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Our ref: DT/CL
Your ref:

Date: 13 January 2014

Dear Councillor,

Planning Committee

A Meeting of the **Planning Committee** will be held in the **Council Chamber**, on **Tuesday, 21 January 2014 at 18:00**. You are requested to attend.

Yours faithfully,

Chief Executive

To:- **Conservative Group**
Councillor Ford (Chairman), Councillor Mrs. Brown (Vice-Chairman) and
Councillors Bale, Mrs. Hall, Jones, Stanton and Watson.

Labour Group
Councillors Bell, Dunn, Pearson, Richards, Shepherd and Southerd.



AGENDA

Open to Public and Press

- 1** Apologies
- 2** To note any declarations of interest arising from any items on the Agenda
- 3** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 4** REPORT OF THE HEAD OF COMMUNITY AND PLANNING SERVICES. **3 - 125**

Exclusion of the Public and Press:

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

REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES

SECTION 1: Planning Applications SECTION 2: Planning Appeals

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

1. PLANNING APPLICATIONS

This section also includes reports on applications for: approvals of reserved matters, listed building consent, work to trees in tree preservation orders and conservation areas, conservation area consent, hedgerows work, advertisement consent, notices for permitted development under the General Permitted Development Order 1995 (as amended) responses to County Matters and submissions to the IPC.

Reference	Item	Place	Ward	Page
9/2012/0027	1.1	Willington	Willington & Findern	1
9/2013/0663	1.2	Chellaston	Aston	24
9/2013/0765	1.3	Willington	Willington & Findern	48
9/2013/0818	1.4	Swadlincote	Swadlincote	56
9/2013/0848	1.5	Barrow	Aston	78
9/2013/0887	1.6	Swadlincote	Swadlincote	82
9/2013/0953	1.7	Overseal	Seales	85
9/2013/0991	1.8	Newhall	Newhall & Stanton	94
9/2013/0913	2.1	Foston	Hilton	96

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 Director of Community and Planning Services' report 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 Director of Community and Planning Services, 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.

21/01/2014

Item 1.1

Reg. No. 9/2012/0027/MAO

Applicant:
Mr Andrew Boyce
Repton Restoration Ltd
157 Highfields Park Drive
Broadway
DE22 1BW

Agent:
Mr Gary Hughes
Hughes Craven Ltd
21-23 Silver Street
Lincoln
LN2 1EW

Proposal: **OUTLINE APPLICATION (ALL MATTERS TO BE RESERVED EXCEPT FOR ACCESS) FOR THE DEVELOPMENT OF HOLIDAY AND LEISURE ACCOMMODATION AT LAND AT SK2928 2412 REPTON ROAD WILLINGTON DERBY**

Ward: **WILLINGTON & FINDERN**

Valid Date: **09/03/2012**

Reason for committee determination

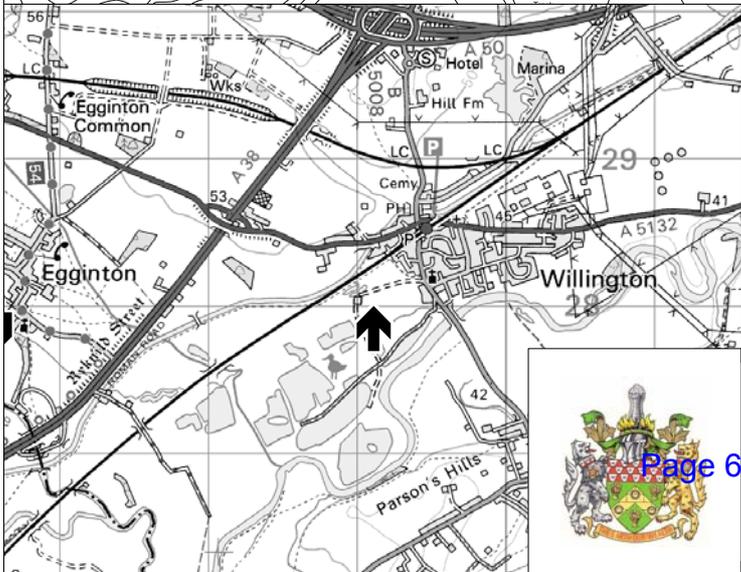
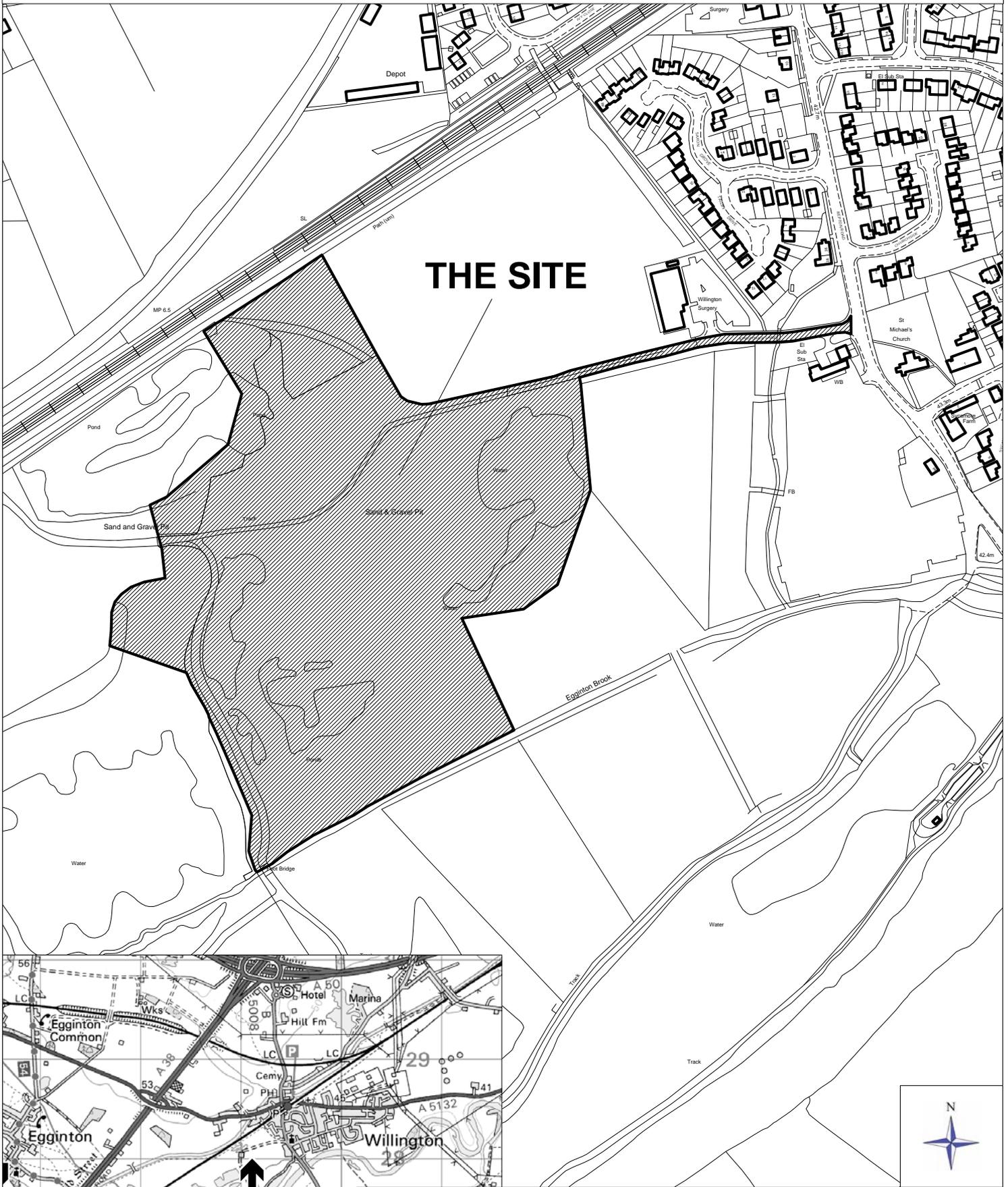
This is a major planning application to which more than two objections have been received.

Site Description

The site is located on the south-western outskirts of Willington Village and is bounded to the south by Egginton Brook and beyond by the River Trent. To the east is Repton Road (main road from Willington to Repton) and beyond Willington Village. To the north, the land is bordered by the Midland Derby-Birmingham railway line and beyond is the Trent and Mersey Canal.

Areas of the former mineral workings in the site which have been restored as wetland habitats extend from the western side of the site; these are now in the Willington Gravel Pits Nature Reserve, which is managed by Derbyshire Wildlife Trust. To the south the site is bounded by Meadow Lane, a bridleway running parallel and this lies approximately 100 metres to the north of the River Trent.

Willington Brook is crossed by the site access road close to its junction with Repton Road that has been recently improved to access the new doctors' surgery. The land, in general, rises in a northerly direction rising from approximately 40m AOD the lower lying ground close to the river rising to a level approximately 48m metres at the northern boundary of the site.



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South Derbyshire District Council. LA 100019461. 2010

The nearest residential properties to the application site are those situated off Repton Road, Willington these are a few metres from the access road into the site and the proposed new residential properties subject to the current application for reserved matters approval, close to the north eastern boundary.

The site southern part of the site is in the floodplain for the River Trent, as identified by the Environment Agency (EA) but once the restoration scheme has been implemented, the area to be developed lies entirely within Flood Zone 1 where there is considered to be only a very low risk of fluvial flooding. Although no public footpaths run through the site, the land is open to pedestrian access. Public Footpaths Nos 6 and 7 lie close to the north boundary with Restricted Byway No12 on the southern boundary. Access into the site is from Repton Road.

Proposal

This is an outline planning application with all matters except access reserved for subsequent approval. The larger site occupies an area of 12 hectares of which about 8 hectares would be devoted to the erection of up to 60 leisure/holiday let units, the Design and Access statement refers to - single, two and two and a half storey buildings arranged either around the new water bodies, or around a village green also containing a duck pond close to the access road off Repton Road; this is the only part of the development that would not look out to the open countryside. The outline scheme also includes the landscaping of a number of existing water bodies around which holiday homes would be created. These would be primarily located in the centre of the site with views out over the proposed water bodies towards Repton and the Derbyshire Wildlife Trust wildlife site that abuts the site.

As referred to above, the proposal represents a departure from the approved restoration scheme for the development. The County Council as Mineral Planning Authority confirms the applicants' assertions that the proposed levels as a part of this scheme would be lower than those required in the approved restoration scheme for the land. The approved restoration scheme would involve the importation of considerable amounts of inert material via the local highway network; the applicants assert that if the proposed development is permitted, then the need for that importation of material would be reduced to almost nothing with other material already on the site being used to finalise levels as a part of an amended site restoration scheme.

Access arrangements to the land have been amended since the submission of the application in early 2012. Since then Doctors' Surgery development has been implemented and the access to Repton Road has already been improved to the required standards. The access to the application site would involve the extension of that new access into the site past the area that has outline planning permission for residential development. It should also be noted that the housing development permitted in outline at the same time as the Doctors' surgery is the subject of a detailed planning application currently under consideration.

Applicants' supporting information

The application is supported by a Design and Access Statement and an Environmental Statement that summarises the submitted Landscape and Visual Appraisal, Transport Statement, Ecological Assessments, Flood Risk Assessment and addresses issues such as Archaeology and Contamination. A Noise Appraisal also accompanies the

application dealing mainly with noise during restoration of the former minerals site. Each of these documents is available for inspection on the file but the conclusions from each are summarised below.

All documents were produced prior to the publication of the National Planning Policy Framework (NPPF) and as such where compliance to the NPPF is referred to below, the relevant documents relates to the previous PPG or PPS relating to the development site. Reference is made to the Regional Plan that is now abandoned; no reference is included in this summary to that document even where regional policies were supportive of the proposal.

Planning Policy

It is asserted that the proposal is supported by National and Local Planning policy in terms of Environment Policy 1, Recreation and Tourism Policy 1, Transport Policy 6 and the relevant Minerals Local Plan policies controlled by the County Planning Authority. They assert that the proposal would add to the choice of holiday accommodation in a location where there is good access to tourist destinations (the Peak Park Alton Towers, National Forest) where there is good access in terms of a range of transport modes (road and Rail) and is located in an area where none of the constraints such as in the Peak Park that make the provision of new tourist facilities difficult.

It is contended that the development is sustainable in line with what are now Paragraphs 7, 9, 14, 17, 18, 28, 30, 34, 56, 99 & 100, 103, together with the associated NPPF technical guidance on Flood Risk. In terms of the restoration of the former mineral workings, it is contended that the proposals would contribute to the local environment by reducing the need to import material to the site to achieve current restoration levels and would contribute to the cost of restoring the land and provide a high quality of accommodation the occupation of which would contribute to the local economy.

The applicants wish it to be noted that the site is well related to local facilities such as shops and pubs as well as nationally recognised transport routes such as the Tent and Mersey Canal and national cycle routes.

Flood Risk

The applicants state that considerable effort has been made to address the Environment Agency concerns about the current restoration scheme and the proposal as submitted. It is contended that the Environment Agency would support the current proposal in that no new material would be imported to the site and that the proposed holiday units lie in areas that are currently at low or no risk of flooding. Indeed the development will have the effect of increasing local flood storage capacity. Overall there is no risk of flooding either on site or in other areas and that the application accords with national guidance on flood risk.

Biodiversity and Environmental impacts.

It is contended that the area to be developed has little or no biodiversity interest in its present form as mineral extraction was only recently stopped. There is a full ecological report accompanying the application and further studies on Great Crested Newts have been undertaken, the risk to this species it is argued is minimal and that mitigation and

enhancement proposed will result in habitat creation to the benefit of the ecological diversity of the area. There is little likelihood of contamination as the site was until recently the subject of mineral extraction. The proposed restoration scheme would it is argued enhance the setting of the adjacent the Derbyshire Wildlife Trust site.

Transport issues

It is argued that there would be no material impact on the local highway network arising from the development and full access for all members of the community would be achieved in line with Transport Policies 6 & 7. Thus it is contended that the development is acceptable.

Other policies

It is contended that permitting the application would enhance the local footpath network and formalise current informal routes through the site in conformity with Development Plan policy.

Since submission, the County Council, as the Mineral Planning Authority, has approved revised the applicants has agreed revised restoration profiles and the applicants have confirmed that foul drainage will be to a public sewer rather than the on-site treatment site that is proposed in the planning application as submitted.

The applicant has also agreed that contributions towards public open space and health the precise amount of which would be calculated should outline planning permission be granted. The Agreement to contribute would be attached to any planning permission.

The application is accompanied by a specific survey for Great Crested Newts as the possibility of their presence was identified in the original survey. This report confirms the presence of the great crested newt and mitigation measure are proposed in the report.

Applicants Conclusion

The development is a sustainable form of development that would add to the local rural economy and represent a significant improvement over the approved restoration scheme for the mineral extraction site through the reduction in the amount of material to be brought to the site to facilitate the restoration of the site to the levels permitted in the planning permission.

Planning History

The application site, known as the Repton Pit sand and gravel site, was originally part of the extensive Willington and Stretton sand and gravel site; collectively, these mineral workings comprised a significant corridor of land which ran parallel to the River Trent and south-west of Willington Village. The extensive site has a long planning history which extends over 60 years; however, two planning permissions remain relevant:

- Planning Permission Code No - REP/1149/14 that was granted in 1949.
- Planning Permission Code No - REP/566/13 that was granted in 1968.

These permissions, which were duly implemented, authorised the extraction of minerals (sand and gravel) from defined areas with ultimate, approved, restoration of the land to resemble original ground levels prior to mineral extraction. Restoration of the sites was to include backfilling the void areas with imported soils and waste materials, together with a part agricultural, part flood meadow/woodland and part water and conservation after-use programme.

In the 1990s the planning conditions relating to these old but then continuing permissions were subject to reviewed under schedule 13 of the Environment Act 1995, so that a new set of conditions applied to these permissions with effect from 30 April 1998. The applicant company under this application is now seeking approval for a permission based on REP/1149/14 but without any condition in the form of the restoration condition to that permission (condition 17). This condition requires the approval and carrying out of a restoration scheme for which final levels for restoration were approved in 2004.

The majority of the former mineral extraction site is now owned and managed by Derbyshire Wildlife Trust (DWT) and the remaining 12 hectares, has been acquired by the applicant company. Mineral extraction ceased in July 2013, and since then the site has remained largely unrestored.

Simultaneously with the submission of this application, the applicant company submitted an application to seek to vary the restoration condition for the site and to allow for the formation of the holiday accommodation - CM9/2012/0006 and CM9/2012/0007 refer. The first application was withdrawn and the second was granted planning permission under Section 73. In effect the County Council has raised no objection to this proposal for holiday accommodation.

Planning permission (Code No. 9/2011/0292) was granted in February 2012 by South Derbyshire District Council (SDDC), for 58 new residential properties and a doctor's surgery and pharmacy, on land close to the north-east boundary of the site. The new doctors' surgery building is now complete and occupied. There is a reserved application for the housing development currently under consideration (reg no 9/2013/0765).

Responses to Consultations

The County Minerals Planning Authority expects the restoration schemes required by planning permission CM9/0112/138 to be implemented before the holiday and leisure accommodation development commences (particularly condition 28 in that permission). It therefore recommends that any permission that may be granted for the leisure accommodation development is subject to a pre commencement condition to ensure that this is the case. Should permission be granted by the authority, suitable liaison is required to ensure there is no future conflict between the details which may be submitted under the holiday and leisure accommodation development and the completion of restoration and aftercare required by planning permission CM9/0112/138.

The County Highway Authority has no objection subject to conditions to address concerns about conflict during construction with the new surgery, potential impact on

footpaths 6 & 7 and users of Restricted Bridleway 12 along Meadow Lane and the proposed lack of parking provision within the site.

Network Rail has no objection to the principle of the development and requests that its comments are included as either conditions (e.g. landscaping) or informatives relating to any works that occur next to the railway line.

Severn Trent Water has no objection or comment on the application.

The Environment Agency is content that foul sewage would be disposed of via a new sewer on Kingfisher Lane. With regard to the information submitted on protected species, the Environment Agency has no objection subject to conditions covering:

- Foul and surface water discharges.
- Minimum floor levels for the development buildings.
- A condition covering the presence of great crested newts.
- The submission of an Environmental Management Statement to cover both the construction phase and the after care of the environmentally sensitive areas identified in the submitted information.
- Mitigation of the impact on protected species within the site
- A map showing habitat areas to be created and protected
- Pollution protection methodologies
- A list of responsible persons/bodies for the implementation of the plan once approved.
- A full site landscape management plan
- A condition covering the possibility of unexpected contamination and actions following its discovery.

The Environmental Health Manager notes that some of the proposed accommodation is close to the main railway line and ordinarily noise may be considered to be an issue. However, as the proposed use is for leisure accommodation and facilities it has been assumed that there will be no permanent residents and it is noted that the applicant has considered the railway noise in their design and is proposing to build a landscaped bund along that boundary to minimise the direct noise path.

There is a possibility of land contamination present on the site and the standard condition for such circumstances is recommended, (i.e. the requirements in the event that unexpected contamination is encountered during work to the site).

The Canal and Rivers Trust (formerly British Waterways) has no comment.

East Midlands Airport has no objection subject to any water areas not being stocked with fish that may attract birds.

The Derbyshire Wildlife Trust has no objection subject to the following conditions being applied to any planning permission to ensure that there is a sufficient buffer between the Willington Gravel Pits Local Wildlife site and the built development:

- If permission were granted for the leisure development, then the conditions imposed by the County Council in respect of the revised restoration scheme should be imposed on any planning permission for the leisure development that the Local Planning Authority may be minded to grant.

- In its view the development would necessitate the re-routing of an existing informal footpath (which could at the same time be upgraded and improved) and the creation of an area of open water/marsh and reedbed of around 60 - 70 m or so in width and approx. 100m in length.
- The trust requests that, if feasible a condition is attached that restricts the use of fireworks by people using the holiday homes. This could possibly be implemented through a 'covenant' of some kind placed over each of the holiday homes.

In addition the Trust has noted the mitigation scheme to take account of the presence of Great Crested Newts on the site and supports the need for a Natural England European Protected Species Licence. It advises that the broad principles set out in the Summary Mitigation Plan are appropriate, and should be implemented in full as a condition of any permission, with a copy of the EPS licence, once obtained, provided to the LPA.

Natural England has no objection subject to conditions to protect species as recommended in the mitigation measures accompanying the application. The mitigation measures proposed should be included as part of any planning permission that may be granted.

The Crime Prevention Design team is concerned to ensure that the potential for crime is addressed in a Secured by Design Scheme for the site that takes account of public routes through the site, lighting and defensible boundaries.

The Public Rights of Way Officer has stated that whilst there are no public rights of way, acknowledges that that FP6 abuts the north and east boundaries of the site and requires its presence be drawn to the attention of the applicants to secure its protection during the development . In these circumstances there is no objection to the development.

The Peak and Northern Footpaths Society would welcome the dedication of the route through the site as a permissive path or bridleway. It states that because of the passage of time it may be, by default a public right of way or if used by horses, a public bridleway or restricted bridleway. If the public provides evidence of continuous use of the unauthorised routes, then as stated these routes may also be public paths/bridleways. Any footpath routes in need of upgrading in the area in particular footpath No 7, then this should be done as a part of the implementation of this planning application. The application would assist in the implementation of the County Council's Greenway strategy and this is welcome. It is stated that contrary to the information in the application documents, Meadow Lane is a Public Restricted Bridleway and not 'bridleway' as stated.

The Economic Development Manager has considered the application and offers the following comments on the impact of tourism on the South Derbyshire economy:

- The South Derbyshire Economic Development Strategy has as one of its central aims 'To promote greater economic well-being in South Derbyshire and includes the specific ambition to '...develop tourism and the woodland economy specifically in the National Forest...' but also applying to the wider South Derbyshire Economy. It is also an objective of the National Forest Vision to 'support the development of good quality accommodation'.

- The most recent report on the impact of the tourist economy on South Derbyshire identified that some £162.8m was contributed of which some £0.32m made up from overnight visitor trips. The report estimated that some 2,389 full time equivalent jobs were supported by tourism.
- There has been significant growth in self-catering accommodation in South Derbyshire driven mainly by the emergence of the National Forest & beyond as a tourist destination in its own right. The provision of the visitor economy is considered to be of particular value given its ability to create employment in rural villages and so helping to sustain services such as village shops and pubs.

Responses to Publicity

Willington Parish Council has objected to the development for the following reasons:

- There would be unacceptable traffic problems on Repton Road when taken together with the development of the Doctors surgery, its associated housing development and the Calder Aluminium development. Access from the Castle Way and along the access there to Betty's Farm would alleviate access problems on Repton Road.
- The Parish Council does not agree with developing Meadow Lane for more access nor that there are no public rights of way affected. The application proposes new rights of way although the application documents state 'none'.
- There would be a negative impact on the wildlife environment, the parish queries if the proposal is in line with the original restoration scheme.
- Contrary to what is stated in the application, there are great crested newts in the vicinity as their presence held up the development of the Doctors surgery and Kingfishers have been spotted in the area; again the information in the application is wrong.
- The Parish Council would like to see contributions towards the replacement of the village hall and the provision of other services provided by the Parish Council.
- The Parish Council is concerned that the public sewer in Repton Road is not capable of taking run off from the development and needs improvement.
- The surface water run-off from the site may add to flood risk in the village.
- The area is not a tourist destination and the development not integrated into the community is considered a potential disaster. The holiday home development should be strictly controlled so that they are not occupied all year round
- The Parish Council cannot find evidence of recyclable materials although the application states that the proposal is environmentally friendly.
- The Parish Council queries what the materials of construction and parking proposals are for this development.
- The proposed buildings are not considered to fit in with any style in the village. There is a query as to whether there would be shops in the proposed development.
- There should be no lighting on the application site
- In the future the developers should carry out consultation with the Parish Council to avoid recriminations.

Six responses to the publicity for this application have been received, including those from the Derbyshire Wildlife Trust, these can be summarised as follows:

- a. The site comprises an area where there are considerable numbers of birds [varieties of owls], toads and frogs that use the area for breeding. There would be a net loss of habitat.
- b. The permitted use of the land is as an area of conservation interest and the provision of holiday accommodation would prejudice this objective.
- c. The drawings are not clear enough to allow a proper interpretation of what is proposed.
- d. There would be a decrease in the flood storage capacity in the area.
- e. The permissive path would be detrimental to the adjacent wildlife area in that there would be more people close to its boundary.
- f. The cumulative impact of the various developments in this area need to be taken into account, the Calder site, the doctor's surgery and the outline planning permission for housing. When these are considered with the development of the holiday accommodation, the impact on the locality is significant particularly in the vicinity of Saxon Grove and Tailby Drive.
- g. The occupation of the proposed units should be limited to 31 days to prevent permanent occupation of the units that would occur if 11 month occupation was permitted.
- h. The loss of outlook over open land is of serious concern and was the reason why a property at Willington was chosen. There is a complete disregard of local opinion. Green Belt used to mean Green Belt.
- i. Local Lakes have been misinterpreted in the submitted documents, newts have been found and the area should be protected for their benefit.

Development Plan Policies

The relevant policies are:

Local Plan: Environment Policy 1, Recreation and Tourism Policy 1, Transport Policies 6 & 7.

National Guidance

The NPPF at Paragraphs 7, 9, 14, 17, 18, 28, 30, 34, 56, 99 & 100, 103, and Chapter 11, together with the associated NPPF technical guidance on Flood Risk.

Planning Considerations

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

- The Development Plan
- Mineral Restoration Proposals
- Ecological impact
- Landscape impact including proposals for landscaping of the site
- Access considerations
- Drainage including flooding issues and foul drainage

Planning Assessment

The Development Plan

This site has been the subject of mineral extraction for a number of years and working of the minerals stopped as recently as July this year and minerals continue to be

stocked on the site to be supplied on an 'as and when' basis until the mineral stocks are exhausted. The County Planning Authority has recently permitted a restoration scheme for the development that would result in a significant reduction in the amount of materials brought onto the site to achieve what was, prior to this latest decision, an approved restoration scheme. Part of the problem of achieving the original restoration scheme contours is the lack of available material and the potential limits on the type of material that could be imported to the site (subsoil and topsoil). There are insufficient materials in the site to achieve the original scheme but the recently permitted scheme could be achieved with materials already on the land.

In its current state the land is despoiled within a setting that is otherwise unspoilt countryside which includes the Derbyshire Wildlife Trust wildlife reserve that occupies another part of the restoration site. In these circumstances the paragraphs in the NPPF that seek to protect the countryside for its own intrinsic beauty apply alongside the provisions of Environment Policy 1 and Recreation and Tourism Policy 1 that consider the need to control development in the countryside and seek to ensure that where proved necessary, the development is so located and designed such that its impact on the countryside is limited. The requirements of Recreation and Tourism Policy 1 add requirements for acceptable levels of noise or traffic generation, adequate access, parking servicing screening and landscaping and require that the development be of a scale and design such that development is well integrated with their surroundings. If the development is considered to meet these requirements, then the proposal would be considered to accord with the provisions of the Development Plan.

The application proposes up to 60 units on the part of the land unallocated for development. But for the imposition of a condition limiting the occupation of the units to holiday use, these units would fall within the same Use Class as conventional dwellings. This is not the first time this type of lakeside holiday accommodation has been proposed in the form of built development. The precise design of the holiday homes would be for consideration at a later date. Thus the principle of this form of tourist accommodation has been accepted in other parts of the country and the Economic Development Manager has commented on the importance of tourism to the South Derbyshire economy. Whilst the site lies outside the National Forest, the forest is easily accessible from this site as well as other locally significant tourism destinations.

In terms of the submitted application, it is accepted that the provision of holiday accommodation in this countryside location is necessary in order to bring greater tourist related income into South Derbyshire. The site is relatively well-related to Willington that is a village with access to the majority of services that count towards it being viewed as a sustainable location for development. Whilst the site is located in the countryside, its location in reasonable proximity to services means that the site is considered accessible by a variety of transport methods and would not be wholly reliant on the private motor car for access.

Whilst the build development proposed here is physically separate from the defined village confine, the red line of the site adjoins the Calder aluminium site where housing development has been granted planning permission being within the village confine. In addition, the proposals represent the restoration of a despoiled part of the countryside that would have otherwise required the importation of significant amounts of this material to achieve a permitted restoration scheme now superseded by the County Council decision on the a scheme that would facilitate this development.

The provisions of the NPPF have also to be taken into account. This requires planning authorities to work towards a prosperous rural economy and recognises that tourism has a role to play in achieving that objective. The proposal as submitted indicates, (for illustration purposes) that a contemporary design for the units is envisaged for the site. As the development is in outline only, matters such as design and landscaping would be the subject of further consideration.

The recommendations of the Derbyshire Wildlife Trust are noted and conditions are recommended that would meet the Trusts requirements for the imposition of planning conditions. An informative about the use of fireworks is also proposed to recognise the Trust's concerns about disturbance.

The County Planning Authority was aware of the proposal for tourist accommodation when it granted the planning application to amend the restoration scheme (the Section 73 permission) for this part of the mineral site. Its report makes reference to the scheme for tourist accommodation. However, the decision on the current application cannot prejudice the decision made by the County Council on this application.

If the tourist accommodation was not developed then the larger area of ecological value would be retained as part of the restored mineral site. It is disingenuous to suggest that in granting planning permission for the revised restoration scheme, the County Council had no regard to the impact of the tourist accommodation on the scheme it was permitting.

Mineral Site Restoration Proposals

The site is the subject of an approved restoration scheme by the County Planning Authority recently permitted under Section 73. This restoration scheme would facilitate the erection of the holiday units and the County Planning Authority accepted that the original scheme may never be implemented due the lack of suitable infill materials in this sensitive location close to the River Trent that requires the use of completely inert materials by the Environment Agency. The newly permitted restoration scheme would make use of material currently within the site following extraction and would virtually do away with the need to import material. A condition is recommended, in line with that imposed by the Minerals Authority, to require full details of the restoration scheme before the accommodation is commenced. This would ensure that the assertions about restoration set out in the application document are confirmed.

The newly approved restoration scheme would help to minimise the impact of the proposed development but if this Authority was minded to refuse planning permission, it would be open to the County Planning Authority to enforce the requirements of its approved restoration scheme without the built development proposed.

Ecological Impact

The appropriate level of surveys accompany the planning application and in terms of European Protected species such as Great Crested Newt, and appropriate mitigation is proposed within the report accompanying the application to allow the application to be permitted subject to those mitigation measures. As the presence of the great crested newts has been identified, the applicants are required by law to obtain the necessary licences from Natural England before any works can be undertaken at the site. Appropriate conditions and informatives are recommended.

The loss of some of the land to built development is noted and the concerns of the Derbyshire Wildlife Trust have been addressed above. Provided the recommended conditions are adhered to then a buffer zone between the site and the Willington Gravel Pits would be retained albeit of a smaller extent than would be the case if planning permission was not granted.

Landscape Impacts

The application proposes a significant level of built development that would have an impact on the wider area, in particular from the public footpath No 7 that lies to the north of the site and the Public Bridleway to the south of the site on Meadow Lane. In particular the units would be visible at the higher level of the site that lies outside the floodplain. Landscaping is proposed to mitigate this impact and over time, would provide a foreground and background screen to the development from these two vantage points.

Access

The access to the site would be from what is now known as Kingfisher Lane. This is a purpose built access that was constructed to serve the newly opened Doctors' surgery and the land to the rear of the surgery that has outline planning permission for housing development. There is a current application for the discharge of conditions and reserved matters under consideration and is subject to a separate report to this Committee.

The County Highway Authority considers that this access is suitable to serve the current proposal subject to the imposition of conditions to cover the construction period of the development. The concerns of the objectors is noted but improvements to the junction of Kingfisher Lane with Repton Road that take account of development proposals on this land. On the advice of the County Highway Authority, a refusal of permission based on these objections would not be supported at appeal given that the access to Repton Road is design to service this level of development.

Drainage and Flooding Issues

The flood levels for the development are established for this development when the County Council granted planning permission for the new restoration scheme in October this year. The issue for this Council is the matter of principle of built development. The Environment Agency was concerned that the original application proposed a package treatment plant when foul sewers are available. The construction of Kingfisher Lane has brought the sewer system closer to the site and the applicants have agreed to connect the development to this sewer.

In order to ensure there is no increase in flooding elsewhere, the County Council permitted restoration scheme would facilitate additional flood storage capacity and in order to control the amount of material to be brought to site if needed. The Environment Agency comments to the County Council were accepted as a basis for that Authority granting planning permission for the amendments to the restoration scheme that facilitates the implementation of this proposal should planning permission be granted. Thus a condition is recommended to reflect that imposed by the County Council requiring a scheme to be provided to illustrate the precise finished levels. This addresses the objections raised.

Other issues

The applicants are proposing occupation for 11 months each year as opposed to the usual condition imposed by the Council that the maximum stay for any group or individual is limited to 28 days. The offer for additional health funding is made on the basis of 11 month occupation. Willington PC is concerned that the 11 month occupation would be tantamount to permanent residential occupation of the site. On balance, in order to have a consistent policy relative to holiday use, the 28 day occupation condition is recommended unless some other agreement can be reached to the satisfaction of the NHS.

An agreement would be required under section 106 to secure a suitable healthcare contribution and a contribution to cover maintenance of the public open space. The agreement must also ensure that the applicant company implements the provisions of the approved amended restoration scheme in advance of any commencement of this development.

Overall Conclusion

The site is currently in a despoiled state and the restoration of the mineral site would facilitate the erection of these holiday homes. This is a significant urbanising development on a large area of land despoiled by previous mineral workings. This is a proposal for holiday and leisure activity in what would be a countryside location following restoration of the former mineral site. This has been weighed in the planning balance where all technical difficulties raised by consultees and objectors have been addressed to the satisfaction of the Local Planning Authority in accord with the requirements of Recreation and Tourism Policy 1 and prevailing national policy.

There is also the added benefit in terms of the amended restoration scheme for the mineral site would be achieved significantly in advance of the scheme originally permitted by the County Planning Authority and without the importation of significant amounts of fill material that is now believed to be difficult to obtain within the market (sub and top soil being the only material that the Environment Agency would authorise for use on the site).

Thus in the light of the above assessment, the proposal complies with Local Plan policy and those policies are in line with the advice in the National Planning Policy framework and carry significant weight in the determination of this application.

Recommendation

Subject to the receipt of a signed S106 agreement/Unilateral undertaking to cover contributions towards public space maintenance, medical facilities, and completion of the amended restoration scheme (approved under DCC permission CM9/0112/138 (especially Condition 28 attached thereto)) prior to commencement of this scheme; **GRANT** permission subject to the following conditions:

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

(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 layout, scale, appearance and the landscaping shall be obtained from the Local Planning Authority in writing before any development is commenced.

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

3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

4. 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 LPA without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

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.

5. No development shall be commenced for the holiday accommodation until the following details have been submitted to and approved by the Local Planning Authority:

- i. Full calculations of the proposed quantity of fill volumes;
- ii. The nature of types of waste;
- iii. The proposed phasing of infilling works;
- iv. Plans at a suitable scale illustrating both existing and proposed levels sufficient to achieve the erection of the holiday accommodation on the land
- v. A schedule of the times when infill material will be delivered to the site and
- vi. A timescale for the completion of tipping and land formation operations.

Following formal approval in writing of the proposed works by the Local Planning Authority, all such works shall be completed prior to the first occupation of the first holiday home within the application site.

Reason: In order that the Local Planning Authority can ensure that the minimum amount of fill material is utilised to implement the planning permission in the interests of minimising the impact of the development on the countryside.

6. Notwithstanding the provisions of Part C, Class 3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, (or any Order revoking or re-enacting that Order), unless otherwise agreed in writing by the Local Planning Authority, the premises hereby permitted shall be used for the purpose of holiday accommodation only and for no other purpose, including any other purpose within Class C3 of the Order without the prior grant of planning permission by the Local Planning Authority. The units shall not be occupied by any individual or groups of persons for a total period exceeding 28 days in any calendar year. The owner shall maintain a register of occupiers for each calendar year, which shall be made available for inspection by the Local Planning Authority at any time and a copy of the register shall be supplied to the Local Planning Authority at the end of each calendar year.

Reason: The Local Planning Authority is only prepared to grant permission for holiday accommodation because another dwellinghouse in this location would be contrary to the development plan and the objectives of sustainable development.

7. No development shall take place until a landscape management plan, including long- term design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens), shall be submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the local planning authority prior to their implementation.

The submitted scheme shall include the following elements:

detail extent and type of new planting (NB: planting to be of native species of local provenance);

details of maintenance regimes;

details of any new habitat created on site;

details of treatment of site boundaries and/or buffers around water bodies;

details of management responsibilities.

Reason: This condition is necessary to ensure the protection of wildlife and supporting habitat and secure opportunities for the enhancement of the nature conservation value of the site in line with national planning policy

8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years 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, unless the Local Planning Authority gives written consent to any variation. In all other respects the landscaping shall be maintained in accordance with the requirements of Condition 6 above.

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

9. Prior to the commencement of any works at the site which may affect great crested newts and their habitat a detailed mitigation and monitoring strategy shall be submitted to and approved in writing by the Local Planning Authority. All

works shall then be undertaken in accordance with the approved details unless the Local Planning Authority has given prior written approval to any amendment.

Reason: In order to ensure that the European Protected species - Great Crested Newt is protected and has its habitat improved as a result of the development hereby permitted.

10. The landscape scheme required under Condition 2 above and the Landscape Management Plan required under condition 7 shall incorporate proposals for enhance the biodiversity of the site including but not exclusively for the improvement of facilities for roosting bats and birds. Any biodiversity enhancements shall be implemented in accordance with the approved details and thereafter managed and maintained in accordance with any landscape management plan approved under the requirements of Condition 7 above.

Reason: In order to comply with the requirements of Paragraph 118 of the National Planning Policy Framework and Section 40 of the Natural Environment and Rural Communities Act 2006 that places an obligation of every public authority to have regard to the purpose of conserving or enhancing a population or habitat.

11. Notwithstanding the submitted details and as part of the submission of details required by Condition 2 above, details of the vehicular and pedestrian access to the site from the end of Kingfisher Lane to the development site shall be submitted to and approved in writing by the local Planning Authority before development is commenced. Once approved the submitted scheme shall thereafter be utilised to form the access to the holiday home development.

Reason: Whilst access approval was sought when the application was submitted the access arrangements on the ground have changed considerably since submission. A current application for approval of reserved matters (9/2012/0765) for housing development has an impact on access from Kingfisher Lane and the access arrangements for both developments require further work prior to the commencement of the development.

12. Notwithstanding the submitted details foul drainage from the development site shall flow to the public sewer within Kingfisher Lane, details of the sewer connection from the site shall be included within the submitted details of the development.

Reason: The application as submitted included a proposal to treat foul sewage in an on-site package treatment plant, this is contrary to Environment Agency guidance and the applicants have agreed that foul drainage should go to the public sewer.

13. No work shall take place on the site until details of a scheme for the disposal of surface water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

Reason: In the interests of flood protection.

14. Notwithstanding the submitted details, prior to the commencement of building operations on adjoining areas, the boundary with the wildlife site shall be fenced with steel mesh fencing to 2.3m high supported by steel scaffold poles staked at 3 metre centres. The fencing shall be retained in position until all building works

on adjoining areas have been completed unless otherwise agreed in writing with the local planning authority.

Reason: To protect the trees/landscape areas from undue disturbance

15. There shall be no tipping or deposition of materials within the area fenced under condition 14 above without the prior written authorisation of the local planning authority.

Reason: To protect the wildlife site from undue disturbance

16. Any tanks for the storage of oils, fuels or chemicals, hereby approved, shall be sited on impervious bases and surrounded by impervious walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks plus 10%. All filling points, vents or gauges and site glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and be protected from accidental damage. All filling points and tank overflow pipe outlets shall be designed to discharge downwards into the bund.

Reason: In the interests of pollution control.

17. The submitted details required by Condition 2 above shall demonstrate that none of the holiday accommodation units is set lower than 43.28AOD as proposed in the flood risk assessment and the holiday units shall be implemented in accordance with the details approved.

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

18. Following implementation of the planning permission and prior to the occupation of the holiday units hereby permitted, an emergency evacuation plan shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Environment Agency. The submitted scheme shall identify the dry means of escape in the event of a flood and a methodology to draw the means of escape to the attention of occupiers in accordance with an agreed methodology to be set out in the Plan.

Reason: To reduce the impact of flooding upon future occupiers of the development.

19. Further to the requirements of Condition 5 above no development shall be commenced until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The submitted scheme shall demonstrate:

The limitation of surface water run-off to current greenfield rates;

The ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and

Responsibility for the future maintenance of drainage features;

The utilisation of holding sustainable drainage techniques.

Reason: To prevent the increased risk of flooding; to improve and protect water quality; to improve habitat and amenity; and to ensure the future maintenance of the sustainable drainage structures.

20. No development shall take place until a plan detailing the protection and/or mitigation of damage to populations of great crested newt and its associated habitat during construction works and once the development is complete, has been submitted to and accepted in writing by the local planning authority. Any change to operational control of the site, including management responsibilities, shall be submitted to and approved in writing by the local planning authority. The great crested newt protection plan shall be carried out in accordance with a timetable for implementation as approved.

The submitted scheme shall include the following elements:

- detailed drawings of the location and construction of the proposed development (including timing of works, methods and materials to be used);
- details of how the great crested newts are to be protected during construction works;
- a scheme for the long-term management and protection of the great crested newt population and its habitat;
- details of mitigation and/or compensation for the loss of habitat used by great crested newts;

The design, construction, mitigation and compensation measures should be based on the results of survey(s) carried out at an appropriate time of year by a suitably experienced surveyor using recognised survey methodology.

Reason: The Great Crested Newt is a protected species under the Wildlife and Countryside Act 1981 as amended and the Conservation of Habitats and Species Regulations 2010 for European Protected Species and the condition is necessary to protect the species and its habitat within and adjacent to the development site. Without the condition avoidable damage could be caused to the nature conservation value of the site. Under the Wildlife and Countryside Act 1981 LPAs should take reasonable steps to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest. Under section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 local planning authorities must have regard to the purpose of conserving biodiversity.

21. No development shall take place until a method statement/construction environmental management plan that is in accordance with the approach outlined in the submitted Planning/Environmental Statement, has been submitted to and approved in writing by the local planning authority. This shall deal with the treatment of any environmentally sensitive areas, their aftercare and maintenance as well as a plan detailing the works to be carried out showing how the environment will be protected during the works. Such a scheme shall include details of the following:

The timing of the works;

The measures to be used during the development in order to minimise environmental impact of the works (considering both potential disturbance and pollution);

The ecological enhancements as mitigation for the loss of habitat resulting from the development;

A map or plan showing habitat areas to be specifically protected (identified in the ecological report) during the works;

Any necessary mitigation for protected species;

Construction methods;

Any necessary pollution protection methods;

Information on the persons/bodies responsible for particular activities associated with the method statement that demonstrates they are qualified for the activity they are undertaking.

The works shall be carried out in accordance with the approved method statement.

Reason: This condition is necessary to ensure the protection of wildlife and supporting habitat and secure opportunities for the enhancement of the nature conservation value of the site in line with national planning policy.

22. Prior to any works to facilitate the development details of a program of works shall be submitted to and approved in writing by the Local Planning authority in consultation with the County Highway Authority to demonstrate how conflict with development of adjoining land and public rights of way that lie adjacent to this development site will be avoided.

Reason: In order to avoid conflict between pedestrians and vehicles that may be using adjacent land.

23. Prior to any other works being commenced, details of the layout and construction of the vehicular access to the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the access road shall be constructed and laid out in accordance with the approved details prior to the commencement of any other building operations.

Reason: In order to ensure that both visitors and service vehicles can enter and leave the site simultaneously to avoid potential conflict and protect the safety of others users of the public highway.

24. Before any operations commence involving the movement of materials in bulk to or from the site, facilities shall be provided that have previously been approved in writing by the Local Planning Authority, to prevent the deposition of mud or extraneous material on the access roads to the site.

Reason: In the interests of highway safety.

25. Notwithstanding the submitted illustrative details space shall be provided within the site curtilage to accommodate parking for visitors and staff on the basis of two spaces per unit of holiday accommodation plus one per member of staff, visitor parking shall be on the basis of 0.5 spaces per unit of holiday accommodation, all of this shall be provided with manoeuvring space. These details shall be submitted to and approved in writing by the Local Planning

Authority and shall be implemented in accord with the approved details prior to the first occupation of a holiday unit.

Reason: In order that sufficient parking and manoeuvring space is provided within the application site and ensure that parking on other sites or on the public highway is avoided in the interests of highway safety.

Informatives:

Where development is proposed, the developer is responsible for ensuring that development is safe and suitable for use for the purpose for which it is intended. The developer is thus responsible for determining whether land is suitable for a particular development or can be made so by remedial action. In particular, the developer should carry out an adequate investigation to inform a risk assessment to determine:

- whether the land in question is already affected by contamination through source - pathway - receptor pollutant linkages and how those linkages are represented in a conceptual model;
- whether the development proposed will create new linkages, e.g. new pathways by which existing contaminants might reach existing or proposed receptors and whether it will introduce new vulnerable receptors; and
- what action is needed to break those linkages and avoid new ones, deal with any unacceptable risks and enable safe development and future occupancy of the site and neighbouring land.

A potential developer will need to satisfy the local authority that unacceptable risk from contamination will be successfully addressed through remediation without undue environmental impact during and following the development. In doing so, a developer should be aware that actions or omissions on his part could lead to liability being incurred under Part IIA, e.g. where development fails to address an existing unacceptable risk or creates such a risk by introducing a new receptor or pathway or, when it is implemented, under the Environmental Liability Directive (2004/35/EC). Where an agreed remediation scheme includes future monitoring and maintenance schemes, arrangements will need to be made to ensure that any subsequent owner is fully aware of these requirements and assumes ongoing responsibilities that run with the land.

The great crested newt is a European Protected species and a licence is required to carry out any works that may affect the species or its habitat, accordingly you should ensure that a licence is in place as failure to do so is an absolute offence under European and national legislation and you are advised to appoint a specialist to advise on the need for a licence.

The Environment Agency advises in respect of Condition 19 as follows:-

The Environment Agency does not consider oversized pipes or box culverts as sustainable drainage. Should infiltration not be feasible at the site, alternative above ground sustainable drainage should be used.

Surface water run-off should be controlled as near to its source as possible through a sustainable drainage approach to surface water management. Sustainable Drainage Systems (SuDS) are an approach to managing surface water run-off which seeks to mimic natural drainage systems and retain water on-site as opposed to traditional drainage approaches which involve piping water off-site as quickly as possible.

Further to Condition 20 above the Environment Agency advises that:

Survey licence requirements.

Please note that a licence will be required from Natural England to survey for, and, where any proposals are made as a last resort, to re-locate legally protected species. For further information and guidance on European Protected Species and licensing procedures see the Wildlife Management and Licensing Guidance from Natural England.

Further information and guidance on UK protected species and licensing can be found under the Defra web pages for the Wildlife and Countryside Act 1981.

Guidance.

Guidance to assist with the design of the development to accommodate protected species is provided in the following:

" Great Crested Newt Conservation Handbook, published by Froglife (http://www.froglife.org/documents/GCN_Conservation_Handbook.pdf).

" Experience in Great Crested Newt Migration: Guidance for Ecologists and Developers (http://www.naturalengland.org.uk/Images/wmlg05_tcm6-4115.pdf).

" Natural England's Standing advice for protected species (<http://www.naturalengland.org.uk/ourwork/planningdevelopment/spatialplanning/standingadvice/default.aspx>).

The above provide basic advice which can be applied to any planning application that could potentially affect protected species.

Further to Condition 21 above the Environment Agency advises that the National Planning Policy Framework (NPPF) paragraph 109 recognises that the planning system should aim to conserve and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible.

Paragraph 118 of the NPPF states that if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused and that opportunities to incorporate biodiversity in and around developments should be encouraged. Article 10 of the Habitats Directive stresses the importance of natural networks of linked habitat corridors to allow the movement of species between suitable habitats, and promote the expansion of biodiversity. River corridors are particularly effective in this way. Such networks and corridors may also help wildlife adapt to climate change.'

Further to Condition 7 above the Environment Agency advises that this condition is supported by the National Planning Policy Framework (NPPF), paragraph 109 which recognises that the planning system should aim to conserve and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. Paragraph 118 of the NPPF also states that opportunities to incorporate biodiversity in and around developments should be encouraged. The Natural Environment and Rural Communities Act which requires Local Authorities to have regard to nature conservation and article 10 of the Habitats Directive which stresses the importance of natural networks of linked corridors to allow movement of species between suitable habitats, and promote the expansion of biodiversity.

In respect of the Environment Agency's responsibilities to protect controlled waters it advises that the site is located on Triassic Gunthorpe Formation strata which are designated a 'Secondary (B) Aquifer' by the Environment Agency. The site is located adjacent to Egginton Brook. The information submitted identifies that the site has been

used for mineral extraction with subsequent restoration with inert wastes comprising of soils, clays, brick and concrete rubble. Consequently there is limited potential for contamination to be present. However given the sensitive site setting with respect to 'Controlled Waters' receptors the EA recommended a condition be attached to any planning permission granted.

Permitting/Exemption requirements (waste)

The site has previously been operated under a paragraph 9 exemption which allowed the importation of waste for the reclamation/improvement of non-agricultural land. This exemption was revoked to prevent unsuitable material being brought into site. Whilst the majority of this material was removed it is possible that pockets of contaminated inert material remains. The condition above will address this possibility.

The activities on site relating to the movement/deposit of materials around the site may be subject to an environmental permit. Further details would be required relating to the quantity and location of materials produced as a result of activities.

If, as part of any restoration proposals, waste is to be imported onto site then a permit may be required:<http://www.environment-agency.gov.uk/business/topics/permitting/117173.aspx>.

If any waste produced on site through the extraction of minerals is intended to be used the Mining Waste Directive must be complied with <http://www.environment-agency.gov.uk/business/sectors/116542.aspx>.

If any controlled waste is to be removed off site, then the site operator must ensure a registered waste carrier is used to convey the waste material off site to a suitably authorised facility. The Duty of Care regulations for dealing with waste materials are applicable for any off-site movements of wastes. The developer as waste producer therefore has a duty of care to ensure all materials removed go to an appropriate licensed site and all relevant documentation is completed and kept in line with regulations.

The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property.

This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990.

That the hedgerows on the application site may contain nesting birds. It is an offence under the Wildlife and Countryside Act 1981 to intentionally kill, injure or take any wild British breeding bird or its eggs or damage its nest whilst in use or being built. The nesting season normally encompasses the months March to July inclusive. If you are in doubt as to requirements of the law in this regard you should contact English Nature, Peak District and Derbyshire Team, Manor Barn, Over Haddon, Bakewell, Derbyshire, DE4 1JE.

The grant of planning permission does not entitle developers to obstruct public rights of way affected by the proposal. Development, in so far as it affects the right of way, should not be started, and the right of way should be kept open for public use, until the necessary order under Section 247 or 257 of the Town and Country Planning Act 1990 for the diversion or extinguishment of the right of way has been made and confirmed. Nor should it be assumed that because planning permission has been granted an order will invariably be made or confirmed.

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through, pre-application discussions and

seeking to resolve planning objections and issues, meetings and negotiations. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

Planning permission has been granted as set out in this decision notice. In granting planning permission the Local Planning Authority has had regard to concerns expressed by the community regarding potential traffic problems in the locality that may arise during the construction of the development hereby permitted. Accordingly you are requested to ensure that your or any other contractors' vehicles are parked legally in a manner that shows consideration to the occupiers of adjacent and nearby properties. Thank you for your co-operation.

Further to Condition 9 above it is an offence to kill or damage or disturb great crested newts or their habitat in the absence of you obtaining the requisite licence from Natural England. Great Crested Newts have been identified on the land and you are advised that, notwithstanding the grant of this planning permission, it does not authorise the commencement of the development in advance of obtaining that licence, and you are advised to contact Natural England to obtain that licence. Practical advice on how to protect/relocate any bats may be obtained from Malcolm Hopton, Derbyshire Bat Group, 9 Ashton Close, Mickleover, Derby, DE3 5QD, (Tel. 01332 511427).

The Derbyshire Wildlife Trust is concerned that the use of fireworks within the site would cause disturbance to nesting birds and species that are vulnerable to noise disturbance as they overwinter on the adjacent Willington Gravel Pits Local Wildlife site. Accordingly it requests that occupiers are advised against the use of fireworks on the site at all time to avoid such disturbance to the Local Wildlife site.

In granting planning permission the Local Planning Authority has taken into account the environmental information submitted in the Environmental Impact Assessment.

Item 1.2

Reg. No. 9/2013/0663/SMD

Applicant:
MR BEN STACEY
C/O AGENT BELLWAY HOMES
AND J W LANGTON

Agent:
MR STEVEN LOUTH
TURLEY ASSOCIATES
9 COLMORE ROW
BIRMINGHAM
B3 2BJ

Proposal: THE RESIDENTIAL DEVELOPMENT (157 DWELLINGS)
AND ASSOCIATED INFRASTRUCTURE,
LANDSCAPING, FOUL WATER PUMPING STATION AND
PUBLIC OPEN SPACE (CROSS BOUNDARY
APPLICATION) ON LAND AT SK3729 4656 SOUTH
WEST OF HOLMLEIGH WAY CHELLASTON

Ward: ASTON

Valid Date: 15/08/2013

Reason for committee determination

This is a major application that is not in accord with the provisions of the Development Plan.

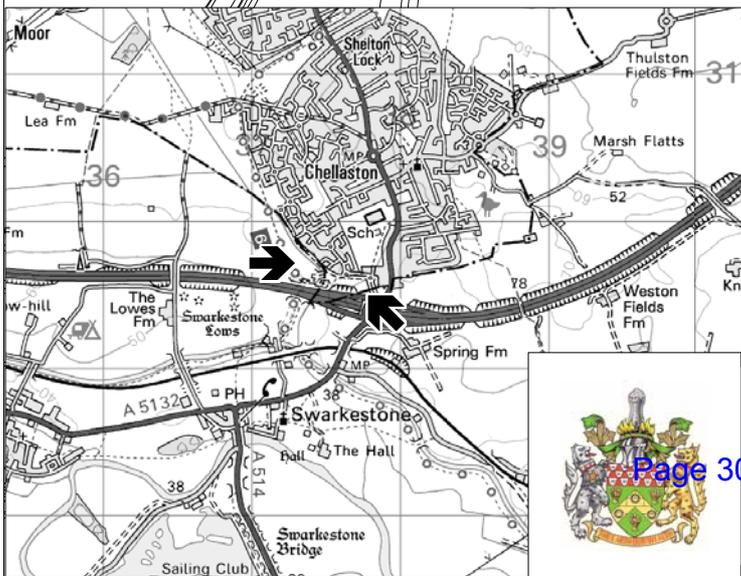
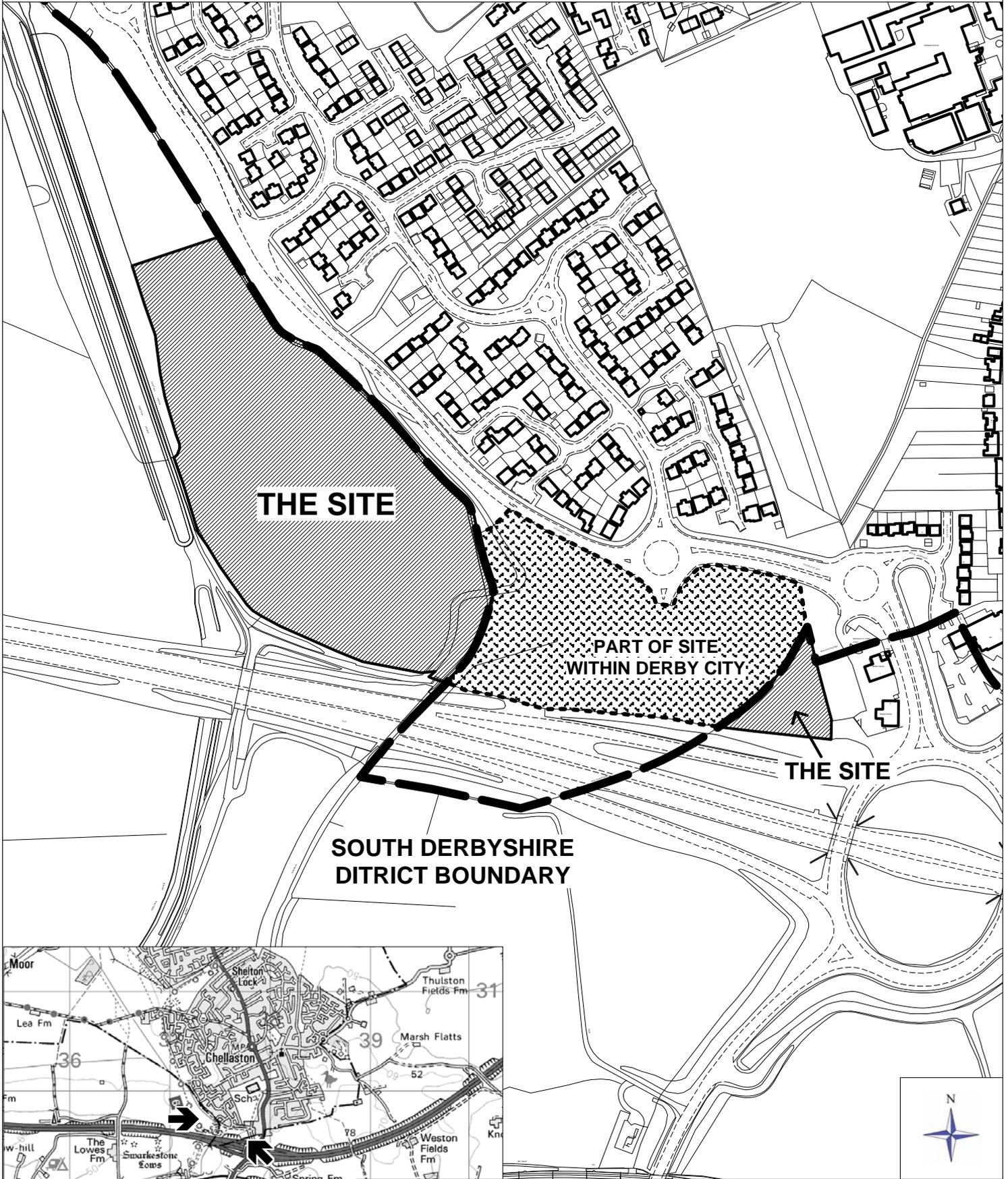
Site Description

The site extends to approximately 8.64 hectares (21.35 acres) and is irregular in shape. The site is generally level although it rises steeply upwards to the eastern site boundary, beyond which there is a development of offices and apartments. The site is currently undeveloped and consists mainly of a woodland area to the western site boundary and farmed agricultural land to the centre and eastern parts of the site.

A public footpath crosses the eastern part of the site from the roundabout at Crown Way and Holmleigh Way to the footpath/cycle path running along the western boundary.

The site is located to the south-west edge of Chellaston, approximately 7 kilometres to the south of the City Centre. The northern site boundary is bounded by a dense strip of woodland and the Cuttle Brook, which enters and crosses the site towards the centre before going under the A50 to the south. Holmleigh Way runs alongside the site boundary and is fronted by detached dwellings on its east side. To the southeast, the site is adjacent to partially complete office development. The southern part of the site is bounded by trees and vegetation. The A50 Derby Southern Bypass runs adjacent to the site boundary. The western site boundary is defined by woodland. A national cycle

9/2013/0663 - Land at SK3729 4656 South West of Holmleigh Way, Chellaston, Derby (DE73 5UJ)



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South Derbyshire District Council. LA 100019461. 2010

route and the former Derby Canal run alongside this boundary before passing under the A50. Open agricultural land lies beyond the A50 to the south and the Derby Canal to the west. The residential estate to the north of the site on the opposite side of Holmleigh Way is relatively modern and provides an urban edge to this part of the City.

A local centre (within the City confine) provides a medical centre, pharmacy, convenience store and hot food take-away, some 200 metres to the north of the site at the junction of Holmleigh Way and Rowallan Way. The Rose and Crown and The Bonnie Prince public houses are located approximately 100 metres to the east of the site. Chellaston Junior School and Chellaston Academy are located some 1.5 km to the north of the application site.

A part of the site is susceptible to flooding, that part the site being shown as open space within the development site. This area also divides the site into two physically distinct parts. By reference to the application drawings Site 2 is wholly in South Derbyshire and most of Site 1 is in Derby. However, due to the alignment of the district/city boundary some of Site 1 also lies in South Derbyshire.

Proposal

The development proposals would consist of 157 dwellings comprising a mix of 1, 2, 3, 4 and 5 bedroom houses of which 38 are proposed on land within Derby City and 119 within South Derbyshire. Of the 38 dwellings within Derby City, 10 would be 'affordable homes'. Of the 119 dwellings within South Derbyshire, a maximum of 48 would be 'affordable homes'.

A range of house type design and architectural styles would be used. Vehicular access would be provided off the existing roundabout at the junction of Holmleigh Way and Crown Way.

The line of Cuttle Brook would be preserved with the exception of that part passing under the proposed internal access road, where a new culvert would be constructed. The existing public right of way which traverses the eastern part of the site is proposed to be maintained on its existing line and as such has been incorporated into the layout.

Much of the existing woodland along Holmleigh Way would be retained and additional landscaping planted along the A50 South Derby Bypass. A noise bund would be designed and included in the landscaping along the southern site boundary. Informal areas of public open space and more formal play spaces would be provided across the site. A balancing pond would be created towards the centre of the site. Its purpose would be to balance surface water flows from the site to ensure that it would be no greater than its existing green field state.

Applicants' supporting information

The applicant's supporting documentation is summarised as follows:

- The SHLAA concludes that the site is available, achievable and potentially suitable to deliver 150 dwellings.
- There is a shortfall in housing land supply.

- The applicants have undertaken a number of public engagement exercises including delivering leaflets to the neighbouring residents and holding a meeting with the residents association. Concerns centred on school places, highway congestion and funding of medical centres.
- The application is accompanied by reports covering the following topics – Trees, Archaeology, Design and Layout, Ecology, Employment, Flood Risk and Drainage, Noise, Transport, Section 106 matters and a Planning Statement.

Planning History

9/2009/0971 - Land to the south of Holmleigh Way, Chellaston, Derbyshire - Outline application (all matters except for access to be reserved) for the construction of a mixed use development comprising business park, residential units, public open space, formation of an access and ancillary works. Application withdrawn.

9/2009/0054 Swarkestone Lock and Bridge, Former Derby Canal, The Trent and Mersey Canal, Swarkestone, Derbyshire - The construction of new canal (Outline All Matters Reserved) joining the Erewash and Trent and Mersey canals at Former Derby Canal Swarkestone Lock and Bridge The Trent And Mersey Canal Swarkestone. Planning permission granted subject to conditions.

9/1999/0065 - A50 and Trent and Mersey Canal, Cuttle Brook, Swarkestone, Derbyshire - The widening of Cuttle Brook to provide surface water outfall. Permission Granted.

9/1192/0684 - Roadside facility for A50 (outline)

Nearby Proposals

9/2012/0568 - Land off Swarkestone Road, Chellaston, Derbyshire – Outline application with all matters reserved (except for access) for up to 450 dwellings, shops, day nursery and primary school. The Committee has resolved to grant outline planning permission subject to a Section 106 Agreement.

There are other planning applications within the city that have been granted including the T12 road and for that part of the Derby canal restoration route that lies within the City boundary.

Responses to Consultations

Sport England – no comment.

Highways Agency – no objection.

Severn Trent Water Ltd – no objection in principle.

Development Control Archaeologist – No need for further archaeological work.

County Highway Authority – no objection in principle, subject to conditions.

Environmental Health – No objection subject to implementation of proposed noise mitigation measures and other conditions to protect residents.

Crime Prevention Design Adviser – Lack of connectivity with Holmleigh Way noted, and the reason for it. A concern would be that pedestrians might use the cycle path which is not supervised or lit. Other than that the layout is good, subject to detail design points, including gated security to shared rear garden access route and car parks.

Strategic Housing Manager - Although the property size mix is different from the SHMA recommendation, it is satisfactory given the provision of affordable housing planned for other local sites.

Derbyshire Wildlife Trust – Whilst generally supportive of the ecological measures proposed, the Trust notes that there are outstanding issues with regard to the potential use of the arable fields by ground nesting priority bird species which have not been adequately assessed by the ecological surveys undertaken thus far. It is therefore recommended that if the Council is minded to grant permission, a condition is imposed requiring the undertaking of a breeding bird survey with particular focus on ground nesting priority species associated with the arable fields prior to the commencement of any works on the site. The Trust also points out the presence of the Sinfin Moor RIGS and recommends that the Council seeks additional advice regarding the potential impact of the proposed development on that site.

Environment Agency – On ecology the Agency confirms that the proposed development would be acceptable if a planning condition is included requiring a scheme to be agreed to ensure that the landscape within the site is managed in such a way as to protect and enhance the ecological value of the site including woodland and watercourse. On flood risk the Agency has no objection in principle subject to conditions.

The County Council, in its capacity as land drainage authority, points out that it will not retrospectively adopt any SuDS features and recommends that the future maintenance liabilities for the proposed balancing pond be established now.

Natural England – No objection subject to conditions to secure biodiversity enhancements.

Derbyshire County Council – Seeks the following developer contributions:

- Access to high speed broadband services for future residents (in conjunction with service providers);
- £42,000 towards Greenway construction (green infrastructure);
- £273,576 towards the provision of 24 primary pupil places at a new primary school to be delivered at the Chellaston Fields site;
- £301,393 towards the provision of 17.5 secondary pupils;
- £122,011 towards the provision of 6.55 post-16 places; and
- New homes designed to Lifetime Homes standards

The County Council also makes the following observations:

- The nearest county library at Melbourne is too far away to benefit from developer contributions.

- The local secondary school, Chellaston Academy, is already above capacity and the mechanism for distributing pupils from strategic sites is still under consideration. There may be a need to change normal areas.
- Public health contributions may be needed.
- Lifetime homes should be provided across the site to cater for the aging population.
- Sprinkler systems should be incorporated.
- Connections should be made to existing rights of way.

Responses to Publicity

Two objections have been received as follows:

- a) There would be a negative impact on the community.
- b) Building works would be detrimental to amenity.
- c) Schools are full.
- d) Local shops are not adequate.
- e) The additional traffic would result in danger.

Development Plan Policies

The relevant policies are:

Local Plan: Housing Policies 8 & 11 Environment Policies 1, 9 & 11; Transport Policies 6, 7, 8; Recreation and Tourism Policies 4, 7 & 8.

Supplementary Planning Guidance: Housing Design and Layout; Provision of outdoor play space in new developments

Section 106 Agreements – a guide for Developers

National Guidance

National Planning Policy Framework (NPPF), in particular:

Paras 6-10 (Achieving sustainable development)

Paras 11-14 (The presumption in favour of sustainable development)

Para 17 (Core principles)

Chapter 4 (Promoting sustainable transport)

Chapter 5 (Communications infrastructure)

Chapter 6 (Delivering a wide choice of high quality homes)

Chapter 7 (Requiring good design)

Chapter 8 (Promoting healthy communities)

Chapter 10 (Meeting the challenge of climate change, flooding etc.)

Chapter 11 (Conserving and enhancing the natural environment)

Paras 186 & 187 (Decision-taking)

Para 193 (Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question.)

Para 196 & 197 (Determining applications)

Paras 203-206 (Planning conditions and obligations)

Annex 1 (Implementation)

Planning Considerations

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

- The principle and general sustainability
- Affordable housing
- Traffic and transport
- Impact on the character of the area
- Urban design & open space
- Impact on Derby and Sandiacre Canal.
- Ecology
- Agricultural land
- Flood risk and hydrology
- Residential amenity
- Education
- Section 106 Contributions

Planning Assessment

The principle and general sustainability

In co-operation with the neighbouring authorities, Amber Valley and Derby City, the Council published its Preferred Growth Strategy for consultation as a pre-cursor to the published Draft Part 1 Local Plan. The strategy is evidence based and identifies the application site as a preferred housing site around the Derby Housing Market Area (HMA) that would therefore make a strategic contribution to meeting housing need in the area. The Strategy notes that there is pressure on school places at primary and secondary level in and around Chellaston and the potential need to pool pupil requirements from sites adjoining the urban edge of Chellaston, where their cumulative impact would require additional school places.

The site has now been carried forward to the draft Local Plan Part 1, underpinned by the general strategic objective (Policy S1) for sustainable growth and regeneration, in particular by meeting South Derbyshire's split of the Derby HMA housing requirement that is South Derbyshire's housing needs and helping to meet the needs of Derby City which cannot be accommodated within the city boundary. Holmleigh Way thus appears as a draft allocation in Policy H18, subject to the following site specific requirements:

- Outgrown hedgerows on the boundary of the site should be retained wherever possible;
- Pedestrian and cycle route links into the Sustrans route and the existing retail centre in West Chellaston;
- Avoidance of areas of flood risk on site to the north and south of the site due to Cuttle Brook.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

Paragraph 14 of the National Planning Policy Framework (NPPF) states "at the heart of the National Planning Policy Framework is a presumption in favour of sustainable

development, which should be seen as a golden thread running through both plan-making and decision-taking.” The NPPF makes it clear that for decision-taking this means approving development proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies are out of date, granting permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or
- specific policies in this NPPF indicate development should be restricted.”

Paragraph 215 states that due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework.

In terms of housing supply paragraph 47 of the NPPF requires local planning authorities to use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period. In addition there is a burden on the local authority to identify and update annually a supply of specific deliverable sites sufficient to provide five years’ worth of housing against their housing requirements with an additional buffer of at least 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. Currently the Council cannot currently demonstrate a five year supply of housing.

In the terms of paragraph 14 of the NPPF the presumption in favour of sustainable development must apply unless there are adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. It has been made clear through appeal decisions made since the inception of the NPPF that any negative considerations would need to be substantial in order to justify refusal of an application for sustainable development that makes a meaningful contribution to strategic housing need. The mere presence of less than optimal planning circumstances for any given development is not likely to outweigh the presumption.

The objectively assessed housing needs of the Derby HMA has been agreed across the three local authorities, with South Derbyshire needed to provide 13,454 dwellings up to the end of the plan period in 2028.

Given the site’s location adjacent to the city, with access to its facilities, services and transport options, and in acknowledgement of the contribution that it would make towards meeting an identified strategic housing need, the proposal represents sustainable development in principle. In the context of a Local Plan that is out of date, so far as policies for the supply of housing are a concerned, the presumption in favour of sustainable development would apply unless any adverse impacts would significantly and demonstrably outweigh the benefits.

In terms of the general policies in the current Local Plan, Saved Environment Policy 1, which applies to development outside existing settlements, is supportive of development

that it is unavoidable in the countryside. In this case, given the imperative to provide new housing adjacent to the city, development is arguably unavoidable, although it must be acknowledged that the site is not allocated for development in the existing local plan and thus not unequivocally in accord with it. The policy also requires the character of the countryside, the landscape quality, wildlife and historic features to be safeguarded and protected. If development is permitted in the countryside it should be designed and located so as to create as little impact as practicable on the countryside. These qualitative issues are addressed in the following sections of this report. Saved Housing Policy 8 sets specific functional requirements applicable to new houses away from settlements, tests which are not met by this proposal. However this policy complements a suite of housing site allocation policies in the 1998 Local Plan and in the case of this application, which is mainly concerned with housing supply, it is out of date. Therefore the presumption in paragraph 14 of the NPPF is clearly capable of outweighing it in this case.

Affordable housing

The 2012/13 Strategic Housing Market Assessment (SHMA) suggests, over the period of 2012 – 2017, there is a housing need for 1,723 affordable homes, (345 affordable homes per year), across South Derbyshire. For the Derby Fringe the SHMA suggests an affordable housing tenure mix as follows:

- 25.5% - intermediate housing; e.g. shared-ownership.
- 12.4% - affordable rent
- 62.1% - social rent

The SHMA recommends an affordable housing mix as follows for South Derbyshire.

Number of Bedrooms	South Derbyshire
1 bedroom	10% - 15%
2 bedrooms	35% - 40%
3 bedrooms	35% - 40%
4+ bedrooms	10% -15%

Based on current evidence, in order to deliver the affordable housing need a proportion of 40% affordable housing is sought, underpinned by Local Plan Saved Housing Policy 9 and Chapter 6 (para 50) of the NPPF. In this case the applicant proposes 30% - 40% provision of affordable housing on Site 2. Although the range of house types proposed for the affordable scheme is acceptable, the Strategic Housing Manager advises that provision below 40% should be justified by a viability assessment and that the tenure mix should be 75% for rent and 25% for intermediate ownership. Although an additional 5 affordable homes would be accommodated on that Part of Site 1 in South Derbyshire these would be utilised to meet the overall affordable housing requirement for the Derby portion of the development, to which they are spatially better related.

Traffic and Transport

Chapter 4 of the NPPF is entitled 'Promoting Sustainable Transport'. Paragraph 34 states "Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised." Paragraph 35 emphasises the need

to minimise conflicts between cyclists and pedestrians and to consider the needs of people with disabilities by all modes of transport.” Being located adjacent to the existing urban area the site is within reasonable walking distance of existing local facilities and services. Furthermore there is a local bus service. The existing cycle route to the south would link with Holmleigh Way through the site’s main open space. Having regard to these factors the proposal is in accord with the sustainable transport objectives of the NPPF.

Access to the site would be gained from an existing roundabout, which would result in all traffic passing through that part of the development in Derby. The Highways Agency and the City Council have responsibility to address the highways issues in respect of the roundabout and internal roads within Derby’s administrative area respectively. The County Highway Authority has no objection in principle and has recommended conditions to protect highway safety interests.

In summary the scheme would provide adequate parking and access for cyclists, pedestrians and disabled people. As such the highways aspects of the development would accord with Local Plan Saved Transport Policies 6, 7 & 8.

Impact on the character of the area

There is an existing housing area and a road to the north and east. The development would be in keeping with this established suburban context, albeit visually separated from it by the vegetation alongside the Cuttle Brook. Through the retention of the peripheral trees and the construction of the bund and landscaping along the A50 boundary and the former canal, with its associated cycle path/footway, the proposal would not have an unduly harmful impact on the character of the surrounding countryside. The criterion in Environment Policy 1 to minimise impact on the countryside is thus met.

Urban design & open space

By reference to the Better Design for South Derbyshire guidance the proposal would achieve ‘Good’ standard 14/20 using the Building for Life assessment process. This score is dependent on achieving good quality materials and landscaping, bin stores and cycle route connection which can be secured by condition.

In terms of connectivity the application site is constrained to an extent through lack of applicant control over adjoining land, over which the optimal layout could otherwise be achieved. Nevertheless, within the constraints of the site, the application maximises opportunities to connect to existing pedestrian and cycle routes. Local facilities and public transport would still be conveniently available to the site’s residents.

Subject to conditions relating to detail design, landscaping, boundary treatments, crime prevention and materials, the development would present an attractive environment for residents and visitors and would reinforce the local distinctiveness of this part of Derbyshire.

The open space on the site would be provided by the developer and maintained via a management company. The amount of on site space exceeds the minimum required for the development as set out in the Council’s guidance. Financial provision for built facilities off site would be made through the Section 106 Agreement.

In view of the urban design and open space matters addressed above the proposal would accord with Chapters 7 & 8 of the NPPF and Saved Recreation and Tourism Policy 4 and Housing Policy 11 of the Local Plan.

Impact on Derby and Sandiacre Canal

Saved Recreation and Tourism Policy 7 seeks to protect disused transport routes with the potential to provide future recreational benefits. Although the application does not encroach on the historic line of the canal, planning permission 9/2009/0054, with its application site boundary having been drawn widely at this point, affects the western margin of the site. It must be acknowledged that the canal permission affected third party land (in this case land owned by the applicant) and this relied heavily on the ability of the Canal Trust to negotiate with landowners. In this case the application layout is specifically designed such that it would not prohibit the potential extension to the canal and would not prejudice its implementation at a future date. As such the proposal is not in conflict with the Local Plan policy, nor with paragraph 75 of the NPPF which seeks to protect public rights of way and access.

Ecology

Subject to the recommended conditions of the Environment Agency, Natural England and Derbyshire Wildlife Trust biodiversity at the site would be protected and enhanced. In response to DWT's comments about skylarks, the applicant's ecologist has updated the Habitat Survey and has affirmed that there would not be an adverse impact on ground nesting birds.

The significance of the RIGS is being investigated through the emerging Local Plan process, but based on evidence already gathered, including the historical assessments of the site undertaken to inform RIGS designation, there is no evidence that its integrity would be adversely affected by the proposal.

For these reasons the proposal would satisfy the requirements of Saved Environment Policy 11 of the Local Plan and Chapter 11 of the NPPF, by avoiding disturbance to designated sites or to protected species of wildlife, and by providing opportunities to enhance biodiversity. These interests would be safeguarded by planning conditions.

Agricultural land

Paragraph 112 of the NPPF advises local planning authorities to 'take into account the economic and other benefits of the best and most versatile agricultural land and that, where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use poorer quality land in preference to that of a higher quality'. The majority of the site comprises agricultural land and the land classification map held by the Council indicates that this land is not the higher quality land that paragraph 112 seeks to protect.

Flood risk and hydrology

The Environment Agency and Subject to conditions securing compliance with the submitted Flood Risk Assessment, and a scheme for sustainable urban drainage, the

proposal would not lead to increased risk of flood and would thus be compliant with paragraphs 100-103 of the NPPF.

The balancing feature for the SuDS scheme would be adopted by this Council on receipt of an appropriate commuted sum for maintenance secured by way of the Section 106 Agreement.

Residential amenity

Although the proposal would increase traffic in Holmleigh Way this would not be to an extent that would be particularly noticeable to existing residents. There is the potential for the occupiers of the proposed development to experience noise from the A50 and Holmleigh Way. The applicant's noise report addresses noise from the A50 and recommends mitigation measures, including building design and noise reduction earthworks/fencing along the southern boundary. Insofar as Holmleigh way is concerned, the proposed dwellings would be situated further from the road than the existing housing in Derby City. Subject to appropriate conditions the noise issue would be compliant with the advice in paragraph 123 of the NPPF.

The site does not bound any existing housing and the layout provides ample scope for reasonable amenities in terms of light, air and privacy for, both existing and new dwellings; safe, functional and convenient layouts; private amenity space, and space for landscaping in accordance with Local Plan Saved Housing Policy 11 and SPG.

Education

During the progress of the emerging Local Plan local primary and secondary schools have been filing up, mainly as a consequence of demographic change and may also need to expand to cater for existing pupils already in the school system or in the projected growth that is not a result of new housing developments. As such there is less scope for existing schools, in particular secondary, to continue absorbing the additional need generated by new housing developments such as the one proposed. Nevertheless housing growth to the south of Derby has been a known requirement for several years and the adopted 2009 East Midlands Regional Plan identified a housing requirement for 14,400 dwellings in Derby and 12,000 in South Derbyshire to 2026 (the Regional Plan stipulated that a minimum 3,600 dwellings were to be built on the edge of Derby City).

There is currently no agreed strategic option for education provision, in particular for secondary schools. However, a process to find a solution is underway and discussions are currently in progress with the local education authorities (LEAs) and through the local plan process. The LEAs have been aware of the need to provide large amounts of new housing on the southern fringe of the city for some years. The emerging Local Plan will investigate the practicality of pooling contributions from smaller developments to extend existing or proposed primary or secondary schools. Where new schools could be created on larger development sites, there is a timing issue to ensure that there are sufficient funds from developments underway to provide for new schools. The issue with the provision of a new secondary school is the most complex as it involves further cross boundary work with the City Council and Derbyshire County Council due to developments straddling the boundary, the funding strategy and the need to secure the best sustainable location. This ongoing situation is acknowledged by the resolution on 19 November 2012 to grant planning permission for 450 houses (including a new

primary school) at Chellaston Fields (9/2012/0568), albeit subject to a satisfactory solution for secondary school provision being found and then secured in the Section 106 Agreement.

In the case of the subject application, being of considerably lesser scale than the 450 house development at Chellaston Fields, the short term impacts of accommodating school children, when balanced against the contribution that the proposal would make to the delivery of housing, would not be of sufficient weight as to render the scheme unsustainable. Given the urgent need to provide housing in accordance with Chapter 6 of the NPPF, this unresolved problem is not of such weight as to completely prevent any further progress with the Council's ability to address the shortfall in housing supply.

This will require careful wording the Section 106 Agreement so as to ensure that the LEAs are able to ensure that contributions will be targeted in the most strategically effective manner in primary and secondary education terms.

Section 106 Contributions

In accordance with Paragraph 204 of the NPPF the following contributions are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development:

£42,000 towards Greenway construction (green infrastructure);

Primary education £273,576 towards the provision of 24 primary pupil places.

Secondary education £301,393 towards the provision of 17.5 secondary pupils;

£122011 towards the provision of 6.55 post-16 places; and

Affordable Housing (Site 2) - to be provided in the range of 30% - 40%. Any provision less than 40% to be subject to assessment by the Valuation Office Agency.

Recreation Open Space - to be provided on site and maintained by a management company

£50-£70,000 for balancing pond for SuDS scheme approx. (depending on detail design)

Recreation built facilities £ 70,994

Cycleway and footpath links where achievable

The NPPF provides advice in paragraphs 203 and 204 with regard to planning obligations stating that: 'Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition' Planning obligations should only be sought where they meet all the following tests:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

Derby City Council has confirmed that there is no need to secure contributions for formal playing fields in the locality. The City Council also confirms that there is capacity at Chellaston Medical Centre. As such contributions in respect of these would not meet the relevant tests.

The provision of 10% Lifetime Homes standards and broadband provision across the whole site is considered to be unreasonable in the absence of an up to date development plan policy on the subject.

The above mentioned contributions would be secured, alongside the City Council's requirements, by a single Section 106 Agreement between the two authorities and the landowners.

Conclusion

The application is one of several relatively small strategic developments in the locality, which cumulatively could accommodate around 650 homes. Given the scale of the development it is likely that it could contribute to the early delivery of homes, helping the Council meet its requirement of a five year supply of deliverable housing.

Subject to conditions there are no constraints in respect of transport. Environmental considerations would similarly be safeguarded by conditions.

By reference to the NPPF's (Para 7) three sustainability dimensions (economic, social and environmental):

- The provision of new housing would support economic growth, ensuring an attractive place to live for South Derbyshire's economically active population as well as helping to supporting the vitality and viability of Chellaston. Construction jobs would be created. The development would also provide a financial contribution to ongoing work to provide strategic education solutions for the local area. This is supported by the site's accessibility to Chellaston and the City, served by public transport.
- The proposed scheme would have a significant positive impact on local communities by providing new homes (market and 40 % affordable for Site 2). In terms of healthy communities there would be adequate green infrastructure and open space. Pedestrian/cycle links would help to support active lifestyles and encourage alternatives to the car for accessing local facilities and employment opportunities. Developer contributions would also be made towards education and local built facilities provision.
- The application's supporting documents explain how a range of environmental factors have been taken into account to ensure sustainable development (including landscape, ecology, air and noise pollution, archaeology, and water). Mitigation has been included within the scheme to ensure the conservation and enhancement of key features. The scheme also helps to mitigate future climate change through reducing CO2 emissions by building new homes in a highly accessible location and reducing the need to travel by car. In terms of resilience to climate change impacts, the scheme has been designed to take this into account, namely through provision of a sustainable drainage strategy and enhanced network of green infrastructure.

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.

Recommendation

GRANT permission subject to the following conditions and subject to the applicant entering into a Section 106 Agreement with the Council to secure the contributions referred to in the Planning Assessment above:

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

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

2. Notwithstanding the originally submitted details, and unless as may be required by the attached conditions, this permission shall relate to the amended drawing nos EMS.2363_11 Rev X, EMS.2363_10 Rev R (Detail Layout Plan Site 2); EMS.2363_10 Revision Q (Detail Layout Plan Site 1; (Site 2);

EMS.2363_16 Revision F (Detailed Masterplan); EMS.2363_19 Revision D (Street Scenes Site 1 and 2); EMS.2363_22A (Cross Sections Site 1); Drawing no SK01 Rev E (Proposed vehicle and pedestrian access arrangement); Drawing no SK02 Rev E (Pedestrian routes to bus stop); Drawing no SK03 Rev C (Proposed highway details and refuse vehicle tracking with on-street parking); Drawing no SK04 Rev C (Proposed highway details and refuse vehicle tracking with on-street parking Site 1);

Drawing no SK05 Rev C (Proposed highway details and refuse vehicle tracking with on-street parking Site 2); Drawing no SK06 Rev C (Proposed highway extents and visibility splays (Site 1); and Drawing no SK07 Rev C (Proposed highway extents and visibility splays Site 2) and House Type Packs Ref 04-12-13 2363.

Reason: For the avoidance of doubt, the original submission being considered unacceptable.

3. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved, unless otherwise agreed in writing by the Local Planning Authority. These details shall include trees to be retained showing their species, spread and maturity; proposed finished levels or contours; means of enclosure; car parking layouts; 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, lighting etc.); proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.); retained historic landscape features and proposals for restoration.

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

4. Soft landscape works shall include planting plans; written specifications; schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and implementation programme.

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

5. All hard and soft landscape works shall be carried out in accordance with the approved details and finished not later than the first planting season following completion of the development.

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

6. A landscape management plan, including phasing and implementation strategy, long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority before development begins. The landscape management plan shall be implemented as approved.

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

7. The schemes required pursuant to Conditions 3- 6 shall include the recommended wildlife mitigation measures provided in the Wildlife Protection and Mitigation Plan prepared by JBA Consultancy Services Ltd on behalf of Bellway Homes and JW Langton (October 2013), and shall include the following elements:

- detail extent and type of new planting (NB planting to be of native species);
- details of maintenance regimes;
- details of protection of existing habitats and species
- details of any new habitat created on site;
- details of treatment of site boundaries and/or buffers around water bodies (a minimum 10m buffer should be provided both to the woodland and river to prevent development encroachment on the environment;
- details of management responsibilities.

Reason: To ensure that habitats are adequately protected and enhanced in accordance with Chapter 11 of the NPPF, Local Plan Saved Environment Policy 11.

8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years 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, unless the Local Planning Authority gives written consent to any variation.

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

9. No site clearance works or development shall take place until there has been submitted to the Local Planning Authority for its 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 the development. The scheme shall comply with BS 5837:2005. No site clearance works or development shall be commenced in the vicinity of the protected tree or hedgerow until such a scheme is approved in writing by the Local Planning Authority and thereafter the development hereby permitted shall only be carried out in accordance with the approved scheme. The area surrounding each tree or hedgerow within the

protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

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

Reason: To ensure that the amenity values of the trees and hedgerows, and their associated habitats, are protected.

10. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with a timetable agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with the approved details.

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

11. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

Reason: In the interests of flood protecting and pollution control.

12. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) Proposed Development at Holmleigh Way, Chellaston, Travis Baker Ltd; subsequent Addendum letter dated 5th December 2013 and Floodplain Compensation Scheme for Cuttle Brook, JBA Consulting July 2013 and the following mitigation measures detailed within the FRA:

- 1. Provision of compensatory flood storage in accordance with the Floodplain Compensation Scheme for Cuttle Brook JBA report
- 2. Finished floor levels are set no lower than 39.550m above Ordnance Datum (AOD).

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided and to reduce the risk of flooding to the proposed development and future occupants.

13. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall

subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall demonstrate:

The utilisation of holding sustainable drainage techniques;

The limitation of surface water run-off to greenfield rates;

The ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and

Responsibility for the future maintenance of drainage features.

Treatment facilities in accordance with Drainage Strategy 12086 Drawing 1 Rev A, or equivalent.

Reason: To prevent the increased risk of flooding; to improve and protect water quality; to improve habitat and amenity; and to ensure the future maintenance of the sustainable drainage structures.

14. A) The development shall not 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 (LPA); 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.
- B) Prior to occupation of the development (or parts thereof) an independent verification report must 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 should 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 site 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 LPA, 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: 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.

15. 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 LPA without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

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.

16. No development shall take place until details of the materials proposed to be used on the surfaces of the roads, footpaths, car parking areas and courtyards along with samples of the materials to be used on the external surfaces of the buildings have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials unless otherwise agreed in writing with the Local Planning Authority.

Reason: To safeguard the appearance of the buildings and the locality generally.

17. Before any other operations are commenced (excluding demolition/ site clearance), space shall be provided within the site curtilage for the storage of plant and materials/ site accommodation/ loading and unloading of goods vehicles/ parking and manoeuvring of site operatives and visitors vehicles, laid out and constructed in accordance with detailed designs to be submitted in advance to the Local Planning Authority for written approval and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

19. Aerial

Reason: In the interests of highway safety.

20. No dwelling, the subject of the application, shall be occupied until space has been provided within the application site in accordance with the application drawings for the parking and manoeuvring of residents/ visitors/ service and delivery vehicles ;laid out and surfaced. Once provided any such facility shall be maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

21. The areas shown the submitted amended drawing nos EMS.2363_11 Rev X, EMS.2363_10 Rev R and the submitted House Type Packs Ref 2363, for the parking/garaging of vehicles shall not be used other than for the above stated purpose except with the prior permission of the Local Planning Authority granted on an application made in that regard.

Reason: In the interests of highway safety.

22. There shall be no gates or other barriers within 5m of the nearside highway boundary (proposed highway boundary) and any gates shall open inwards only.

Reason: In the interests of highway safety.

23. The proposed access drives to the internal estate roads shall be no steeper than 1 in 15 for the first 5m from the nearside highway boundary.

Reason: In the interests of highway safety.

24. Before the proposed footpath/cycleway, shown on drawing no. EMS.2363_11 Rev X, is brought in to use 2m by 25m visibility splays (or other sightlines as may be submitted to and agreed in writing with the local planning authority) shall be provided in both directions at its southern extremity and shall thereafter be maintained free of any obstruction above 600 mm in height.
- Reason: In the interests of highway safety.
25. Prior to the occupation of the site hereby permitted, a detailed scheme for the discharge of surface water from highways on the site, and the timetable for implementation making provision for the drainage works to accommodate such discharges, shall be submitted to and approved in writing by the Local Planning Authority before each section of highway is brought into use.
- Reason: In the interests of highway safety and prevention of flooding.
26. No 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 development. The approved measures shall be implemented throughout the construction period.
- Reason: To protect the amenities of nearby residents.
27. With the exception of work needed during an emergency, during the period of construction no deliveries shall be taken at or despatched from the site and no construction work shall take place outside the following times: 0800 - 1800 hours Monday to Friday and 0800 - 1300 hours on Saturdays and at any time on Sundays, Bank and Public Holidays.
- Reason: To protect the amenities of nearby residents.
28. Prior to the occupation of any of Plots 1,2,6-9,14-19,25-28, 29,30,35,36 & 37-39 the noise mitigation measures outlined in the submitted environmental noise assessment by BWB Consulting, ref 12258 rev E, shall be implemented in full and retained thereafter.
- Reason: To protect the aural amenities of the occupiers of those dwellings.
29. No development shall take place until a detailed method statement for removing or the long-term management / control of Himalayan Balsam on the site shall be submitted to and approved in writing by the local planning authority. The method statement shall include measures that will be used to prevent the spread of Himalayan Balsam during any operations e.g. mowing, strimming or soil movement. It shall also contain measures to ensure that any soils brought to the site are free of the seeds / root / stem of any invasive plant listed under the Wildlife and Countryside Act 1981, as amended. Development shall proceed in accordance with the approved method statement.
- Reason: This condition is necessary to prevent the spread of Himalayan Balsam, which is an invasive species, listed under Schedule 9 of the WCA 1981 (as amended).
30. Prior to the commencement of any works on site, a survey for badger setts shall be undertaken and submitted to the local planning authority for approval; and if any are present within 30 metres (including on adjoining land) of the development site, the works shall not commence until a method statement for the

protection of badgers has been produced and any necessary Natural England licences have been obtained. The method statement shall be implemented in full.

Reason: To ensure that habitats are adequately protected and enhanced in accordance with Chapter 11 of the NPPF, Local Plan Saved Environment Policy 11.

31. Prior to commencement of any works to construct the new bridge in the Cuttle Brook corridor, a survey for water vole and otter shall be undertaken and submitted to the local planning authority for approval, and the measures required pursuant to Condition 7 above shall incorporate the findings of the survey.

Reason: To ensure that habitats are adequately protected and enhanced in accordance with Chapter 11 of the NPPF, Local Plan Saved Environment Policy 11.

32. No site clearance works or development shall take place until there has been submitted to the Local Planning Authority for its written approval a scheme showing the type, height and position of protective fencing to be erected 10 metres either side of the Cuttle Brook. No site clearance works or development shall be commenced in the vicinity of the brook until such a scheme is approved in writing by the Local Planning Authority and thereafter the development hereby permitted shall only be carried out in accordance with the approved scheme. Except as is authorised by this permission or required by any condition pursuant thereto, the area between the brook and the protective fencing shall remain undisturbed during the course of the works, and in particular in this area:

- (i) There shall be no changes in ground levels;
 - (ii) No material or plant shall be stored; and
 - (iii) No buildings or temporary buildings shall be erected or stationed;
 - (iv) No drain runs or other trenches shall be dug or otherwise created;
- without the prior written consent of the Local Planning Authority.

Reason: To ensure that habitats are adequately protected and enhanced in accordance with Chapter 11 of the NPPF, Local Plan Saved Environment Policy 11.

33. Prior to the first occupation of the development hereby permitted, measures to minimise the risk of crime to meet the specific security needs of the application site and the development shall be implemented in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.

Reason: In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions; to promote the well-being of the area pursuant to the Council's powers under Section 2 of the Local Government Act 2000 and to reflect government guidance set out in Paragraph 58 of the National Planning Policy Framework.

34. The proposed footpath/cycleway, shown on drawing no. EMS.2363_11 Rev X, shall be brought in to use in accordance with a timetable which shall be submitted to and approved in writing by the local planning authority before development begins.

Reason: To facilitate movement by cycle and on foot in accordance with Paragraph 35 of the National Planning Policy Framework.

35. Notwithstanding the submitted details large scale drawings to a minimum scale of 1:10 of, window cills and heads, eaves and verges and porch canopies shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The window cills and heads, eaves and verges shall be constructed in accordance with the approved drawings.

Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.

36. No development shall take place until details of the materials proposed to be used on the surfaces of the roads, footpaths, car parking areas and courtyards along with samples of the materials to be used on the external surfaces of the buildings have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials unless otherwise agreed in writing with the Local Planning Authority.

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

37. Gutters and downpipes shall have a black finish.

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

38. Except as otherwise shown on the submitted drawings details of bin storage areas and/or enclosures for all plots shall be submitted to and approved in writing by the local planning authority before development begins; and the approved bin storage areas and/or enclosures shall be provided prior to the occupation of the dwellings to which they relate.

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

Informatives:

The Highway Authority recommends that the first 5m of the proposed access driveways should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway [new estate street] measures shall 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 dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Strategic Director of Environmental Services at County Hall, Matlock (tel: 01629 580000). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 38 Agreement.

Highway surface water shall be disposed of via a positive, gravity fed system (ie; not pumped) discharging to an approved point of outfall (eg; existing public sewer, highway drain or watercourse) to be sanctioned by the Water Authority (or their agent), Highway Authority or Environment Agency respectively. The use of soak-aways for highway purposes is generally not sanctioned.

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

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

The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part 2A. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance.

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 http://www.south-derbys.gov.uk/environment/pollution/contaminated_land/default.asp. 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 Protection Officer (contaminated land) in the Environmental Health Department: thomas.gunton@south-derbys.gov.uk.

Further guidance can be obtained from the following:

CLR 11: Model Procedures for the Management of Contaminated Land
CLR guidance notes on Soil Guideline Values, DEFRA and EA
Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.
Guidance for the Safe Development of Housing on Land Affected by Contamination Environment Agency. ISBN 0113101775.

The Environment Agency does not consider oversized pipes or box culverts as sustainable drainage. Should infiltration not be feasible at the site, alternative above ground sustainable drainage should be used.

Surface water run-off should be controlled as near to its source as possible through a sustainable drainage approach to surface water management. Sustainable Drainage Systems (SuDS) are an approach to managing surface water run-off which seeks to mimic natural drainage systems and retain water on-site as opposed to traditional drainage approaches which involve piping water off-site as quickly as possible.

Under Drainage Byelaws, prior written consent of the Environment Agency is required for any proposed works or structures, in, under, over or within eight metres of the top of the bank / foreshore of the Cuttle, designated a 'main river'. This applies to the proposed bridge structure over the brook.

The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property.

Any security measures implemented in compliance with the approved scheme should seek to achieve the 'Secured By Design' accreditation awarded by Derbyshire Constabulary. Written confirmation of those measures should then be provided to the Local Planning Authority.

Once Schedule 3 of the Flood & Water Management Act (FWMA) is enacted DCC will be designated a SAB and will be responsible for approving all construction works which have drainage implications. DCC will not retrospectively adopt any SuDS schemes. As such, should a SuDS solution be proposed for future development, it should be confirmed prior to commencement of works on any proposed development who the responsible organisation for SuDS maintenance will be once the development is complete.

Any works in or within close proximity to an 'Ordinary Watercourse' (e.g. an outfall that encroaches into the profile of the watercourse) would require consent under the Land Drainage Act (LDA), 1991 from the consent authoriser (Derbyshire County Council Flood Risk Management Team). The Flood and Water Management Act (FWMA) came into force in 2010 and designated DCC as a Lead Local Flood Authority (LLFA). As of the 6th April 2012 the FWMA transposed consenting powers under the Land Drainage Act to DCC (the LLFA), therefore any works in or nearby to an Ordinary Watercourse require consent from DCC. Upon receipt of any application (including the legislative fee) DCC has an 8 week legislative period in which to make a decision and either consent or object the proposals. If the applicant wishes to make an application for any works please contact Flood.Team@derbyshire.gov.uk.

That the hedgerows on the application site may contain nesting birds. It is an offence under the Wildlife and Countryside Act 1981 to intentionally kill, injure or take any wild British breeding bird or its eggs or damage its nest whilst in use or being built. The nesting season normally encompasses the months March to July inclusive. If you are in doubt as to requirements of the law in this regard you should contact English Nature, Peak District and Derbyshire Team, Manor Barn, Over Haddon, Bakewell, Derbyshire, DE4 1JE.

(Informative) The scheme required by Condition 7 should consider the following elements:

- additional native tree and shrub planting along the woodland edge;
- the inclusion of a buffer strip along the stream corridor of wildflower/species rich grassland;
- seeding of woodland ground flora;
- the addition of bat and bird boxes around the site (location to be agreed with a suitably qualified ecologist);

- details of lighting regime to minimise disturbances to bats.

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, seeking to resolve planning objections and issues and suggesting amendments to improve the quality of the proposal through meetings and negotiations. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

Item 1.3

Reg. No. 9/2013/0765/RSD

Applicant:
PERSIMMON HOMES NORTH
MIDLANDS
UNIT 17C DAVIDSON HOUSE
MERIDIAN EAST
MERIDIAN BUSINESS PARK
LEICESTER
LE19 1W2

Agent:
PERSIMMON HOMES NORTH
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UNIT 17C DAVIDSON HOUSE
MERIDIAN EAST
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Proposal: **APPROVAL OF RESERVED MATTERS (ACCESS, LAYOUT, DESIGN & APPEARANCE) OF PLANNING PERMISSION 9/2011/0292 FOR 58 RESIDENTIAL DWELLINGS WITH ASSOCIATED PARKING ON LAND AT SK2928 2124 REPTON ROAD WILLINGTON DERBY**

Ward: **WILLINGTON & FINDERN**

Valid Date: **20/09/2013**

Reason for committee determination

This is a major application which has received more than two objections.

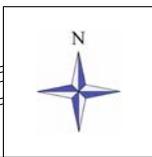
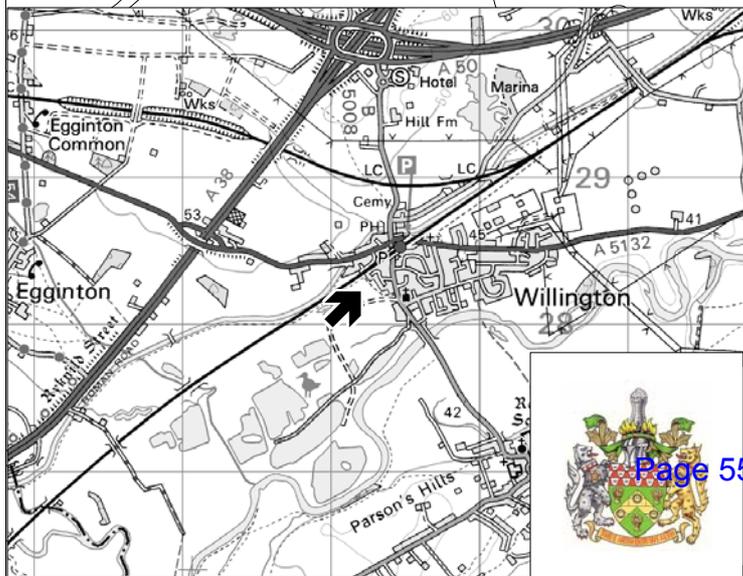
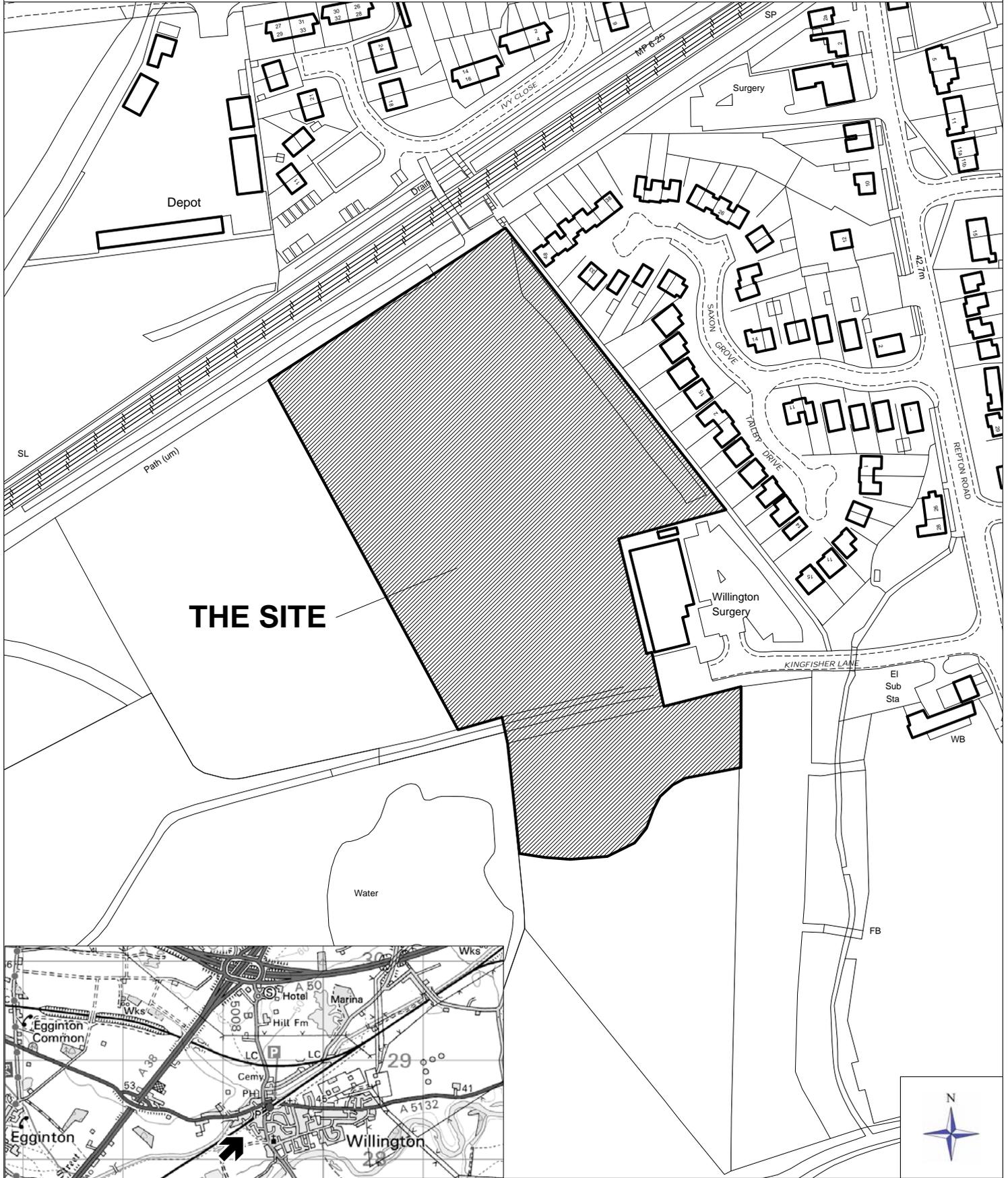
Site Description

The site occupies an area to the rear, west, of the recently constructed Doctors surgery, which was first occupied in early October 2013. The site is separated from the surgery site by fencing along which hedges have been planted as a part of the surgery development. The north and east boundaries abut public footpaths and beyond the north path is the Derby – Birmingham railway line. The west boundary is formed by a fence and very sporadic planting beyond which lies land (that is subject to the application for the holiday lets also on this agenda) and this land beyond the application boundary is shown as being retained in open use. This is an area of restored ground following mineral extraction in the past. The newly constructed Kingfisher Lane abuts the site boundary and this would be extended to facilitate the housing development.

Proposal

This proposal is for the details of the development following the grant of outline planning permission to facilitate the development of the Doctors' surgery. The proposal is as described above and has been much amended since submission to reflect discussions between the applicants and officers.

9/2013/0765 - Land at SK2928 2124, Repton Road, Willington, Derby (DE65 6QT)



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South Derbyshire District Council. LA 100019461. 2010

The overall number of dwellings remains the same as originally submitted but the applicants have amended the positioning of some of the dwellings as well as the individual design of others within the development have amended to reflect the South Derbyshire traditions and layout.

The site would be accessed from Repton Road via Kingfisher Lane. Within the site a loop road would be formed to service the houses. There are two areas of open space proposed on the site, the first, linking to the public footpath to the east would have a small area of play equipment, a meeting zone and would abut the north boundary of the Doctors Site. The other would lie to the south of Kingfisher Lane behind the Calder Aluminium site, and would contain a LEAP. A balancing facility serving both the Doctors' surgery and the housing development would also be formed to the south of the Lane.

In terms of the boundary to the housing on the east boundary of the site, a large proportion of the vegetation adjacent to the public footpath would be retained, approx. 6m wide. However the application proposes the removal of a line of trees within the application site that abut the planting to be retained. The submitted landscape scheme shows the retained area outside the proposed garden boundaries. A new hedge is also proposed on the west boundary of the housing development and this area is shown as a part of the open space for the site rather than as a part of the gardens of those houses. The applicants state that this should ensure that the hedge is retained rather than being subsumed behind normal residential fencing that would give a hard edge to the development on land adjacent to the open area beyond the application site.

Applicants' supporting information

The application is accompanied by reports and statements covering the following areas:

Design and Access, Planning Policy, Flood Risk, Archaeology, Transport, Ecology with particular reference to Great Crested Newts and the findings of each can be summarised as follows:

Design and Access – this document has been subject to change since submission following negotiation between the Officers and the applicants. The main changes are the removal of one particular house type as unsuited to a South Derbyshire location, the relocation of various houses to improve the circulation and street scenes within the development. Affordable housing has been generally located on the north boundary, closest to the local services via the tunnel under the railway and The Castle Way. The layout of all the housing areas seeks to ensure supervision of the open areas around and within the site. Following the amendments, the applicants assert that the development accords with the principles set out in Housing Layout and Design.

Planning Statement – the planning statement identifies all the relevant policies and guidance applicable to the development. The applicants note that the site has outline planning permission for housing development and therefore address those policies that require detail of the development to be submitted. In particular those covering ecology, flood risk, access. It is the applicant's case that as the Council has a lack of a 5-year housing land supply and that the policies seeking to restrict housing development to that that can be confined within the village framework then the policies of the Local Plan are out of date and should therefore carry little weight in determining this application. It is

the applicant's argument that the housing development should be permitted without delay in order to comply with the provisions of the NPPF.

Flood Risk – The site itself lies within Flood Zone 1 but the proposals for surface water drainage have been designed to ensure that the development of the site does not result in any greater impact of the surface water system than the site in its existing state. This would be achieved through the use of an overflow pond on the south side of Kingfisher Lane that would drain to the Egginton Brook via a throttle discharge valve that would flow to the brook or dissipate to the ground.

Foul Drainage – the applicants acknowledge that the site would be draining to the foul sewer in Repton Road that has been subject to foul flooding in the past. The applicants intend to address the upgrading of the sewer with Severn Trent Water Ltd once a final drainage plan has been identified. The outline planning permission requires that foul drainage details be submitted; currently the application is accompanied by a drawing showing the drainage from the Doctors surgery but no details of the site's foul drainage. *[The applicants will be reminded of the requirements of the outline planning permission]*

Archaeology – the report identifies that there is a strong probability of pre-history or Roman remains being in the area generally due to previous finds but the likelihood of those remains being present at this site is remote due to prior mineral extraction that affected the land.

Transportation – the applicants state that the highway issues would not impact as a result of this development as the outline planning permission has assessed the impact on the highway network of the proposed development and this was accepted when outline planning permission was granted.

Great Crested Newt Survey and Mitigation – The survey was undertaken in May 2011 and as such its conclusions and proposed mitigation remain relevant to the consideration of this submission *[the survey and mitigation remain valid for three years]*. The survey and mitigation has been used in the development of the Doctors surgery. There are great crested newts present at the site in modest numbers; it would be for the applicants to apply for the necessary licence from Natural England prior to commencing development on the land. There are no actual ponds on the site the applicant's state that the habitat for the newts present on the site through the provision of habitat improvements notwithstanding the loss of unsuitable land for newts to use that would lay below the proposed dwellings.

Planning History

9/2011/0292 granted subject to conditions - 20-09-11 - hybrid planning application comprising: outline application for residential development of up to 58 dwellings, together with landscaping and open space; full application for the construction of a doctors' surgery and pharmacy building (use class d1) totalling 1,226sqm, together with car parking and access;

9/2012/0615 - granted 08-10-12 - the variation of conditions 4, 9 and 10 of planning permission 9/2011/0292 to allow for elevation changes and completion of highway works prior to occupation of the Doctors Surgery.

Responses to Consultations

The County Highway Authority has asked for amendments to the scheme that have been undertaken and are with highways for consideration. The County Highways Authority has also sought two amendments to the layout which involve a more curved entrance to the housing site and the tightening of the road next to the meeting place. These elements are commented on below.

The Derbyshire Wildlife Trust has commented that the provisions of condition 20 on the outline planning permission is respected, retention of hedge of the east boundary but would wish this feature to be excluded from the curtilage of dwellings. *[This has been achieved through negotiation]*. The same should apply to the proposed hedge of the west boundary. The Trust confirms the need to protect trees and hedges during the development as required by Condition 21 of the outline planning permission albeit it is concerned that the some of the trees to be felled are native black poplar rather than the hybrid poplar and the hedge on the south boundary may require layering to maintain its long term integrity. If any trees or shrubs a to be removed in the bird breeding season, then the trees, shrubs and brambles should only be removed following inspection by a competent ecologist and details to protect nesting birds has been submitted to and approved in writing by the Local Planning Authority and thereafter implemented in accordance with the approved details. The Great crested newt survey and mitigation strategy are considered acceptable and the mitigation measures should be included in full in any decision.

Natural England recommends that the Council take advice from its own advisers on the application [see above]. The Council should seek biodiversity improvements from the development and request reconsultation if the application is amended in any way.

Severn Trent Water wish to see the details for foul drainage for the site as required by the condition attached to the outline planning permission. Its reason is that the company does not wish to see flooding issues exacerbated and to minimise the risk of pollution. *[Provisions under the Water Act exist to address this issue but the outline planning permission that contains a surface water drainage condition and this would remain in force requiring the submission of details]*.

The Police Crime Prevention Design Adviser has no issues with the proposed layout in general but is concerned about the ability of criminals to escape the site via the link from the proposed meeting place within the site; it is recommended that this be closed off. It is recommended that the fences to the site boundaries be a minimum 1.8m high. There is also concern that the underpass to the railway leaves the car parking to plots adjacent to Footpath 7 a little exposed. The situation could be improved if the footpath was illuminated as has happened with footpath no 6. Better supervision could be achieved by relocating some of the houses to supervise the parking area and to supervise the footpath. Alterations to house types to provide windows overlooking parts of the site were recommended. Provision of see-through fences in some locations and see-through gates are also recommended.

Network Rail has no objection subject to its operational requirements being met in terms of the provision of a secure boundary, appropriate landscaping to the rail boundary and ensuring prior Network Rail approval is sought prior to the works being undertaken.

The Environment Agency raised no objection to the development at the outline stage provided that the surface water drainage details are submitted prior to the development being commenced.

Responses to Publicity

Willington Parish Council objects to the development for the following reasons:

- a. The reference to train times and such like in 2.8.2 of transport document is that it is nearly 18 months out of date. The train times are seemingly wrong which suggests lack of research on this. *[See amendment referred to above]*
- b. The whole application makes no suitable suggestion surrounding the junction modifications required for accessing the site. Repton Road has a blind bend at the point of the exit of the new "Kingfisher Drive". Whilst the stats suggest otherwise, it is an accident waiting to happen with speeding and how slowly and dangerously some locals drive/pull out without looking.

Three responses have been received, two objecting to the proposal and one enquiring about getting on a list to purchase one of the dwellings if permitted.

The objections are summarised as follows:

- a. Willington already has sufficient housing and development should be directed to other villages such as Repton.
- b. Notwithstanding the submitted Flood Risk Assessment, Willington suffered a significant flood event last year. This is likely to occur again and Repton Road would be impassable as it was last year. 58 houses would exacerbate this situation.
- c. Willington primary school is oversubscribed, children from Willington have attend primary school at Repton
- d. Repton Road is very busy a peak times with both commuters and HGV's; HGV's have been known to crash into the Repton Road Bridge on no less than once each month.
- e. Flood water should not cause any problems for others if permission were granted.
- f. This and the Calder Aluminium site should be considered as a whole as both will have significant impacts on the village infrastructure.

Development Plan Policies

The relevant policies are:

Local Plan: Housing Policy 11, Environment Policy 11.

Supplementary Planning Guidance – 'Housing layout and design' (SPG)

National Guidance

The NPPF at paragraphs 7,17, 186, 187, 215 and Chapter 11.

Planning Considerations

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

- The principle of the development
- The layout, design and impact on Neighbours
- The impact on protected species

Planning Assessment

The principle of the development

In terms of planning policy and the principle of the development, the application already has planning permission in the form of the outline planning permission granted in 2011. The issues under consideration here are that of detail.

The Parish Council comments on the rail timetable have also been addressed by an addendum to the transport statement that sets out the then up to date rail timetable, which also draws attention to the proposed additional stopping trains in Wellington that came into effect in December 2013.

The layout, design and impact on neighbours

The layout and house design have been the subject of considerable discussion between the applicants and officers. The layout as now proposed has been assessed in the light of Buildings for Life criteria and, subject to conditions, has been scored at 14 which is 'good'.

The Parish Council has raised objection to the access but that access was permitted in 2011 and the access permitted in now in place. Therefore no weight can be afforded to the Parish Councils objection to the detailed planning submission. This applies to the objections raised as a result of publicity that relate to access and traffic impacts on Repton Road, these aspects were considered at the time of the outline planning application.

This latest layout has been sent to the County Highway Authority for final comment and any comments/recommendations will be reported at the meeting. There is no issue of principle at issue arising from highway safety.

The houses on Saxon Grove and Tailby Drive are closet to the site boundary and the public footpath and adjacent planting lie between the two sets of dwellings. In all cases the minimum separation distances set out in SPG are exceeded. The amended layout is therefore acceptable under the provisions of Housing Policy 11.

The application is accompanied by a comprehensive tree survey that is considered acceptable by the Council's tree officer and forms the basis for drawing up a good landscaping scheme. An access gate to the hedge on the west boundary from Footpath No 7 would be required for maintenance purposes and a condition to this effect is recommended.

Conditions on the outline planning permission required submission of surface water drainage details and the application is accompanied by a Flood Risk Assessment. This sets a surface water drainage strategy for the site. The condition on the outline planning permission will ensure that the proposed surface water drainage strategy is implemented in accordance with the recommendations in the report with any other calculation or engineering details to be submitted for consideration prior to the works

being undertaken. The impact following development on surface water flows from the land would be no worse after the development than is the case with the site in its existing condition.

Ecological Impact

Great Crested Newts have been identified on the site and a strategy for dealing with their presence has been submitted under the requirements of the outline planning permission. Advice from Natural England and the Derbyshire Wildlife Trust is that there is sufficient information submitted to allow the Local Planning Authority to proceed to determine the application subject to the mitigation strategy proposed in the documents being the subject of a planning condition, and the necessary licence being obtained from Natural England prior to the development being commenced.

Overall Conclusion

The principle of the housing development on the site was determined at the outline planning permission stage. The outline application also had a 'full' permission element to it that included the formation of an access to serve both the Doctors' Surgery and the 58 houses that were proposed in outline.

The application has a satisfactory layout and design for the proposed dwellings, the materials of construction remain to be determined being subject to a condition on the outline planning permission. Currently the layout and design scores 14/20 (subject to conditions) using Building for Life Standards, which is the minimum standard the Council seeks for housing layouts. Details of the landscaping for the site have been submitted and an update on the suitability of the scheme will be given at the meeting if available.

The protected species issues have been addressed and the applicant will be made aware of the mitigation requirements set out in the application documents.

The scheme is thus acceptable and approval of reserved matters and condition discharge, where appropriate is recommended.

Recommendation

GRANT approval of reserved matters subject to the following conditions:

1. Notwithstanding the submitted details this planning permission shall relate to the following drawings set out in the attached schedule.

Reason: The details as submitted were considered unsatisfactory but following negotiation and amendments the plans referred to in the schedule are acceptable to the Local Planning Authority and the list plans is attached for the avoidance of doubt about what plans have been permitted.

2. Notwithstanding the submitted details, provision shall be made for an access gate from Public footpath 7 to the west boundary of the site for maintenance of the proposed hedge and trees to be excluded from boundaries under that provisions of Drawing 178/PSP-02 Rev F.

Reason: In order to ensure that maintenance access is available for the hedge on the west boundary of the site

Informatives:

You are advised that the requirements of the Outline Planning Permission 9/2011/0292 remain valid and prior to commencing development you should seek to discharge those remaining conditions. Those conditions that require no action but do require compliance remain a valid part of the overall planning permission. The Local Planning Authority looks forward to discussing the discharge of the remaining conditions to secure an early implementation of the planning permission.

The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property.

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, seeking to resolve planning objections and issues, suggesting amendments to improve the quality of the proposal, meetings and negotiations. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

21/01/2014

Item 1.4

Reg. No. 9/2013/0818/SMD

Applicant:
Mr Phil Twigg
Morris Homes Limited
Moorland House
Altrincham Road
Wilmslow
SK9 5NW

Agent:
Mr Phil Twigg
Morris Homes Limited
Moorland House
Altrincham Road
Wilmslow
SK9 5NW

Proposal: THE RESIDENTIAL DEVELOPMENT COMPRISING 158 DWELLINGS WITH SUPPORTING ROADS AND ASSOCIATED INFRASTRUCTURE ON LAND AT SK2919 2074 WILLIAM NADIN WAY & DARKLANDS LANE SWADLINCOTE

Ward: SWADLINCOTE

Valid Date: 08/11/2013

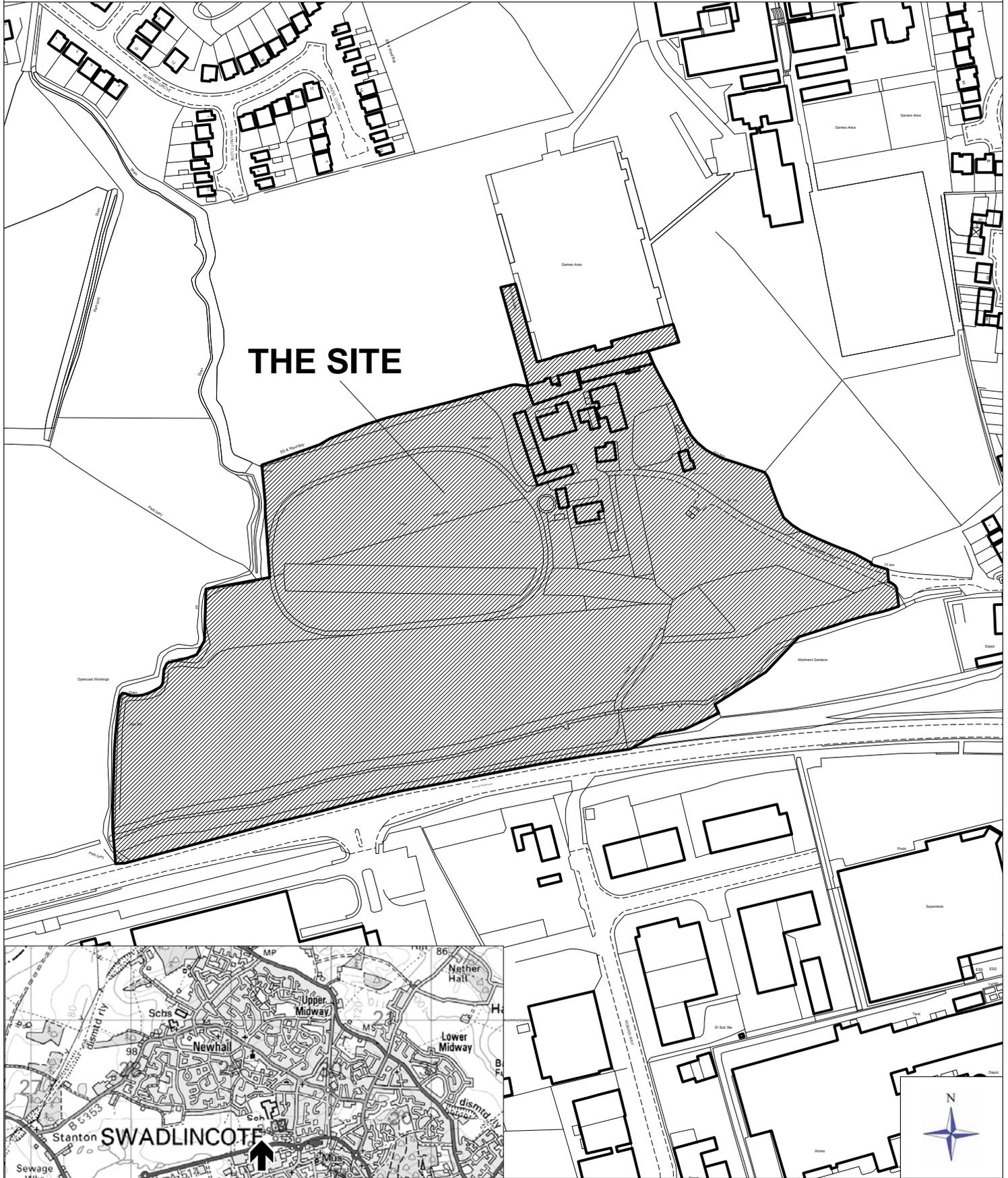
Reason for committee determination

The Council has an ownership interest in the site and the application is therefore a Regulation 4 development.

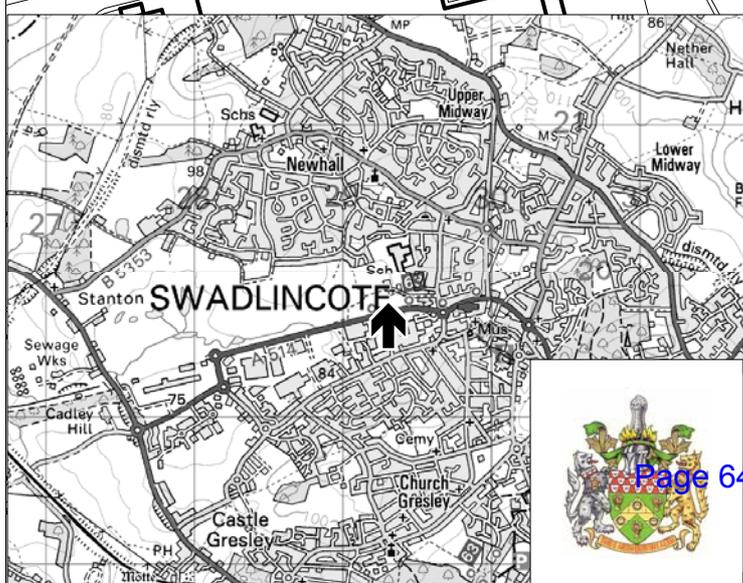
Site Description

This 6.65ha site is located on land to the north of William Nadin Way. There is an area to the southeast of the site which is currently used as allotments, which is excluded from the site. The Council Depot is to the immediate east of the site and Pingle School is to the north, with a Multi-Use Games Area (MUGA) adjacent to the northern boundary. There are currently three existing properties within the site boundary with access from Darklands Lane, with Breach Leys farmhouse and extensive outbuildings being the largest. A large proportion of the application site is used as paddock for horses with an old circular exercise track still evident. The southern part of the site adjacent to William Nadin Way is heavily treed with Darklands Brook running through the area along with an existing cycle route. To the west is part of the former Nadin's open cast site with the Breach Leys Farm Meadows Wildlife Site of 2.6ha immediately to the west over the existing ditch. The route of Public footpath No.46 runs across the centre of the site linking Darklands Lane with the open land to the west. The route of a cycletrack runs along the southern boundary of the site. The site has a gentle gradient running from east to west with a fall of around 3m. The land to the north is higher than the site and land to the east and west follow the same contours.

9/2013/0818 - Land at SK2919 2074 William Nadin Way and Darklands Lane, Swadlincote DE11 0UP



THE SITE



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Proposal

The scheme should be considered in conjunction with the proposal for the new Depot at Tetron Point and the outline application for retail development at the existing Depot site (application refs. 9/2010/1113 and 9/2010/0715). All schemes are interdependent as the Council owns parts of the land within this application site and that of the existing Depot. This scheme would facilitate the relocation of the Council Depot to Tetron Point to provide a much-improved facility for the District. It should be noted here that an application (9/2010/0714) for 201 dwellings with access off William Nadin Way was withdrawn in October 2013. That application had a Committee resolution to grant planning permission in March 2011.

Permission is now sought for the erection of 158 dwellings, comprising a range of 1, 2, 3, 4 and 5 bedroom mews and detached dwellings together with supporting road infrastructure and junction to William Nadin Way. The proposed housing mix, according to Drawing No. E945/P/PL01 Revision H, would be as follows:

- 3 x 1 bed
- 22 x 2 bed
- 78 x 3 bed
- 50 x 4 bed
- 5 x 5 bed

The only vehicular access to the site would be from William Nadin Way just west of the centre of the site and 50m east of the existing junction serving Brunel Health Care depot on the opposite side of the road. A balancing pond would be created in the southwestern corner of the site. Subject to the grant of planning permission it is proposed to divert the route of Public Footpath 46 to follow the route of the main spine road through the proposed estate, which would terminate on its new route and link with the existing footbridge over Darklands Brook. This would be 3m wide and form a combined pedestrian/cycle path with dropped crossing at the road junction.

A village green is shown on the eastern side of the site which would be defined by a shared surface perimeter and railings with decorative piers and contain a LEAP. Twenty-seven house types are proposed, the most prominent being the Lymm, a three-storey dwelling and the Melford, a 2½ storey dwelling, both types being located at the head of the Boulevard to create a sense of arrival. All house types would have a mix of features to add interest such as gables, brick and stone cills and lintels, pitched roof dormers, parapet roof features and bay windows. All original references to semi-circular, fanlight-style windows have been replaced by window designs with square tops, which are better suited to a modern development.

The main focal point within the development would be large area of open space (village green) on the eastern side of the development, with a LEAP at its centre, which would be surrounded by dwellings on all sides to provide natural surveillance. Parking would be provided via a mix of garages/carports, parking courts or parking spaces to the side/front of dwellings. Pedestrian routes to the town centre would either be via Darklands Lane or William Nadin Way where a pavement linking to a crossing point (refuge) to join the existing pavement on the southern side of the road is proposed. Garden lengths range from 7m to 15m, with the majority being approximately 8 to 9m long. The overall density of the development would be 28 dwellings per hectare.

The development would be served by a central main boulevard off William Nadin Way leading onto a High Street (following the route of the easement), which would run east to west, with smaller streets leading off, all of which would have traffic calming surfaces at the junctions. The design concept is to have a strong countryside edge along the southern and western boundaries, intersected by the main tree-lined boulevard leading to a public square. The southern edge of the built development would follow the route of Darklands Brook and the northern edge would follow the boundary with The Pingle School.

The proposed scheme also includes the formation of a new balancing pond in the southwest corner of the site, which would provide a sustainable drainage solution for the development and would also include public access with platforms and seating to encourage duck feeding. Also included is the provision of a replacement badger sett to the northwest of the site.

Applicants' supporting information

The application is supported by the following documents, which are available to view on the Council's website:

- Arboricultural Survey
- Archaeology Statement
- DAS
- Ecology Report
- Drainage and Flood Risk Assessment
- Noise Assessment
- Phase 1 Site Appraisal
- Transport Assessment

These can be summarised as follows:

Arboricultural Survey

This report identifies the existing trees on site and the constraints posed by some trees, both above and below ground. Many of the existing trees to the east of the site will be unaffected by the proposals. The vast majority of trees within the site boundary would be removed with the exception of partial retention of tree groups on the southern boundary with William Nadin Way. Details of tree protection measures have been submitted through a Arboricultural Method Statement

Archaeological Statement

This statement provides an update to the originally submitted Archaeological Assessment in 2010 which concluded that as the site was previously used as a colliery it has negligible potential for surviving remains other than those relating to colliery workings. There is some potential for prehistoric activity along the banks of Darklands Brook, however this land will remain as open space and thus mitigates any impact. It was concluded that the proposed development would not have an adverse impact on any archaeological remains. The Archaeology Statement endorses this view, stating that the NPPF requirements in relation to heritage issues are not fundamentally different

to previous PPD5 policy and it is concluded therefore that no further archaeological measures will be required in connection with this development.

Design and Access Statement

The scheme has adopted some principles of the English Garden Suburb and Model Village development that have been identified locally. It includes a sense of arrival, place and space and utilises character areas to create a visually interesting and legible journey through the scheme. This details the site history, its surroundings, involvement, a site evaluation including a constraints and character assessment, design including landscaping, scale and access. Whilst there is no overall conclusion within the DAS it outlines the concept behind the proposed design and house types used within the different areas of the site and how that concept was decided upon. It also considers the provision of a diverse mix and type of accommodation, i.e. both private and affordable to help maintain a sustainable community.

Ecology Report

The original report, together with a Reptile Survey, firstly outlines the methodology used and then the species that were surveyed, which includes badgers, barn owls, bats, great crested newts, otters, reptiles and water voles. The existing buildings on the site were surveyed and no evidence of bats or barn owls was found. The well-grazed grassland on site limits the foraging habitat for barn owls. Bats were recorded foraging on the site. There are no ponds on site for great crested newts. They were found on an adjacent site, however, the boundary watercourses to the west of the site act as a barrier. No evidence of otters or water voles was recorded. The reptile survey found no evidence of reptiles; however, grass snakes could be using the corridor provided by Darklands Brook, which would be retained. Measures to minimise risk to reptiles including limiting work in sensitive areas to times of the year when reptiles are active have been suggested.

An updated Ecology survey has been submitted as a follow-up to the above which concludes that there are no noticeable changes from those previously recorded. It recommends:

- Badgers are still active on the site
- Japanese Knotweed is still present within the site which requires remediating
- As a result the Badgers will need to be relocated to an artificial sett
- A detailed method statement will be required to support an application for a licence from Natural England
- There should be no pollution caused to the Darklands Brook by the development
- Vegetation clearance should be timed to avoid bird nesting season
- Overhanging branches should be removed to minimise accidental damage to trees
- New lighting should be designed to minimise light spillage
- Installation of bird and bad boxes within trees and buildings
- The use of native species within landscaping to encourage wildlife

Drainage and Flood Risk Assessment

This concludes that there is minimal risk of flooding from the nearby fluvial sources (Darklands Brook and its contributory) or from local infrastructure. The new surface

water drainage systems would be designed in accordance with nationally agreed standards and provide protection from surface flooding under the critical 100 year rainfall event including the recognised allowance for the effects of climate change. The main drainage systems will be offered for adoption which would ensure long term maintenance throughout the life of the development.

Noise Assessment

This concludes that the predominant noise affecting the site is mainly caused by traffic using William Nadin Way, which outweighed any noise generated by commercial operations on the opposite side of the road. A landscaped buffer would be provided between the dwellings and William Nadin Way, with no new dwellings within 30m of the carriageway edge, which falls within the guidelines with the (now extinct) PPG24.

It is considered that the noise assessments demonstrate that acceptable external and internal noise levels can be achieved for residents subject to appropriate and practicable forms of noise mitigation, which is a matter that can be dealt with by way of planning conditions.

Phase 1 Site Appraisal

This recommends that a Phase 1 ground investigation will be required, the scope of which should include sampling and gas protection measures.

Transport Assessment

This concludes by stating that satisfactory vehicular access to the site can be achieved and that the site is also accessible by sustainable travel modes, in particular public transport, walking and cycling. The proposed development would not generate significant travel demand even during the peak travel periods and would not give rise to significant adverse traffic impacts on the network of interest. It is therefore considered that there are no significant highway or transport issues that would prevent the grant of planning permission for the scheme as proposed.

Planning History

9/2010/0714 – The residential development of 201 dwellings, new access, internal highways and drainage, public open space, improvements to cycle route and allotments – Withdrawn 14/10/2013.

Responses to Consultations

Following receipt of revised plans there are no objections from the County Highway Authority subject to conditions in respect of the storage of plant and machinery, construction of a temporary access off William Nadin Way, provision of wheel washing facilities, formation of the new junction, construction of estate streets, provision of parking, use of garages and parking spaces, no gates within 5m of the nearside highway boundary and driveway gradients.

Derbyshire County Council has requested the following:

- £4,520.38 towards the provision of a new Household Waste Recycling Centre;
- Access to high speed broadband services for future residents;

- Protection of existing Public Right of Way (Footpath 47);
- On-site provision of an alternative route (to Greenway standard) along with a financial contribution towards future maintenance of £12,500;
- £67,372 towards the provision of onward Greenway connection from the site to the Derbyshire Greenway Network;
- £159,586 towards the provision of 14 infant places at Elmsleigh Infant and Nursery School;
- £412,228.08 towards the provision of 24 secondary places at The Pingle School;
- £167,651.10 towards the provision of 9 post-16 places at The Pingle School;
- New homes designed to Lifetime Homes standards.

Total £823,857.56 of which £739,465.10 is requested for education provision.

The Environmental Protection Officer (contaminated land) has no objections subject to conditions.

The Environmental Protection Officer (noise) has concerns with regard to the potential for noise from the adjacent industrial estate impacting on housing alongside William Nadin Way and suggests either bunding to screen the properties from noise to a height that would block line of sight to first floor windows; or an addendum to the Noise Survey to include consideration of existing and potential future impacts from the industrial estate undertaken in line with BS4142 assessment methodology. As such he recommends a condition to secure a noise mitigation scheme.

The Council's Strategic Housing Manager has no objections to the amount of affordable housing provided with the submitted scheme.

The Peak and Northern Footpaths Society considers that careful attention has been paid to the public footpath and cycleway that cross the site and has no objections provided that (1) there is a link at the southwest corner of the site to William Nadin Way, (2) the footbridge crossing would be improved, 3) improvements to the surfaces of FPs 46 and 47 (off site) since these will be used more extensively than at present once the development is carried out. The Society also makes it clear that it must be consulted on any footpath diversion order application.

The Coal Authority concurs with the recommendations made within the Phase 1 Site Appraisal and recommends a further condition relating to Phase 2 site investigation works.

The Crime Prevention Liaison Officer has no objections overall but recommends some amendments to facilitate better supervision of public and parking areas, removal of rear accesses to some plots or provision of lockable gates. It is also suggested that A frames are installed at all access points to open land to deter motorcycle misuse.

Sustrans advises that NCN63, which runs past the site, is a very important link in the national land local cycle network. The Transport Assessment notes that this route will be incorporated into the development. However, it should be noted that the preferred route for NCN63 would not be to follow William Nadin Way to Tetron Point as outlined in the Assessment but should skirt the Golf Course development at its northern edge to emerge onto the B5353 on the outskirts of Newhall in order to provide a safe commutable route to Burton upon Trent for cyclists. Detail on the standard of the

proposed route would also be appreciated to ensure that it meets the quality of route now expected (3m wide unobstructed). A later comment welcomes the 3m wide shared use path shown on the planning layout drawing (Revision F). If the path is intended to be an extension to NCN63 signage should be included.

The National Forest Company considers that the proposed tree planting within the development is acceptable although the existing vegetation to the south of the Brook should be supplemented with additional planting in order to diversify the mix of species and enhance biodiversity. Other comments with regard to the replacement badger sett are awaited although there is some concern that the proposals rely on adjoining land for foraging but that land is allocated for development, leaving only a small foraging area around the replacement sett and the adjacent school fields if they are not fenced off. The NFC considers that advice from Derbyshire Wildlife Trust should be sought and Natural England consulted as the works to relocate the sett will require a licence from them.

Natural England advises the Local Planning Authority to apply its standing advice to the application as a material consideration but, otherwise, has no objections.

Sport England does not object to the proposal subject to a condition relating to the submission of details for the proposed groundworks and planting scheme to the land to the northeast of the site adjacent to the artificial turf pitch have been submitted and approved in consultation with Sport England.

The County Archaeologist is of the opinion that as the site has been subject to substantial ground disturbance over the years involving various uses and because of the lack of evidence of any significant archaeological indicators, there is no need for an archaeology condition in this instance.

The following external consultation responses remain outstanding at the time of compiling this report:

- Environment Agency
- Severn Trent Water
- Derbyshire Wildlife Trust

Any responses received will be reported verbally to the Members during the meeting.

Responses to Publicity

Two emails have been received both of which relate to the existing rights of way/cycle routes. These can be summarised as follows:

- a. NCN63 route is very important as it provides a link between Swadlincote and Newhall.
- b. Pleased that existing rights of way have been incorporated into the development but who is to maintain them in the long term? This has posed a problem elsewhere in the district.

Development Plan Policies

The relevant policies are:

Local Plan Saved Policies:

Housing Policies 4, 9 and 11; Environment Policies 9, 10 and 11; Transport Policies 6, 7 and 8; Recreation and Tourism Policies 4 and 8; Community Facilities Policy 1.

Housing Design and Layout SPG

National Guidance

National Planning Policy Framework (NPPF), paragraphs 7, 14, 17, 23, 29, 30, 31, 32, 39, 47, 49, 50, 56, 58, 59, 61, 69, 70, 73, 75, 118, 121, 123, 196, 197.

Planning Considerations

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

- Principle of Development
- Visual Impacts
- Access, highway and transport issues
- Landscaping and open space
- Design and Layout
- Ecology Issues
- Flooding Issues
- Noise Attenuation
- Affordable Housing and other contributions
- Other issues raised by consultation

Planning Assessment

Principle of Development

Members will recall that an application for 201 dwellings on this site was considered by the Committee in March 2011 with a resolution to permit, subject to the receipt of a signed Section 106 Agreement for recreation, a National Forest contribution and play equipment, plus the satisfactory conclusion of an agreement to secure the fencing and landscaping of the ATP to the north. Since that time, the policy situation has changed insofar as the RSS has been revoked, and the District Council is unable to demonstrate a five-year housing land supply.

In terms of current policy Adopted Local Plan Saved Housing Policy 4 seeks to ensure that housing developments in the Swadlincote urban area are located within or on the fringe of the urban area subject to a number of criteria. The site is on the fringe on the built up area of Swadlincote as defined by the adopted Local Plan and has residential areas to the north and east and industrial areas to the south and southwest. On this basis it can be concluded the site is substantially surrounded by development. The site would not result in an intrusion into the rural landscape as, although there is open land to the west, this itself is bounded by residential areas. The majority of the land itself is used as a paddock area for horses but has not been maintained for many years and thus is not classed as agricultural land. Being underused, it is considered that the land does not make a valuable contribution to the character of the area, hence its exclusion from the designated open space area in the Local Plan which adjoins the western

boundary. It is considered, therefore, that the re-development of this land would generally enhance the area.

The site's main feature, the Darklands Brook corridor and associated belt of mature trees, would be retained and continue to provide a valuable contribution to the area linking with the open land to the west. This provides an important gateway feature on the approach to the town from the west and its setting within the National Forest. The proposed density of the development is not overly high and would fit comfortably within its context. It would not prejudice adjacent industrial premises, as the existing buffer between the uses would be enhanced. Accordingly, the proposal is in compliance with Saved Housing Policy 4.

Housing Policy 4 of the Emerging Local Plan allocates the site for residential purposes for around 200 dwellings, subject to:

- developer contributions towards the local greenway
- the enhancement of the connectivity from the site into Swadlincote Town Centre for pedestrians and cyclists
- retention of landscape features

It should be noted here that the above policy can only be afforded limited weight as the Emerging Local Plan has only reached its consultation stage.

The National Planning Policy Framework provides more recent relevant guidance on the determination of this proposal. This advocates the importance of achieving sustainable development with a general presumption in favour of such schemes. For decision-taking this means:

- approving development proposals that accord with the development plan without delay, and
- where the development is absent, silent or relevant policies are out-of-date granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, or
 - specific policies in the Framework indicate development should be restricted.

The objective of sustainable development is to seek the creation of mixed and sustainable communities to ensure that housing is developed in suitable locations which offer a range of community facilities and with good access to jobs, key services and infrastructure. The location of this site, adjacent to the town centre, is an ideal location in terms of sustainability as it is well within walking distance of a diverse range of services, such as schools, medical, and leisure facilities, public transport and town centres services. The site can be accessed by a choice of transport and would thus reduce reliance on the private car. The proposal incorporates a new crossing over William Nadin Way that would also allow further access to the town centre by pedestrians and the extension and improvements of the existing public footpath 46, the national cycle path and greenway will allow for accessibility to walkers, cyclists and horse riders. It is concluded, therefore, that the principle of residential development on this site is acceptable and is in accordance with local and national policies.

Visual Impacts from the surrounding areas

There has been a considerable degradation of the landscape of this area over time, owing to historic industrial activity, predominantly coal mining and consequently the landscape has a low sensitivity to change. Important views of the site are from Stanton, Newhall, Coniston Court and William Nadin Way. Any impacts would be either neutral or beneficial. Views of the site are limited owing to higher land levels to the north, and the low-lying nature of the site when seen from William Nadin Way, which is further screened by extensive planting along the road and dense, built-up areas that surround the site. As the views of the site are either restricted or screened by planting or buildings, it is considered that the proposal would therefore have positive impact.

In addition to the above there is a national requirement for local planning authorities to maintain a rolling five-year housing land supply, which this Council is currently unable to demonstrate. The development of this site for such a sustainable proposal would assist in this regard.

Access, highway and transport issues

Local Plan Saved Transport Policy 6, *inter alia*, seeks to ensure that all development is properly accessed; is serviced by public transport where appropriate and meets the cost of any necessary improvements to the highway network. Saved Transport Policies 7 and 8 similarly seek provision for pedestrians, people with disabilities and cyclists. Recreation and Tourism Policy 8 seeks to safeguard the existing network of footpaths and bridleways. Chapter 4 of the NPPF promotes sustainable transport with paragraph 32 advocating decisions on developments that generate significant amounts of movement should take account of whether:

- the opportunities of sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost affectively limit the significant impacts of the development..

Paragraph 34 advises that plans and decisions would ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.

The success of this site in terms of its sustainability credentials relies on links to the nearest urban area where its population can access main services. The site is within easy walking distance of Swadlincote and is also served by an existing public footpath and proposals to upgrade the cycleway. This would enhance the experience for pedestrians and cyclists.

The County Highway Authority has not objected to the scheme, although it remains concerns about the detail within the proposed layout regarding visibility for vehicles leaving private driveways, the surfacing of footways and verges, increase in radii to turning heads, the provision of margins around green areas and turning heads, the internal dimensions of some garages, the provision of a dropped crossings for some plots. This 'tidying up' in terms of detail is currently being addressed and the Highway Authority's further comments will be provided in the form of a verbal update at the Committee.

Design and Layout

High quality design plays a central role in *'Making South Derbyshire a better place to live, work and visit'*, which forms the overall vision for the Council (Corporate Plan 2009 – 2014). This reflects the need for good design established in Local Plan Saved Housing Policy 11 and also the Council's SPG 'Housing Design and Layout'. Paragraphs 56, 57 and 58 of the NPPF provide useful advice on design, in particular paragraph 57, which states that *'It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes'*.

The overall layout of the scheme relates to its surroundings and is largely specific to those surroundings. It proposes dwellings close to footways to enclose space and create character. The majority of the dwellings would be of two-storey design and range from a mix of detached, semi-detached and mews-style blocks. Buildings with curved designs address some corners. The affordable housing element would comprise a range of one-bedroom apartments, three-bedroom mews and two-bedroom mews dwellings. The use of a mix of car parking solutions would reduce car dominance within the scheme and changes in surfacing materials at road junctions and along stretches of road help create a pedestrian friendly environment. Distances between dwellings are acceptable and in line with the Council's space standards. Adequate garden sizes are proposed in relation to the type of properties they would serve. The pedestrian and cycle routes essential to the credentials of the scheme are appropriate and link well with existing routes. Public footpath No.46 which currently extends from Darklands Lane to Breach Leys farmhouse and beyond would need to be diverted before the commencement of any development on this site.

The design of the dwellings incorporate brick corbelled eaves rather painted fascia boards, which is considered infinitely more acceptable. The smaller dwellings are of simple design with straight stone heads and cills. Larger dwellings would have brick arched heads and have canopies or recessed entrances. Early designs incorporating semi-circular fanlight-style windows have been replaced by windows of a more simplistic and pleasing design, which are better proportioned to the dwellings. The use of high quality materials would enhance the appearance of the dwellings.

In relation to the overall character, the house types are not considered specific to the site and its context. However, there is a mix of styles within the vicinity of the site, with a Morris Homes development to the north, off Coronation Street, which reflects some of the proposed house types for the proposed development, albeit those styles have been updated. House types are mixed throughout the site, although the affordable housing has been grouped together in the northeastern corner, with car parking to rear access under a flyover.

The scheme in relation to streets, parking and pedestrianisation works well as the grouping of houses and the location of the public open space reduces the dominance of the streets. A mix of parking solutions, such rear parking courtyards, on-street parking and garages set back from the road, have been incorporated. The use of block paving will effectively make areas more pedestrian friendly. The positioning of the dwellings in the vicinity of the public open space would increase surveillance of that area.

Boundary treatments would include 1.2m high dwarf wall and railings, 1.8m high brick screen walls, 1.8m high feather edged board screen fencing with capping, 1.8m high

concrete post and timber panel fencing, knee rail fencing and 1.2m high steel estate street railings painted black. No details have been submitted in respect of tree planting and landscaping species for the development or for the public open space and play area. However, it is possible, and probably more usual, to control this by condition. Overall, the scheme has been assessed against the Building for Life standard (20) and has been scored by the Design Excellence Officer as 14, which is 'good'.

Ecology Issues

Natural England has not raised any objections to the application has been submitted. Derbyshire Wildlife Trust has not yet responded directly on the current application. Conditions are recommended setting out the requirement for a Habitat Management and Monitoring Plan for the created and retained habitats. Protected species identified on the site would require moving/translocating through a licence from Natural England.

Flooding Issues

The site falls mainly within Flood Zone 1 and partially within Flood Zones 2 and 3. No residential units are proposed for the areas shown to flood and the actual residential area will be within Flood Zone 1, which is considered to have a low probability of flooding. Finished floor levels for the development should not have to be raised above the predicted flood level. Surface water runoff from the site would be attenuated through a suitable flow control device with floodwaters being stored in the attenuation pond to the southwest. Picking up on the advice received on the previous scheme (and given that the principles for the drainage scheme for the current development has not changed), the Environment Agency was of the opinion that the development would be acceptable subject to the requirements of the FRA.

Noise Attenuation

The submitted plans indicate the provision of a landscaped buffer zone between the development and the adjoining MUGA at Pingle School to the north of the site. The buffer zone would include additional landscaping and a 6m high acoustic fence, which has been agreed as part of the contract between Morris Homes and the Council.

The Council's Environmental Protection Officer (noise) has recommended two options with regard to potential noise from the industrial development to the south. The first relates to the provision of bunding to screen the properties from noise to a height that would block line of sight to first floor windows. Given that the properties along the southern edge of the proposed development (those closest to the industrial uses) would be at a much lower level than the road and industrial development, and also given that the brook course, cycleway and trees between the area between the dwellings and the road would be retained and enhanced, there would be little opportunity to create a bund in this area. His second option would be to add an addendum to the noise survey to include consideration of existing and potential future impacts of noise from the industrial estate, to be undertaken in line with BS4142 assessment methodology. This is by far the preferred option and could be achieved by specific types of glazing to windows and doors, for example.

Affordable Housing and other contributions

The 5% level of affordable housing for this development has previously been set as part of the earlier submission. However, given the number of affordable housing schemes in the area at or nearing completion in recent months/years, and the current difficulties in education funding, it is considered that a higher priority would be to ensure that the full contribution to education provision is met in accordance with the LEA's request.

In addition, Derbyshire County Council has requested contributions towards Greenway maintenance and a new Household Waste Recycling. However, the development can only achieve a total sum of £470,000 (excluding the £500,000 available in lieu of the 5% affordable housing), from which the remainder of the education contribution and the costs associated with the acoustic screening works and the fencing works must be found. (The normal requirement for a contribution towards open space for a development of this size is £414,192).

The total education contribution requested is £739,465.32. This can be made up of the £500,000 (in lieu of AH) + £239,465 (from the available £470,000). This leaves a balance of £230,535 to cover maintenance of POS and the costs associated with the acoustic screening and associated works. It is envisaged that after the screening works, the remainder go to the POS maintenance. No funds would be available for any other contributions.

Other issues raised by consultation

Amendments have been made to take account of the Crime Prevention Officer's comments and the developers will be advised to consider the use of 'A-frames' as a way of deterring motorcycle misuse.

Conclusion

Although not allocated in the Adopted Local Plan the site is allocated in the Emerging Local Plan. The site displays excellent sustainability credentials and is suitable for residential development in accordance with the objectives of the National Planning Policy Framework.

The primary incentive for the Council disposing of this site is to secure the future-proofing of the statutory waste and cleansing services through the financing of a new depot. This is clearly a major priority for the Council going forward given the current inadequate facility. Unfortunately a combination of the site's location and the necessary financing of statutory services have meant less revenue being made available for the impact on infrastructure as a result of the development. However, members should not be concerned regarding any precedent set for other developments, given the proven need for the urgent funding required for essential services in this unique situation.

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.

Recommendation

- A. Subject to the receipt of contributions for the funding of education provision, acoustic fencing and associated works, and provision and maintenance of recreation and open space;

B. **GRANT** permission under Regulation 4 (General Regulations 1992) subject to the following conditions:

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

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

2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawings, all as listed on the attached schedule, unless otherwise agreed in writing by the Local Planning Authority.

Reason: For the avoidance of doubt, the original submission being considered unacceptable.

3. Prior to commencement of development a plan indicating the phasing of the development shall be submitted and agreed in writing by the Local Planning Authority and the development shall be implemented in accordance with the approved scheme, unless otherwise agreed in writing.

Reason: To enable submissions to be made on a phased basis to respond to local circumstances.

4. Prior to commencement of development in any one phase a lighting scheme (including details of lighting during the construction phase) shall be submitted and approved in writing by the Local Planning Authority and the scheme shall be implemented in accordance with the approved details.

Reason : To minimise lighting impacts on wildlife during construction phase and to preserve amenity, ensure the safety of pedestrians and prevent danger to road users.

5. A) The development shall not 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 (LPA); 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.

B) Prior to occupation 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) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, 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: 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.

6. 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 LPA without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

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.

7. The development hereby permitted shall not be commenced in any one phase until such time as a scheme to treat and remove suspended solids from surface water run-off during construction works has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

Reason: To protect the water environment from contamination brought on site during construction works.

8. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

Reason: In the interests of flood protection and pollution control.

9. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor, designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: In the interests of pollution control.

10. Piling using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To ensure the piling method does not introduce a pathway for the contaminants to migrate into controlled waters.

11. Prior to commencement of development a method statement for works within the green corridors of the Darklands Brook shall be submitted and agreed in writing by the Local Planning Authority and the works implemented in accordance with the agreed details.

Reason : To ensure protection of their ecological significance.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), the boundary treatments within each phase shall be carried out in accordance with Drawing No. E945/P/PL04 Revision B relating to the positions, design, materials and type of boundary treatment to be erected. The boundary treatment for each phase shall be completed in accordance with the approved details before the development in that phase is first occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

13. Prior to the first occupation of any of the dwellings in each phase hereby permitted, measures to minimise the risk of crime to meet the specific security needs of the application site and the development shall be implemented in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.

Reason: In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions; to promote the well-being of the area pursuant to the Council's powers under Section 2 of the Local Government Act 2000 and to reflect government guidance set out in PPS1.

14. Notwithstanding the details submitted on the Landscape Structure Plan Drawing No. M2292.01 further details of the layout for the village green public open space and LEAP, together with details to indicate the positions of all existing trees and hedgerows on the land and details of any to be retained and measures for their protection during the period of construction, shall be submitted to and approved by the Local Planning Authority. The scheme of landscaping for the remainder of the site that is covered by Drawing No. M2292.01 shall be carried out in accordance with those details unless otherwise agreed in writing by the Local Planning Authority.

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

15. Prior to the development of each phase hereby approved commencing, details of the finished floor levels of the dwellings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed levels.

Reason: To protect the amenity of the locality generally.

16. A schedule of external materials for the dwellings of each phase shall be submitted for approval in writing by the Local Planning Authority before work commences.

Reason: To ensure the dwellings are in keeping with their surroundings in the interest of the character and visual amenity of the area.

17. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development in each phase, whichever is the sooner; and any trees or plants which within a period of five years 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, unless the Local Planning Authority gives written consent to any variation.

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

18. Prior to the commencement of development a timescale shall be submitted and approved in writing by the Local Planning Authority for the cycle / pedestrian route (NCN 63) to be widened to 3 metres, surfaced and available for use, unless otherwise agreed in writing by the Local Planning Authority.

Reason : To ensure accessibility of the site with the town centre and local routes.

19. Prior to the commencement of dwellings on each phase the eaves and verge details shall be submitted and agreed in writing by the Local Planning Authority and implemented in accordance with the approved details.

Reason: To safeguard the appearance of the dwellings and the locality generally.

20. The areas of carriageway, indicated as "block paving" on the application drawing E945/P/PL01 Rev.H, shall be constructed as raised tables, in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority.

Reason: In an attempt to restrain vehicle speeds on the straight lengths of highway within the development in the interests of highway safety.

21. Prior to the commencement of any other works, revised details shall be submitted to and approved in writing by the Local Planning Authority for Plots emerging visibility sightlines at the accesses to each plot in accordance with guidance laid out in the Manual for Streets document, produced by the Departments of Transport and Communities and Local Government. The development shall be implemented in accordance with the revised details.

Reason: To accord with Manual for Streets (as amended) in the interests of highway safety.

22. Prior to any other works commencing, a revised plan shall be submitted to and approved in writing by the Local Planning Authority showing all dwellings on the site set back a minimum distance of 0.5m from the proposed highway boundary. The development shall be implemented in accordance with the revised details.

Reason: In the interests of highway safety.

23. Prior to any other works commencing, a revised plan shall be submitted to and approved in writing by the Local Planning Authority showing a highway margin on the roads adjacent to the public open spaces in order that street lighting can be accommodated along the roads on this section of the development. The development shall be implemented in accordance with the revised details.

Reason: In the interests of highway safety.

24. Notwithstanding the details submitted within the Noise Assessment dated October 2013, a noise mitigation scheme for those properties along the southern edge of the development shall be submitted to include consideration of existing and potential future impacts of noise from the industrial estate to the south of the site, off William Nadin Way, which shall be undertaken in line with the advice in BS4142 on assessment methodology.

Reason: To safeguard the amenities of the future occupiers of the development.

25. Plots 58 to 86 shall not be occupied until a detailed specification for the proposed acoustic fencing works and planting scheme for the land at the northeast side of the site, adjacent to the Multi Use Games Area, have been submitted to, approved in writing by the Local Planning Authority, and fully implemented unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the development would not prejudice the use of the Multi Use Games Area and help to attenuate any undue noise emanating therefrom.

26. Before any other operations are commenced (excluding demolition/site clearance) space shall be provided within the site curtilage for the storage of plant and materials/site accommodation/loading and unloading of goods vehicles/parking and manoeuvring of site operatives' and visitors' vehicles, laid out and constructed in accordance with detailed designs to be submitted in advance to the Local Planning Authority for written approval and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

Reason: In the interests of highway safety.

27. Before any other operations are commenced (excluding demolition/site clearance), a temporary access for construction purposes shall be formed to William Nadin Way laid out, constructed and provided with visibility splays in either direction in accordance with detailed designs to be submitted in advance to the Local Planning Authority and approved in writing, the area in advance of the sightlines being cleared of all obstructions greater than 1m in height (0.6m in the case of vegetation), maintained in accordance with the approved scheme throughout the contract period free from any impediment to its designated use.

Reason: In the interests of highway safety.

28. Before any operations commence involving the movement of materials in bulk to or from the site, facilities shall be provided that have previously been approved in writing by the Local Planning Authority, to prevent the deposition of mud or extraneous material on the access roads to the site.

Reason: In the interests of highway safety.

29. Before construction work on any dwelling is commenced the new estate street junction shall be formed to William Nadin Way including works to create the right turn harbourage and crossing points in accordance with the application drawings, laid out, constructed to base level and provided with visibility splays in either direction, the area in advance of the sightlines being levelled, constructed as footway and not being included in any plot or other sub-division of the site.

Reason: In the interests of highway safety.

30. No dwellings shall be occupied until the proposed new estate streets between each respective plot and the existing public highway have been laid out in accordance with the revised application drawings to conform with the County Council's Estate Road design guide, constructed to at least base course level, drained and lit in accordance with the County Council's Specification for New Housing Development Roads.

Reason: In the interests of highway safety.

31. No dwelling, subject of the application, shall not be occupied until space has been provided within its curtilage in accordance with the application drawings for

the parking of residents' and visitors' vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

32. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 the garage accommodation/parking spaces to be provided in connection with the development shall not be used other than for the above stated purpose except with the prior permission of the Local Planning Authority granted on an application made in that regard.

Reason: In the interests of highway safety.

33. No gates or other barriers shall be erected within 5m. of the nearside highway boundary and any gates elsewhere shall open inwards only.

Reason: In the interests of highway safety.

34. The gradient of the driveway for a distance of the first 5 metres back from the highway boundary shall not be steeper than 1 in 15.

Reason: In the interests of highway safety.

Informatives:

It is noted that Japanese Knotweed has been identified near the site. This can be controlled by application of herbicides. This should only be carried out by a qualified person, with the appropriate National Proficiency Tests Council certification. Only certain herbicides can be used near water, as is the case with this site, and the approval of the Environment Agency may be required. The applicant should contact the Agency with proposed plans for the method of dealing with the species to ensure suitability. The Environment Agency advise that any materials imported for infilling, restoration, landfill, regarding, landscaping, bunding, screening or roadway infrastructure must be restricted to uncontaminated soils, subsoils and inerts. A Waste Management Licence or an Approved Registered Exemption may be required.

All oil storage facilities , including any temporary or mobile containers utilised during or subsequent to the development, must comply with the Control of Pollution (Oil Storage) (England) Regulations 2001.

Further guidance can be found in the Environment Agency's Pollution Prevention Guideline Notes listed below.

PPG 01 General guide to the prevention of water pollution

PPG 02 Above ground oil storage tanks

PPG 06 Working at construction and demolition sites

The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

Severn Trent Water advises that there are public sewers located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 2003 and you may not build close to, directly over or divert a public sewer without consent. The applicant is advised to contact Severn Trent to discuss their proposals.

The applicant should note:-

- 1) That the granting of planning permission is not consent to divert or obstruct a public way of way, the route must therefore remain open, unobstructed and its legal alignment at all times both during and on completion of the development. This also applies to the obstruction of the route by parked vehicles, plant and equipment.
- 2) Consideration should be given at all times to members of the public using the footpath. It would be preferable for the path to remain open during the works, however, a temporary closure of the route may be granted during the construction phases if a risk to public safety is identified. The applicant should contact the Rights of Way Section for further information and an application form.
- 3) There should be no disturbance to the path surface without prior authorisation from the Rights of Way Inspector for the area.
- 4) No structures, for example, fences, gates or barriers may be installed on the path without prior authorisation from Derbyshire County Council's Rights of Way Section. The applicant should liaise with at their earliest opportunity with both Anna Chapman and Gill Millward.

Any vegetation clearance and demolition should be carried out to avoid the bird breeding season which extends from March to late August.

Submitted with this application was GRM Development Solution's Phase 1 Site Appraisal (Desk Study) for Morris Homes East Midlands (GRM/P6123/DS.1, dated October 2013). I have reviewed this report and I am happy that the investigatory and preliminary risk assessment work goes as far as to satisfy part of the condition above. The report's findings and recommendations of further work (Section 4 & 6) go to address part of Section A and D of the contaminated land condition. I would recommend that the proposed further works put forward in Section 6 are progressed and request that the applicant submits a Phase II investigatory scope in line with the recommendations put forward in the Phase I report.

The remaining phased risk assessment and potential remedial should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part 2A. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance.

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 http://www.south-derbys.gov.uk/environment/pollution/contaminated_land/default.asp. 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 Protection Officer (contaminated land) in the Environmental Health Department: thomas.gunton@south-derbys.gov.uk.

Further guidance can be obtained from the following:

[Page 83 of 125](#)

- " CLR 11: Model Procedures for the Management of Contaminated Land
- " CLR guidance notes on Soil Guideline Values, DEFRA and EA
- " Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
- " Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.
- " Guidance for the Safe Development of Housing on Land Affected by Contamination Environment Agency. ISBN 0113101775.

County Highways advice

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner throughout, including pre-application discussions and meetings, by seeking to resolve planning objections and issues, by suggesting various amendments to improve the quality of the proposal and by determining the application in a prompt manner. As such it is considered that the Local Planning Authority has implemented the requirements set out in paragraphs 186 and 187 of the National Planning Policy Framework.

The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property.

The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway (new estate street), measures should 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.

Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works.

Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained by contacting the County Council via email es.devconprocess@derbyshire.gov.uk. The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.

Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Strategic Director of the Economy, Transport and Environment Department at County Hall, Matlock (tel: 01629 533190). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 38 Agreement.

Pursuant to Section 149 and 151 of the Highways Act 1980, the applicant/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 applicant's/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.

The application site is affected by a public Right of Way. The routes must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 01629 533190 and asking for the Rights of Way Duty Officer.

" Please note that the granting of planning permission is not consent to divert or obstruct a public right of way.

" If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact 01629 533190 for further information and an application form.

" If a right of way is required to be permanently diverted then the Council that determines the planning application (The Planning Authority) has the necessary powers to make a diversion order.

" Any development insofar as it will permanently affect a public right of way must not commence until a diversion order (obtainable from the planning authority) has been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the County Council.

" To avoid delays, where there is reasonable expectation that planning permission will be forthcoming, the proposals for any permanent stopping up or diversion of a public right of way can be considered concurrently with the application for the proposed development rather than await the granting of permission.

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

Construction works are likely to require Traffic Management and advice regarding procedures should be sought from Dave Bailey, Traffic Management - telephone 01629 538686.

Item 1.5

Reg. No. 9/2013/0848/U

Applicant:
MR K S ATWAL
THE BUNGALOW
THE HILL
SINFIN LANE
BARROW ON TRENT
DERBY
DE73 7HH

Agent:
MR MICHAEL HARRISON
7 HALL PARK
BARROW UPON TRENT
DERBY
DE73 7HD

Proposal: **THE ERECTION OF A STABLE BLOCK AT THE
BUNGALOW THE HILL SINFIN LANE BARROW ON
TRENT DERBY**

Ward: **ASTON**

Valid Date: **23/10/2013**

Reason for committee determination

The application is referred to Committee at the request of Councillor Peter Watson because local concern has been expressed about a particular issue.

Site Description

The site lies within the parkland grounds of The Hill, a large house used mainly for holiday accommodation. There is a separate dwelling to the rear of The Hill, occupied by the applicant. There is also a two storey brick and timber clad building, erected about three years ago for agricultural purposes. Access is via a private drive, set alongside the former lodge to the main house.

Proposal

The application proposes a blockwork and timber clad building measuring 18.5 m x 10.2 m in plan, with eaves height of 2.7m and ridge height of 5m. Internally there would be 8 stable compartments and a tack room and hay store. Door openings measuring 2.5m x 3m would be provided at each end of the building.

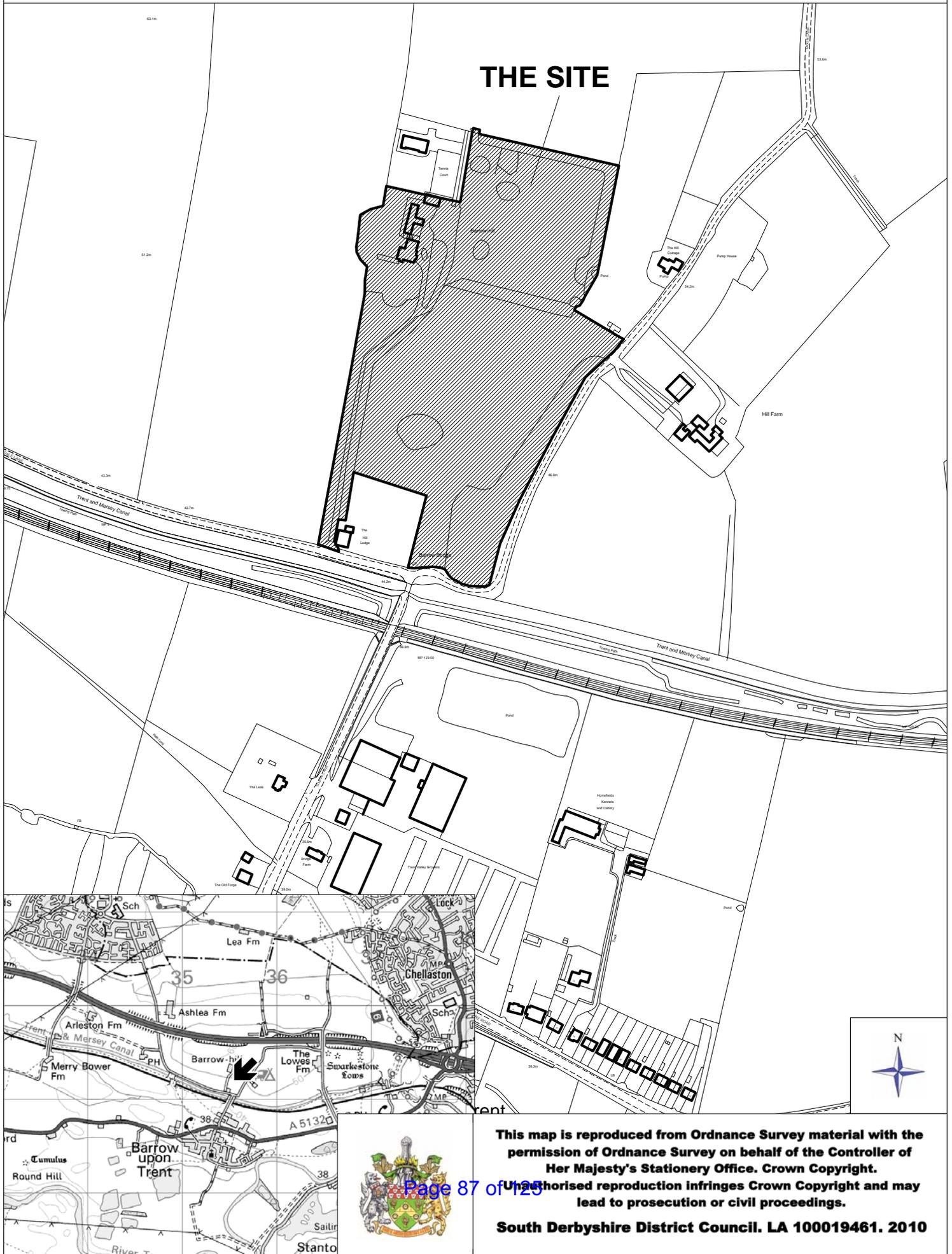
Applicants' supporting information

The stables would enhance farm income in current difficult economic times.

Planning History

9/2001/1002 – agricultural building – approved.

9/2013/0848 - The Bungalow, The Hill, Sinfin Lane, Barrow on Trent, Derby DE73 7HH



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9/2010/0123/NO – Agricultural building – refused.

9/2010/0406 – Agricultural building and pond – approved.

9/2011/0664 – Agricultural building – withdrawn.

Responses to Consultations

The County Highway Authority, Environmental Health Officer and Contaminated Land Officer have no objection.

Responses to Publicity

The Parish Council objects due to the number of buildings already on the site.

Development Plan Policies

The relevant policies are:

South Derbyshire Local Plan Saved Environment Policy 1, Recreation and Tourism Policy 9 and Transport Policy 6.

National Guidance

Paras 6-10 (Achieving sustainable development)

Paras 11-14 (The presumption in favour of sustainable development)

Para 17 (Core principles)

Chapter 3 (Rural economy)

Chapter 7 (Requiring good design)

Paras 186 & 187 (Decision-taking)

Para 193 (Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question.)

Para 196 & 197 (Determining applications)

Paras 203-206 (Planning conditions and obligations)

Annex 1 (Implementation)

Planning Considerations

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

- The principle.
- Impact on the character of the countryside.
- Highway safety.

Planning Assessment

The principle

Local Plan Saved Environment Policy 1 requires development to be necessary or unavoidable in the countryside subject to environmental safeguards, in particular protection of the character of the countryside. Recreation and Tourism Policy 9 seeks

to locate commercial stables, where possible, well related to existing settlement patterns. It is also a requirement of that policy to site stables in close proximity to existing buildings, to avoid disturbance to amenity and to make provision for the safe movement of horses and riders. Chapter 3 of the NPPF encourages economic development in rural areas, although it is also a core principle in Paragraph 17 to recognise the intrinsic character and beauty of the countryside. Whilst the site is not immediately adjacent to the village is not so remote as to be an unsustainable location for this kind of development which, as a matter of principle, is thus in general accordance with the aforementioned policies. A timber clad building of the design and style proposed is considered to be appropriate for the proposed use and location.

Impact on the character of the countryside

The proposal would be visible from Moor Lane, in particular when the mature trees in the grounds of The Hill are not in leaf. However the building would be located close to existing buildings as required by Saved Recreation and Tourism Policy 9 and would thus also satisfy the requirements of Saved Environment Policy 1, to create as little impact as practicable on the countryside.

Highway Safety

The Highway Authority has no objection on safety grounds. Although Deepdale Lane carries some through traffic, there are quiet country lanes nearby where riders and horses can move safely. As such the proposal is in accord with Local Plan Saved Transport Policy 6 and Recreation and Tourism Policy 9.

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.

Recommendation

GRANT permission subject to the following conditions:

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

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

2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. B2230.3 received 17 December 2013.

Reason: For the avoidance of doubt, the original submission being considered unacceptable.

3. All external materials used in the development to which this permission relates shall be as specified in the application and shown on Drawing No B.2230.3, unless as may otherwise be submitted to and approved in writing by the local planning authority.

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

Informatives:

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections and issues and suggesting amendments to improve the quality of the proposal. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

21/01/2014

Item 1.6

Reg. No. 9/2013/0887/FH

Applicant:
MR IAN ROBEY
9 FRANK BODICOTE WAY
SWADLINCOTE
DE11 8JX

Agent:
MR RICHIE HINKS
1 PRIMROSE MEADOW
MIDWAY
SWADLINCOTE
DE11 0XH

Proposal: THE CONVERSION OF THE GARAGE INTO LIVING
ACCOMMODATION AT 9 FRANK BODICOTE WAY
SWADLINCOTE

Ward: SWADLINCOTE

Valid Date: 07/11/2013

Reason for committee determination

This householder application is brought before Committee because a Northgate employee who works at the Council lives at the same address.

Site Description

The application property is located within a quiet, residential housing estate providing no through route to traffic. It is detached, but is within close proximity to two neighbouring properties, also detached. Current parking provision is that of two driveway parking spaces to the front of the property, and a single integral garage to the northern, side elevation to which this proposal relates. There is a pre-existing first floor above the garage.

Proposal

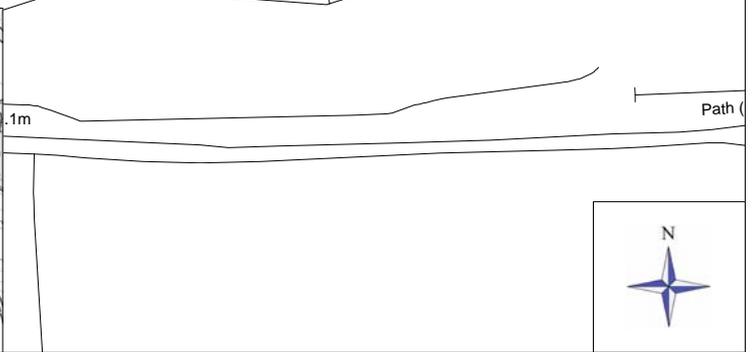
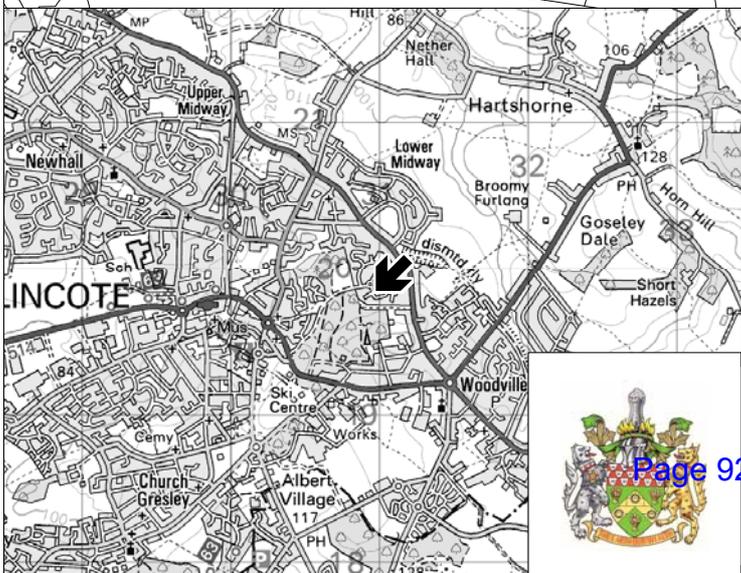
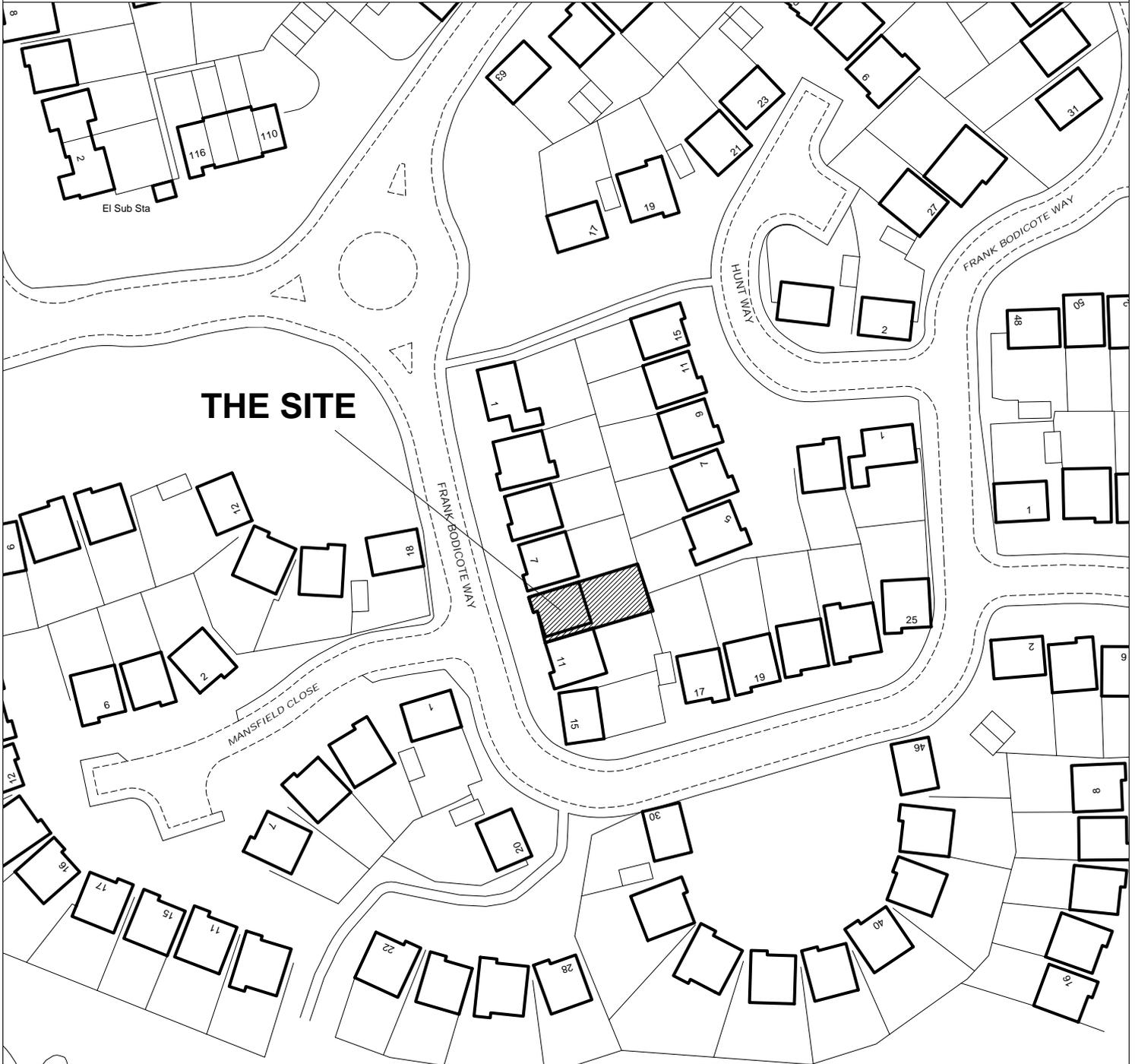
Associated works are to allow for the space to become habitable, with the footprint of the proposal to remain unchanged from existing and materials to match the original dwellinghouse.

Applicants' supporting information

No supporting information has been attached.

Planning History

No relevant planning history.



Responses to Consultations

None.

Responses to Publicity

None.

Development Plan Policies

Advice from the Better Design for South Derbyshire paper and Housing Design & Layout SPG

National Guidance

NPPF paragraphs

14 - Presumption in favour of Sustainable Development

17 - Core Planning Principles

56 - Requiring Good Design

Planning Considerations

The main issues central to the determination of this application is the impact of parking provision for the property

Planning Assessment

A site visit to the property has confirmed that there is sufficient parking for up to two vehicles on the pre-existing driveway fronting the garage of 9 Frank Bodicote Way. This is above the Council's requirement to provide 1.5 parking spaces per dwelling within new residential areas, as stated within the Housing Design & Layout SPG.

The proposal is therefore not considered to be detrimental to parking provision at the property, and conforms with the Housing Design & Layout SPG and the NPPF.

Recommendation

GRANT permission subject to the following conditions:

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

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

2. All facing bricks used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless otherwise agreed in writing by the Local Planning Authority.

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

Informatives:

The Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

Item 1.7

Reg. No. 9/2013/0953/RSD

Applicant:
MR BOB LEDGER
SOUTH DERBYSHIRE
DISTRICT COUNCIL
CIVIC OFFICES
SWADLINCOTE
DE11 0AH

Agent:
FRANKLIN ELLIS ARCHITECTS
THE OLD PUMPHOUSE
NO 5 THE ROPEWALK
NOTTINGHAM
NG1 5DU

Proposal: THE ERECTION OF TWELVE ONE, TWO, THREE AND
FOUR BEDROOM HOUSES WITH ASSOCIATED
PARKING, GARDEN AND ACCESS ON LAND AT
SK2915 0910 LULLINGTON ROAD OVERSEAL
SWADLINCOTE

Ward: SEALES

Valid Date: 20/11/2013

Reason for committee determination

The application is brought to Committee as the District Council is the applicant and the developer and the proposal is not accord with the development plan.

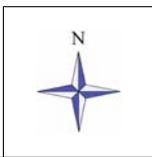
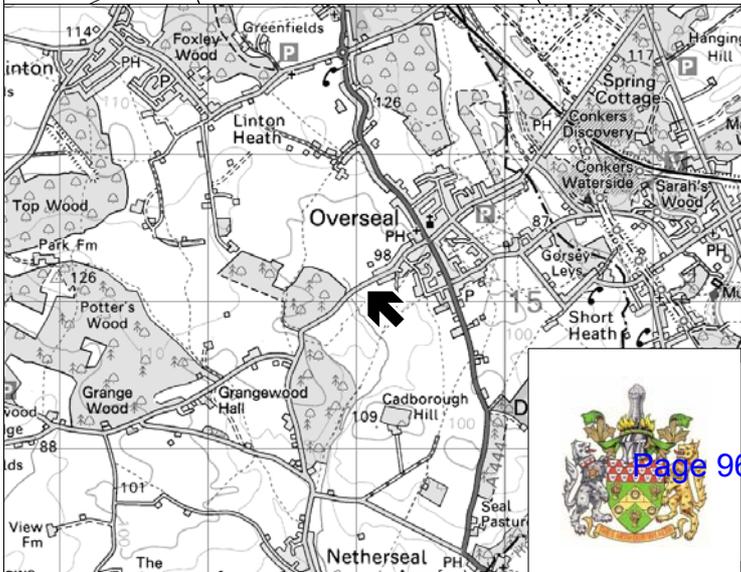
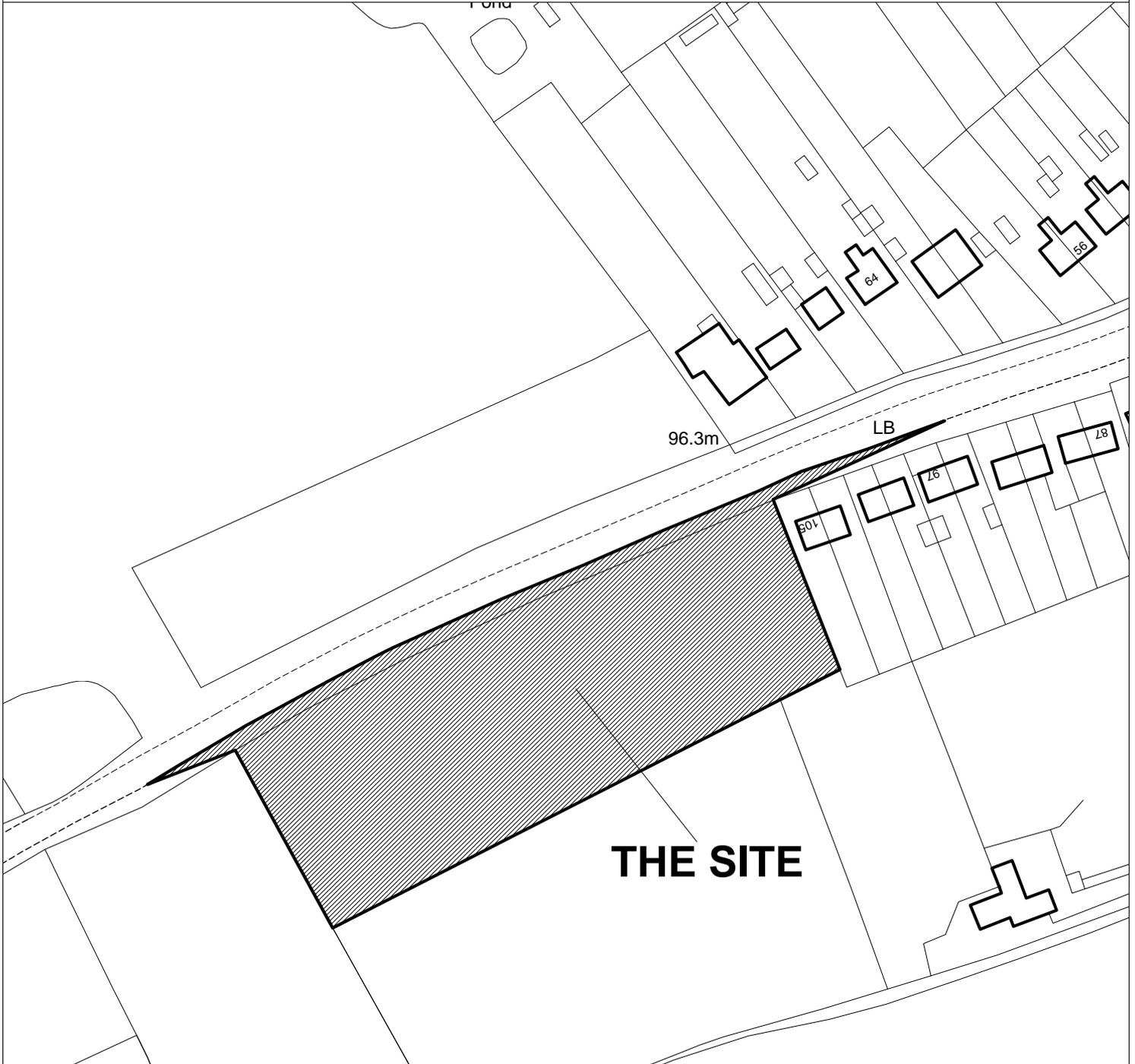
Site Description

The application site comprises an agricultural field measuring some 6.141 square metres located on Lullington Road, to the west of Overseal, outside, but adjoining, the defined settlement boundary as identified in the adopted Local Plan. The site is within the River Mease SAC. There is a post and rail fence along the northwest boundary with the highway and a grass verge between the site and the road. There are allotment gardens on the opposite side of the road and existing housing borders the eastern boundary.

Proposal

This application, which is for a 100% affordable housing scheme, is for the erection of six pairs of semi-detached, two-storey dwellings (totalling twelve), consisting of 1, 2, 3 and 4 bedroom units with associated parking areas, gardens and vehicular access. The dwellings would follow a linear pattern down the site with plots 3 to 6 being set back from the remaining plots forming a general 'U' shape, with an area of landscaped public open space to the front. All properties would be set back from the road with the areas to the front being laid to lawn and hedgerow. Two parking spaces per dwelling would

9/2013/0953 - Land at SK2915 0910 Lullington Road, Overseal, Swadlincote (DE12 6NG)



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South Derbyshire District Council. LA 100019461. 2010

be provided either to the side or front of the dwellings. Six separate accesses would be created off Lullington Road, leading to the parking areas.

The proposal is one of a number throughout the District being put forward by the Council for affordable housing schemes that would be developed and managed by the Council rather than other involving other social housing landlords.

Applicants' supporting information

This proposed scheme contributes towards Members objectives to the delivery of 50 new affordable council homes as part of the Council's New Build Programme agreed at Housing & Communities Services Committee on 18th April 2013.

A Design and Access Statement has been submitted in support of this application which covers all the key criteria involved in the design process and principles on which the scheme is based. It also addresses matters such as planning issues, including policy considerations and community involvement. The scheme has also been assessed under the Building for Life criteria and scores a total of 16.5, which would achieve a silver standard.

Planning History

There is no planning history relevant to this application.

Responses to Consultations

The Environmental Protection Officer has no comments to make regarding contaminated land.

The Crime Prevention Officer has no issues with the principle of development but requests some minor amendments relating to windows.

The Coal Authority recommends its standing advice be included within the decision notice.

The County Highway Authority initially requested a speed survey given the proximity of the 60mph speed limit sign. However, on further reflection, the Authority is satisfied that there is sufficient visibility for drivers when leaving the site to gauge whether there are cars overtaking along Lullington Road in the vicinity of the site frontage. The CHA suggests the inclusion of six conditions and associated advice by way of informatives.

Natural England has commented with regard to the site's location within the River Mease SAC and the River Mease SSSI. On both counts there are no objections subject to conditions relating to the discharge of surface water and compliance with the River Mease Developer Contributions Scheme, to be enforced via a suitably worded condition or legal agreement. Natural England's Standing Advice on protected species should also be included.

The National Forest Company notes that the site area is just over their threshold where 20% woodland planting and landscaping is expected. Although the plans do not incorporate any planting there is an area of land to the west of plot 12 which is within the red line but does not appear to be developed. Whilst this is crossed by an

easement there may still be scope to accommodate small scale planting within the area outside the easement, such as parkland tree planting rather than plantation woodland. Alternatively, as the District Council is the applicant, planting could be undertaken on other land owned by the Council in the vicinity of the site. Other options would be by commuted sum which would equate to £2,400 in this instance.

The Environment Agency, Severn Trent Water and Derbyshire County Council (Policy) have not yet commented on the application.

Overseal Parish Council is of the opinion that, as the site is outside the village boundary, where development by persons other than the Council would not be allowed, this should not set a precedent for any other such developments. Other concerns relate to the available capacity in the school, and increased traffic and its impact on the junction with the A444. Priority for the allocation of tenancies should be given to residents of Overseal in the first instance, followed by Netherseal and Lullington. Crucially, the development does not include land currently used as allotments and this must continue as they are very successful.

Responses to Publicity

One email of objection has been received which makes the following points:

- a. Increased traffic problems
- b. Increased danger to walkers
- c. Detrimental impact on the countryside
- d. Possible odour from nearby sewage works

Development Plan Policies

The relevant policies are:

Housing Policies 5, 8, 9, 11; Environment Policies 1, 10, 11; Transport Policy 6; Tourism & Recreation Policy 4; Community Facilities Policy 1B.

Housing Design and Layout SPG

National Guidance

National Planning Policy Framework (NPPF), paragraphs 7, 8, 9, 10, 11, 12, 13, 14, 17, 28, 47, 49, 50, 55, 56, 57, 58, 59, 61, 69, 109, 112, 118, 119, 186, 187, 196, 197, 203, 204, 206

Planning Considerations

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

- The Development Plan and the NPPF
- Design and Layout
- Highway Considerations
- River Mease issues

Planning Assessment

The Development Plan and the NPPF

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that ‘if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise’.

Paragraph 14 of the NPPF states ‘*at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking*’. The NPPF makes it clear that for decision-taking this means approved development proposals that accord with the development plan without delay and where the development is absent, silent or relevant policies are out of date granting planning permission unless:

- *‘any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or*
- *specific policies in this NPPF indicate development should be restricted’.*

Paragraph 215 of the NPPF advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF.

The site lies outside, but immediately adjacent to, part of the western edge of the village confine boundary of Overseal. As such the proposal would not be in accordance with Local Plan Saved Housing Policy 5 or Environment Policy 1, both of which restrict new housing developments to those that can be accommodated within village confines. Notwithstanding this, paragraph 216 of the NPPF allows for due weight to be given to relevant policies in emerging plans, according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies; and
- the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

Policy S4 of the Draft Local Plan places Overseal within the category of a Key Service Village where limited housing growth is considered to be acceptable. Housing Policy H23 relates specifically to affordable housing and states:

‘Exception sites for affordable housing for local people to be kept in perpetuity will be permitted adjoining existing rural settlements on small sites (less than 10 dwellings) as an exception to normal policy where:

- a) the development will provide affordable homes that meet a clearly identified need in the specific settlement; and*
- b) the need cannot be reasonably met within the development limits of the village concerned or the sub-market area the site falls within as detailed in the SHMA; and*

- c) *the development is in scale relative to the settlement size and does not have any adverse impacts on the natural and built environment.*

Whilst the proposal would not accord with the relevant policies in the adopted Local Plan, it is considered to comply with the advice relating to sustainable development and affordable housing provision in the NPPF and the relevant emerging policies in the Draft Local Plan relating to affordable housing and exceptions sites. Whilst the development is likely to impact on the character of the countryside, the NPPF makes allowance for the development of sites that are close to existing settlements provided that the site is sustainable. The village of Overseal has a range of services within easy walking distance of the site and the site is therefore considered to be sustainable. On balance, therefore, it is considered that the principle of developing the site for affordable residential development is acceptable.

Design and Layout

The design of the proposed dwellings has been influenced by the other developments within the village and is relatively simple and modern, being of two-storey scale with pitched roofs, gabled to the sides. Blocks A, D, E and F would be of red facing brickwork, and blocks B and C would be finished with off-white render. The proposed layout would provide a spacious development which is considered to be a good transition between the more densely developed properties along Lullington Road and the open countryside. There are no issues relating to existing residents and overlooking. Overall, it is considered that the design and layout accords with Local Plan Saved Housing Policy 1, the advice in the Council's SPG and paragraphs 56 and 57 of the NPPF.

Highway Considerations

The County Highway Authority has assessed the scheme and considers the proposal to be acceptable in highway safety terms, which is considered to be reasonable. Whilst it was initially thought that a speed survey would be required in order to determine the impact of new vehicular accesses along this part of Lullington Road, this can now be dealt with by appropriate planning conditions. The proposal is therefore in accordance with Local Plan Saved Transport Policy 6.

River Mease Issues

The site lies within the River Mease SAC where developer contributions towards water quality management are required. Using the guide within the River Mease DCS, a financial contribution of £2,300 is required.

Other considerations

Possible odours from the sewage treatment works is an environmental health matter but there is no evidence to suggest that this is an issue and in any event is not generally in the line of the prevailing wind.

Under normal circumstances residential developments of more than four dwellings would attract financial contributions towards, *inter alia*, recreation facilities, nation forest planting and health care. As this scheme is for 100% affordable housing the benefits of

the scheme would off-set the need for the usual obligations and consequently they are waived in this situation.

Conclusion

Subject to the imposition of conditions, the development is considered to be in accordance with the provisions of the NPPF and planning permission is recommended.

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.

Recommendation

GRANT permission under Regulation 3 subject to the following conditions:

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

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

2. This permission relates to the plans validated by the Local Planning Authority on 20th November 2013 and any variation to the approved drawings may need the approval of the Local Planning Authority.

Reason: For the avoidance of doubt as to what is approved.

3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roofs of the dwellings have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the character and appearance of the surrounding area.

4. Prior to the development hereby approved commencing, details of the finished floor levels of the dwellings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed levels.

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

5. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of all hard and soft landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

Reason: In the interests of the completed development and the appearance of the area.

6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or the completion of the development, whichever is

the sooner; and any trees or plants which within a period of five years 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, unless the Local Planning Authority gives written consent to any variation.

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

7. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatments to be erected. The boundary treatments shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

8. Before any other operations are commenced (other than demolition/site clearance) space shall be provided within the site curtilage for the storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of operatives' and visitors' vehicles, laid out and constructed in accordance with detailed designs to be submitted in advance to the Local Planning Authority for written approval and maintained throughout the construction period in accordance with the approved designs free from any impediment to its designated use.

Reason: In the interests of highway safety.

9. Before any operations commence involving the movement of materials in bulk to or from the site, facilities shall be provided that have previously been approved in writing by the Local Planning Authority, to prevent the deposition of mud or extraneous material on the access roads to the site.

Reason: In the interests of highway safety.

10. Before any building works on any individual dwelling commence the new vehicular access to serve each dwelling shall be created to Lullington Road in accordance with the application drawings, laid out, constructed and provided with visibility splays in either direction, from a distance of 2.4m back from the carriageway edge extending the full length of the site frontage, the area in advance of the sightlines being maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.

Reason: In the interests of highway safety.

11. No dwelling shall be occupied until space has been provided within its curtilage in accordance with the application drawings for the parking and manoeuvring of residents' and visitors' vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

12. No gates or other barriers shall be erected within 5m. of the nearside highway boundary and any gates elsewhere shall open inwards only.

Reason: In the interests of highway safety.

13. No work shall take place on the site until details of a scheme for the disposal of surface water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.
Reason: The intention to dispose of surface water to the mains sewer is not acceptable in this location and an alternative method of surface water drainage is therefore required.
14. Prior to the occupation of more than 50% of the dwellings the proposed footway fronting the site shall be provided in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority prior to commencement of development works on the site.
Reason: In the interests of highway safety.
15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, none of the dwellings hereby permitted shall be extended or altered externally, have its roof altered or enlarged, be provided with a porch, incidental building, structure or enclosure, additional hard surface, new vehicular access or be painted externally.
Reason: In view of the form and nature of the development, in the interests of visual amenity to protect the amenity of neighbouring residents.
16. All windows serving the bathrooms and toilets in the dwellings hereby approved shall be permanently glazed with obscure glass.
Reason: In the interests of preserving privacy and amenity.

Informatives:

The Highway Authority recommends that the first 5m of the proposed access driveways should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway, measures should 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 gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

With regard to condition 14 and 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 should be ensured that public transport services in the vicinity of the site are not adversely affected by the development works.

Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained by contacting es.devconprocess@derbyshire.gov.uk . The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.

Pursuant to Section 149 and 151 of the Highways Act 1980, the applicant/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 applicant's/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.

Where development is proposed over areas of coal and past coal workings at shallow depth, The Coal Authority is of the opinion that applicants should consider wherever possible removing the remnant shallow coal. This will enable the land to be stabilised and treated by a more sustainable method; rather than by attempting to grout fill any voids and consequently unnecessarily sterilising the nation's asset.

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from the Coal Authority's website at: www.coal.gov.uk/services/permissions/index.cfm. The applicant's attention is drawn to the Standing Advice of Natural England with regard to protected species. Please contact Andy Stubbs on 0300 060 2875 for further advice.

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions and by seeking to resolve planning issues and suggesting amendments to improve the quality of the proposal, through meetings and negotiations and by quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirements set out in paragraphs 186 and 187 of the National Planning Policy Framework.

The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property. Any security measures implemented in compliance with the approved scheme should seek to achieve the 'Secured By Design' accreditation awarded by Derbyshire Constabulary. Written confirmation of those measures should then be provided to the Local Planning Authority.

An assessment has been undertaken under Regulation 61 of the Conservation of Habitats and Species Regulations 2010, in order to establish whether the development would be likely to have a significant effect on the River Mease SAC. The assessment identifies the conservation interest features and objectives of the SAC and describes the development proposed. The applicant has provided such information as the Authority may reasonably require to enable it to determine whether an appropriate assessment is required. The information has allowed the potential impact of the development to be considered in detail sufficient to enable the Authority to satisfy itself that no significant effects either alone or in combination will arise as a result of the development proposed. In reaching this view, there is no need for the Authority to proceed to undertake a full appropriate assessment. However, based on the information gathered, it is concluded to the satisfaction of the Local Planning Authority that it is beyond reasonable scientific doubt that the proposal will have no adverse effect on the integrity of the River Mease SAC. The proposal accordingly complies with the requirements of the Conservation of Habitats and Species Regulations 2010 in all respects.

Item 1.8

Reg. No. 9/2013/0991/TP

Applicant:
Mr Martin Buckley
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Agent:
Mr Martin Buckley
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Proposal: THE PRUNING OF AN OAK TREE CONSISTING OF A CROWN CLEAN, REMOVAL OF DEAD WOOD AND DEFECTIVE MATERIAL AND CROWN LIFT TO 5M AND PRUNING OF A MAPLE TREE CONSISTING OF CROWN CLEAN, REMOVAL OF DEAD WOOD, DEFECTIVE MATERIAL AND "WATERSHOOTS", CLEARANCE OF TELECOMMUNICATIONS WIRES AND CROWN LIFT TO 4M - BOTH TREES COVERED BY SOUTH DERBYSHIRE DISTRICT COUNCIL TREE PRESERVATION ORDER NUMBER 273 AT LAND AT ST JOHNS DRIVE NEWHALL SWADLINCOTE

Ward: NEWHALL & STANTON

Valid Date: 02/12/2013

Reason for committee determination

The land on which the tree is located is owned by the District Council and is therefore the applicant.

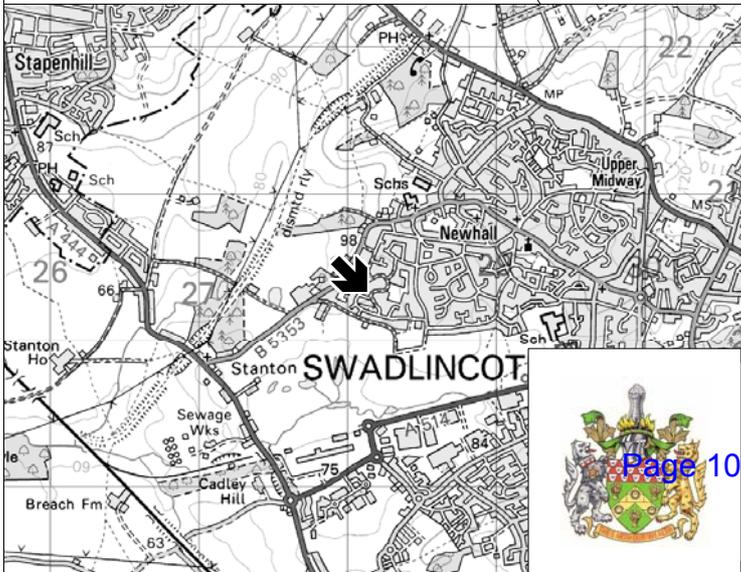
Site Description

The trees the subject of the application are a mature Oak tree and a mature Maple tree which are located on an area of open space in a prominent position on St Johns Drive. The trees are in front of numbers 60 and 62 St Johns Drive, at the rear of numbers 15 and 17 Ashover Road.

Proposal

The proposal is to undertake pruning works to the Oak tree including a crown clean to remove all deadwood and defective material and crown lift the tree to 4m, and to prune the Maple tree including a through crown clean to remove all deadwood and defective material and "water shoots" crown lift the tree to 4m clear and prune branches to clear telecommunication wires.

9/2013/0991 - Land at St Johns Drive, Newhall, Swadlincote DE11 0SU



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Planning History

None relevant.

Responses to Publicity

No representations received.

Development Plan Policies

The relevant policies are:

Local Plan: Saved Environment Policy 9.

National Guidance

Protected trees - A guide to tree preservation procedures

Planning Considerations

The main issue central to the determination of this application is the acceptability of proposed works.

Planning Assessment

These are mature oak and maple trees that appear to be in good health and are located in a very prominent position, making a significant positive contribution to the visual amenity of the area. As such it is important to ensure that the works undertaken do not either unacceptably reduce the contribution that the tree makes to the character and appearance of the area or adversely affects the health and vitality of the tree.

The Council's Tree Officer is fully supportive of the proposed works and would be overseeing their implementation and as such it is considered that the proposals would be acceptable.

Recommendation

GRANT consent subject to the following:

1. The work hereby approved shall be carried out within two years of the date of this consent.
Reason: To enable the local planning authority to consider any proposals beyond this period in the interests of safeguarding the amenity value of the trees.
2. The work shall be carried out in accordance with BS3998:2010 - Tree Work.
Reason: To safeguard the health of the trees.

21/01/2014

Item 2.1

Reg. No. 9/2013/0913/FO

Applicant:
Mr R Bunting
195 Station Road
Foston
DE65 5PT

Agent:
Mr John Steedman
Steedman Planning
Tournament Way
Ashby De La Zouch
Leicestershire
LE65 2UU

Proposal: OUTLINE APPLICATION (WITH ALL MATTERS TO BE RESERVED FOR FUTURE APPROVAL) FOR THE ERECTION OF A DWELLING ON LAND AT SK2131 3459 CHURCH BROUGHTON ROAD FOSTON DERBY

Ward: HILTON

Valid Date: 05/11/2013

Reason for Committee Determination

The application is brought to Committee at the request of Councillor Roberts as he considers that the committee should debate the issues in this case which are very finely balanced.

Site Description

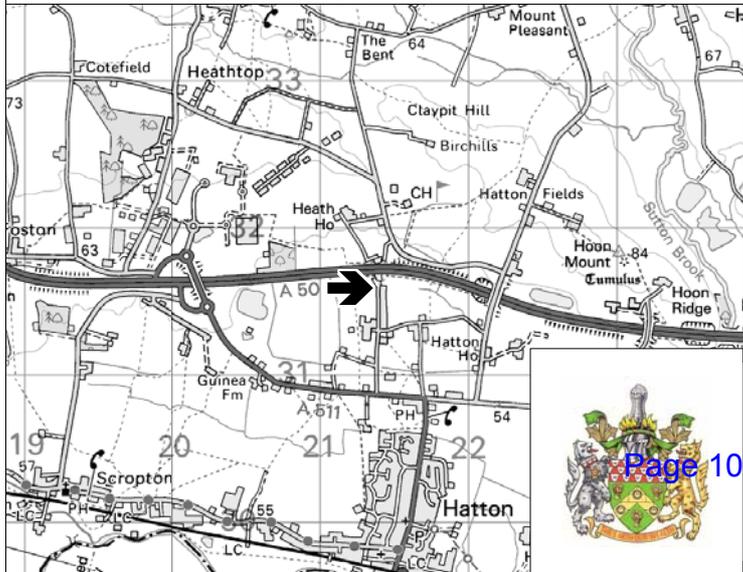
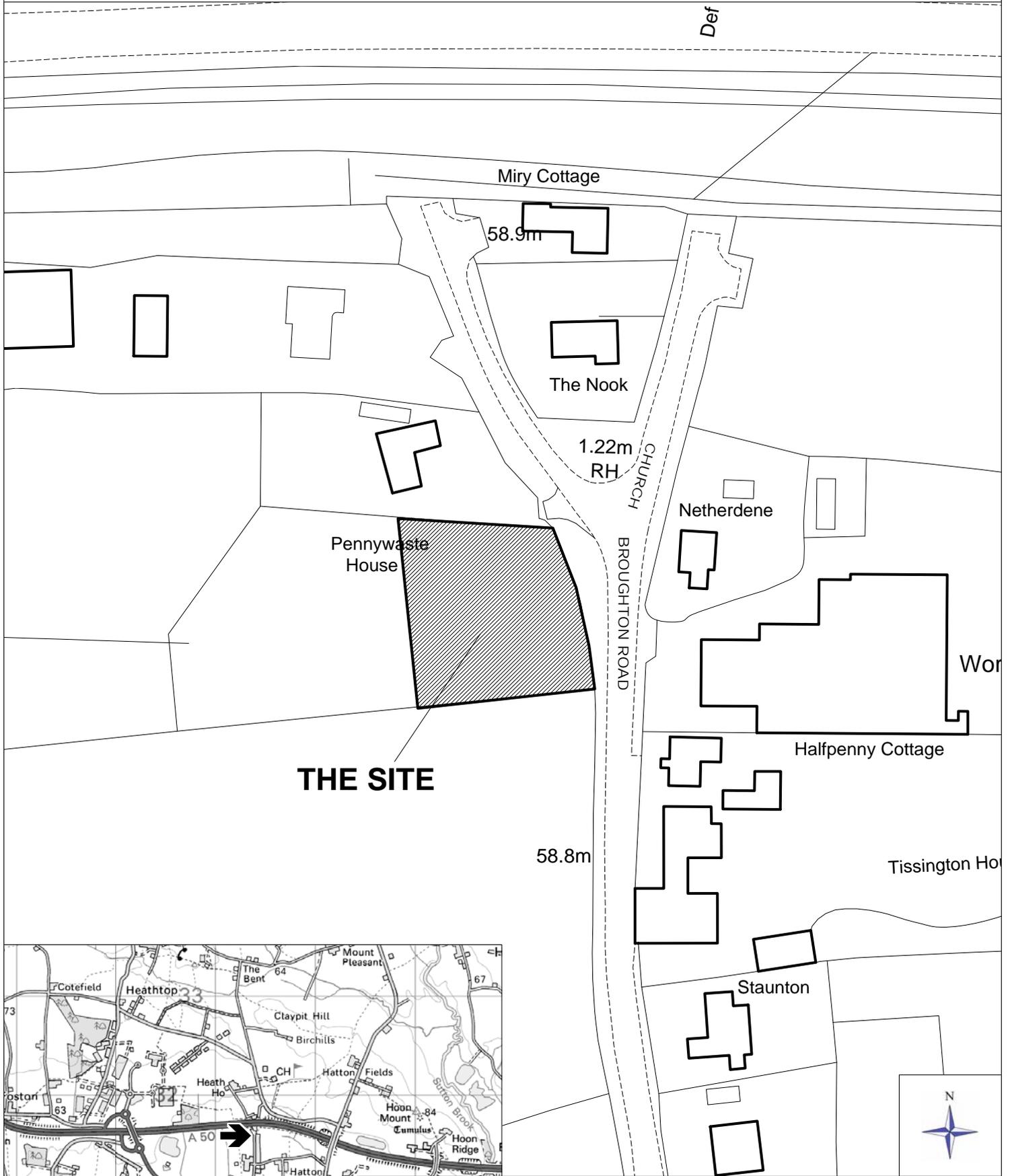
The application site is a relatively level area of farmland extending to approximately 0.1 hectares, located on the western side of Church Broughton Road to the south of a property called Pennywaste. There are commercial and residential developments on the other side of Church Broughton Road which extend further to the south than the application site. The site lies beyond any village development confine, in the open countryside and is bounded by a fence.

Proposal

The application is in outline form only with all matters reserved for future approval therefore permission is sought only to establish the principle of erecting a dwelling on the land. An indicative plan has been submitted showing the location of a dwelling with accessed gained from the existing access track that runs along the northern part of the site.

Applicants' supporting information

9/2013/0913 - Land at SK2131 3459, Church Broughton Road, Foston, Derby DE65 5PW



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A Planning Statement has been submitted in support of the application. The salient point of the statement is that whilst the site is not within a defined village envelope but not in the open countryside at it is in a well-established residential area grouped with other residential properties and permission has previously been granted for new dwellings fronting Church Broughton Road and the applicant expects all applications to be treated consistently.

Planning History

None.

Responses to Consultations

The County Highway Authority raises no objection as they consider that the proposal will not result in a material alteration to highway conditions.

The Environmental Health Officer (Contamination) notes that there are commercial premises nearby but that the site has not been used for commercial purposes historically therefore he recommends a precautionary condition to ensure mitigation measures are put in place if any unexpected contamination is encountered.

Severn Trent Water raises no objection to the proposal.

Responses to Publicity

Neighbours and Parish Council notified, no representations received.

Development Plan Policies

The relevant policies are:

Local Plan: Housing Policies 8 and 11, Environment Policies 1, 9 and 13, and Transport Policy 6.

National Guidance

National Planning Policy Framework (NPPF): Paragraphs 14, 17, 32, 39, 49, 53, 54, 55, 58, 61, 103, 118, 120, 122, 186, 187 and 215.

Planning Considerations

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

- The principle of development
- Overall design and access principles, including highway safety
- Other matters

Planning Assessment

Principle of development

Saved policies EV1 and H8 strictly limit development in the countryside – particularly residential development. Notwithstanding the comments made in support of the

application the site is located in the open countryside. Looking at the character of the area the application site is considered to lie beyond what could be considered to be any substantially built up form and could not reasonably be considered to be either infilling or consolidation. The development would be very prominent in the streetscene and there is a clear difference between the character of the application site and the western side of Church Broughton Road when compared to the eastern side and on the western side of Church Broughton Road the character of the area is that of open countryside, in contrast to the opposite side of the road.

Policy H8 of the Local Plan allows for new dwellings to serve an agricultural or other rural worker who needs to live close to their place of work but neither of these have been put forward by the applicant and therefore neither of these allowances apply and the proposal is thus contrary to the Development Plan.

In terms of the status of Local Plan policies, Paragraph 49 of the NPPF highlights that relevant housing policies should not be considered up-to-date if a five-year supply of deliverable housing sites cannot be demonstrated – as is presently the case in South Derbyshire. The presumption in favour of sustainable development would therefore normally apply. However paragraph 14 makes particular note that planning should not be granted where *"specific policies [of the NPPF]...indicate development should be restricted"*. Paragraph 55 does just that, recognising that isolated homes in the countryside should be avoided unless there are special circumstances. Whilst the site lies to the south of other buildings it is not considered to constitute a substantial built up frontage or group of buildings.

Whilst there are clearly significant housing needs for South Derbyshire this proposal would have very marginal effect on the projected housing needs and the wider benefits arising from this development will be limited (i.e. economic benefits would be limited and it will not provide an environmental benefit by materially decreasing the need for large housing allocations on open farmland elsewhere). There would be a considerable degree of harm brought about by allowing encroachment into the countryside. This argument has been supported in principle by recent appeal decisions [reported at the end of this agenda].

No special circumstances have been put forward which would allow for compliance with paragraph 55 of the NPPF, and as such the presumption in favour of development does not apply. Under paragraph 215 the Council may give due weight to relevant policies in the Local Plan according to their degree of consistency with the NPPF. The objectives of EV1 and H8 are all considered to directly follow the aims of paragraph 55. It is therefore considered full weight can be afforded to those policies and the proposal should be resisted.

Design and access principles

The Highway Authority has raised no objection to the proposal which indicates that the proposal is capable of safe and suitable access for all users concerned, in line with saved policy T6 and paragraph 32 of the NPPF. There is also sufficient space within the site to accommodate parking and manoeuvring space.

In terms of impact on neighbours this proposal is in outline and that would be a material consideration for the reserved matters stage. Again the constraints of the site are not

such that it would likely prevent acceptable living standards (i.e. privacy and overshadowing) for existing and proposed occupiers.

Indicative plans show a reasonably sized footprint for a dwelling as well as a detached garage and it is unlikely that these cannot be of an appropriate design.

Other matters

The exact design of the site is yet to be decided, but foul and surface water drainage can be accommodated and it is noted that Severn Trent Water have no comments to make on the proposal and do not request conditions be imposed should permission be granted. The contamination concerns of the Environmental Health Officer (Contamination) are also noted, and a condition relating to addressing unexpected contamination could be imposed to overcome this issue.

The comments of the applicant in respect of consistency of decision and developments already permitted in the immediate vicinity and it is accepted that developments have been approved for new dwellings in the countryside. However, each application must be judged on its merits and in this case the proposal would not reasonably constitute infilling or consolidation of existing built form, but would rather be an unwarranted extension of the built form to the significant detriment of the intrinsic beauty of the countryside and the visual amenity of the area generally.

Conclusion

The proposal is considered to be contrary to the guidance contained in local and national planning policies and there are no special circumstances to otherwise justify the erection of a dwelling. 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.

Recommendation

REFUSE permission for the following reason:

1. Paragraph 55 of the National Planning Policy Framework (NPPF) states that Local Planning Authorities should avoid new isolated dwellings in the countryside unless there are special circumstances. To this extent village confines are defined in the Local Plan (within which Saved Housing Policy 5 generally favours new housing) and are consistent with the NPPF, because it was drawn having regard to the visual context of settlements within the District with the objective, inter alia of controlling the encroachment into the countryside, surrounding the villages, of environmentally undesirable development. The defined village confines are complemented by Saved Housing Policy 8 & Environment Policy 1 which set criteria to control development in the countryside, this being consistent with Paragraph 55 of the NPPF. The application site is located beyond any defined village confine and no special circumstances exist to otherwise justify the new dwelling at plot 3 As such the proposal is contrary to South Derbyshire Local Plan Saved Housing Policy 8 & Environment Policy 1, supported by Paragraphs 55 & 64 of the NPPF and its core planning principle in paragraph 17 to recognise the intrinsic character and beauty of the countryside.

Informatives:

Notwithstanding this refusal, the Local Planning Authority has worked with the applicant in a positive and proactive manner through considering the application in a timely manner and as such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

2. PLANNING AND OTHER APPEALS

(References beginning with a 9 are planning appeals and references beginning with an E are enforcement appeals)

Reference	Place	Ward	Result	Cttee/Delegated
9/2013/0341	Repton	Repton	Dismissed	Committee
9/2013/0196	Findern	Willington & Findern	Dismissed	Committee
9/2013/0460	Melbourne	Melbourne	Allowed	Delegated



Appeal Decision

Site visit made on 5 November 2013

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 December 2013

Appeal Ref: APP/F1040/A/13/2202053

Askew Lodge, Milton Road, Repton, Derbyshire DE65 6FZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs J Williamson against the decision of South Derbyshire District Council.
 - The application Ref 9/2013/0341, dated 7 May 2013, was refused by notice dated 17 July 2013.
 - The development proposed is residential development replacing one detached dwelling with detached garage for two new-detached 2-storey dwellings with detached garages.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application was submitted in outline form with matters of access, scale, layout, appearance and landscaping reserved for future consideration. I have assessed the proposed development on the same basis.
3. Following the submission of evidence, the Council issued the South Derbyshire Draft Local Plan Part 1 (LP Part 1), dated September 2013, which sets out, amongst other things, policies for future housing and employment provision. Both main parties were invited to submit further representations in the light of the draft LP Part 1, which I have taken into account.

Main Issue

4. The main issue is how the proposal sits with regard to national guidance and local planning policies that govern the location of new housing development.

Reasons

5. The proposal is to erect two detached dwellings, each with a detached garage, following demolition and removal of Askew Lodge and associated outbuildings that stand within a generous plot outside the settlement boundary of Repton and thus within the countryside as it is defined in the South Derbyshire Local Plan (LP). Part A of LP Housing Policy 8 sets out criteria in which new housing development will be permitted in such areas, none of which would apply in this case. In addition, LP Environment Policy 1 presumes against new development outside settlements.
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6. Part B of LP Housing Policy 8 does, however, provide for the replacement of existing dwellings outside settlements if various considerations are met. With a replacement dwelling and garage sensitively sited and appropriately designed to reflect the position, form and bulk of the existing building, in keeping with the character of the surroundings, there would be no conflict with LP Housing Policy 8 (Part B) and Environment Policy 1. On that basis, a single replacement dwelling and garage on the site would be acceptable, in principle.
7. With regard to the additional dwelling, the Council accepts that it is unable to demonstrate a 5-year supply of deliverable sites for housing, as required by the National Planning Policy Framework (the Framework). Paragraph 49 of the Framework states that if a local planning authority is unable to demonstrate a 5-year supply of housing, relevant policies for the supply of housing should not be considered up-to-date. Paragraph 14 of the Framework says that where relevant development plan policies are out of date, the presumption in favour of sustainable development means that unless material considerations indicate otherwise permission should be granted. That is unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate development should be restricted.
8. In this case, the special emphasis in the presumption in favour of granting permission does not necessarily apply because there are specific policies in the Framework which indicate that new housing development in the countryside should be restricted. The acknowledged shortfall in the supply of housing land is a material consideration that weighs in favour of allowing the proposal. That is because it would make a positive contribution to meeting the shortfall. However, there are other material considerations that also need to be weighed in the planning balance. It is to those considerations that I now turn.
9. According to the Framework, housing should be located where it will enhance or maintain the vitality of rural communities to promote sustainable development in rural areas. It notes that isolated new homes in the countryside should be avoided unless there are special circumstances. As the additional dwelling would form part of a small group of detached houses with a primary school on the opposite side of Milton Road, which falls within the defined settlement limits of Repton, it could not reasonably be described as an isolated home in the countryside. Nevertheless, open fields to the north, west and east surround the small cluster of houses to which the additional dwelling would belong. The site is physically and visually separated from the main built up area of Repton by a large parcel of undeveloped land on the northern side of the road. To my mind, the site visually reads and is an integral part of the open countryside, wherein new housing development is to be restricted.
10. Since the second new dwelling would result in an increase in the number of dwellings and, in all likelihood, would not be on substantially the same site as the building to be replaced, it conflicts with LP Housing Policy 8. It would also be contrary to LP Environment Policy 1 insofar as it requires development outside settlements to be essential to a rural based activity or unavoidable in the countryside. Furthermore, by introducing an additional dwelling onto largely undeveloped land the proposal would suburbanise its character by intensifying the residential use of the site. It would unduly erode its semi-rural character and spacious feel despite the variations in local ground levels and

existing vegetation that would be likely to largely shield the new built form from public view. The appearance, scale, layout and landscaping of the proposed development could, to some extent, mitigate its visual impact. However, the new additional house would occupy land that would be likely to be free from built development and the presence of the new built form would be materially harmful notwithstanding detailed design considerations.

11. Therefore, I conclude that the proposal, as a whole, sits uncomfortably with local planning policies that govern the location of residential development. It would also be at odds with a core planning principle of the Framework, which is to recognise the character and beauty of the countryside.
12. In reaching this conclusion, I acknowledge that the site is within reasonable walking distance of the main built up area and that Repton offers a good range of local services, facilities, schools and regular bus services to nearby towns. My decision does not, therefore, turn on matters relating to accessibility. I also acknowledge that the combined footprint of the new houses and garages shown on the indicative plans would compare favourably with that of the buildings to be replaced. That is the property is in poor condition and has an unkempt appearance is insufficient reason, in itself, to grant planning permission for the appeal scheme. That is because improvements to the site's appearance could be achieved in ways other than in the manner proposed. None of these matters outweigh the harm that I have identified.
13. The appellant considers that the existing building could be converted into two separate dwellings following renovation of the property. However, planning permission for this type of development would be required and the Council has indicated that the outcome of the application process is not necessarily assured. Reference to the significant costs of renovation also casts some doubt as to whether this option is a genuine and realistic alternative to the proposal. Therefore, I attach only limited weight to the fall back position in support of the appellant's case.
14. The emerging draft LP Part 1 identifies Repton as a key service village wherein some additional housing growth will be acceptable. Land on the opposite side of Milton Road to the site, next to the primary school, is allocated for housing to accommodate about 100 dwellings. While the appellant considers the proposal to be more sustainable than the allocated land, the Council does not share that opinion. Moreover, a large-scale development does allow for wider infrastructure improvements to take place that in turn can enhance its credentials as a sustainable form of development. In any event, because the LP Part 1 is in its infancy, with further public consultation expected, its policies may change. Therefore, I attach very limited weight to the LP Part 1 for the purposes of assessing the proposal.
15. Overall, for the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR



Appeal Decision

Site visit made on 5 November 2013

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 December 2013

Appeal Ref: APP/F1040/A/13/2199414

142 Doles Lane, Findern, Derby, Derbyshire DE65 6BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs Philip Mason against the decision of South Derbyshire District Council.
 - The application Ref 9/2013/0196, dated 11 March 2013, was refused by notice dated 17 May 2013.
 - The development proposed is the erection of one, new detached 2-storey dwelling and garage with associated access.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The name of the appellant is given as Mr P Mason on the planning appeal form, whereas the names appearing on the application form lodged with the Council are Mr and Mrs Philip Mason. As the right of appeal rests solely with the original applicants, I have proceeded on the basis that Mr and Mrs Philip Mason are the appellants in this case.
3. The application was submitted in outline with details of access to be considered at this stage and matters of scale, layout, appearance and landscaping reserved for future consideration. I have assessed the proposal on the same basis.

Main Issue

4. The main issue is how the proposal sits with regard to national guidance and local planning policies that govern the location of new housing development.

Reasons

5. The proposal is to erect a detached 2-storey dwelling and garage on land that forms part of the side garden of 142 Doles Lane, which is a 2-storey detached house that stands at the end of a row of residential properties, within the countryside. The existing plot would be subdivided between the existing dwelling and the new addition with a shared access off the adjacent highway.

6. A core principle of the National Planning Policy Framework (the Framework) is that planning should recognise the intrinsic character and beauty of the countryside. Housing Policy 6 of the South Derbyshire Local Plan (LP) reflects this principle. This policy, which applies to very small rural settlements and ribbon development, allows for the infilling of a small gap within small groups of houses if the proposal is in scale and character of the settlement.
7. Whether or not the site lies within or beyond the row of houses that front the same side of Doles Lane, the site could not reasonably be regarded nor would it be perceived as an infilling opportunity. In my experience, infilling is normally taken to involve the development of a gap in an otherwise built up frontage or on land that is substantially surrounded on at least two sides by existing development. In this case, the site adjoins existing development on one side, with open fields to the north and east and the road to the south. On that basis, the proposal would conflict with LP Housing Policy 6.
8. The site forms part of the residential curtilage of No 142 and faces a row of properties on the opposite side of Doles Lane. Substantial trees and other vegetation visually contain the site primarily along its eastern side from the open fields beyond. From the east, along the adjacent highway, views of the new addition would be heavily filtered through existing vegetation against the backdrop of existing development. In that context, the proposal would have a limited impact on the essentially open rural character of the land to the north and east of the site.
9. However, the proposal would clearly extend the single plot depth of ribbon development further along the same side of the road, which would be evident from vantage points to the west, along Doles Lane. It would introduce a substantial built form onto largely undeveloped land in a sensitive location between the row of houses and the open fields. It would create a more abrupt transition between existing development and the open fields beyond, to the detriment of the open rural landscape to the north and east. To my mind, the presence of soft landscaping especially along the site's eastern boundary cannot be relied on to mitigate the harmful effect of the proposed building, particularly as planting can be cut back and removed at any time. As a result, I consider that the proposal would be an unwelcome addition to the countryside, which should be recognised for its character and beauty.
10. The appearance, scale, layout and landscaping of the new development could, to some extent, mitigate its impact including new planting along its northern side. However, the new house and garage would occupy land that is free from built development and the presence of the new built form would be materially harmful for the reasons given notwithstanding detailed design considerations.
11. Overall, I conclude that the proposal sits uncomfortably with national guidance and local planning policies that govern the location of residential development because it would conflict with LP Housing Policy 6 and the Framework.
12. The main house could be extended at the side and outbuildings and domestic paraphernalia introduced into the curtilage, as the appellant suggests, all of which would also alter the appearance of the land. However, development of this type and items such as garden furniture and children's play equipment

- would be less substantive in built form and thus less impactful than a new 2-storey house and garage.
13. I also acknowledge that the proposal would not represent an isolated house within the countryside because of its position close to a row of houses, which itself is part of a larger ribbon development along Doles Lane. The site is within reasonable walking distance of Findern, which offers a limited range of local services and amenities and there is access to public transport with a bus stopping place close-by. My decision does not, therefore, turn on matters relating to accessibility or whether or not the precise terms of paragraph 55 of the Framework apply in this case.
 14. The site is available for development and the proposal would make efficient use of land. It would also contribute to the supply of housing land, which the Council accepts falls short of the minimum 5-years supply of deliverable sites that is required by the Framework. Nevertheless, the Framework should be read as a whole and there are specific policies within it that restrict new housing development in the countryside. The acknowledged shortfall in the supply of housing land is a material consideration that weighs in favour of allowing the proposed development. However, there are other material considerations that also need to be weighed in the planning balance such as those to which I have referred.
 15. The appellant has drawn my attention to a fallback position and suggested that a new dwelling could be erected on the site following demolition and removal of the existing building. This arrangement could establish new built form of a similar scale and position to that proposed. It may also create an infilling opportunity between the new replacement dwelling and the house adjacent to No 142. However, planning permission for this alternative form of development would be required and the Council has indicated that the outcome of the application process is not necessarily a foregone conclusion. That is because the new building would not be on substantially the same footprint as the dwelling to be replaced and a conflict with LP Housing Policy 8 could arise. Therefore, I am unable to conclude that there is a reasonable prospect that the alternative form of development could or would come forward. Consequently, I attach only limited weight to the fall back position in support of the appeal.
 16. The appellant considers that the proposal compares similarly with a scheme for a new house at 84 Burton Road, Findern that was granted planning permission on appeal¹. However, in that case, the Inspector considered the proposal to be limited infilling in accordance with LP Housing Policy 6 that, because of its position and the surrounding development, would have no unacceptable impact on the character and appearance of the countryside. The circumstances do not, therefore, appear to be directly comparable with the proposal before me.
 17. Reference is also made to an appeal decision² in which planning permission was granted for a new bungalow and garage in a different local authority area. In that case, the Inspector considered that although the host building would occupy a smaller plot there would be no change to its highway frontage, which

¹ Ref APP/F1040/A/09/2118125 dated 11 March 2010

² Ref APP/M3645/A/12/2177392 dated 29 November 2012

I agree would also be the case here subject to adjustments to the frontage hedgerows to achieve the necessary visibility splays.

18. The size and shape of the site would be similar to the residual plot for No 142 and others along Doles Lane and a dwelling could be erected on the land that would broadly reflect the design, scale and appearance of neighbouring properties. Moreover, the proposed scheme could be designed to minimise the effect on the living conditions of the future occupiers and those of No 142. Furthermore, the Highway Authority raises no objection to the proposal with regard to access and highway safety subject to conditions, and I have no reason to reach a different view. None of these matters outweigh the harm that I have identified.
19. The Council considers that the proposal, if allowed, would set an undesirable precedent. However, each case should be considered on its own merits. Consequently, this consideration does not weigh against the appellant's case.

Conclusion

20. Overall, for the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR

Appeal Decision

Site visit made on 26 November 2013

by S M Watson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 December 2013

Appeal Ref: APP/F1040/A/13/2204923
78 Ashby Road, Melbourne, Derby, DE73 8ES

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms Annabel Roberts (Alexander Bruce Estates Ltd) against the decision of South Derbyshire District Council.
 - The application Ref 9/2013/0460, dated 11 June 2013, was refused by notice dated 8 August 2013.
 - The development proposed is a new two storey 3 bedroom detached dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a new two storey 3 bedroom detached dwelling at 78 Ashby Road, Melbourne, Derby, DE73 8ES in accordance with the terms of the application, Ref 9/2013/0460, dated 11 June 2013, and the plans submitted with it, subject to conditions in the attached schedule.

Main Issues

2. The main issues are (i) the effect of the development upon the character and appearance of the countryside; and (ii) whether the development would preserve or enhance the character or appearance of the Melbourne Conservation Area.

Reasons

Character and Appearance of the Countryside

3. The dwelling would be sited in the rear garden of the former 78 Ashby Road. The grounds of the demolished property are currently being redeveloped to provide 3 new dwellings and this would provide a 4th dwelling to the rear of the ones under construction.
 4. The 3 approved dwellings are within the development boundary as defined in the South Derbyshire Local Plan, 1998 (LP) but the appeal dwelling would be outside it. Housing Policy 5 of the LP indicates that housing will be restricted to within the village confines.
 5. Nevertheless, the development boundary is set on a straight line along the boundaries of the rear of the row of adjoining plots on Ashby Road and adjacent
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to the former rear elevation of the original house. The appeal site is unusual as, unlike the adjoining properties, the former residential curtilage extends beyond this settlement line. There is no dispute between the parties that the site was part of the previous domestic curtilage and I could see on my visit that the site had a general appearance of a mature garden area due to the planting of trees and shrubs within it. The council says that the garden might have been agricultural land in the past but there is no suggestion that this was within the recent history of the site or that the garden was unlawful.

6. There is a fence on the rear boundary of the former garden, beyond which is open countryside. I consider that this boundary provides an obvious physical delineation between the residential area and the open countryside. Therefore, although the site is outside of the settlement boundary and the dwelling would be behind the linear pattern of development along Ashby Road, I do not consider it to be within the open countryside as it relates in use and physical appearance more to the settlement than to the countryside. The rising countryside beyond the site boundary which provides a valuable setting to the settlement would remain unaffected by the development.
7. I note the Council's comments that the dwelling would be an isolated dwelling in the countryside. However, because I have found that the appeal site relates more to the settlement than to the open countryside, and because of its close proximity to surrounding dwellings, it would not be isolated. Therefore, I do not have to consider the special circumstances listed in paragraph 55 of the National Planning Policy Framework (NPPF).
8. Paragraph 17 of the NPPF says that planning should recognise the intrinsic character and beauty of the countryside but as I consider that the site is not within the countryside, I see no conflict with this principal.
9. I have considered the Council's argument that the grant of planning permission would set a precedent for other development outside of the settlement boundary which would lead to development creeping into the countryside. However, no directly similar sites to which this might apply were put forward. Each application and appeal must be determined on its individual merits, and a generalised concern of this nature does not justify withholding permission in this case.
10. In spite of the development being outside of the village confine, I conclude that the proposed dwelling would not harm the character and appearance of the countryside and there would be no conflict with the aims and objectives of LP Policies HP8 and EP1 which are to restrict housing development outside of settlements in order to protect the character and appearance of the countryside.

Conservation Area

11. The dwelling would be constructed within the Melbourne Conservation Area. The conservation area did not extend into the site at the time of the Council's decision, nevertheless, as the boundary has been extended into part of the appeal site, S72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.

12. The Council say that due to topographical constraints development is tightly contained and neatly defined in the area and that this proposal would break out of the historic pattern of development harming the linear form of development on this stretch of Ashby Road.
13. However, in my assessment, the conservation area encompasses areas of different characters, uses and appearances. There is a huge variety of forms of development; plot sizes; spacing between buildings; orientation of buildings; and different alignments of streets. There is no fixed pattern of development and whilst the appeal site is within a very small stretch of linear development, I consider that the siting of the dwelling would not be out of character with the varied development patterns within the conservation area as a whole. In addition, because the surrounding countryside would remain unaffected by the proposal, the setting of this part of the conservation area would be preserved.
14. The dwellings surrounding the site are of different ages and designs. The proposed dwelling would be constructed in a vernacular style which would be sympathetic to the other traditional styles of surrounding buildings and it would be lower in height than the 3 dwellings at the front of the site. It would therefore sit well within its context and would preserve local distinctiveness.
15. I therefore conclude that the proposed development would preserve the character and appearance of the Melbourne Conservation Area and there would be no conflict with LP Policy EP12 which indicates that development which would have an adverse effect on the character or appearance of a conservation area should not be permitted.

Other Matters

16. I note the appellant's contention that development plan policies HP5, HP8 and EP1 are out of date, however, in respect of the main issues in this appeal, I see no conflict between them and the NPPF which both seek to protect the countryside from harmful development.
17. I have considered all other matters raised including the objections from third parties in relation to highway safety, over development and potential removal of trees. However, I do not consider that one additional dwelling would materially harm the highway safety of the area and there has been no objection from the Local Highway Authority; I consider that the amount of development on the site would not harm visual amenity for the reasons given above and there are no trees of significant amenity value on the site of the proposed dwelling.

Conditions

18. I have considered the conditions suggested by the Council in light of the advice in Circular 11/95 *The Use of Conditions in Planning Permissions*. In addition to the standard time implementation condition and conditions requiring submission of reserved matters, it is necessary, for the avoidance of doubt, to define the plans with which the scheme should accord and such a condition is imposed. Details of materials, boundary treatment and levels are required to protect the character and appearance of the area; and a condition in respect of car parking is imposed in the interests of the safe parking of vehicles. I have not imposed the Council's suggested condition in respect of gutters and downpipes as I do not consider it necessary to restrict their colour to black.

Conclusion

19. For the above reasons the appeal is allowed.

Siobhan Watson

INSPECTOR

Schedule

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: location plan; 2806/28; and 2806/29.
- 3) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the building is occupied. Development shall be carried out in accordance with the approved details.
- 4) The dwelling shall not be occupied until space has been laid out within the site for car parking in accordance with the plans hereby approved. The spaces shall be retained thereafter.
- 5) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No development shall take place until details of the finished floor levels of the building and of the ground levels of the finished site have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.