Any diversion shall first be discussed with the Local Planning Authority in consultation with Derbyshire County Council. All details shall be approved in writing by the Local Planning Authority and shall thereafter be constructed in accordance with the approved details.

Reason: In the interests of securing high quality public routes and minimising disruption during construction.

5. Prior to their incorporation into the buildings hereby approved, details and samples of the external materials for that phase shall be submitted to and approved in writing by the Local Planning Authority. The buildings within each phase shall thereafter be constructed in accordance with the approved materials.

Reason: In the visual interest of the buildings and character and appearance of the area.

6. Prior to their incorporation into the buildings hereby approved, key details such as but not limited to:
- Windows
  - Doors
  - Verges
  - RWG and Meter Boxes

Shall be submitted to and approved in writing by the Local Planning Authority. The dwellings shall thereafter be constructed in accordance with the approved materials for that phase.

Reason: In the visual interest of the buildings and character and appearance of the area.

7. The boundary treatments pursuant to condition 9 shall be completed before the respective dwelling(s) to which they serve is/are first occupied and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, no further boundary treatments shall thereafter be erected between those approved and the highway or public open space(s)

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

8. No dwelling shall be occupied until the garages (as the case may be), parking and manoeuvring space has been provided within the curtilage of that property, in accordance with the approved plans. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the garaging/parking/turning facilities shall be retained throughout the life of the development free from any impediment to their designated use as such.

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

9. No development shall commence until details of hard landscaping works have been submitted to and approved in writing by the local planning authority. These details shall include:
- a statement setting out the design objectives and how these will be delivered;
  - earthworks showing existing and proposed finished levels or contours;
  - means of enclosure and retaining structures;
  - boundary treatment[s];
  - hedgehog access points;
  - other vehicle and pedestrian access and circulation areas;
  - hard surfacing materials;
  - minor artefacts and structures [e.g. furniture, play equipment, refuse or other storage units, signs, etc.];
  - proposed and existing functional services above and below ground [e.g. drainage, power, communications cables, pipelines etc. indicating alignments, levels, access points, supports as relevant];
  - lighting, floodlighting and CCTV;
  - water features;
  - an implementation programme, [including phasing of work where relevant]
  - mechanism for the on going management and maintenance of the hard landscaping

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.

The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.

Reason: In the interests of securing and maintaining a high quality public realm

10. Prior to the occupation of any dwelling the LAP shall be provided in accordance with drawing no. Landscape Detailed Design – LAP: edp7597\_d003-E will be laid out in accordance with these details and that area shall not thereafter be used for any purpose other than as a play area.

Reason: To secure and retain suitable playspace for the enjoyment and amenity of local occupiers of the development.

11. Notwithstanding the submitted details bin collection points shall be provided for residents on private drives, in accordance with a scheme to be submitted and approved by the Local Planning Authority. The facilities shall be provided prior to the first occupation of the related dwellings and shall be retained thereafter free from any impediment to their designated use.

Reason: To prevent refuse bins and collection vehicles standing on the new estate streets for longer than necessary causing an obstruction or inconvenience for other road users.

12. The carriageways of the proposed estate roads shall be constructed in accordance with Condition 1 above up to and including at least road base level prior to the commencement of the erection of any dwelling intended to take access from that road. The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surface course within twelve months (or three months in the case of a shared surface road) from the occupation of such dwelling, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety

13. Prior to the commencement of the development full details of the tree protection measures for all trees and hedges to be retained shall be submitted to and approved in writing by the Local Planning Authority. These measures shall be set out in a detailed Arboricultural Method Statement to include the specification of the location and type of protective fencing, the timings for the erection and removal of the protective fencing, the details of any hard surfacing and underground services proposed within the root protection areas, all to be in accordance with the British Standard for Trees in Relation to Construction 5837: 2012, and the monitoring of tree protection measures during construction. All tree protective measures shall be carried out as set out in the approved Arboricultural Method Statement.

Reason: To protect the retained trees and visual amenity of the area in accordance with the Local Plan.

14. The applicant shall make an application for S38 approval to the Highways Authority prior to the occupation of any dwelling. Until such time as the application has been approved by the County Council Highways Authority the applicant shall manage and maintain the roads within the development as set out in their email of 1st August 2022.

Reason: In the interests of highway safety

15. The garages/parking spaces hereby permitted shall be kept available for the parking of motor vehicles at all times. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and/or re-enacting that Order) the garage/car parking space(s) hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property without the grant of further specific planning permission from the Local Planning Authority.

Reason: In the interests of highway safety and to ensure that acceptable levels of parking are retained throughout the development.

16. Prior to the commencement of each phase of development including preparatory works, the details of any fencing (including temporary) including the specification of suitable mammal gaps within that phase shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of safeguarding against harm to protected species during the period of construction and throughout the life of the development.

17. The development shall be built in accordance with the measures and habitats set out in Landscape and Ecology Management Plan: edp7597\_r001-A. The development shall be managed so that the monitoring and remedial measures including benchmarking of the site enhancement areas against the DEFRA conditions sheets are reported to the authority at 5-, 10-, 15- and 30-years post completion.

Reason: In the interests of safeguarding against harm to protected species throughout the construction period and for the life of the development.

#### Informatives:

You are advised of the following matters:

- a. For the avoidance of doubt this application does not discharge conditions 3 (in so far as it is relevant to later phases), 4, 5, 6, 7, 8, 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 or 28 of the outline planning approval DMPA/2019/0931

#### *Highways*

- a. *Planning permission does not give you approval to work on the public highway. To carry works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website [www.derbyshire.gov.uk](http://www.derbyshire.gov.uk) email [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk) or telephone 01629 533190.*
- b. *Planning permission does not give you approval to work on the public highway. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written agreement of the County Council as Highway Authority. It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed, which may take up to 16 weeks. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained by contacting the County Council via email – [ete.devcontrol@derbyshire.gov.uk](mailto:ete.devcontrol@derbyshire.gov.uk). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.*
- c. *If an adoption Agreement is not in place when the development is commenced, the Highway Authority is obliged to serve notice on the developer, under the provisions of the Advance Payments Code part of the Highways Act 1980 (section 219 / 220), to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980.*
- d. *If the roads within the proposed development are to be offered for adoption by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980. Detailed plans will need to be submitted and approved, the Agreement signed and all sureties and fees paid prior to the commencement of development. The Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further*

information please contact the County Council's Implementation team – email [ete.devcontrol@derbyshire.gov.uk](mailto:ete.devcontrol@derbyshire.gov.uk)

- e. Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
  - f. Where the site curtilage slopes down towards the public highway provisions within Section 163 of the Highways Act 1980 requires measures to be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dished channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
  - g. The layout of swales within the proposed highway limits do not comply with the Highway Authority's Design Guide and the design indicated on the application drawings has not been used elsewhere in the County. The applicant should be aware that their provision will attract a commuted sum for future maintenance purposes and could compromise the future adoption of the new estate streets.
- A. The County Council does not adopt any SuDS schemes at present (although may consider ones which are served by highway drainage only). As such, it should be confirmed prior to commencement of works who will be responsible for SuDS maintenance/management once the development is completed.
- B. Any works in or nearby an ordinary watercourse may require consent under the Land Drainage Act (1991) from the County Council. For further advice, or to make an application please contact [Flood.Team@derbyshire.gov.uk](mailto:Flood.Team@derbyshire.gov.uk).
- C. No part of the proposed development shall be constructed within 5-8m of an ordinary watercourse and a minimum 3 m for a culverted watercourse (increases with size of culvert). It should be noted that DCC have an anti-culverting policy.
- D. The applicant should be mindful to obtain all the relevant information pertaining to proposed discharge in land that is not within their control, which is fundamental to allow the drainage of the proposed development site.
- E. The applicant should demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water discharge, in line with Table 4.3 of the CIRIA SuDS Manual C753.
- F. The County Council would prefer the applicant to utilise existing landform to manage surface water in mini/sub-catchments. The applicant is advised to contact the County Council's Flood Risk Management team should any guidance on the drainage strategy for the proposed development be required.
- G. The applicant should provide a flood evacuation plan which outlines:
- The flood warning procedure
  - A safe point of extraction
  - How users can safely evacuate the site upon receipt of a flood warning
  - The areas of responsibility for those participating in the plan
  - The procedures for implementing the plan
  - How users will be made aware of flood risk
  - How users will be made aware of flood resilience
  - Who will be responsible for the update of the flood evacuation plan
- H. Flood resilience should be duly considered in the design of the new building(s) or renovation. Guidance may be found in BRE Digest 532 Parts 1 and 2, 2012 and BRE Good Building Guide 84.
- I. Surface water drainage plans should include the following:

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

#### J. On Site Surface Water Management;

*The site is required to accommodate rainfall volumes up to the 1% probability annual rainfall event (plus climate change) whilst ensuring no flooding to buildings or adjacent land.*

*The applicant will need to provide details and calculations including any below ground storage, overflow paths (flood routes), surface detention and infiltration areas, etc, to demonstrate how the 30 year + 35% climate change and 100 year + 40% Climate Change rainfall volumes will be controlled and accommodated. In addition, an appropriate allowance should be made for urban creep throughout the lifetime of the development as per 'BS 8582:2013 Code of Practice for Surface Water Management for Developed Sites' (to be agreed with the LLFA).*

*Production of a plan showing above ground flood pathways (where relevant) for events in excess of the 1% probability annual rainfall event, to ensure exceedance routes can be safely managed.*

*A plan detailing the impermeable area attributed to each drainage asset (pipes, swales, etc), attenuation basins/balancing ponds are to be treated as an impermeable area.*

#### **Peak Flow Control**

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

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

#### **Volume Control**

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

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

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

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

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

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

*The Greenfield runoff rate which is to be used for assessing the requirements for limiting discharge flow rates and attenuation storage for a site should be calculated for the whole development area (paved and pervious surfaces - houses, gardens, roads, and other open space) that is within the area served by the*

*drainage network, whatever the size of the site and type of drainage system. Significant green areas such as recreation parks, general public open space, etc., which are not served by the drainage system and do not play a part in the runoff management for the site, and which can be assumed to have a runoff response which is similar to that prior to the development taking place, may be excluded from the greenfield analysis.*

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

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

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

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

**Item No.** 1.4

**Ref. No.** [DMPA/2023/0559](#)

**Valid date:** 28/04/2023

**Applicant:** D Sandhu **Agent:** bi Design Architecture

**Proposal:** **The demolition of the existing dwelling, and the erection of 4no. bungalows at 7a Pinfold Lane, Repton, Derby, DE65 6GH**

**Ward:** Repton

### **Reason for committee determination**

The application is reported to Committee at the request of Councillor Lowe because a local concern has been expressed about a particular issue and unusual site circumstances should be considered by committee.

### **Site Description**

The application site is situated within Repton village and is currently occupied by a derelict bungalow within an enclosed area of land surrounded by a number of trees and un-maintained vegetation. The site is bordered to the south east by an access serving the garages to the terraced properties fronting onto Pinfold Lane. To the north east at approximately 5m higher ground level with rear elevations overlooking the site are residential properties on Pinfold Close. Repton Brook lies to the southwest of the site and Repton Footpath No. 26 runs from Pinfold Lane through the site. The site is situated within the revised Repton Conservation Area adopted on 31st January 2013, the boundary of which now runs along the rear boundaries of residential properties fronting onto Pinfold Close to the north east along the boundary of the application site. Access to the development site would be from the northeast through the demolition of 53 Pinfold Lane.

### **The proposal**

Full planning permission is sought for the demolition of 53 Pinfold Close to provide access and the demolition of the remains of 7a Pinfold Lane and erection of four bungalows and associated parking.

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

The applicant has provided a Design and Access Statement, Ecological Appraisal, Tree Survey, Heritage Statement, Flood Risk Assessment and Drainage Statement alongside plans and elevations of the proposed dwellings in addition to the requisite application form and certificate to demonstrate that the proposal complies with the relevant policies set out in the Local Plan and Repton and Milton Neighbourhood Plan.

### **Relevant planning history**

9/1995/0459 - The residential development with access from Pinfold Close of approximately 0.57 hectares of land being the site of the bungalow and outbuildings. Outline permission granted 04/03/1999.

9/2001/1185 - The renewal of planning permission 9/0995/0459/O for the residential development. Granted 19/11/2003.

9/2006/1325 - Outline application (all matters except means of access to be reserved) for the demolition of 7A Pinfold Lane and 53 Pinfold Close and the residential development. Refused 23/01/2007 (Indicative layout proposed 7 dwellings) Dismissed at appeal (impact on conservation area) 11/1/08.

DMPA/2023/0559 – 7a Pinfold Lane, Repton, Derby, DE65 6GH



**MAPS ARE NOT TO SCALE**

Plans are produced for D Area Properties which are published on the Council's Website or available to the Council of the Council's Website. Council Officers are not responsible for any errors or omissions in the information.

South Derbyshire District Council, LA 18019601, 2020

9/2010/0684 – The erection of a replacement dwelling. Withdrawn 27/09/10.

9/2011/0037 – The erection of a replacement dwelling. Approved 15/3/11.

9/2011/0316 – The erection of a replacement dwelling (amended plans). Approved 12/08/2011

9/2015/1000 - The erection of a replacement dwelling with detached garage and entrance gates - Approved 13/04/2016

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

Environment Agency - We have reviewed the submitted documents and on this occasion the Environment Agency will not be making any formal comment on the submission for the following reason: - The development falls within flood zone 2 and therefore the LPA should apply national flood risk standing advice (FRSA) in this instance. <https://www.gov.uk/guidance/flood-risk-assessment-local-planning-authorities>

Environmental Health - No concerns in relation to this application and therefore I will not be making any comments or seeking any conditions.

County Highways - Initially requested additional information relating to the visibility splays. An amended plan was provided indicating visibility splays equating to a visibility of 2.4x26m could be achieved. Given that the site access is located near to the end of a cul-de-sac it is considered that vehicle speeds on Pinfold Close on the approach to the site access will be low and therefore the achievable visibility splays are considered acceptable. Taking the above into account the Highway Authority has no objections to the application subject to conditions relating to details of a construction management plan; creation of new access with visibility splays; Parking and manoeuvring; entrance gates.

Public Rights of Way Officer - I can confirm that Repton Public Footpath No. 26 runs adjacent to the proposed development and Footpath No. 25 crosses the stream to the north of the site, as shown on the attached plan. It is good to see that the Footpaths have been given due consideration in the plans and to the surface of the currently walked path. On the plan I have geo-referenced the definitive line of the Footpath to the Site plan and it can be seen that the definitive legal line of Footpath No.26 does not align with the used line on the ground. It is likely this trodden path will have acquired rights through established use. However, the definitive line runs a more direct line and appears to crop the corner of the building on proposed Plot 3 in the site plan. This situation needs to be rectified. For work to proceed as proposed a footpath diversion of the definitive legal line will be necessary. If the applicant would like to divert the footpath and it is needed for the development to take place, an application to divert the path under S257 Town and Country Planning Act 1990 should be made to South Derbyshire District Council as the Planning Authority. The applicant should be advised that an application can be submitted for the diversion of the public footpaths in advance of planning permission being granted. With regard to a creation agreement for the desired new path by the stream, this should also be considered as part of the overall planning permission. If the developer owns the land it will be a creation agreement under section 25 of the Highways Act. Derbyshire County Council would require the details of the proposed new path, to ensure it is publicly maintainable, due to the risks associated with its location closer to the stream.

Derbyshire Wildlife Trust - No response at the time of writing this report.

Conservation Officer - No objection to the principle of development in this location. I assess the application to result in no harm to the character and appearance of the Conservation Area. Conditions relating to final materials and colours to be agreed.

Tree Officer - No response at the time of writing this report.

Repton Parish Council - Object to the proposal as all previous applications where more than one new dwelling is proposed have been rejected. SDDC in rejecting a previous application on this site for

multiple dwellings stated that 'the development would go against the character of the Conservation Area at that time bordering the development'. The Village Design Statement (Referenced in Policy H4 of the Repton Neighbourhood Development Plan) under its building Guidelines states -

- New developments and alterations in the Conservation Area should reflect and enhance those elements that contribute to its character.
- New developments and alterations should respect and enhance the character and form of their immediate environment and surroundings.

We object as the proposed development does not meet these guidelines. We do not agree with the Environmental Agency assessment and object on the following grounds. The flood risk assessment within the submission does not include recent flood events. Severe flooding in November 2019 and July 2021 resulted in several properties being evacuated. Amongst 38 properties flooded, several are located close to 7a Pinfold Lane. Both events encroached Flood Level 2 locations. Repton has, subsequent to these events, developed a strategy for Natural Flood Management. The resulting report was shared with all relevant authorities in September 2021. The proposed development results in a serious reduction in natural drainage and the rainwater management proposed means 100% run off into the brook. This outcome can only increase the level of flood risk. The site has already seen the removal of several trees despite protection orders being in place. This indicates a lack of regard for the environment and the laws designed to protect it. This breach of a well understood legal protocol should be considered. The Biodiversity Report rightly recognises the population of badgers present but fails to mention that at least five bird species on the RSPB Amber List (at risk) are resident or frequent visitors to the site. Bats are also present. The footpath should not be diverted and should be explicitly defined on the site plan. Permitted development rights should be removed if the proposal is approved.

Thirty four neighbour objections have been received raising a number of matters which can be summarised as follows:

- a) Loss of valuable open space within the conservation area;
- b) Flooding issues;
- c) Out of keeping with the area;
- d) Loss of protected trees/woodland;
- e) Loss of ecological habitat;
- f) Previous proposals of more than one dwelling have been refused;
- g) Not consistent with the requirements of the Neighbourhood Plan;
- h) Loss of buffer between conservation area and newer development;
- i) No public benefit;
- j) Destruction of green corridor;
- k) Poor access to the proposed dwellings;
- l) Increased traffic on Pinfold Close;
- m) Creation of access will cause parking problems on Pinfold Close;
- n) Concerns about construction access and delivery of materials;
- o) Depreciation of on houses on Pinfold Close during construction;
- p) No Planning notices posted in the area;
- q) Additional strain on existing services;
- r) Loss of perfectly acceptable house;
- s) Noise and dust and traffic pollution both during construction and beyond;
- t) Potential damage to infrastructure/neighbouring properties;
- u) Area already appears to have been cleared of trees;
- v) Contrary to the Repton Village Design Statement;
- w) Drainage strategy not fit for purpose;
- x) Land is designated open space;
- y) Infilling of the 'open' area within the village;
- z) Additional development not needed in the village;

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

The relevant Development Plan policies are:

(2016) Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), BNE1 (Design Excellence), BNE2 (Heritage), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport);

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

Repton Neighbourhood Development Plan (NDP): H1 (The Limits of Development), H2 (Development within Settlement Confines), H3 (Housing Mix), H4 (Design of New Developments), H5 (Design of Car Parking), OS1: Local Green Spaces, OS2 (The Impact of New Development on Views of and Views From The Countryside), OS3 (Important Trees and Hedgerows) and T1 (Car Parking in New Developments).

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

The relevant local guidance is:  
South Derbyshire Design SPD

## **Planning considerations**

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

- Principle of development
- Scale and design
- Residential amenity
- Heritage
- Ecology/Trees
- Flood Risk
- Highway Safety

## **Planning assessment**

### Principle of development

First and foremost it should be noted that permission has been granted for a replacement dwelling on the site which was significantly larger than the existing 7a Pinfold Lane and set within a larger plot. This proposal for four single storey dwellings is a larger site than the previous permission identified by the red line on the location plan but some of that land, to the west of the public right of way, will not be built on and is understood to be offered to the Parish Council. The overall site area is therefore approximately twice the size of the previous application site but this additional land has been in the applicants ownership for some time.

With reference to policy H1 of the LP1, policy SDT1 of the LP2 and H2 of the Repton Neighbourhood Plan the site is located within the settlement boundary of Repton, one of the Districts Key Service Villages. The settlement has a number of services and facilities, including a number of shops, pubs/restaurants, schools and a regular bus service making this a sustainable site in general terms. New development is targeted towards these defined settlement areas subject to any development being of an appropriate scale with regards to the size and role of that settlement and subject to it complying with other relevant policies and guidance. The principle of development on this site is therefore established.

### Scale and design

The most applicable policies to consider in this assessment are BNE1 of the LP1 supported by the Design SPD which seek to ensure that new development is of an appropriate size, siting, scale, material componentry and character with regards to characteristics of the area in which they are located. In addition policies H1, H2, H3 and H5 of the Repton Neighbourhood Plan are also relevant.

These policies broadly follow the Local Plan policies and policy H4 refers to Repton's Village Design Statement.

The proposal is for four high quality individually designed three bedroomed single storey dwellings within an enclosed area of land or 'glade' to the rear of Pinfold Lane and Pinfold Close and High Street. The land rises to the east away from the Brook and involves the creation of a new access from Pinfold Close that would see the loss of no 53. These being single storey dwellings which, by definition, would be less obtrusive than traditional two storey dwellings have a ridge height of up to 5.5m, each dwelling having a varied roof pattern due to their individual layout. The appearance of each dwelling is fairly traditional but there is an art deco feel to the design with brick detailing around window surrounds. Details of windows cills and headers have been requested to provide clarity to the precise detailing as well as precise details of facing materials. Whilst the design may not draw on traditional local vernacular, there is not one single style or design of bungalows in the village and in any event the dwellings would not be viewed in the context of any other dwellings, the site being well screened from other development. Finally, it is proposed to withdraw permitted development rights for the dwellings to retain control of the appearance and scale of the proposed dwellings to minimise the impact of these dwellings on the wider setting. The scale and design is therefore considered to comply with BNE1 of the Local Plan Part 1 and H3 and H4 of the Neighbourhood Plan.

#### Residential amenity

As previously mentioned, the site is at the rear of several other locations within the village and is a relatively spacious site. As the proposed development is for single storey dwellings these are largely assessed on their merits and not against the distance standards set out in the Design SPD. However, as the site is relatively spacious and housing on Pinfold Close and Pinfold Lane have relatively long gardens there are not considered to be any issues with overlooking existing dwellings and they therefore comply with the standards. It should be noted that the public right of way will pass by plots two and three but this is no different to a normal housing estate with living accommodation fronting a highway. Boundary treatments are proposed but a condition has been proposed requesting precise details of such. Each new dwelling has sufficient outdoor amenity space and therefore the proposal is considered to comply with Policy SD1.

#### Heritage

Although the proposal is within the Repton Conservation Area the design and appearance of the dwellings have taken into account the setting, choosing a low rise development with less impact on the area making use of the contours of the land. A Heritage Statement has been submitted to support the application and sets out the historic baseline highlighting the site, in particular the land adjacent to the brook and public right of way which is considered of particular importance in the Repton Conservation Area Heritage Statement. The application site avoids development in this location. The Heritage Statement concludes that the proposal represents no harm to the designated heritage asset or its setting as the the views from Pinfold Close into the Conservation Area are currently masked by overgrown trees. It also states that the proposal secures the use of the land to the west of the built development to be donated to the village. The development will also allow for better views into the conservation area from Pinfold Close. The Conservation Officer has reviewed the Heritage Statement and concurs with the conclusions that the proposal would result in no harm to the heritage asset but requests that details of materials be conditioned. The proposal is considered to comply with BNE2 and BNE10.

#### Ecology/Trees

The site is both part domestic curtilage (7a Pinfold Lane although having been derelict for many years has been subsumed back into a semi natural wasteland) and woodland within the village settlement and also includes the land to the west of the public right of way which is an SDDC Local Nature Reserve. An Ecology Statement has been provided setting out recommendations and mitigation to address the proposal. At the time of writing no response has been received from Derbyshire Wildlife Trust. The Ecology Statement sets out the mitigation required for protected bats and birds and also references badgers, known to be on site. Further survey work and a mitigation plan is required in terms of the badgers which are also a protected species and the applicant would need to secure a Licence from Natural England for any mitigation likely to be required and this would need to be secured prior to

any work being undertaken Natural England have their own enforcement procedures under separate legislation and non-compliance would be a criminal offence. Conditions relating to compliance with the recommendations of the Ecology Statement have been recommended to ensure that the development complies with Policy BNE3.

The site includes both a group Tree Preservation Order (TPO 82 covering Willow, Poplar, Sycamore and Alder) and a single TPO (TPO 128 Horse Chestnut). The submitted Arboricultural Statement also references Ash, and refers to Ash dieback as a reason for poor quality trees and the need for management/removal. A number of the trees on the site have already been removed, with further works needed, not least to create a gap for the access driveway. These trees however are not part of either TPO but are within the Conservation area and would therefore be protected. Nonetheless their removal as set out in the Tree Protection Plan along with the other trees covered by the group TPO are required to allow for the proposal. The applicant has proposed the planting of new trees which goes some way to addressing the loss of the mature trees but is not fully compliant with BNE7. As such, their loss should be balanced against the benefits of the proposal overall. The proposal provides net two additional dwellings, which provide single level accommodation and a management plan for the remaining trees and would bring back into use a redundant area of scrubland. Conditions relating to the Arboricultural Statement and Tree Protection Plan have been recommended to ensure the protection of the trees to be retained both during construction and following completion of the development.

### Flood Risk

The site lies partially within Flood Zone 2. A Flood Risk Assessment was submitted and adds detail to the precise location of the extent of Flood Zone 2. The design of the scheme has therefore taken account of this and ensured that the dwellings are solely located within Flood Zone 1. The Environment Agency was consulted and raised no objection to the proposal referring to their Standing Advice. This refers to the finished floor levels of the dwellings being a minimum of 600mm above the 100 year flood level plus 30%. A condition is proposed to ensure that the recommendations of the Flood Risk Assessment are complied with. Surface water drainage is proposed to be dealt with through the use of a Sustainable Urban Drainage Scheme which involves both the run off utilising the existing drainage on site which outflows into the brook. A condition has been added to comply with the details set out in the drainage statement. The proposal is considered to comply with SD2.

### Highway Safety

Access to the site is proposed via Pinfold Close, a cul-de-sac to the north east of the site and requires the demolition of no 53 to create an access for the four dwellings. A plan was provided setting out the visibility splays but, whilst the County Highway Authority did not object to the proposal, additional information was requested. Following receipt of this additional information relating to visibility splays the applicants demonstrated that the required visibility splays could be achieved within the applicants land ownership and as such the CHA had no objection, traffic speeds being relatively low in this area. The proposal is considered to comply with INF2 subject to conditions relating to the provision of the access, visibility splays, parking and turning and a construction management plan to be agreed prior to commencement.

The site effects the line of a Repton Public Footpath No. 26. Indeed, whilst the proposal would appear to avoid the existing footpath the County Council's definitive map shows that one of the plots would be built directly over the definitive route. The applicant was advised of this and the LPA requested the layout of the buildings to be amended so as not to affect the PROW. Alternatively, the applicant has opted to apply for a footpath diversion along the route of the existing desire line. The County Footpath Officer has not objected to the proposal but highlights in their response that until a footpath diversion Order has been submitted to the LPA and agreed in writing no works affecting the PROW should take place. Subject to the submission of an application to divert and its approval the proposal complies with INF2.

### Other Matters

The area of land within the red line west of the public right of way is not proposed to be built on and, although currently in private ownership is designated as Local Green Space in the Neighbourhood Plan. It is understood that the applicant is willing to offer this land to the village as additional public

open space. No Section 106 agreement is associated with this application but an informative has been added to highlight that the Parish could enter into discussion about seeking to take ownership of the land and ultimately responsibility for its upkeep.

### Conclusion

The proposal would provide a net gain of two additional dwellings in the village securing four dwellings suitable for older people and bring back into use an area of land within the village that is currently unkempt and in places dangerous with the removal of the remains of 7a Pinfold Lane. It will also bring benefits to the community with the addition of the land to the west of the public right of way in line with the Neighbourhood Plan and secure works to remove trees that are currently unmaintained. Whilst there will be some loss in terms of trees and biodiversity, mitigation is proposed and is considered acceptable subject to conditions.

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

### **Recommendation**

Approve with conditions.

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

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

2. The development hereby permitted shall be carried out in accordance with drawing refs.  
10 (Plot 1 Plans and Elevations)  
11 (Plot 2 Plans and Elevations)  
12 (Plot 3 Plans and Elevations)  
13 (Plot 4 Plans and Elevations)  
9B (Proposed Site and Block Plan)  
14B (Streetscene, Proposed Gates and Visibility Splays)  
JO-PL-TPP (Tree Protection Plan)  
unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. No development shall start until a Highway Construction Management Statement/Plan has been submitted to and approved in writing by the Local Planning Authority. The statement / plan shall include details specifically relating to:
  - a) parking for vehicles of site personnel, operatives and visitors
  - b) site accommodation
  - c) storage of plant and materials
  - d) wheel washing facilities
  - e) provision of roadside boundary hoarding behind any visibility zones
  - f) any proposed temporary traffic management.

Only the approved details shall be implemented, which shall be maintained throughout the construction period.

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

4. No development, including preparatory works, shall commence until the new vehicular and pedestrian access to Pinfold Close has been constructed. The junction shall be laid out in accordance with the approved plans and with visibility sightlines of 26m to the east and 22m to the west, both measured to a point 1m in from the nearside edge of the carriageway, as measured from a point located centrally and 2.4m back into the access. The area within the sightlines shall thereafter be kept clear of any object greater than 0.6m in height above the nearside carriageway channel level.

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

5. Pedestrian visibility splays of 2m x 2m shall be provided and permanently maintained on both sides of the proposed access. There shall be no obstruction to visibility between 0.6m and 2.0m above carriageway level.

Reason: To provide adequate visibility for drivers entering or leaving the site and to ensure the safety of pedestrians and vehicles.

6. Prior to the first occupation of each dwelling, space shall be provided for the parking of vehicles associated with that dwelling in accordance with the approved plans and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, such space shall be maintained throughout the life of the development free of any impediment to its designated use.

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

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

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

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

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

9. Prior to their incorporation in to the buildings hereby approved, details of the external appearance of eaves, verges, cills and headers shall be submitted to and approved in writing by the Local Planning Authority. The details shall include drawings to a minimum scale of 1:10. The eaves, verges, cills and headers shall be constructed in accordance with the approved drawings. There shall be no use of stub cills.

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

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

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

11. The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment (FRA), Prepared by Julia Williams and dated March 2023, in particular in accordance the following mitigation measures detailed within the FRA:

(a) finished floor levels should be as set out in the FRA providing a minimum of 600mm freeboard against a 1:100 year plus climate change flood level event, as detailed in Section 4.

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

12. 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.

13. The development shall be carried out in strict accordance with the enhancement recommendations detailed in Section 4 of the Preliminary Ecological Appraisal prepared by ML-Ecology Surveys and Solutions dated 20 March 2023. Prior to their installation, the location and type of bird boxes and bat boxes/bricks shall be submitted to and approved in writing by the Local Planning Authority. Monitoring surveys and a mitigation strategy to be agreed with Derbyshire Wildlife Trust and South Derbyshire Badger Group shall be provided prior to any development taking place as well as evidence of a Badger Licence being secured from Natural England which shall be submitted to and agreed in writing by the Local Planning Authority. The ecological enhancement measures shall be retained and maintained as such thereafter.

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

14. The development shall proceed in accordance with the recommendations at section 4 and 5 of the arboricultural impact assessment dated 9th June 2021 and Tree Protection Plan.

Reason: In the interests of safeguarding existing habitat and the visual amenities of the area.

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

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

16. Notwithstanding the plans hereby approved, prior to the construction of a boundary wall, fence or gate, details of the position, appearance and materials including details of any requirements for 'nature highways' of such boundary treatments to allow movement between plots shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the respective dwellings to which they serve are first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

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

17. Prior to the creation of the proposed new pathway adjacent to the stream the applicant will enter a creation agreement with the County Council and provide details of the materials and construction of the pathway which shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In accordance with Section 25 of the Highways Act

18. The development shall be carried out in accordance with the Drainage Strategy prepared by SA Consulting and dated March 2023. Once implemented the drainage measures shall be retained and maintained thereafter.

Reason: In the interests of minimising the likelihood of flooding incidents and pollution of the environment.

Informatives:

- j. Pursuant to Section 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- k. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport and Communities at County Hall, Matlock regarding access works within the highway. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website [www.derbyshire.gov.uk](http://www.derbyshire.gov.uk), email [Highways.Hub@derbyshire.gov.uk](mailto:Highways.Hub@derbyshire.gov.uk) or telephone 01629 533190.
- l. Public Right of Way Footpath No. 26, as shown on the Derbyshire Definitive Map, must remain open, unobstructed and on its legal alignment at all times. There should be no disturbance to the surface of the route without prior authorisation from the Rights of Way Inspector for the area. Consideration should be given to members of the public using the route at all times. A temporary closure of the route may be granted to facilitate public safety subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section – [ETE.PROW@derbyshire.gov.uk](mailto:ETE.PROW@derbyshire.gov.uk). If a structure is to be erected adjacent to the right of way, it should be installed within the site boundary so that the width of the right of way is not encroached upon.
- m. The grant of planning permission does not entitle the developer to obstruct any Public Right(s) of Way (PRoW) affected by the proposal. Development, in so far as it affects the PRoW, should not be started, and the PRoW should not be obstructed, until the necessary order under Section 257 of the Town and Country Planning Act 1990 for the diversion or extinguishment of the right of way has been made and confirmed. It should not be assumed that because planning permission has been granted an order will invariably be made or confirmed.
- n. The applicant is understood to be offering the land to the west of the Public Right of Way as open space for the benefit of the village. The applicant is advised to enter into discussion with the Parish Council to transfer ownership of the land to the Parish Council in accordance with the priorities of the Repton Neighbourhood Plan.