Report of the Executive Director – Place and Prosperity

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

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1. Planning Applications

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

When moving that a site visit be held, Members will be expected to consider and propose one or more of the following reasons:

1. The issues of fact raised by the report of the Executive Director – Place and Prosperity 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 Executive Director – Place and Prosperity, arise from a Member's personal knowledge of circumstances on the ground that lead to the need for clarification that may be achieved by a site visit.
3. Implications that may be demonstrated on site arise for consistency of decision making in other similar cases.

Glossary of terms

The following reports will often abbreviate commonly used terms. For ease of reference, the most common are listed below:

LP1	Local Plan Part 1
LP2	Local Plan Part 2
NP	Neighbourhood Plan
SPD	Supplementary Planning Document
SPG	Supplementary Planning Guidance
PPG	Planning Practice Guidance
NPPF	National Planning Policy Framework
NDG	National Design Guide
SHMA	Strategic Housing Market Assessment
SHELAA	Strategic Housing and Employment Land Availability Assessment
s106	Section 106 (Agreement)
CIL	Community Infrastructure Levy
EIA	Environmental Impact Assessment
AA	Appropriate Assessment (under the Habitat Regulations)
CPO	Compulsory Purchase Order
CACS	Conservation Area Character Statement
HER	Historic Environment Record
LCA	Landscape Character Area
LCT	Landscape Character Type
LNR	Local Nature Reserve
LWS	Local Wildlife Site (pLWS = Potential LWS)
SAC	Special Area of Conservation
SSSI	Site of Special Scientific Interest
TPO	Tree Preservation Order
BNG	Biodiversity Net Gain
PRoW	Public Right of Way
POS	Public Open Space
LAP	Local Area for Play
LEAP	Local Equipped Area for Play
NEAP	Neighbourhood Equipped Area for Play
SuDS	Sustainable Drainage System
LRN	Local Road Network (County Council controlled roads)
SRN	Strategic Road Network (Trunk roads and motorways)
DAS	Design and Access Statement
ES	Environmental Statement (under the EIA Regulations)
FRA	Flood Risk Assessment
GCN	Great Crested Newt(s)
LVIA	Landscape and Visual Impact Assessment
TA	Transport Assessment
CCG	(NHS) Clinical Commissioning Group
CHA	County Highway Authority
DCC	Derbyshire County Council
DWT	Derbyshire Wildlife Trust
EA	Environment Agency
EHO	Environmental Health Officer
LEP	(D2N2) Local Enterprise Partnership
LLFA	Lead Local Flood Authority
NFC	National Forest Company
STW	Severn Trent Water Ltd

18/02/2025

Item No. **1.1**

Ref. No. **DMPA/2022/1626**

Valid date: **12 January 2023**

Applicant: **Mervyn John** **Agent:** ASAP Architects

Proposal: **Change of use from pasture land to proposed burial ground for church at Land adjacent to St Wystan's Church, The Green, Bretby, Burton upon Trent DE15 0RA**

Ward: **Repton**

Reason for committee determination

This item is presented to the Committee at the discretion of the Head of Planning and Strategic Housing as the committee should debate the issues in this case which are very finely balanced.

Executive Summary

This application proposes the change of use of a field located off The Green, Bretby. The field is located within the Churchyard of St Wystan's Church and was formerly pastureland that was donated to the Church in 1994 for the sole purpose of extending burial provision for the Church and wider community. To the south-west of the Church sits Bretby Castle Scheduled Monument (SM) which was re-designated in 1993 removing the application site and the existing graveyard from the SM. Following a desk-based archaeological assessment, a field evaluation trench has been requested in accordance with Paragraph 207 of the NPPF. The applicant is part of a very small rural Church and following the request from Derbyshire County Council Development Control Archaeologist has sought to obtain various quotes which has shown that the proposed work is not a viable option for the Church. An objection has also been received by The Environment Agency in relation to the application site being located above a Principal Aquifer therefore a Tier 1 and Tier 2 Hydrological Risk Assessment has been requested. This is an additional cost that the Church cannot afford to undertake. Due to unresolved objections from statutory consultees, it is recommended that the application is refused. This is a finely balanced decision as the extension of much needed burial facilities will comprise a significant public benefit.

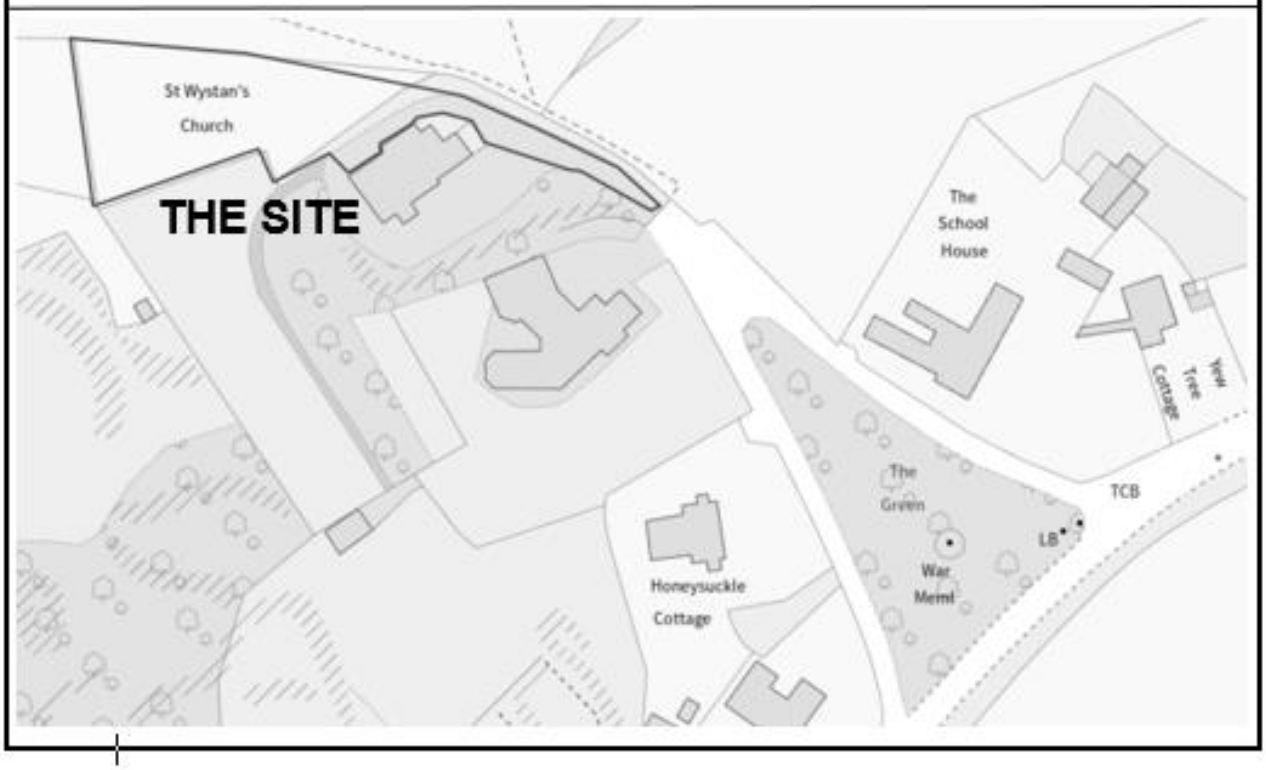
Site Description

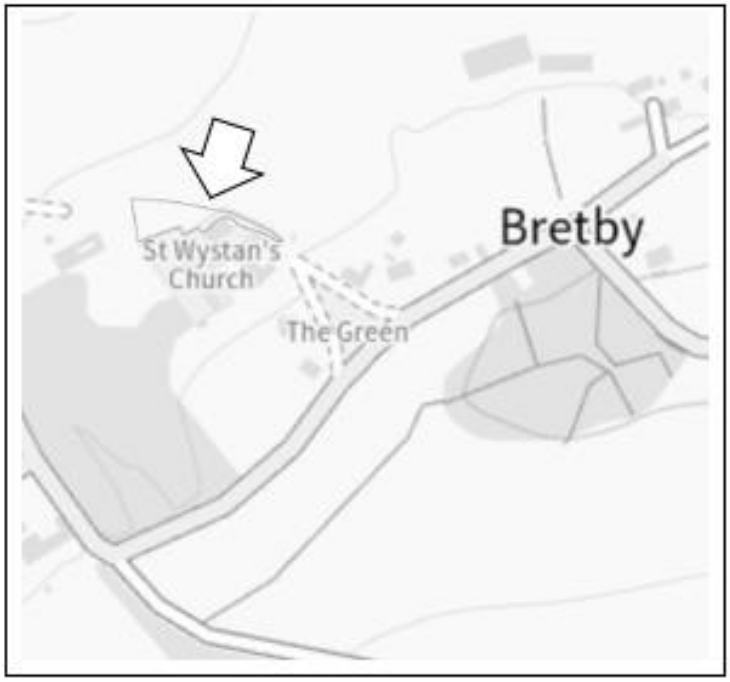
The application site is a small plot of land measuring 755sqm to the north and west of St Wynstan's Grade II Listed Church within the village of Bretby. The site of Bretby Castle, which is a scheduled ancient monument is immediately adjacent to the application site to the south-west. Furthermore, the site is located centrally within Bretby Conservation Area. The site is located within Flood Zone One. The land was gifted to the Church in 1997 for the purpose of an extension to the churchyard, prior to this it was used for the grazing of horses. Due to the level of demand the existing burial ground within the Churchyard is now at capacity. The site is now grassland with a hedgerow running along the southern boundary separating the site from the existing graveyard.

The proposal

The proposal is to change the former pastureland to a burial ground for use by the Church. It is proposed that 50% of the land would be used for new burials and then the remaining area would be used for quiet contemplation and reflection which all visitors would be welcome to use.

DMPA/2022/1626 – Land adjacent to St Wystan's Church, The Green, Bretby, Burton upon Trent DE15 0RA





Applicant's supporting information

Planning Application Drawings

Proposed Burial Ground Extension and Pathway ref. H26-06 received 23 December 2022
Block Plan ref. H26-09 received 23 December 2022
Location Plan ref. H26-11A received 23 December 2022
Detailed Topographical Survey ref. H26-01.EXP received 23 December 2022

Design and Access Statement received 23 December 2022 - This outlines the history of the Church and the proposed application which includes the creation of 20 new burial plots, alongside plots for cremated remains and also fully accessible paths to be created. It also outlines the stages of the development, if planning approval is to be granted as a consecration of the ground would be required.

Archaeological Desk-Based Assessment produced by MSDS Heritage received 15 November 2023 - This has been conducted alongside a Ground-Penetrating Radar Survey of the application site. The assessment has been undertaken following a request from the Development Control Archaeologist. The survey considers both the impacts of the proposed development on designated and non-designated heritage assets. It is highlighted that the proposed would be episodic with graves c.2m deep added sporadically over a number of decades to the site.

Letter from English Heritage to The Church - received 20 February 2024. This letter was sent to the Church in 1993 following the amendment to the Scheduled Ancient Monument whereby the application site was removed from the area due to it being concluded that the site was originally a stock pond with areas of 19th century quarrying formally incorrectly identified as fishponds. Additionally, "the features although of local importance are not directly to the manor site.... and are not considered to be of national importance".

Supporting Letter from The Parochial Church Council - received 20 January 2025. This letter to the Council provides detailed information of the history of the application site, the application process and the financial situation of the Church.

Relevant planning history

There is no planning history in relation to the site.

Responses to consultations and publicity

Derbyshire County Council Highway Authority

No objections

Derbyshire County Council Archaeology

February 2023 - St Wystan's Church is a Grade II listed building thought to be built on the site of a 13th century chapel which served Bretby Castle, a scheduled ancient monument (DDR294), the site of which is immediately adjacent to the application area to the south-west. As the site sits immediately adjacent to a designated scheduled ancient monument, please also consult Historic England and your own Buildings and Conservation officer regarding this application. In terms of below ground archaeology, given the interrelationship between manor and chapel it is probable that archaeological evidence relating to the internal arrangement of the castle, manor and precinct and associated earthworks would be affected, and possibly entirely removed, by the excavation of contemporary graves. The application area is therefore within an area of potential archaeological significance. Further archaeological work, in the form of a ground penetrating radar (GPR) survey should be made of the site and be accompanied by a suitable archaeological report interpreting any evidence within the context of the castle/manor/church/village adjacent, where appropriate under para 194 of NPPF (2022). The results of this work will then allow me to make a judgement on significance sufficiently to make a determination.

January 2024 - As the site sits immediately adjacent to a designated scheduled monument, I suggested that the proposed development area was likely to contain archaeological deposits relating to the internal arrangement of the castle, manor and precinct and associated earthworks. This in part also suggested by the listing text for Bretby Castle. The submitted desk-based assessment and accompanying ground penetrating radar survey demonstrates the presence of what appears to be a succession of archaeological horizons and cut features within the site to a depth of c. 2.3 m below ground level. It is likely that these relate to the scheduled area to the south and are of post-medieval, medieval and earlier date. Given that the proposed end use of the site would be as a cemetery and the graves will be well within the horizon of archaeological sensitivity at 2m deep, the granting of planning consent and ensuing development would mean the piecemeal removal of the buried archaeological resource in its entirety. Offsetting this loss would not be achieved via piecemeal monitoring of individual graves as a means of archaeological investigation and would not be conducive to the desired outcomes. At the same time, it would also appear to me that more suitable mitigation in the form of archaeological excavation of the proposal area may be problematic to the applicant both to excavate and then analyse and publish the results of archaeological excavation, and the applicants should be aware of these elements as the next step.

I would therefore council a nuanced approach. Should you be minded to grant planning consent after consultation with the applicant further archaeological works will be required, these would comprise in the first part archaeological evaluation trenching to identify the depth of the highest archaeological horizon and to inform the planning, costing, logistics and execution of further work. The second part would then comprise the undertaking of these further works in the form of archaeological excavation of the proposed footprint of development to the base of the archaeological horizon, resulting in a “clean site”, that can then be freely utilised as a burial ground.

These archaeological works can be secured post-determination by the insertion of a suitably worded condition into planning permission. All archaeological works should be undertaken by a suitably experienced archaeological organisation with suitably and most importantly demonstrably experienced archaeologists undertaking the work on the ground.

March 2024 - As the site sits immediately adjacent to a designated scheduled monument I suggested that the proposed development area was likely to contain archaeological deposits relating to the internal arrangement of the castle, manor and precinct and associated earthworks. This is in part confirmed by the listing text (File Ref AA31775/1) for Bretby Castle which states “However, although further remains , including those of the chapel, will survive beneath modern development in this area they are not included in the scheduling as their extent and state of survival is not sufficiently understood.”

I note the submission of the amendment of listing notice from English Heritage in 1993, modifying the scheduled area to the current site (File Ref AA31775/1). The ground penetrating radar survey of the development area shows what appears to be a succession of archaeological horizons and potentially cut features to a depth of c. 2.3 m below ground level. As highlighted by the English Heritage letter submitted this area was de-scheduled in 1993 because there was insufficient evidence about the nature of the archaeological resource in that area while acknowledging the likely presence of archaeological deposits and features in the nature of a “known unknown”. However, we now know more about the potential archaeology of area of proposed development. The Desk Based Assessment submitted recommends that further archaeological works in the form of evaluation trenching would help to further characterise the archaeological deposits within the site. This is indeed true and further pre-determination evaluation trenching can only help add detail, absent under initial scheduling.

However, should you be minded to grant planning consent without pre-determination works, then further archaeological works should be secured by condition under para 211 of NPPF (2023). This work would comprise targeted archaeological evaluation trenching followed by mitigation works, if necessary. The mitigation works, if required, may take the form of further excavation within the proposed development area.

08 April 2024 - The archaeological considerations regarding this application are a little more complex than the reading presented by Asap-Architecture in their correspondence of 20th Feb, kindly forwarded.

I have repeated and summarised what I see as the main points of contention. f I understand, the argument against any further archaeological works is based on the reading that:

A. Nothing positive was found. the appropriate investigation has been undertaken to depths of up to 210cm below ground level. Nothing positive was found.
B. The linear anomalies are of modern buried services running through the area.
C. The site area is situated adjacent to and outside of the northern boundary of the castle scheduled monument.
D. Previous works did not demonstrate archaeology but that which has been demonstrated relates to 19th century building.
E. The location of the proposed development is not likely to contain archaeology, and it was because of this that it was not considered for inclusion in the area of the scheduled monument.

Point A - The environment of the survey area has proven conducive to GPR survey, with evidence of good signal penetration up to a depth of c. 2.3m. The survey has detected anomalies that may correspond to earthworks that might relate to the nearby castle attested to on historical maps.
Point B - This same report then goes on to observe modern services 7.3.2.3 & Undetermined 7.3.2.4 They do not correspond to any features visible on satellite imagery or in the LiDAR data. It is likely that these are of a natural origin, but an archaeological origin cannot be wholly excluded.
Point C - The application area is outside the area of the Scheduled Ancient monument. The reason this is so was because the nature and survival of any archaeology within the proposal area was unknown at the time of scheduling. However, the Scheduled Monument lies immediately adjacent, to the south-west corner of the application area
Point D - Section 4.5 of the submitted report says that previous archaeological works at Castlefield, to the immediate west of the site, found an undated ditch and cobbled surface in 2006 and, slightly to the west of that, works also uncovered a cobbled surface of unknown date in 2017. The central point here is that, though 19th century building had partially damaged these archaeological deposits and features, archaeological features and deposits were still present.
Point E - The location of the site in context suggest that anomalies picked up on GPR relate to the archaeology immediately adjacent areas of which this site was once part. In this context banks and ditches and layers are precisely the type of archaeology one would expect.

The initial indications from the archaeological works already undertaken prompted me to discuss the site with the Regional Inspector of Ancient Monuments for Historic England in November 2023.

29 April 2024 - An evaluation trial trench is a recognised archaeological technique in this instance for ground truthing geophysical survey results, it is of variable utility depending on the circumstances of its application and only ever demonstrates what the minimum amount of archaeology might be. It is a technique developed in the mid 1980s' in archaeology prior to PPG 16 (in 1990). The single trench proposed here by the former archaeological contractor was discussed with me previously, it would be 5m long and 3m wide and allows a sneak preview at what is within and beneath the soil layers, at that point, in detail. A small test pit, for example of 2m x 2m will not yield the same appropriate data to assess, with any reliability, the nature of the archaeology. In my considered opinion in this instance, it is not a legitimate technique because its coverage will be too small. I understand that the applicants are concerned about financial viability of the project and should the evaluation trench demonstrate the preservation of archaeological deposits and structures I will either be recommending that the application be refused or consented with an archaeological condition toward mitigation.

07 May 2024 - I would rather this evaluation trench be undertaken pre-determination for the sake of clarity in terms of the significance of the archaeology and thus the scale of costs of mitigation. If a full or partial archaeological excavation is required (following the results of evaluation trenching), this with analysis and reporting could be expensive. I understand that the financial viability of the proposal is not directly my concern, the offsetting of the loss of the archaeology is however so I want to flag it now.

02 December 2024 - There is clearly an archaeological and heritage concern with the site. The applicants' archaeological contractors/consultants advised them of a potential archaeological concern with the site, as have I, as have Historic England during the process of consultation. It seems from the various correspondences that the applicants do not have the means to achieve the threshold of Para

200 of NPPF to determine this application. On this basis I recommend refusal.

I am sorry I cannot be more helpful to the applicant here, given the site and its location near the SM we would require this work of any application with a potential below ground impact, irrespective of its proposed end use.

27 January 2025 - In terms of below ground archaeology; given the interrelationship between manor and chapel it is likely that archaeological evidence relating to the castle, manor and precinct and associated earthworks would be affected, and possibly entirely removed, by the proposal. The listing text for Bretby Castle itself states *"Formerly, the manor site would also have extended further to the north-east. However, although further remains, including those of a chapel, will survive beneath modern development in this area, they are not included in the scheduling as their extent and state of survival is not sufficiently understood."* These comments in the scheduling relate in part specifically to the application site and I draw your attention in particular to the statement "although further remains, including those of a chapel, will survive beneath modern development in this area, they are not included in the scheduling as their extent and state of survival is not sufficiently understood".

The results of predetermination archaeological work, in the form of a GPR survey and a Desk Based Archaeological Assessment, strongly suggest the presence of below ground archaeological remains within the proposed development area. While this goes some way to casting light on the extent of any archaeology it is less good at elucidating the state of survival and the nature of the archaeology on the site. In line with Para 207 of NPPF I suggested that this potential archaeological resource should be truth tested via an evaluation trench in order that I can make a suitable recommendation. Unfortunately undertaking this work is beyond the financial capacity of the applicant and so the base level archaeological information to meet the requirements of Para 207 has not been met. The determination of this application from my side pivots on the extent and survival of any archaeology and whether the archaeology relates to the nationally designated monument adjacent and is itself of national significance. As the applicant does not have the financial means to meet pre-determination requirements I am unable to approve this application and I recommend this application be refused.

As an additional note, should the committee see its way to passing this application against advice then I suggest that a condition be attached to secure archaeological mitigation, offsetting the loss of the archaeology in full.

<u>Environment Agency</u>

23 February 2024 - We have the following comments to make on this application (DMPA/2022/1626), which relate solely to the protection of controlled waters. Matters relating to human health should be directed to the relevant department of the Local Authority.
Reference to the 1:50,000 geological map indicates that the site is located on Principal Aquifer of the Helsby Sandstone Formation. No superficial deposits are indicated. The site is not located within a groundwater Source Protection Zone. There is a slight topographic gradient dipping to the southeast towards a tertiary unnamed watercourse 145m from the site leading to the River Trent. The site is not liable to flooding and the nearest licensed groundwater abstraction is more than 2km away. The site is considered to be sensitive with respect to controlled waters receptors. Given the above information in particular the highest aquifer designation, the site is considered to be sensitive with respect to controlled waters receptors.

The information provided in the application form submitted in support of this development indicates that 20 burial plots are initially proposed with the potential for 20 more in the future. The government guidance* states that the burial rate for sites existing on a Principal Aquifer should be 'fewer than 30 burials per year'. If the burial rate for this site does not exceed the maximum rate, we would have no concerns with the burial numbers at this site.

We do have concerns about the graves intercepting groundwater. As no groundwater information has been provided as part of this application, we cannot be sure that the base of the graves will not come into contact with the water table. Government requirements state there should be a 1m clearance between the base of the grave and the top of the water table. The government guidance states that the

burial rate for sites existing on a Principal Aquifer should be ‘fewer than 30 burials per year’. If the burial rate for this site does not exceed the maximum rate, we would have no concerns with the burial numbers at this site.

Environment Agency guidance on ‘Cemetery Developments’ is set out in our Approach to Groundwater Protection. We refer to Chapter L and specifically the Position Statements starting on page 40. Policy L3 ‘Cemeteries: protecting groundwater in highly sensitive locations’ which states: “all cemetery developments and burials must maintain an unsaturated zone below the level of the base of the grave(s)”.

We object to the planning application, as submitted, because the proposed cemetery development would pose an unacceptable risk of pollution of groundwater. We recommend that planning permission should be refused on this basis, in line with paragraph 180 of the National Planning Policy Framework (2023).

Reason
Our approach to groundwater protection is set out in ‘The Environment Agency’s approach to groundwater protection’. In implementing the position statements in this guidance we will oppose development proposals that may pollute groundwater especially where the risks of pollution is high and the groundwater asset is of high value.

Groundwater is particularly sensitive in this location because the proposed development site is located upon principal aquifer.

To ensure development is sustainable, the applicant must provide adequate information to demonstrate that the risks posed by development to groundwater can be satisfactorily managed. In this instance, the applicant has failed to provide this information and we consider that the proposed development may pose an unacceptable risk of causing a detrimental impact to groundwater quality because the clearance between the base of the graves and the water table has not been investigated.

In principle any new cemetery or the extension of any existing cemetery must:
• be at least 250 metres from a well, borehole or spring used to supply water that is used for human consumption, or for use in dairy farms
• be at least 30 metres from any other spring or watercourse and at least 10 metres from any field drain
• have at least one metre of subsoil below the bottom of the burial pit, allowing a hole deep enough for at least one metre of soil to cover the remains
• have at least one metre of unsaturated zone (the depth to the water table) below the base of any grave. Allowance should also be made to any potential rise in the water table (at least one metre should be maintained)

06 February 2025 - Cemetries under Environmental Permitting Regulations and Cemetries under the Planning Permission process

The operation of a new cemetery development or extension of an existing cemetery has come under the scope of the environmental permitting regulations and the following guidance has been produced.

For the proposed planning application we recommend that a twin track approach should be adopted that should run in parallel between the planning regime and the Environmental Permitting Regulations (EPR) to evaluate:

(a) if the planning application can be progressed for the site; and

(b) if the site can qualify for low environmental risk cemeteries: exemption conditions or if an environmental permit is required for the cemetery site to operate.

Our previous response objected to the planning application, as groundwater is particularly sensitive in this location (proposed development site is located upon principal aquifer) and insufficient information was provided to determine if there was a risk to groundwater, namely supporting evidence to show how deep groundwater levels are, in order to show that they are sufficient for a burial ground.

To ensure development is sustainable, the applicant must provide adequate information to demonstrate that the risks posed by development to groundwater can be satisfactorily managed. In this instance, the applicant has failed to provide this information, and we consider that the proposed development may pose an unacceptable risk of causing a detrimental impact to groundwater quality because the clearance between the base of the graves and the water table has not been investigated.

Determine if application site is a Low Environmental Risk Cemetery (Exemption) OR if Environmental Permit is Needed

The planning application falls under "New cemeteries: permitting requirements" under the cemetery guidance from the EA "Protecting groundwater from human burials" which is available at Protecting groundwater from human burials - GOV.UK .

A new cemetery is defined as either:

- a cemetery development requiring planning permission under section 57 of the Town and Country Planning Act 1990 which was granted on or after 2 October 2023
- an extension to a cemetery requiring planning permission under section 57 of the Town and Country Planning Act 1990 which was granted on or after 2 October 2023

As this application is considered to be a New Cemetery Development/ extension of existing, it must do one of the following:

- Demonstrate that they meet all the criteria in the exemptions for low environmental risk cemeteries. **If this can be demonstrated, then an environmental permit will not be needed.**
- operate under a standard rules permit
- operate under a bespoke permit

The applicant or their nominated environmental consultant will need to evaluate the site to see if meets the "Low environmental risk cemeteries: exemption conditions" which are available at: Low environmental risk cemeteries: exemption conditions - GOV.UK

If the exemption conditions are met the application site can operate without needing an environmental permit. If the exemption conditions are not met, the applicant must get an environmental permit to operate their new cemetery or new extension. Protecting groundwater from human burials - GOV.UK

Planning Application- Objection

In our previous planning consultation, we objected the planning application and stated that in order to overcome the objection, the following would be required. Adopting a twin track approach to the planning and permitting requirements, would mean that if the criteria in the exemptions for low environmental risk cemeteries cannot be met or there is uncertainty, then the following works need to be undertaken. Depending on the outcome an environmental permit may be required:

The applicant should provide a scheme to assess the risks to groundwater and identify appropriate mitigation to manage those risks. The scheme must include the following detailed information:

i Tier 1: Risk screening in accordance with the current guidance

ii Where required by the Tier 1 assessment, a Tier 2: Preliminary quantitative risk assessment with detailed desk study and preliminary site investigation

iii Where required by a Tier 2 assessment, a Tier 3: Detailed quantitative risk assessment

iv Where required by any stage of the risk assessment, a method statement, based on that agreed risk assessment, for construction and operation of the proposed development.

v A completion statement to demonstrate that work specified in the method statement has been suitably carried out.

Should this scheme demonstrate that any risks identified can be satisfactorily managed through a method statement we will be able to withdraw this objection.

Overall, the application site is in a high-risk area (a principal aquifer) with respect to Controlled waters and it's critical that the graves do not intercept groundwater (particularly principal aquifer groundwater that can be used as a drinking water supply).

The decomposition of bodies within graves which have been preserved using embalmment chemicals as well as the natural decomposition process releases contaminants that are harmful to the principal aquifer and drinking water supplies.

We note that the applicant has financial pressures which have been highlighted on the planning portal, but the guidance above requires that we object on the risks posed to groundwater, until further assessment is undertaken on the site.

The EA strongly recommend maintaining the objection until further information is provided to progress the planning application and also determine in parallel if the application site needs an Environmental Permit or can operate under the Low environmental risk cemeteries: exemption conditions.

If the development is allowed to progress without the above issues being resolved, then it is likely to deliberately contaminate the underlying principal aquifer and leave the applicant open to enforcement action.

Historic England

May 2023 - We refer you to the detailed advice provided by DCC Archaeology in their email of 7th February 2023 and their expertise going forwards.
We also suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.
It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals.

June 2024 - Further to our letter of 31 May 2023 I have reviewed our letter of 04/12/1993 regarding the then revision to the scheduled area at Bretby.

As set out in the 1993 letter the area formerly included to the N and E was removed from the scheduling, this was because the earthworks to the NE which had been thought to be fishponds, were reinterpreted as quarries and a [live]stock pond, a decision was also take to exclude the area to the east containing the remains of medieval house. The earthworks discussed in our letter from 1993 as not fishponds but quarries – seem from examination of current EA lidar terrain mapping to lie to the NE of the church, the land to immediate N of the church and existing graveyard appears relatively level and it is in this area where the new graveyard is proposed. My sense is that the scheduled monument boundary was drawn back to the edge of the evident castle / fortified manor earthworks. This seems to based on the rejection of the visible earthwork features in the excluded area rather than any assessment of the flattish area immediately to the N of the church and church yard.

That area where the churchyard extension has been proposed has lately been subject to Ground Penetrating Radar survey (GPT) the report for which I have read. The results in the proposed development area would merit further investigation. Some of the anomalies may be indicative of infilled quarry hollows but equally they may represent medieval / post-medieval landscaping and or material overlying evidence of earlier occupation. Burials extending beyond the churchyard boundary are also a possibility.

Reference in the scheduling report to the monument being an ("exceptionally well documented one with important historical associations.", should be understood in the context of the focus of the defended manorial site / castle and shouldn't be taken as there being a documentary record of any features of importance.

We note the financial pressures on the PCC but conclude that in order to establish the character of the

features and deposits indicated on the GPR survey some test excavation as advised by the County Development Control Archaeologist would appear appropriate. This could be a staged process to first establish through a limited investigation the general depth and character of deposits and give a sense of the overall feasibility of the scheme / whether further work would be required.

Relevant policy, guidance and/or legislation

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications shall be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan for the purposes of this application comprises the South Derbyshire Local Plan Part 1 (LP1) adopted in June 2016 and the South Derbyshire Local Plan Part 2 (LP2) adopted in November 2017.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 comprises a statutory duty to give special consideration to preserving or enhancing the character or appearance of Bretby Conservation Area.

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 comprises a statutory duty to give special consideration to preserving or enhancing the character or appearance of the setting of St Wynstan's Church Grade II Listed Building.

National policy on proposals affecting heritage assets and considering potential impacts are contained in paragraphs 207 - 221 of the NPPF.

Material considerations include, albeit not limited to, the National Planning Policy Framework (NPPF) Planning Practice Guidance (PPG), together with South Derbyshire Design Guide Supplementary Planning Document (SPD) and the Bretby Conservation Area Statement (CAS).

The relevant Development Plan policies are:
2016 Local Plan Part 1 (LP1) : S1 (Sustainable Growth Strategy) , S2 (Presumption in Favour of Sustainable Development); H1 (Settlement Hierarchy) , SD1 (Amenity and Environmental Quality); SD2 (Flood Risk), SD3(Sustainable Water Supply , Drainage and Sewerage Infrastructure) INF2 (Sustainable Transport); BNE1 (Design Excellence) , BNE2 (Heritage Assets) , BNE4 (Landscape Character and Local Distinctiveness) and INF6 (Community Facilities)

2017 Local Plan Part 2 (LP2) : SDT1 Settlement Boundaries ; BNE5 (Development in Rural Areas) , BNE7 (Trees , Woodland and Hedgerows) and BNE10 (Heritage)

The relevant National Guidance is:
National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)

The relevant Local Guidance is:
South Derbyshire Design Guide SPD (Design SPD)

The relevant legislation is:
Planning (Listed Buildings and Conservation Areas) Act 1990
Ancient Monuments and Archaeological Areas Act 1979

Planning considerations

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

- Principle of Development
- Amenity and Visual Impact
- Heritage Impact
- Ground Contamination, Drainage and Floodrisk

Planning assessment

Principle of Development

The application seeks full planning permission to change the use of the land from pastureland to a burial ground to serve St Wystan's Church, Bretby. This would extend the burial provision for the Parish of Bretby and the surrounding area for at least the next 100 years as the existing Church graveyard is currently at capacity. Thus, there is considered to be a pressing need for new provision within the area and to meet this need would amount to a significant public benefit. Bretby is considered to be a rural village with no settlement boundary in accordance with Policy SDT1 of the Adopted Local Plan. Policy SDT1 states *"Outside of Settlement Boundaries and allocated sites, within the Rural Areas as defined with Policy H1, development will be limited to that considered acceptable inter alia by Policy BNE5"* .

Policy BNE5 states that outside of settlement boundaries, within the Rural Areas (as defined in Policy SDT1) development will be considered acceptable whereby the development is
iii) Unavoidable outside of settlement boundaries; and…
v) Will not unduly impact on : landscape character and quality, biodiversity, best and most versatile agricultural land, and heritage assets.

The development is located in Bretby which has no settlement boundary therefore as the proposal is to extend an existing village facility the development of an extended burial ground for the Church is considered to be unavoidable within the rural area and in any event is an appropriate form of development in principle. The development is considered to not have any significant impact upon the rural nature of the landscape that the churchyard is set against as the site is likely to feature individual gravestones to mark the separate plots these would be modest in their size and this would blend in well with the existing graveyard on the adjacent land. Furthermore, the land is not best and most versatile agricultural land. The proposal is considered to comply with iii) of BNE5 and v) is subject to further discussion below.

Consideration of Policy INF6 is also necessary. Policy INF6 concerns development related to community facilities, with part A stating that the Council should facilitate the efficient use of community facilities and the provision...that can provide a range of services to the community at a single, accessible location. Below is the definition of Community Facilities from the Local Plan.

"Facilities used by local communities for leisure and social purposes where the primary purpose of the facility is for the public benefit. Examples of community facilities would include, but not exclusively, village halls, community centres and meeting places, places of worship, cultural buildings, non-profit sporting facilities and play areas" (emphasis added)

The NPPF Paragraph 98 states the following in relation to these facilities which is considered relevant for this application:

To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;...
c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;

As set out within the adopted Local Plan the primary purpose of a community facility is one of public benefit with examples provided including village halls and places of worship. It is considered that a burial ground would also fall within the Community Facilities category as the primary purpose is public benefit for the wider community, with the scheme providing burial provision for those in the community within the surrounding area. It is therefore considered that the application complies with Policy INF6 of the Adopted Local Plan.

Amenity and Visual Impact

There are no buildings proposed on the site, and there is a substantial amount of landscaping proposed to be retained, including the trees to the north of the site which look out onto the open countryside. The timber pathway that is proposed to be constructed is considered to be suitable in this context and is not considered to be a prominent or highly visible form of development. As such, no unacceptable visual impacts are expected as a result of the proposals. The operation of the burial ground extension is not expected to have any significant undue effect upon the amenity of the nearest dwellings to the south and west of the Church with levels of activity being similar to those already experienced. Although there would be some disturbance for nearby neighbours this is expected to occur during construction this would be for a very limited time period. Therefore, it is considered that the proposal complies with Policy SD1 of the Adopted Local Plan.

Heritage Impact

The application site sits within the grounds of the Grade II Listed St Wystan's Church which was constructed in 1876 on the site of a 13th century chapel which served Bretby Castle. Bretby Castle is a Scheduled Monument (DDR294), the site of which is immediately adjacent to the application area to the south-west. This was designated in 1982 with amendments made in April 1994 whereby the ground beneath the dwelling to the south of the application site known as "Castlefield" was included within the designation, however the area to the north and east of the listing (including the application site and Churchyard) was excluded. This was stated as previously being incorrectly identified as fishponds and actually being a (life)stock pond and area of 19th century quarrying. Bretby Conservation Area was designated in 1976 and covers the application site. It is stated in the Bretby CAS that the site of Bretby Castle which is a Scheduled Ancient Monument originating from the 12th century with a "Chapel of Ease" as part of it which was replaced in 1876 by the current church. The Church yard provides a key viewpoint towards the Castle.

Policy BNE2 states that development affecting heritage assets will be expected to protect, conserve and enhance the assets and their settings in accordance with National Guidance and supplementary planning documents. Additionally, Policy BNE10 of the Adopted Local Plan states that all applications should be *accompanied by a heritage assessment, prepared...to a level of detail proportionate to the asset's significance.* Furthermore, the Policy goes on to state *any proposed development which impacts on archaeological remains will be required to be accompanied by an archaeological evaluation of the site and a statement demonstrating how it intended to overcome the archaeological constraints of the site.*

Following comments from the County Council Archaeologist during the initial consultation process, a Desk-Based Assessment was undertaken which considered the potential impacts of the proposed development on designated and non-designated heritage assets and also the significance of the heritage assets affected. This survey was undertaken in Autumn 2023. Information is provided stating that the Derbyshire HER records quarrying within the study area. There were anomalies identified of being up to depths of c2.1m below ground level however these are likely to represent the remains of earthwork ditches, buried services and landscaping relating to the nearby buildings. It is noted that as the proposed use is for a burial ground the impact will be a series of separate events as the graves will be c.2m deep added sporadically over numerous decades. The anomalies on the report are noted as consolidated deposits which range from a depth of 67cm to 90cm with the main band being located within the central area of the application site as shown on figure 14 below extracted from the assessment.

Following receipt of this assessment, The County Council Archaeologist in January 2024 noted that a suitable mitigation would be to undertake archaeological excavation through evaluation trenching to identify the level of works that would be required. This included a recommendation for all works to be undertaken through a bespoke Written Scheme of Investigation which would be approved prior to any works. This request was reviewed by the specialist conservation architect that the Church have acting on their behalf, who responded that the appropriate investigation has been undertaken to depths of 2.1m and nothing positive in archaeological terms was found whereby the linear anomalies that had been detected are of modern buried services. Although it is noted the works could be undertaken by an archaeological evaluation trench it is not considered by the agent to be appropriate as similar works have been undertaken recently at "Castlefield" which is within the SM and ***very few archaeological features*** have been found which relate to the 19th century rather than the SM. It is still considered by Derbyshire County Council Development Archaeologist that whilst the GPR survey and a Desk Based Archaeological Assessment go some way to suggest there is no archaeology within the site, as the churchyard falls within an area of archaeological potential defined within the Bretby CAS due to the proximity with the SM, the potential for finding archaeological information using an evaluation trench is in line with Paragraph 207 of the NPPF. The comments of DCC Archaeological Officer were provided to the applicant these requested that a Written Scheme of Investigation and full program of archaeological works should be undertaken if necessary, following an evaluation trench prior to the site being used as a burial ground. However, the applicant has confirmed by letter dated 20 January 2025 to the District Council that they have insufficient funding to undertake this work. It is acknowledged by the District Council that a community organisation such as the Church does not have the same financial ability to undertake investigation works as a business or major housebuilder might do.

Despite this being an application for a small area for the proposed change of use (755sqm and only half will be for burial provision), weight must be given to the comments of Derbyshire County Council Archaeologist who is a statutory consultee and their professional views that there is a potential for the site to be of archaeological value. It is considered it cannot be enforceable (or reasonable) in line with the test set out within the NPPF to condition archaeological works to be required at the time of each grave being dug. Therefore, in the absence of an appropriate archaeological assessment prior to the

determination of the application, the impact of the development on the significance of heritage assets of archaeological interest is not able to be fully evaluated and the position of the Couty Archaeologist is that this is not a matter that could be left to a pre-commencement planning condition. In this respect it is considered that the proposal is contrary to Policies BNE2 and BNE10 of the Adopted Local Plan and Paragraph 207 of the NPPF.

Ground Contamination, Drainage and Floodrisk

The application site is located within Flood Zone one as classified by the Environment Agency flood risk maps which has the lowest risk of flooding. In addition, the proposed extension to the burial ground is on higher land than the existing burial ground. It is considered that the proposed development would not give rise to increased flooding within the locality. Following consultation with the Environment Agency it is noted that the application site is located on the Principal Aquifer of the Helsby Sandstone Formation, therefore considered to be sensitive with respect to controlled water receptors. Through information provided within the application planning statement 20 burial plots are proposed with there being the potential for a further 20 in the future, in line with government guidance it is recommended that for sites on a principal aquifer there should be 'fewer than 30 burials a year' as such if planning permission was to be granted a condition would be requested limiting the amount of burials a year at the application site. It is required that there is a 1m clearance between the base of the grave and the top of the water table, a topographic survey has been provided as part of the application which illustrates that the ground level of the application site is significantly higher at c.116.70m compared to the existing graveyard at 112.5m and following both site visits from the officer and information provided it is confirmed that the ground levels are higher and the most recently dug burial plots have been above the water table with the required clearance between the base of the grave and the top of the water table.

The use of land for burials is required to meet strict environmental conditions established by the Environment Agency in order to safeguard against groundwater pollution, therefore a Tier 1 and Tier 2 Hydrological Risk Assessment was requested. This information is required to demonstrate that adequate information can be provided to demonstrate that the risk posed by the development can be satisfactorily managed. It is noted that the extension of an existing cemetery must comply with the below principles in order to protect ground and surface waters as (controlled waters as defined under the Water Resources Act 1991);

- Be at least 250 metres from a well, borehole or spring used to supply water that is used for human consumption, or for use in dairy farms
- Have a minimum of 30 metres from a water course or spring and a minimum of 10 metres distance from field drains
- Have at least one metre of subsoil below the bottom of the burial pit, allowing a hole deep enough for at least one metre of soil to cover the remains
- Have at least one metre of unsaturated zone (the depth to the water table) below the base of any grave. Allowance should also be made to any potential rise in the water table (at least one metre should be maintained)

In the absence of a Tier 1 and Tier 2 Hydrological Risk Assessment having been undertaken there is an outstanding objection by the Environment Agency to the planning application in accordance with Paragraph 187 part e of the NPPF whereby it is required to *prevent new development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.* The applicant has confirmed that due to the costing of the Hydrological Risk Assessment and insufficient funding they are unable to undertake the required risk assessment. Therefore, the application proposal is contrary to Policy SD3 of the Adopted Local Plan and Paragraph 187 of the NPPF as it can’t be appropriately demonstrated that the risk to water quality can be appropriately managed.

Conclusion and Planning Balance

The proposal is situated within the grounds of St Wystan's Church which as a place of worship is referenced within the Local Plan as a Community Facility . Although burial grounds are not explicitly referenced, they serve part of the extended function of the Church which particularly in small rural

settings have formed the centre of the community for many years. The extended facility is considered to be vital as the current burial ground provided by the Church is at capacity and can no longer serve the community and in this regard represents a significant public benefit. The proposed built form of the development proposal would be minimal therefore it is not anticipated that there would be significant impacts on the character or amenity of the area surrounding the churchyard or that of the Conservation Area. The highways impacts would not be notably different from the current situation. There are considered to be no impacts on residential amenity.

There are objections from DDC Archaeology who consider that the site has the potential to include, heritage assets with archaeological interest and the applicant has failed to demonstrate through appropriate field evaluation that the development would not result in any harm to a heritage asset.

There is also an outstanding objection from the Environment Agency due to the nature of the activity proposed and its location on the Principal Aquifer of the Helsby Sandstone Formation. The applicant has failed to submit a Tier 1 and Tier 2 Hydrological Risk Assessment to demonstrate that the proposal would result in no risk to water quality. This needs to balanced with the facts that the proposed burial plots are on higher ground than the existing ones, and the site is not at risk of flooding.

Whilst it is noted that the Church itself is a very small rural church and the cost of obtaining the information requested from consultees is substantial, it is considered that the harm presented by these two issues would very marginally outweigh the significant public benefits of providing the additional much needed burial spaces.

The applicant has failed to demonstrate through the requested archaeological evaluation trench if the proposal would have a significant impact on the Scheduled Monument situated to the south-west of the application site, outside of land within the Church's ownership. The lack of appropriate assessment as required by Policies BNE2 and BNE10 & paragraph 207 of the NPPF is to be afforded weight in terms of determining this application. Additionally, the application is required to have a Tier 1 and Tier 2 Hydrological Assessment by the Environment Agency, as a result there is an objection in accordance with Paragraph 187 of the NPPF. The objections by the statutory consultees must be afforded significant weight which in the Officers view tilts the balance to a recommendation of refusal.

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

Recommendation

Refuse for the following reasons:

1. The applicant has failed to demonstrate through an appropriate field-based assessment that the impact of the proposed development on the significance of the nearby heritage asset of Bretby Castle Scheduled Monument would not result in substantial harm. In the absence of this necessary information the development would be contrary to policy BNE2 of the Local Plan Part 1, policy BNE10 of the Local Plan Part 2 paragraphs 207 and 218 of the National Planning Policy Framework (NPPF) and associated Planning Practice Guidance (PPG).

2. The application site sits on a principal aquifer and given the proposed development it is considered that insufficient information in the form of a Tier 1 and Tier 2 Hydrological Risk Assessment has not been able to be provided. In the absence of this information the Local Planning Authority is unable to appropriately assess the impacts of the proposal on water quality and the development is therefore considered to be contrary to policy SD3 of the Local Plan Part 1, paragraph 187 of the National Planning Policy Framework (NPPF) and associated Planning Practice Guidance (PPG).

Item No. **1.2**

Ref. No. **DMPA/2024/1402**

Valid date: **28/10/2024**

Applicant: **Mr Thomas James Meyer**

Proposal: **Change of Use from Agricultural to Dog Training (Personal Use Only) on Land to west of Duck Street, Egginton**

Ward: **Etwall**

Reason for committee determination

This application has been called in by Councillor Muller due to local concern arising from the application.

Executive Summary

This application proposes the change of use of a field located off Duck Street, Egginton. The field is proposed to be changed from agricultural use to usage for dog training for personal use by the applicant and his family only. There are no objections from statutory consultees including the Environment Agency and the councils Environmental Health Officer. Concerns have been raised by members of the public regarding the potential noise impacts and over-intensification of the field. Subject to the recommended conditions listed within the report, it is considered that the application is acceptable.

Site Description

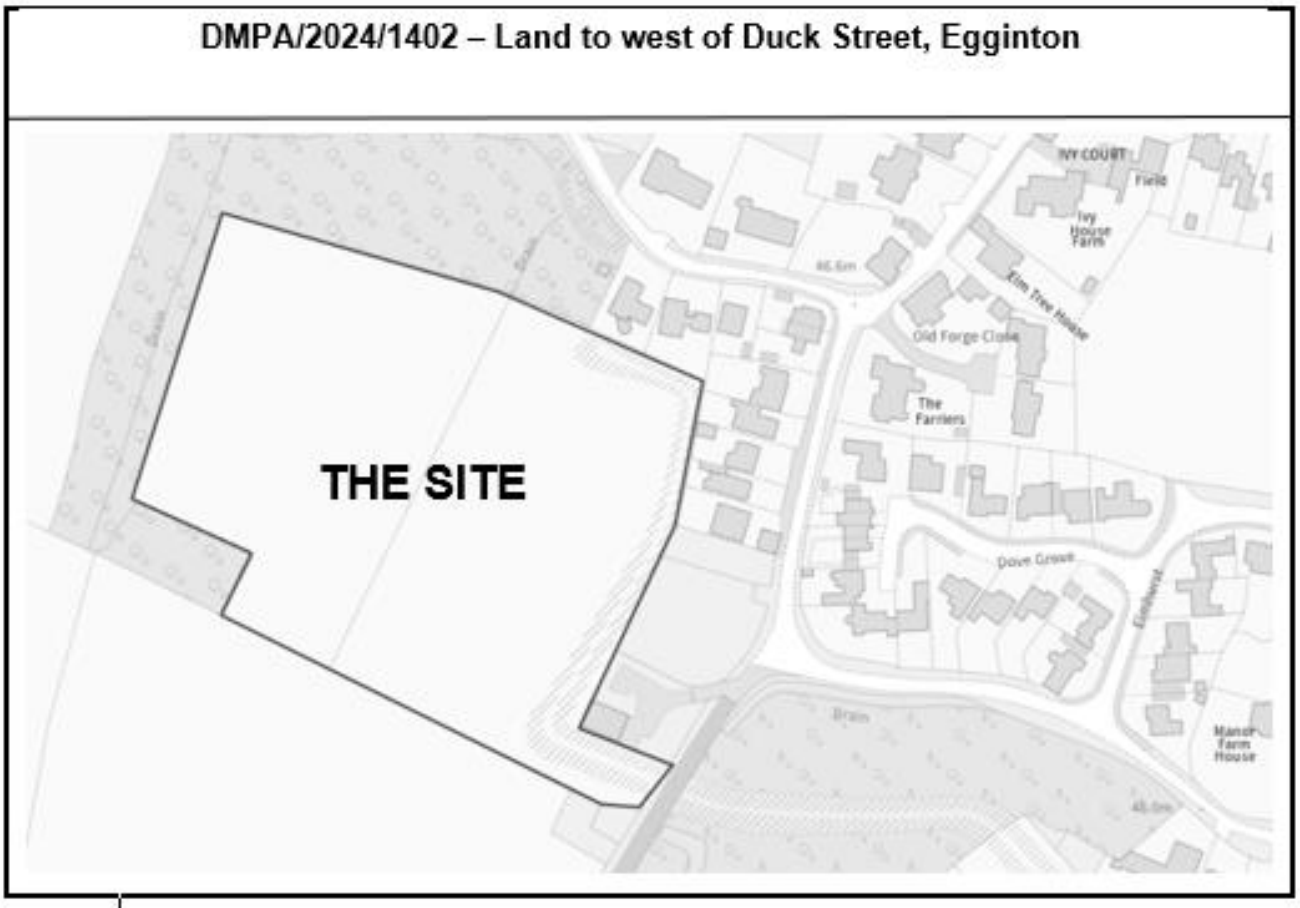
The site is located within Egginton accessed off Duck Street and Fishpond Lane, measuring approx. 2.2ha of agricultural land it has previously been used for sheep grazing. Directly to the west of the site is residential dwellings and separated by a woodland to the north are further dwellings on Blacksmiths Lane. The site is accessed from a small track off Duck Street. At the boundary of the site sits the Flood Defence embankment that is owned and maintained by the Environment Agency.

Flood zone - FZ3 - partially within the Egginton Flood Defences
River Mease SAC Zone of Influence - Not within
National Forest Area - No
Neighbourhood Plan Area - No adopted neighbourhood plan
Green belt - No
GCN risk zone - Green
Tree preservation order - None on site
Conservation area - No
Listed building - No
Allocated site - No
Within the settlement boundary – No
Best and most versatile (BMV) land - Grade 4

The proposal

The application proposes the change of use of existing fields to be used as an area for personal dog training. There are no structures proposed to be built on the site, with the application relating purely to the use of the land with no operational development.

DMPA/2024/1402 – Land to west of Duck Street, Egginton



Applicant's supporting information

Planning Application Drawings

Location Plan ref. 8137-1 received 28 October 2024
Change of Use Scope Map received 28 October 2024
Proposed Layout received 28 October 2024

Planning Statement October 2024

This sets out the proposed issues and states that the proposal is considered to be in accordance with the National Planning Policy Framework, in particular the presumption in favour of development. Detail is provided regarding the proposed use and the justification for the proposed use.

Flood Risk Assessment October 2024

The Flood Risk Assessment has been prepared to accompany the application to look at the potential flood risks and outline the appropriate mitigation measures to make the change of use acceptable.

Relevant planning history

DMPN/2024/1048 - Application Under Part 3 Class R Prior Approval for change of use from agricultural to flexible use - Application Withdrawn September 2024

Responses to consultations and publicity

SDDC Parks and Green Spaces

No comments / objections from a landscape view

Environmental Health

First Response - I do have some concerns about the potential for noise nuisance. Can the applicant describe the training methods used and how they will manage any noise from the site – barking, whistles, shouts etc. Can they also confirm how many dogs will be on the site at any one time and how often the site will be used and for how long each session is likely to be? I can then consider if a noise mitigation plan is required as part of the approval.

Second Response - Following the submission of information from the applicant that there would typically be two dogs on the site at a time for obedience training which would be for approx. one hour at a time at a maximum of four times a week. A condition is recommended to be attached to further highlight that the land can only be used for dog training by the owner and that the land should not be used for hire purposes or the training of dogs for other people.

Environment Agency

We have no in principal flood risk objections to the above development (COU), however as some information may be missing, and a flood defence embankment exists on site to protect the village of Egginton, the proposed development will only meet the National Planning Policy Framework's requirements in relation to flood risk if planning conditions are included.

Egginton Parish Council

The land is close to the junction of Fishpond Lane and Duck Street outside of the floodbank surrounding the village.The Parish Council objects for the following reasons:

- The Parish Council believes there is more to it than what meets the eye
- The personal need is inconsistent with the fact the applicant runs a business of a similar nature elsewhere in Egginton
- Concerns over noise

- No reference to amount of dogs or timings of use
- Could have an impact on the sheep that graze nearby

Ten comments have been received from members of the public. Their comments can be summarised as follows:

a) Potential impact of dogs barking causing a disturbance
b) There is not a need for a facility in this location
c) Concern it could pave the way for future development on agricultural land
d) There is already a dog agility training site just in front of this area which already causes issues.
e) The applicant already runs a commercial dog training business a few minutes away
f) Sheep graze in the nearby fields
g) Will something need to be erected to stop dogs escaping?

i) Potential for increased traffic levels
j) The filed contains the flood bank for the village

Relevant policy, guidance and/or legislation

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications shall be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan for the purposes of this application comprises the South Derbyshire Local Plan Part 1 (LP1) adopted in June 2016 and the South Derbyshire Local Plan Part 2 (LP2) adopted in November 2017.

The relevant Development Plan policies are:
2016 Local Plan Part 1 (LP1) : S2 (Presumption in Favour of Sustainable Development); SD1 (Amenity and Environmental Quality) , SD2 (Flood Risk) , BNE4 (Landscape Character and Local Distinctiveness)
2017 Local Plan Part 2 (LP2) : SDT1 Settlement Boundaries , BNE5 (Development in Rural Areas)

The relevant National Guidance is:
National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)

The relevant Local Guidance is:
South Derbyshire Design Guide SPD (Design SPD)

Planning considerations

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

- Principle of Development
- Amenity of Neighbouring Occupiers
- Flood Risk

Planning assessment

Principle of Development

This application seeks the change of use of land located at the junction of Duck Street and Fishpond Lane from agricultural to a dog training area for personal use by the applicant and his wife. It is understood that the applicant operates a business of a similar nature elsewhere within Egginton. However, it has been confirmed that the intention is for this area to be for use by him and his wife only for the training of their pets.

The site is located to the east and beyond the settlement boundary of the rural village of Egginton as

defined within Policy SDT1, thus the site is located within the rural area. Within rural areas it is considered that development is acceptable inter alia by Policy BNE5 where it meets the necessary qualifying criteria. The policy states that planning permission will be granted where the development is
iii) unavoidable outside of settlement boundaries, and
v) will not unduly impact on : landscape character and quality, biodiversity, best and most versatile agricultural land and heritage assets.

The nature of the proposal, requiring land for obedience and agility dog training is one that means a large area of private open space is required. Therefore, it is considered that this is something that cannot take place within the settlement boundary of Egginton. As a result it is accepted the proposal accords with part iii) of BNE5.

The proposed change of use application is not to introduce any built form or hardstanding onto the land, the site is to remain as an open field. The difference being that it will be in use by dogs rather than its previous use of sheep grazing. As such it is considered that the proposed application will not impact upon the landscape character and quality of the area.

Overall the proposed development is considered to be in accordance with Policy BNE5 of the Adopted Local Plan Part 2.

Amenity of Neighbouring Occupiers

Policy SD1 states that the Council will support development whereby it does not lead to adverse impacts on the environment or amenity of existing and future occupiers around proposed developments. Concern is raised from members of the public regarding the potential noise concerns having a dog training field established close to residential properties. Following consultation with the Councils Environmental Health Officer and further discussion with the applicant it was confirmed that there would typically only be two dogs on the land at a time for training. The training that would take place would include obedience training which doesn't encourage barking to take place, and search training which is a concentrated calm training. Therefore, there would be a limited level of noise associated with these animals at a time. The site would typically be used for an hour in the evenings and then at weekends. The EHO considered that the information provided was satisfactory to address the initial concerns raised subject to a condition restricting the use of the field to that for the applicant and family and not for the training of dogs for other people. Subject to the inclusion of this condition it is considered that this proposal complies with Policy SD1.

Flood Risk

The application lies within Flood Zone Three, with part of the site containing the Egginton flood bank. In accordance with Annex Three of the NPPF 2024 the land falls within the classification of less vulnerable land of being at risk flood risk. As part of the planning application Flood Risk information has been submitted by the applicant which states the proposal is a low impact activity that is not proposing to introduce any permeant structures onto the site. The development has been considered in accordance with Paragraph 178 of the NPPF. and it is considered that there will not be any increase in flooding elsewhere due to the development. Details of flood risk reduction measures have been submitted, including the maintenance of the existing vegetation and the regular monitoring of the site for potential flooding issues and for the site to not be used in unsuitable conditions. Following consultation with the Environment Agency, there is no objection to the proposal as there is to be no additional fencing around the flood bank. Access is also required by the Environment Agency when required for maintenance. It is considered appropriate to restrict the erection of any fencing by way of a condition such that this can be considered for any potential impacts in consultation with the Environment Agency due to the proximity to the flood defences. Having regard to the above and the comments of the statutory consultee in this regard it is considered that the proposed development would meet the requirements of the NPPF and Policy SD2 of the Local Plan and is therefore acceptable in flood terms.

Other Matters

The application is considered to be exempt from mandatory Biodiversity Net Gain requirements as there will be no permanent structures erected and therefore the application is considered to fall below the de minis threshold thus is exempt.

Conclusion and Planning Balance

It is considered that the proposal, with appropriate mitigation by way of conditions as set out in the recommendation can be made acceptable in terms of impact on flood risk and the amenity of the occupants of nearby properties. Given the personal use of the proposal there is not considered to be any significant impact on highway safety. It is considered that there are no BNG requirements given that the proposal does not affect more that 25 m2 and no priority habitat is affected. Whilst there will be some impact on the occupants of neighbouring properties through increased noise and traffic, given the limited nature of the proposals it is not considered that these would be significant or weigh heavily against the development and as such it is considered that there are no material planning considerations that would warrant refusal of planning permission in this instance.

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

Recommendation

Approve subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with plans/drawings ref. 8137-1 (2) Location Plan received 28 October 2024
   Change of Use Scope Map received 28 October 2024
   Proposed Layout received 28 October 2024
   unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. Prior to the commencement of development a scheme for any proposed fencing, either within or on the boundaries of the site, shall be submitted and approved in writing. The scheme shall include a plan with distances from the top of the flood defence embankment, and written text/specifications on fencing details/style. The approved scheme shall be implemented prior to the proposed use and maintained in perpetuity.

   Reason: To ensure the structural integrity of the existing flood defences thereby reducing the risk of flooding and to prevent an increase in flood risk off site, because any fencing (other than post and rail and post and wire), erected in the floodplain of a main river could affect flood flow or storage where the potential impacts are not controlled by a planning permission, in accordance with Policy SD2 of the Local Plan Part 1.

4. The use hereby approved shall ensure solely for the benefit of dog training by Mr Thomas Meyer and their residential dependents, and for no other person whomsoever, and specifically not for hire purposes or the training of dogs for other people.

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

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

   Reason: In the interests of protecting the amenity of the area and adjoining occupiers from undue illumination impacts or distraction, and to minimise light pollution at night in accordance with Policy SD1 of the Local Plan Part 1.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any order revoking and re-enacting that order with or without modification, no structures (including fencing) shall be erected either within or on the boundaries of the site without prior written approval of the Local Planning Authority by way of a planning application.

   Reason: To ensure the structural integrity of the existing flood defences thereby reducing the risk of flooding. To prevent an increase in flood risk off site, because any fencing (other than post and rail and post and wire), and other structures erected in the floodplain of a main river could affect flood flow or storage where the potential impacts are not controlled by a planning permission in accordance with Policy SD2 of the Local Plan Part 1.

7. Notwithstanding the information received to support the application there shall be no more than 4 dogs using the field at any one time and the use shall be restricted to a maximum of 2 hours per day.

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

Informatives:

a. Biodiversity Net Gain
   The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:
   (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
   (b) the planning authority has approved the plan.
   The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be South Derbyshire District Council.
   There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.
   Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply.
   Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.
   Development below the de minimis threshold, meaning development which:
   iii) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
   iv) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

b. The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:
   · on or within 8 metres of a main river (16 metres if tidal)
   · on or within 8 metres of a flood defence structure (including a remote defence) or culverted main river (16 metres if tidal)
   · on or within 16 metres of a sea defence
   · involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert

· in the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a planning permission

For further guidance please visit https://www.gov.uk/guidance/flood-risk-activities-environmental-permits or contact our National Customer Contact Centre on 03708 506 506. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

18/02/2025

Item No. **1.3**

Ref. No. **DMPA/2024/1052**

Valid date: 08/08/2024

Applicant: Anesco Ltd **Agent:** Stantec

Proposal: **Installation and operation of a renewable energy generation station comprising ground-mounted photovoltaic panels, inverter/transformer units, DNO substation, site access, internal access tracks, security measures, landscaping, and other ancillary infrastructure at Land west of Newton Lane, Newton Solney, DE15 0RU**

Ward: **Repton**

Reason for committee determination

The item is presented to the Committee due to the level of public objection received to the application which is a major application with more than 4 letters of objection.

Executive Summary

The application proposes the development of a solar farm on land currently in agricultural use. The site is an irregular parcel of land formed of five agricultural fields, the topography rises array from Knights Lane in a north westerly direction and from Newton Lane in a westerly direction, reaching the highest point around the area of the proposed DNO substation. The land then inclines down to the north and the west. A public right of way leaves Newton Lane at the access point and travels through the site. Bretby Conservation Area lies south of the site on the opposite side of Knights Lane to the site boundary.

Primary consideration of the application are the delivery of 21.09mw per annum of renewable energy and the ensuing contribution that this will make to carbon reduction targets; the reversibility of the scheme at the cessation of energy generation via decommissioning of the site and the scope for the land to be returned to agricultural use; the temporary loss of best and most versatile agricultural land; the visual impacts of the development from various receptors and the impact upon the landscape and the biodiversity benefits of the scheme beyond the mandatory net gain of 10%.

Highway impacts, though noting disruption during the construction period, have been assessed not to be such that would present a robust reason for refusal, neither are implications in relation to flood risk which are addressed via conditions.

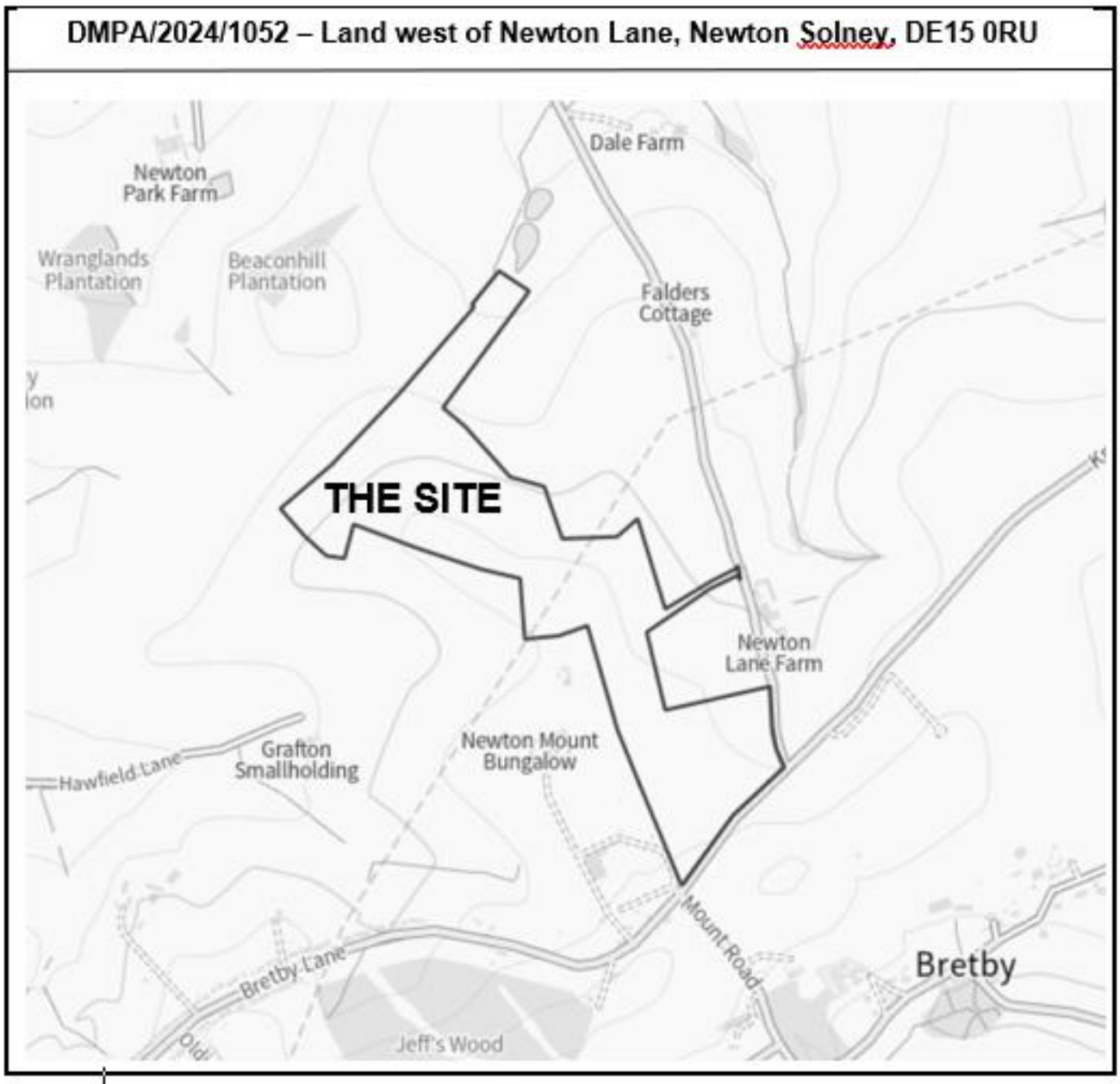
There are no objections from statutory consultees and overall, the proposal is considered appropriate and acceptable. The following sections of the report assess the key considerations fully and set out the reasons for recommended conditions.

Site Description

The application site is an irregular parcel of land lying to the north west of Knights Lane and west of Newton Lane from where the site is accessed via an existing gravel track leading to its' centre. The site is comprised of agricultural fields extending to 28.6hectares and bound by mature hedgerows interspersed with hedgerow trees.

The site is not level, the southern area of the site rises away from the Knights Land and Newton Lane towards its centre which is the highest point of the site. The land falls from here to the north east periphery. In addition to the hedgerows there are ponds within the northern area of the site and a public footpath, Newton Solney Footpath 2 runs through the site on a meandering east – west trajectory. The application site lies within the *Estate Farmlands* character area of *Melbourne Parklands* as defined by *the Landscape Character of Derbyshire.*

DMPA/2024/1052 – Land west of Newton Lane, Newton Solney, DE15 0RU



The Bretby Conservation Area lies across Knights Lane from the development and includes a number of Listed Buildings and Bretby Castle which is a scheduled ancient monument lying around 320m from the south of the site.

The site itself within Flood Zone 1 with some areas around the site noted to be at risk from surface water flooding. Electricity pylons cross the site, roughly at its centre point in a south west – north east direction.

Being within the rural area the surrounding built form is dispersed with Planters Garden Centre lying immediately adjacent the western boundary of the site, residential properties around the site are dispersed in small clusters or individual dwellings. There are some tourism lodges to the south east of the site which are also accessed off Newton Lane.

Settlement boundary	Outside	Flood zone	1 – Lowest risk
Neighbourhood Plan Area	*Not within*	Green belt	No
Conservation area	No / setting	Listed building	No
River Mease SAC Zone of Influence	No	Allocated site	No
Tree preservation order	Individual	Coal Mining risk	Standing advice
Agricultural Land Classification	78% BMV	National Forest Area	Not within
Great Crested Newt (GCN) risk zone	Green & Amber		

The proposal

The application seeks permission for the *Installation and operation of a renewable energy generation station comprising ground-mounted photovoltaic panels, inverter/transformer units, DNO substation, site access, internal access tracks, security measures, landscaping, and other ancillary infrastructure*.

The development will predominantly comprise the solar arrays which will have an export capacity of 21.09MW. Energy generated by the panels will be fed via low voltage cables to transformers across the site which in turn will lead to a DNO substation within the site. From this substation the energy will be transferred via an underground cable route to a point of connection south west of the site.

The application seeks permission for a 40 year operational period after which the development would be decommissioned and restored to previous agricultural use with the exception of landscaping and habitat features which would be retained.

Landscaping proposes 2,092 metres of new hedgerow, 62 new trees and 251,649 square metres of grassland. The supporting information indicated this would deliver a biodiversity net gain of approximately 205% for habitat units and 101.56% hedgerow units

The supporting information states that a connection to the grid has been secured. In terms of this connection the location is important as the shorter the connection route means that energy is more efficiently supplied to the National Grid and the number of panels required to achieve the agreed connection capacity can be reduced. The agreed point of connection for this application would be the Bretby substation.

The dimensions of the components of the Proposed Development are stated to be:

- Solar Arrays – 6.9m x 2.9m (L x H)
- 66kv substation and DNO control room – 3.1m (H) to be enclosed by 2m high palisade fencing
- LV Transformer – 2.8m x 3.5m x 2.6m (L x W x H)
- Customer substation – 6.5m x 4.5m x 3.1m (L x W x H)
- Security fencing – 2m (H)

Applicant's supporting information

Agricultural Quality of Land West of Newton Lane, Burton on Trent, Report Number: 2081/2, Prepared by: L Thomas, MSc, MISoilSci, Land Research Associates Ltd 10th May 2024

The report identified 2 main soil types within the site area these were permeable loams and loamy over slowly permeable soil and categorised these as *Grade 2, Subgrades 3a and 3b, limited by wetness/workability, droughtiness, or soil depth.* The survey confirms the site was appraised as part of a larger area of 54.6ha. It confirms the local policy context and the methodology by which the survey was undertaken. In further describing the classification of soils it describes the **Grade 2** soils as featuring permeable loams with slight drainage impediments and with limited access during wet conditions. The **Subgrade 3a** soil is said to be moderate to high topsoil clay content; limited in winter due to drainage and **subgrade 3 b** as heavy, poorly draining soils especially inaccessible in winter / spring.

Alternative Site Assessment, Newton Solney Solar Farm, project ref: 33313416600, Rev A dated August 2024

The Alternative Site Assessment assessed one alternate site. It summarises the location and compares it to the application site in a number of planning considerations. Though the alternative site was found to have a lower ALC it was not found to perform better than the selected site in the other areas considered.

Ecological Impact Assessment Newton Solney Solar Farm, SLR Project No.: 424.064638.00001 25 July 2024 Revision: 1

The EcIA describes the scope and purpose of the report and the policy context. It sets out how baseline data was collected via a desk and field surveys and describes the ecological features. It sets

out the baseline conditions for habitats, cropland, hedgerows, species, plants, invertebrates and amphibian; reptiles, mammals and summarises important features. It proceeds to assess the effects and mitigation measures.

The report confirms the hedgerows are likely to support foraging bats and that two badger sets were identified during the walkover, stating the site is considered as holding local importance for badgers. The report confirms the loss of 10m of hedgerow to facilitate the development. Protective measures are proposed for the retained hedgerows as is the inclusion of 2092m of native species rich hedgerow planting as part of the landscaping of the site.

In respect of species the report considers potential for effects on roosting bats, however notes that all trees are proposed for retention and as such no mitigation is required. For badgers it confirms that the location of sets will be protected and site fencing and infrastructure will be outside the areas of the setts. In addition it states that a native 'structure' scrub mix will be maintained between the sett locations, preserving habitat links between the two setts and badger access gaps will be included within the fencing of the site to enable foraging and commuting across the site. Due to the active nature of the species a further pre-commencement site walkover is considered necessary to safeguard species and identify new activity.

In terms of enhancement, habitat enhancements including 4.63 ha of nectar rich grassland and wildflower seeding, 17.4 ha of grassland and wildflower seeding within and around the solar arrays, and 3.1 ha of tussocky grassland outside of the security fence are proposed to deliver a significant uplift in biodiversity value, supporting pollinators, small mammals and bird species. 0.87 ha 'native structure' scrub mix will be planted at various locations around the Site boundary. This will constitute a scrubby buffer that will contribute to habitat connectivity and provide a foraging habitat for birds and mammal species. An additional 62 native trees will be planted throughout the Site, in addition to the 140 trees incorporated into the hedgerow reinforcement.

Species enhancements including bat and bird boxes are also proposed.

Heritage Statement, Newton Solney Solar Farm, Derbyshire, SLR Project No.: 407.064643.00001, Revision: 03, prepared by SLR Consulting Limited for Anesco, dated 10th May 2025

The Heritage Statement sets out the legislative and policy considerations for applications affecting heritage assets and provides an overview of previous investigation undertaken within the wider area and a geophysical survey of the site undertaken in September 2023 which is included within the appendix. Figure 7 shows the built heritage assets in the surrounding areas. The report concludes that by virtue of the absence of designated assets within the site there will be no physical affects to heritage assets as a result of the development. In respect of agricultural remains it is noted that recorded and potential non-designated assets within the site comprise *post-medieval agricultural remains, e.g., cultivation earthworks, former agricultural structures, infilled ponds, former boundary ditches / drainage channels, and possible agricultural buildings.* The report further concludes that the development would not result in harm to the significance of any assts as a result of changes within their setting nor would the proposals diminish the ability to appreciate the significance of any heritage assets. It concludes the proposals are consistent with the Planning (Listed Building and Conservation Areas) Act (1990).

Landscape Visual Impact Assessment, Newton Solney Solar Farm, 1512 (PJ3778), Revision A, November 2024

The LVIA sets out the site location and study area for the purposes of assessing the landscape and visual impacts of the development proposed, it further sets out the site context and proposed development as well as the Policy context. The Methodology used is set out in section 2 together with an overview of terminology. The baseline conditions of the site and surroundings sets out that a desktop study was undertaken to direct and focus surveys of the landscape receptors that have potential to experience change because of the development.

In terms of the photographs from various receptors the study sets out the equipment and methodology with which the panoramas were constructed.

In assessing the effects of the proposals, the section sets out that the landscape and visual effects are considered separately for their sensitivity nature and importance. The method for assessing landscape

impact is set out as is the definition of landscape sensitivity. Similarly, the method for establishing the sensitivity of visual receptors and therefore the impact on them from the development is also set out. It further sets out the mitigation and conclusions.

It confirms the landscape character type is Melbourne Parklands landscape type: Estate Farmlands. The report establishes this as a medium sensitivity receptor and the magnitude of change to be low.; it sets out that the result will be a minor adverse impact in comparison to the base line.

Table F *Representative* Views sets out the viewpoint descriptions, their distance from the site and the receptor types, distances range up to 3.9km and receptors include, Road users, PROW users, holiday lodge occupants, Bridleway users and local residents. The visual sensitivity is assessed based upon the viewpoint, the impacts are assessed to range from minor – adverse to moderate – adverse effects in comparison to the baseline. For the public right of way (viewpoint 19 the change is stated to be substantial, leading to a moderate impact overtime as landscaping matures.

The report recommends mitigation in line with the landscape strategies informed by the character of the landscape and in consultation with project ecologists. These comprise for the operational period: Enhanced field boundaries to the east and west with native hedgerow planting; Planting of new hedgerows which will help balance the historic loss of hedgerows typical of intensive arable farming with large field sizes; gapping up of existing hedges which currently have large lengths of gaps; existing heavily flailed 1m hedges to be allowed to grow taller up to 3m and maintenance of existing hedgerows at 3m high; native structure mix belt proposed along the more exposed northern and western boundaries; additional broadleaf woodland in belts and pockets where possible to provide forest scale for richness of layering of form and structure; Nectar rich grass and wildflower planting between solar arrays and security fence

The summary of visual and landscape effects sets these to be between no effect and moderate depending upon the viewpoint assessed and minor on the character of the landscape.

Newton Solney Solar Project, Flood Risk Assessment and Surface Water Drainage Strategy, prepared by SLR Consulting, Project No: 402.064306.00001, Revision 2, dated 2nd August 2024

The Flood Risk Assessment (FRA) and Surface Water Drainage Strategy sets out the existing site extent and features and the proposed development confirming that in accordance with the PPG the development is considered to be classified as *'Essential Infrastructure'.* Section 2 provides an in-depth review of the site characteristics in terms of hydrology and geology and the existing drainage, which based upon the agricultural use of the site is not expected to be served by formal drainage other than existing field drains and any agricultural land drainage. It considers rainfall likely to drain via evaporation, limited infiltration into the underlying soil before entering existing surface water channels present across the site. It expects excess overland flow to follow the local topography to existing surface water channel in the north-east of the site.

The report confirms that infiltration testing was undertaken in September 2023 in three pits across the different geology of the site. The report confirms that the drawdown rates were insufficient to calculate an infiltration rate that would deem this option viable for the site.

The FRA considered the site and development proposed pass the sequential test as the site is within the lowest area of risk from flooding from rivers or seas. It confirms the exception test is not required. The flood screening shows there are no potential significant flood risks present at the site from any of the assessed sources.

In assessing the potential for climate change impacts the FRA sets out the surface water drainage strategy will be developed to take into account increases in rainfall intensity of 25% over the 40-year lifetime of the development.

In terms of surface water drainage, the report acknowledges the potential for small increase in impermeable coverage of the site that could result in increases to the rate and volume of surface water runoff. The report calculates the pre-development runoff rates, also termed *greenfield run off*; to control runoff to mimic greenfield rates the strategy proposes the use of a hydro-brake. It further confirms it considers it possible to discharge runoff to an existing ditch on the northern boundary of the site, which ultimately discharges to the River Trent. It proposes that the surface water will be captured

by swale at the northern boundary of the impermeable areas and controlled by a Hydrobrake restricting flows to greenfield runoff into the existing watercourse. The report concludes that the strategy will ensure the proposed development will not increase flood risk elsewhere and the runoff will have no adverse impact on water quality at the point of discharge.

Newton Solney Solar Farm, Land at Willington Transport Statement, dated 24/07/2024

The Transport Statement sets out that the proposed construction routing for the development which will leave the A38 turning onto the A5121 and travel south. Along the A511 to the Newton Road B5008 before turning onto Newton Road to Newton Lane and travel south to the construction site access. It acknowledges construction phase increases to traffic on the surrounding road network over the 38-week construction period, it predicts an increase of 7 two-way vehicle movements per day and defines this as a having a de minimis impact on highway capacity The report also sets out that the operational phase of the development will have minimal impact upon the surrounding network.

The statement concludes that the proposals accord with the relevant transport policies; safe and suitable site acceeses can be achieved and the level of traffic generated will not lead to severe impact to existing operation and free flow of traffic.

The vehicle movements are stated to average 7 x 2-way HGV movements during the 38-week construction period, noting that during the initial two-week site setup period movements are estimated to be around 17 HGV movements per day. 2 van movements, per day, twice a month are estimated during the operational lifetime of the development. The report sets out that due to the proximity of the site to the Strategic Road Network the estimated increase is unlikely to cause disturbance to other users.

The report acknowledges that there could be some highway safety impacts but that due to the temporary 38-week construction period these are not likely to have a significant road safety impact.

In respect of site visibility, the report sets out the TRO will serve to overcome visibility limits from the access in a southerly direction as vehicles will only travel southbound, thus only requiring northbound visibility.

A Construction Traffic Management plan is proposed to reduce / avoid potential disturbance arising from HGV traffic.

Public right of way clarification note Proposed solar development on land west of Newton Lane Planning application DMPA/2024/1052

The PROW Note clarifies three points following discussions with the applicant, the DCC PROW Team and Officers of the Council:

1) Existing public rights of way routes are retained on their current alignment and the proposed materials and route will improve the accessibility of the right of way.
2) Landscaping, in particular that sufficient buffers and corridors are provided for the public rights of way and landscaping will be sufficiently set back.
3) There will be no conflict between public rights of way users and vehicles accessing the site.
   a. During the operational phase, vehicle numbers will be very low, with suitable signage to be put in place.
   b. Construction phase impacts will be managed through temporary diversions/closures to the public rights of way and through a Construction Management Plan

The note provides further plan excerpts and drawings showing the PROW in the context of the proposed landscaped corridor and the proposed development. The note confirms that potential interactions between site traffic and PRoW users will be managed via details to be submitted in the Construction Management Plan. Further safety signage will be installed at the site access for robust safety measures during the operational phases.

Newton Solney Solar Farm, Land at Willington Transport Statement, dated 24/07/2024

The Transport Statement (TS) sets out the existing highway conditions, the nature of the proposed development, the impact on traffic and proposed mitigation. Additional plans are included within the Appendices including various swept path analysis drawings for the access, proposed routes, a diversionary plan and signage plans together with the survey results and visibility splays.

The Statement sets out that the report has been prepared in accordance with best guidance and demonstrated policy compliance, safe and suitable access can be achieved and that changes in the level of traffic resulting from the development will not lead to sever impacts on the existing operation and free flow of traffic on the surrounding highway network.

Noise Technical Note, Newton Solney Solar farm, Burton-on-Trent, Document number: 244696-BWB-ZZ-ZZ-RP-O-0001, rev 02, dated 04/10/2024

The Noise Technical Note identifies the nearest noise sensitive receptors as dwellings on Newton Lane and to the west of the site periphery. The Note confirms the methodology, baseline and predicted noise levels from the proposed infrastructure. It applies methodology to calculate how the noise will change between the source and receptor. The report concludes that:

Based on these assessment scenarios impacts on residential receptors can be ruled out at night and for average operation during the day as predicted sound levels are below or just above the threshold for human hearing.

The worst case daytime prediction of noise levels from the site is below the BS8233 guideline values for a residential receptor internally and externally. Impacts from operational noise are therefore considered unlikely.

Solar Photovoltaic Glint and Glare Study Anesco Ltd Newton Solney, reference 11590B, Issue 03, July 2024

The report concludes that reflections are possible towards 90 of the 112 residential receptors, however 88 of these will be screened from reflections by existing vegetation and/or buildings which are predicted to o significantly obstruct views of the reflecting panels, no impact is predicted and on that basis no mitigation is required. The remaining two dwellings proposed vegetation screening will significantly obstruct views, and no solar reflections will be experienced.

No significant impacts upon aviation activity at Derby Aerodrome Grangewood or Riding Bank Farm Airfields are anticipated and on that basis no mitigation is required.

Planning Statement, Newton Solney Solar Farm, Project ref: 33313416600, Rev. A, August 2024

The Planning Statement provides an overview of the site context, development proposals as a whole, and a detailed review of policy and other influencing documents from national and regional government and associated bodies. It also provides an overview of the consultation undertaken and the responses received. In addition, it sets out the benefits of the scheme including the economic, social and environmental benefits and in terms of energy generation and seeks to quantify these in an accessible format.

Design and Access Statement, Land at Newton Solney Proposed Solar Development, 08/24

The design and Access Statement (D&AS) introduces the purpose of the document setting out the national and local need to reduce fossil fuel dependency and the role of solar technology in this. The scope of the documents sets out that it draws together the conclusions of various consultants to demonstrate the design response and justify the proposals. It highlights the need to review this document alongside other supporting information. Following this it sets out the site in terms of location, features and the suitability f the site for solar development due to its spatial and geographical attributes.

It provides a further overview of the policy context and the challenges and benefits of the site. The community engagement section sets out the public consultation requirement and strategy and summarises the key issues raised during the process which were summarised under the following headings: Landscape impacts of the proposed development; Use of agricultural land; Highways; Flooding and Heritage.

In describing the proposals it sets out the energy, landscaping and biodiversity benefits of the scheme and provides a layout and detail drawings of the typical modules. It summarises the LVIA and appraises the Landscape Character and Visual appraisal. The landscape strategy for the site is then summarised.

The conclusion sets out that the site is an area of high levels of solar irradiance and an area of low landscape sensitivity and there will not be any resultant adverse impacts and that the proposed development is consistent with the development plan and national policy. It reiterates the benefits of the scheme in relation to the provision of renewable energy in increasing South Derbyshire contribution by around 6% making it on of the largest contributor in the County.

Relevant planning history

No relevant planning history for the site was found as part of the application review.

Responses to consultations and publicity

Historic England - No advice offered 18/12/2024
Historic England suggest that the LPA seek the views of its' specialist conservation and archaeological advisers.

Natural England - No objection subject to condition - 01/10/2024
Natural England state that based upon the plans submitted they consider the proposed development will not have significant adverse impacts on designated sites. They further state that the lack of objection does not mean that there are no significant Environmental Impacts and advise all environmental impacts are considered and fully and relevant local bodies consulted.
Further advice is offered on **Best and Most Versatile Agricultural Land,** they confirm review of the Local Plan and ALC report but state they were unable to access other supporting information. They confirm their role as Statutory Consultee (as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO)) on development leading to a loss of more than 20ha of 'best and most versatile' (BMV) agricultural land (land graded as 1, 2 and 3a in the Agricultural Land Classification (ALC) system), where this is not in accordance with an approved plan.) They note that from the description of the development this application is likely to affect 22.5ha of BMV agricultural land based on the applicants survey. If temporary, they considered the proposed development is unlikely to lead to significant permanent loss of BMV agricultural land, as a resource for future generations. They describe that where solar panels are secured to the ground by steel piles with limited soil disturbance and can be removed in the future with no permanent loss of agricultural land quality likely to occur, provided appropriate soil management is employed and the development is undertaken to high standards.

Further comments state that some components of the development, such as the sub-station, may permanently affect agricultural land and that this would be limited to small areas of which is BMV agricultural land can be avoided and mitigated. They state they were unable to view any site plans so could not assess whether the permanent structures have avoided BMV agricultural land or mitigated against permanent loss appropriately.

They note that during the life of the proposed development it is likely that there will be a reduction in agricultural production over the whole development area. On this basis they advise the LPA to consider whether this is an effective use of land in line with planning practice guidance which encourages the siting of large-scale solar farms on previously developed and non-agricultural land. They reiterate the requirements of Paragraph 180b and footnote 62 of the National Planning Policy Framework (NPPF) (2023) which states that:
Planning policies and decisions should contribute to and enhance the natural and local environment by: recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.
Footnote 62: Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.
Comments also draw attention to Planning Practice Guidance for Renewable and Low Carbon Energy

(March 2015) (in particular paragraph 013), and advise the LPA to fully consider best and most versatile land issues in accordance with that guidance.
They further state that local planning authorities are responsible for ensuring that they have sufficient information to apply the requirements of the NPPF. The weighting attached to a particular consideration is a matter of judgement for the local authority as decision maker. This is the case regardless of whether the proposed development is sufficiently large to consult Natural England.
They refer questions about ALC or the reliability of information submitted with regard to BMV land please to Natural England's 'Guide to assessing Development proposals on Agricultural Land'. This document describes the ALC system including the definition of BMV land, existing ALC data sources and their relevance for site level assessment of land quality and the appropriate methodology for when detailed surveys are required.

They further set out that soil is a finite resource which plays an essential role within sustainable ecosystems, performing an array of functions supporting a range of ecosystem services, including storage of carbon, the infiltration and transport of water, nutrient cycling, and provision of food. It is recognised that a proportion of the agricultural land will experience temporary land loss. In order to both retain the long term potential of this land and to safeguard all soil resources as part of the overall sustainability of the whole development, it is important that the soil is able to retain as many of its many important functions and services (ecosystem services) as possible through careful soil management and appropriate soil use, with consideration on how any adverse impacts on soils can be avoided or minimised.

In the absence of soil survey information, Natural England would advise that any grant of planning permission should be subject to conditions to safeguard soil resources, including the provision of soil resource information in line with the Defra guidance Code of Practice for the Sustainable Use of Soils on Construction Sites. Consequently, Natural England would advise that any grant of planning permission should be made subject to conditions to safeguard soil resources and agricultural land, including a required commitment for the preparation of reinstatement, restoration and aftercare plans; normally this will include the return to the former land quality (ALC grade).

General guidance for protecting soils during development is also available in Defra's Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, and should the development proceed, we recommend that relevant parts of this guidance are followed, e.g. in relation to handling or trafficking on soils in wet weather.
The British Society of Soil Science has published the Guidance Note Benefitting from Soil Management in Development and Construction which sets out measures for the protection of soils within the planning system and the development of individual sites, which we also recommend is followed. They also advise conditions to secure appropriate agricultural land management and/or biodiversity enhancement during the lifetime of the development, and to require the site to be decommissioned and restored to its former condition when planning permission expires. They request further consultation should the proposal change.

East Staffordshire Borough Council - No objection 05/09/2024
No specific comments on the proposals as submitted but trust that matters relating to residential amenity, visual amenity, biodiversity and highway safety are fully considered in the determination of the application.

Open Space Society - Neither - 01/09/2024
The Open Space Society advise that the Public right of way shall be made available at all times during the construction of the solar farm acknowledging a temporary diversion may be required. Further advice is offered in terms of the width and the need to agree matters with the DCC ROW Team; the surfacing of the path; the drainage of the path, to avoid waterlogging. They consider that the visual impact and impact upon public access can be largely reversible, with good design and provided that suitable permanent and enforceable planning conditions are put in place for decommissioning and site restoration and visual impact upon the path.

East Midlands Airport - No objection 16/08/2024
The EMA thank the LPA for consultation on the proposed development and offer no objections. They

draw the applicant's attention to procedures for crane and tall equipment and provide a link to this.

Derbyshire Constabulary Force Designing Out Crime Officer - No objection subject to conditions
Final comments: The Designing Out Crime Officer (DOCO) offers no objection to the principle of the development but advise a more robust approach to security is made a condition of any forthcoming approval. They provide that the industrial scale of thefts from solar farms nationally that are employed by organised crime groups in the commission of offending which make the absence of any consideration of this subject area a significant omission. They state the isolated location and rural context as exacerbating panel and cable theft and offer concerns regarding growing trends for violence and weapons to be used in offending, raising risk to responders.

The proposed 'security fencing' is considered inadequate and is actually stock fencing with minimal security value. They note sector security trends of active monitoring provision for their sites, in order that accurate risk assessments of any trespass can be made, and an informed and appropriate response, involving the police if necessary, can be mobilised. The Officer confirms they would expect that the site should have a combination of 24hour monitored intruder detection devices and CCTV coverage, with the CCTV coverage extending into the site. This would require infra-red capacity considering the absence of any site lighting. They consider a suitably worded condition to be appropriate.

Derbyshire County Council - County Archaeologist - No objection subject to conditions 03/09/2024
The County Archaeologist advises the site is 300m from the Scheduled Monument at Bretby Castle and Historic England should be consulted for advice in relation to potential impacts on this designated heritage asset through its setting.

The comments refer to earlier pre-application discussion with the County Archaeologist and the applicant and confirm the documents submitted provide a reasonable summary of the site's archaeological potential with no known assets (Derbyshire HER) within the site and few likely archaeological targets identified in the geophysical survey. The state that previous advice given in respect of the emerging realisation that the activity of the Viking 'Great Army' of 873-4 was not confined to Repton but may have extended along an axis south of the Trent between Repton and Foremark, and that it is not impossible that this activity also extended west of Repton towards or into the current proposal site, is not reflected in the information supporting the application, noting that previous advice offered [outside this application process] stated works could be undertaken either by pre-application evaluation or pre-commencement condition securing the same level of work and response towards recording, or designing out impacts should any significant archaeology be identified. Given the information is omitted from this supporting information they request a condition for a WSI

Derbyshire County Council - Local Highway Authority - No objection subject to conditions - 17/12/2024
Subsequent comments: Following the submission of additional information the LHA confirm their review of this and confirm its acceptability. On this basis they offer no objections to the application and make a request for conditions to be attached, these are summarised as below:
1) No development shall commence until a temporary TRO is in place to Make Newton Lane one way in a South Bound Direction for the duration of construction and impose temporary parking restrictions at the junction between Newton Lane and Newton Road.
2) Installation of access prior to construction of the development.
3) Construction Management Plan - prior to commencement.
Further informatives are requested.

Initial comments: The LHA confirm review of the submission documents and set out that additional information is requested to address a number of issues which are summarised as:
The existing access is proposed to be widened, however visibility splays are required to demonstrate whether this would be acceptable. The swept path analysis is acceptable, subject to the provision of adequate visibility splays. The proposed access construction is considered acceptable, however information relating to any siting of gates is provided to ensure these do not raise highway safety concerns. Attention is drawn to the PROW in the site and at it's access and details of the PROW team provided. In respect of the proposed construction routing the Officer sets out a Temporary TRO will be required and this will be necessary prior to development.

Object -

Derbyshire County Council - Public Rights of Way - No objection 18/12/2024
Final comments: The Officer is satisfied the amendments in the PROW note address previously raised concerns and they have no further comments or objections to make.
Initial comments: Comments confirm Newton Solney Public Footpath No.2 runs through the proposed development site. This differs from the route shown in the layout plan and would likely be encroached upon by the proposed panels. Either a minor diversion or adjusting the proposals would remedy this.

Due to impacts on visual request the corridor for the path be as wide as possible with vegetation screening. Object to the access road also being used for a PRoW and for public safety suggest that the PRoW should run parallel but separate to the access road, Because the visual amenity of the path is impacted by the proposals, request that vegetation screening be used between the access road and the path, and further to the west, on either side of the path, to mitigate the impact. The important issue is that for public safety the access track is not also used as a PRoW and that they are clearly defined and separate. Further comments are withheld until more information on the legal lne of the path is available and information advised to the applicant.
Derbyshire Wildlife Trust – No objection subject to conditions - December 2024

Note the potential impacts on habitats and the proposed net gain to biodiversity resulting in a 205% gain in habitat units and a 101.56% gain in hedgerow units, which surpass the requirements of the Environment Act.

Recommend conditions for tree and hedgerow protects for all retained areas within the site. HMMP, construction Environment Management Plan (to include an Arboricultural Method Statement)

South Derbyshire District Council

Environmental Health Officer – No objection subject to conditions 11/10/2024
Final comments: Confirm review of Noise Impact Assessment and no further objections or comments.

Initial comments: No objection to the scheme, however a Noise Impact Assessment should be submitted prior to permission being granted in order to ensure the amenity of the areas and surrounding occupiers is safeguarded. Further conditions are requested for:

- construction phase hours of working

Local Flood Officer – No objection - 13/01/2025
Final comments: An increase in surface water could still occur depending upon the design of the swales. At times of heavy rain fall there could be a small increase in surface water run of from the “drip line” that could contribute to issues on Newton Lane and Repton Road. There are already issues with the small watercourse to the Northeast of the site which regularly floods Newton Lane and then floods Repton Road. Key concern is Newton Lane and Repton Road which flood regularly resulting in road closures, at times of heavy rain fall the solar panels could contribute to this, photos are supplied of flooding on January 8th 2025, Repton Road was also closed during this time due to flooding furthermore the LVIA viewpoint 3 also shows flood warning signs in place on Newton Road. All obligations are on the developer to make sure the calculations are correct to the C753 manuals recommendations.

Subsequent comments: Consider that there remains a risk in surface water increase dependent upon how Swales are designed. Also, at times of heavy rain fall there could be a small increase in surface water run of from the “drip line” that could contribute to issues on Newton Lane. There are already issues with the small watercourse to the Northeast of the site which regularly floods Newton Lane. All obligations are on the developer to make sure the calculations are correct to the C753 manuals recommendations.

Initial comments: Note EA flood risk maps show the site to be low risk and medium risk for surface water flooding (between 0.1% and 1% chance each year for low risk and between 1% and 3.3%

chance each year at a depth of below 30cm for medium risk). They note that flooding from surface water to the northeast of the site towards the River Trent increases with flooding noted during the site visit on 06/09/2024. They note Newton Lane is renowned for flooding and experiences closures frequently for flood related issues. They note further impacts on Repton Road as a result of flood risk. They consider that solar panel site has potential to interrupt overland flow and reduce absorption to ground, thus increasing the rate and volume of surface water runoff.

Although the site has 2 x swales and a hydrobrake, this is then culverted for a quite a distance into a private natural pond to the North of the site boundary. I believe that the site north of the swales is supposed to be draining into natural ditches which flows into the pond to the Northern boundary of the site. Can consideration/ investigation be made to whether the natural pond and small watercourse can cope with the increase in surface water run-off. Can consideration be made to the erosion of the pond/ watercourse where the outfall pipe is going to be positioned. Do they need to ask permission to outfall into a private pond.

There are already issues with the small watercourse to the Northeast of the site which regularly floods Newton Lane. The natural private pond is not a SuDS

Newton Solney Parish Council - Object 14/09/2024
The Parish Council Object to the application on the grounds environmental impact due to the presence of various species within and around the site and its' surrounds including Badger and Common Toad. In terms of Landscape and Visual impact they raise inaccuracies in the LVIA and the potential distances at which views of the site will be experienced. They request an independent survey be undertaken by SDDC. Further concerns regarding flooding on Newton Lane and the history of this flooding was discussed at past meetings of the Parish Council. Concerns in bold are also raised that the proposed outfall to the existing ditch (deemed within the FRA as a viable method of Surface Water drainage) is not properly connected and that the water from this ditch runs across Newton Lane and down the B5008 and Blacksmiths Lane and leaves debris ad soil and mud, on occasion affecting dwellings, as it flows.
The Parish Council, using the site assessment criteria used by the applicant consider it can be demonstrated that the site is eminently unsuitable for this type of development.

The response includes a comparison of the Willington Power Station Site setting out this would more suitably meet the applicants selection criteria.

The transport statement is incorrect, this is not Newton Solney Solar farm Land at Willington.
It is the opinion of the NSPC that the application does not meet the requirements of Policy INF2, concerns regarding highway safety and the routing of traffic through Newton Solney and turning right adjacent the landscape area at the junction of the B5008 and Newton Lane are raised and amplified in the response. Concerns in respect of the potential for noise to be generated from the development and the potential for impact upon amenity, the response sets out that a noise assessment, though referenced has not been summitted. Concerns regarding construction phase noise are also raised including noise emissions from vehicles. The Parish Council quote and refute statement in relation to the absence of adverse noise impacts arising from the development, in particular citing the absence of a noise assessment from the suit of supporting information and the construction phase. The Conclusions of the Parish Council's objection are copied verbatim below:
Newton Solney Parish Council OBJECTS to the application on the following grounds.
The application does not fulfill the planning criteria set out in the National Planning Policy Framework or the SDDC Local Plan.
There will be:
• Disturbance and possible destruction of protected species- Badgers (meles meles) and the Common Toad (bufo bufo).
• Loss of livelihood and employment for some local residents.
• Loss of valuable agricultural land- 78% is Grade 2 or 3a.
• Unacceptable visual impact on the local and wider surrounding area.
• Exacerbation of existing flooding problems on Newton Lane.
• Increased likelihood of road traffic accidents commensurate with the increase in volume of traffic and type of vehicles using Newton Lane and the surrounding roads.

• Worsening of the already extremely poor road surface of Newton Lane.
• Disruption to residents of the parishes of Newton Solney, Bretby and Repton affected by the proposed traffic management "solution".
• No social or amenity benefits to local residents or any enhancement of the local and wider area.
The proposed site does not meet best practice for the construction of and installation of a solar farm. Overall the application demonstrates a lack of understanding of the site and surrounding area as evidenced by confusion in various documents as to the correct address of the site, the use of "desk" studies instead of actual site visits and the important omission of a noise assessment.

Bretby Parish Council - Object - 14/09/2024
The Parish Council objects on the grounds of the loss of BMV used to grow a variety of crops, the wider impacts and NPPF preference for brownfield land. They further consider the likely visual impacts unacceptable. Objections are also raised on the grounds of an absence of assessment on the impact upon neighbours of nearby (100m) away residential dwellings, in relation to noise. Impacts on the Public Right of Way. In respects of the public rights of way they consider the RoW through the site is not properly identified; concerns are raised in relation to the green and biodiversity credentials of the proposed development and the capability of the land to be reinstated after 40 years to agricultural use. Extensive conditions are sought in relation to highway maintenance in consideration of the impacts of the development on highway access and safety.

Peak and Northern Footpaths Society – Object – 17/08/2024

The Landscape and Visual Impact Assessment concludes that there would be a moderate adverse impact on the users of the public rights of way across the site, (Newton Solney Footpath 2) and those north of the site, not reduced after 5 years by the proposed mitigation measures, These paths, particularly Footpath 2, enable local residents and visitors to enjoy access to the countryside with its recognised health and well-being benefits, and the adverse impact would deter people from using the rights of way. This would be especially detrimental to the residents of the urban areas of Burton upon Trent and Swadlincote, who rely of the use of the rights of way to experience the benefits of access to open spaces. In addition, the use of a section of Footpath 2 as the main vehicular access route to the site would be detrimental to the safety and enjoyment of the users of this path. If the council is minded to approve this application, it should be possible for Footpath 2 to be legally diverted on to a more enjoyable route.

Ramblers Association- No objection subject to conditions

Newton Solney Public Footpath 2 passes through the proposed development site, this is mentioned in the Design and Access Statement. Figure 10 in the Design and Access Statement shows the Public Right of Way ending where it joins the access route to the site from Newton Lane. This is incorrect Newton Solney Public Footpath 2, even if it must be diverted, must end at its current termination point at the junction with Newton Lane.
Should a diversion of the footpath be required the Derbyshire County Council Rights of Way Section should be consulted. The footpath must remain open, unobstructed and on its legal alignment at all times. Consideration should be given to members of the public using the route at all times. A temporary closure of the route may be granted to facilitate public safety subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section. There should be no encroachment of the path, and no fencing should be installed without consulting the Rights of Way Section.

Members of the public
In response to consultation on the application comments have been received from 53 members of the public or neighbours. 52 of these object to the proposed development and 1 is considered to offer no objection subject to conditions.

The 52 objections are summarised below noting that some members of the public provided comments more than once:

Loss of agricultural land (BMV)

a. Loss of productive arable land (Best and Most Versatile - BMV) – As custodian of the site for the last 38 years as well as being involved with the management of the land all of my life ,I must strongly object to taking these fields out of agricultural production to site a solar farm. This land is predominantly grade 2 and 3a soil which consistently grows above average crops of wheat, barley, oilseed rape, beans, maize, root crops, potatoes and cauliflower as well as producing grass for grazing by sheep and cattle. The crops have been grown in rotation with the soil health and structure being paramount.
b. To change this use of this food producing site to a none producing site will increase the reliance of importing food.
c. By the argument proposed that there are other fields within this locality that can be used so can be said that there are vast amounts of warehousing within this area that could have solar panels applied to all the roof space in construction if requested at the planning stage.
d. This land is farmed by a tenant farmer who would lose a significant amount of income if this was taken from him and the country would lose part of its food supply. Grazing sheep on the land would in no way compensate for the loss potential of the land.
e. The yield from these fields will be lost for over the proposed length of usage of the site as it will probably never be converted back to farmland
f. We need energy security I accept but we also need food security.
g. The impacts of the development on BMV Agricultural Land will be felt by the tenant farmer.
h. a lot of the arable land around us is also being used to grow crops for biomass, so this is yet more land taken out of food production. Why are councils not taking time out of their offices and looking for sites that have no value for crop growing. We will reach a time when we have "net zero electricity in abundance (according to the zealots)" and nothing to eat
i. The applicant suggests that the land can still be used for agriculture (i.e. sheep grazing under solar panels). Experience by local farmers suggest that this is not possible as sheep do cause damage to the infrastructure of the solar panels.
j. The applicant also suggests that the land will revert back to agriculture after the 40+ years. They can have no concept of what the land will be like after 40 years of being left fallow with progressively sparse growth, restricted light and destruction by heavy engineering installations
k. The loss of land for food production would be catastrophic if there was to be further global conflict.
l. Object strongly to this due to prime agricultural land which should be used to feed the nation when poorer quality / brown field sites are available
m. We should have food security for the Nation and this will not achieve it

<u>Flooding</u>
a. concerns that the development would increase flooding in the village of Newton Solney and of adjacent flooding on Newton Lane.
b. the road is regularly flooded as water from surrounding fields flows onto the road, submerging it along large stretches, as described in the response by the Flood Officer.
c. Newton suffers already with flooding coming down from this area and flooding outside the newton park hotel , solar will cause this to become worse and even less soak away.
d. The site of the top end of the proposed solar farm is hilly and prone to flooding

<u>Location, Landscape and design</u>
a. The very large size of the development is totally inappropriate for the location being close to Bretby residential properties and Bretby businesses.
b. The visual impact would fundamentally change the character of the area. The solar farm would turn a pleasant and rural area into an industrialised area protected by high barb wired fences, warning signs and cameras.
c. The correct positioning of such a farm would be already industrialised land and roof tops, not on productive agricultural land, or in an area which will cause significant visual impact to the residents and those further afield who visit the area
d. The developer states that the proposed site is viable because of its proximity to a sub- station. This is not a necessary argument and is merely a way to cut costs. Other Solar sites manage to function several miles from a sub-station e.g. The Great Wilbraham, Cambridge solar site is 11Km from a sub-station.
e. Brown field sites should be explored for this type of business. There is an existing site just a few miles away at Willington which used to be a power supplier and has been derelict for many years. Surely this could be looked at as a viable alternative. Other alternatives to look at are the roofs of

industrial buildings, carparks etc
f. The site of Willington should be used instead.
g. Transformers and batteries are almost ten feet high and 40ft long (and look like shipping containers) and other supporting infrastructure are eyesores
h. Support for solar energy but not in this location
i. Parts of Newton Solney are in a conservation Area and a solar farm is not in keeping with this
j. Overdevelopment
k.. Loss of rural / countryside views from neighbouring dwellings.
l. design of perimeter fencing is also not in keeping with the site and surrounding rural character
m. Willington ex power station has all the infrastructure and is a site looking for a purpose.
n. The government has suggested that Brown Field sites should be given priority over agricultural land for the development of solar farms. The applicant has cited one local Brown Field site, that of the long-ago decommissioned Willington Power Station. There is ample space there for their requirement, but they consider it unsatisfactory for the most bizarre reasons
o. The applicant has not made an adequate investigation into [Willington] and simply dismisses it as unsuitable. This site has been derelict, with no apparent activity since the planning application was granted in 2011 and has become an unwanted eyesore throughout the district. The installation of the solar farm on this land would eliminate a long-standing eyesore and negate the destruction of valuable arable land.

Highways
a. significant transport impacts on the local road network during the development.
b. The delivery of just the materials to build the site down what is a tight country lane will change the character of Newton Lane completely once lorries have tried to pass each other on the verges. The amount of HGV's that will be trying to navigate small country lanes to enter and leave the site will even further deteriorate the road network around the site.
c. The condition of Newton Lane is of concern, it is already a single-track road with numerous potholes and this will further degrade as a result of the construction of the development.
d. There will be further environmental impacts from the traffic re-rerouting in terms of increased emissions due to longer journeys. The proposed route will also mean it takes longer for emergency services to get to destinations.
e. The detour would cost everyone money and put unnecessary miles on our cars. Would there be compensation? How will the farmers cope, what about the emergency services, the bin collection services, the post, parcel deliveries? The list of disruption is massive.
f. The closure of Newton Lane will have wider effects on parking in Newton Solney.
g. Concerns regarding an unsafe access.
h. Lack of pedestrian provision on Newton Lane and increased risk during the construction process.
i. The County Highways Authority suggest that during construction of the solar farm a Traffic Regulation Order should be placed in order to produce a one-way system with construction traffic travelling from Newton Solney via Newton Lane to Knights Lane. This will mean existing road users wishing to travel from Bretby to Newton Solney must divert to travel through Repton and then out again to Newton Solney. This is a lengthy diversion through an area that is already severely congested during peak times. There are also frequent occasions where roads into and out of Repton are affected or closed for road works by utility / telecommunications companies and DCC. If this happens during the construction period, the whole area would become gridlocked and access to main routes such as the A30 and A50 will impossible.
j. There are many residents in Bretby whose children attend school in Newton Solney so they will have to make this journey twice daily. The construction period is proposed to be 38 weeks which with inevitable delays will mean that the TPO will be in place for about a year. Why should local residents be subjected to such inconvenience?
k. The Highways Authority also suggest that the suggested level of HGV traffic can be accommodated on local highway networks. This statement is a joke. Newton Lane is a single-track lane in places and for years the road has been very unstable with the surface completely disintegrated, pot holed and damaged verges.
l. The Highways Department has failed to rectify the damage to this road following numerous requests by the Parish Council and is regularly closed as it is unpassable. Last winter the road was completely closed by order of DCC Highways Department for several weeks in December 23 and January 24.
m. Newton Lane has a weight restriction of 7.5 T so damage to the road surface has been caused by

ordinary passenger cars or vans and occasional tractor. If the road is to be used for the suggested number of HGV vehicles during the construction (between 5,000 and 10,000) the road will be completely destroyed.
n. How can the County Highways Officer come to the conclusion that 'this level of HGV movement can be accommodated on local highway networks'?
o. Newton Lane is a badly maintained single track road which is frequently flooded. Last winter the road was closed completely by DCC for weeks on several occasions and when it reopened parts of the road were barely passable as it had been washed away. It is still in the same condition today. Although the applicant suggests that they will reinforce the road it is doubtful that they will do so to a level which will alleviate this problem and the road in places will be completely destroyed. This is a vital link between Bretby and Newton Solney and any disruption would mean a lengthy diversion via Repton.
p. At the end of Newton Lane, Knights Lane is a 7.5 tonne restricted route and totally unsuited to heavy goods vehicles. It is a popular “rat run” connecting local villages to urban hubs, has the national speed restriction and accidents occur regularly, including overturned cars in ditches. The road is not suitable for use by heavy goods vehicles, even on a short-term basis.
q. The proposed Solar Farm has raised the possibility of making Bretby/ Newton Lane on way. What happens to the residents and farm traffic which uses the lane? The only way of reaching Repton or Burton if this one-way system materialises involves a lengthy detour. Also Bretby/Newton Lane contains public footpaths which are well used by walkers and dog walkers and heavy lorries going along the lane would be a danger.
r. Greenbank Cottage is situated on a blind bend and there is no pavements to walk on making this a danger. I wish to oppose this development on the grounds that it is in the wrong place and to the extreme danger posed by heavy lorries using a narrow country lane with no pavements.
s. Newton Lane is a restricted road which joins Newton Solney with Bretby. This road is narrow. Cars often have to reverse to pass each other. HGV's have great difficulty with Newton Lane. Increased traffic will cause more traffic problems in our area and a big danger to walkers and cyclists that enjoy the countryside.
t. Traffic and routing of trucks - The plan for the routing of trucks shows little care for local residents and absolutely no knowledge of local traffic and road conditions. Making Newton Lane into a 1-way system would leave residents stranded, farmers with little ability to access key fields, divert more traffic through Repton and also further damage the existing unacceptable road conditions of Newton Lane, which is filled with potholes that regularly claim the tyres of cars - let alone the big trucks. Diverting more traffic through Repton, would be catastrophic as it is already an extremely overworked village in terms of traffic due to its close proximity to the A38, especially at rush hour. More specifically, moving trucks down Repton high street would cause complete chaos due to the plethora of parked cars and very narrow pass points along its entirety, which are difficult to navigate in larger cars, let alone in the vast numbers of trucks that would be using this route.
u. I am the Headteacher at the infant school based in Newton Solney village. I have only just been made aware of these proposals and I have concerns. My concerns are based on the information that a 6month one way system will be in place on one of the main routes to and from our school. We are a very small school and are battling with low numbers. We are working hard to market our school and increase our numbers. We feel knowledge of these plans may encourage families to look at and attend other schools.
v. For our current families this will have a huge impact. For some families this is their main access to school. As we are infants only some families have to navigate two schools for drop off and pick up. The diversion may add stress to their commute which directly impacts our children. Repton is always very busy and the main street struggles to cope when diversions are in place. Throughout the year diversions off the A38, due to traffic accidents, happen frequently adding to traffic in this area and a bottle neck is easily formed making children late for school. When children are late for school, they miss important information and feel out of routine for the rest of the day. This will also impact their academic progress.
w) Newton Solney and the surrounding area also struggles when it floods and the roads out of the village can become flooded and therefore, we become trapped. Having one of our access points blocked again would have a huge impact.
x) When considering this plan please think about the impact on the staff and families travelling to and from Newton Solney Infant School. 6 months is a very long time to block one main route into a small village.
y) Newton Lane serves as a main access route to Newton Solney School and Pre School. Diversions

through Winshill or Repton are long and add traffic through already busy routes. If the road could be open for access in school runs this would be very helpful

Environment, ecology and biodiversity
a. The biodiversity will be greatly reduced with the fencing removing the natural habitats and pathways of current wildlife due to the security fencing.
b. The supporting information in respect of protected species is redacted and does not seem to comprehensively cover the site.
c. [Noise] It may also affect certain wildlife species.
d. Other Wildlife and Biodiversity problems in connection to solar farms: Bird and bat deaths are common as they mistake the glass for water. The land will be degraded with little potential for biodiversity as half of it will be in permanent rain shadow and rainwater run-off creates set channels without proper dispersal. Topsoil will be removed, and cleaning materials may contaminate the soil.
e. Plus does this impact on wildlife? For example, bats frequently emerge at dusk on Bretby Lane and are unlikely to show if there is security lighting.
f. The wildlife corridors which we have created by planting wild bird feed strips and pollen and nectar areas under the Countryside Stewardship Scheme and Sustainable Farming Incentive would be decimated and would result in the loss of biodiversity in the area and would take many years to recover. There are badger setts on the site which cannot be avoided in the construction as well as habitats of various species of small mammals and invertebrates.
g. removal of trees and hedges; upset to local wildlife
h. Local Environmental impact - The location selected for this site is more than 70 acres of producing farmland, which has a key function in crop production and the rearing of animals. This country already doesn't produce enough food and reducing that further is very worrying, as prime agricultural land like this should be preserved and protected for food security rather than built upon and completely ruined for famers even in the future. Soil degradation and erosion that would be caused by the site is also a further worry in terms of its impacts to local hydrology and flooding. In the past year, we have seen flooding throughout the local area not only in the proposed fields but also in adjacent fields and further into Newton Solney village. The effects of this solar farm would only worsen existing issues we have seen yearly with flooding. The harm to local wildlife is a cause of further concern - locally we have all sorts of animals including many badgers who make their way through these fields and build dens which would be disturbed by the noise and other impacts of building and use of heavy machinery. Running sheep around the solar farm has been suggested to appease people upset with the plans, but this is still completely unacceptable due to the lack of open space these sheep would have and also the degradation to the land and quality reduction of their grass.

Amenity
a. Although the planned development is in the countryside there can still be an issue with noise where ambient noise levels are lower. This could be of particular concern to the nearby homes. They may not be able to actually see the panels (according to the developers) but they would be subject to an irritating buzz when there is enough solar power to generate electricity.
b. Mistrust of the developers regarding noise impact on the surrounding residents/area's where the solar farm is to be placed. The applications documents suggest its all 'sound proofed'. Online discussions on this subject and in particular, some residents that live nearby such a farm suggest they do make 'quite some noise'
c. Unclear how much lighting may be used on the solar farm site. If it is significant (due to security), then what will the impact be to nearby residents etc.

Other
a. Why is it almost impossible to find out about this application? There have been no notices posted on the lampposts. When you search on the planning website and either enter my post code or search for the word 'solar' nothing comes up! I only managed to get the planning application number by contacting my local planning councillor. This 'hiding' of the details is not good! I'm beginning to fear that this 'pushing things through regardless' strategy is the current reality for such applications.
b. Concerns relating to the removal of the panels should the firm responsible go insolvent in the 40-year lifespan.
c. How will the power from this solar farm be connected to the grid? If overhead pylons are required, then everyone who is within a certain distance of these would need to be contacted as part of the

planning process. There are case studies that show links between overhead power cables and leukaemia.
d. The 'Glint and Glare' analysis makes no reference at all of involvement or input from the substantial airport nearby at East Midlands Airport. The flightpath is over the proposed solar farm. The developer should have been in touch with the airport to discuss, prior to its application. Referring to the article, the following is part of the transcript covering this matter-
'To comply with relevant regulations, a solar farm developer needs to perform a solar glare analysis to understand the potential impacts of the proposed development on operational aviation. In some situations, consultation with aviation stakeholders is necessary to seek feedback on the development and ensure that any potential risks are mitigated'.
e. Lithium-ion battery storage may represent a huge fire risk.
f. This area is a low-risk crime and theft area. I am guessing that expensive transformers, cabling, battery containers, etc, it will attract crime to the area.
g. De-Valuing nearby housing
h. It is requested the Planning Committee undertake a site visit to review the impacts of the development, including the current state and layout of Newton Lane
i. Confusion and questions over the naming of the scheme as Willington Solar Farm
j. lack of publication.
k. 40 years is not temporary, how would the land be classified after this.
l. The Applicant states that the land can be brought back into agricultural production after 40 years of 'industrial farming' but with the drainage and soil structure decimated by track ways and panel supports being piled 1 metre into the ground I would suspect this to be unlikely
m. This development would not be supportive of tourism within the area as the adverse landscape impacts will be visible from Planters and from Knight's lodges
n. Anesco is another company funded by foreign investors. All the solar panels/invertors etc are of Chinese manufacture, so it cannot be claimed these will provide jobs.
o. And on a final note, as I write this it has snowed, so all the panels will be covered by snow and also there is a lack of sunshine as it is also dull and foggy so the power being produced is the square root of nothing, as in maths 10 x nothing is nothing, 100 x nothing is still nothing.
p. I worry about the health risks that these solar panels could pose to my family.
q. uncorroborated claims by the applicant of the amount of power this scheme will generate, my greatest concern is that it will be constructed on 28Ha of prime agricultural land, with a loss of the yield of grain or other crops for 40+ years, if not permanently
r. The applicant also states that the solar panels will ultimately be removed after 40 years. How can this be guaranteed?
s. There have been some alarming decisions by the Energy Secretary recently where he has stated that the need to produce more green energy outweighs the (effectively permanent) loss of food production. He has also overturned previous decisions made by councils in Lincolnshire and Cambridgeshire and given the go-ahead for a solar Farm on 2,700+ acres of prime agricultural land, therefore putting green ideology before due purpose.
t. the manufacture of panels would produce more CO2 than it saves.
w. Willington is 3 miles away, acknowledge this is not far but a more suitable site would be in Willington, nearer to the National Grid
x. We are interested in seeing a solar array, but we feel that this site with its slope to the north is not suitable for a solar panels. The height between the top panels & the lower panels is 50 metres. There must be a better site than this for a solar farm.
y. Bretby & Newton Solney is the wrong place for a solar farm.
z. Alternative sites - The proposed location is very strange overall, when we have so many local brownfield sites and commercial roof spaces that would be much more suitable for such a project. There are hundreds of local businesses (mine included) that would be more than happy to engage in discussion about putting solar panels on our roofs and making use of this effectively dead space, rather than taking useful and productive farmland and ruining it. Brownfield sites such as the old Willington power station are also very good options, many square miles of open space which crucially have the infrastructure to transport the produced electricity where it needs to go and it baffles me that the company have deemed this site "unsuitable". The fields proposed have none of the infrastructure of the commercial and brownfield sites found locally!
aa. Social and Economic Impacts - The site will have a negative impact on property values in the local area due to the visual intrusion, longer term maintenance concerns and increased noise and traffic.

Local walkers and countryside enthusiasts come from Burton and Swadlincote to walk routes close to and within the site and they will be completely deterred due to their routes changing and the visual damage to the local area. There are also local heritage sites with views of the solar farm at both Bretby and Bladon castles and the thought that a supposed mound blocks the view is just false.
ab. Energy production and efficiency concerns - solar panels are inherently inefficient due to their intermittent energy generation and there are many other energy producing options which provide consistent and reliable energy much more efficiently, which is required for a functioning society, especially with the local industry of Burton-On-Trent. Unfortunately, these alternatives are not employed due to the large grants and benefits companies take advantage of to make money for themselves, which are only net negative to the local people who will still pay the same prices or even higher for their energy while being burdened with the other issues mentioned above.

Public requested conditions:
a. If proposed it could be considerably better screened from some proposed vantage points with trees to block the view between the road and the perimeter fence. These would have to be of a suitable size and not small specimens that if neglected would just die. Ensuring that it was stated that quite a dense planting would restrict the view. This would increase the lost biodiversity.
b. The proposed section near Knights Lane could be reduced so the planting of these trees could stretch down Newton Lane so when travelling from Repton to Bretby the high fencing would not be visible.
c. A stipulation that the grazing of sheep on the land should be part of its condition of change of use to reduce the effect of losing food production land. This is to ensure that the construction of the site would be suitable for this use when installing the panels and that any modifications that would have to be made are stipulated at this stage.

The no objection subject to conditions response requested that the closure of Newton Lane be limited and the road be opened to enable school traffic to access the road for drop off and collection from schools in the area.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:
Local Plan Part 1 (2016) : Policy S1: Sustainable Growth Strategy; Policy S2: Presumption in Favour of Sustainable Development; ; Policy S6: Sustainable Access; Policy SD1: Amenity and Environmental Quality; Policy SD2: Flood Risk; Policy SD3: Sustainable Water Supply, Drainage and Sewerage Infrastructure; Policy SD4: Contaminated Land and Mining Legacy Issues; Policy SD6 Sustainable Energy and Power Generation; Policy BNE1: Design Excellence; Policy BNE2: Heritage Assets; Policy BNE3: Biodiversity; Policy BNE4: Landscape Character and Local Distinctiveness; Policy INF1: Infrastructure and Developer Contributions; Policy INF2: Sustainable Transport; Policy INF5: East Midlands Airport.

Local Plan Part 2 (2017) : SDT1 Settlement Boundaries and Development; BNE5 Development in Rural Areas; BNE7 Trees, Woodland and Hedgerows and BNE10 Heritage

The relevant local guidance is:
South Derbyshire Design Guide Supplementary Planning Document (SPD)
Trees and Development SPD

The relevant national planning policy and guidance is:
National Planning Policy Framework
National Planning Practice Guidance

The relevant legislation is:
The Town and Country Planning Act 1990

Planning considerations

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

determination of this application are:

Policy and the principle of the development in this location;
Design and the landscape and visual impacts of the development upon the character of the surrounding area;
Highway safety and access;
Loss of best and most versatile agricultural land;
Flood risk and drainage;
Impact upon residential amenity;
Ecology and biodiversity;
Trees and Landscaping;
Other issues;
Conclusions and planning balance

Planning assessment

Policy and the principle of the development in this location

Section 38 (6) of the Planning and Compulsory Purchase Act (2004) sets out that the determination of applications must be made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for the application site comprises the Local Plan, Part 1 (2016) and Part 2 (2017), in this location there is no adopted neighbourhood plan.

Sustainability is placed at the heart of both the plan and decision-making processes within the National Planning Policy Framework. The Framework sets out that the key objectives in achieving sustainable development are achieving economic, social and environmental sustainability. In making decisions the Local Planning Authority must weigh the benefits or harms arising from a development proposal, and in accordance with the three objectives to ensure that sustainable development proposals are allowed, and that other development proposals are refused.

Section 14 of the National Planning Policy Framework provides the framework for meeting the challenge of climate change, flooding and coastal change. It sets out how the planning system should support the transition to net zero by 2050 and take account of all climate impacts. It progresses to set out how the planning system should shape places in ways that contribute to radical reductions in greenhouse gas emissions and support renewable and low carbon energy and associated infrastructure.

Paragraph 168 advises that when determining applications for renewable and low carbon energy developments and their associated energy infrastructure LPA's should:

a) *not require applicants to demonstrate the overall need for renewable or low carbon energy and give significant weight to the benefits associated with renewable and low carbon generation and the proposals contribution to a net zero future.*

The provisions within the NPPF lie within a national and international drive to transition from traditional energy sources to renewable energy sources. In order to ensure that renewable energy fully contributes towards the EU climate ambition and target plan the European Union Renewable Energy Directive (2018/2001/EU) entered into force and moved a legal framework to 2030 setting a binding minimum target of 32% provision for the EU.

In 2019 the UK passed laws to end its contribution to global warming, known as, UK Government Net Zero 2050, to support the required reduction of emissions by 80%. The Energy white paper 'Powering our net zero futures' (DBEIS 2020a) was published, this set a pathway to achieving net zero by greater reliance on solar amongst other energies. The Net Zero 2050 – A Roadmap for the Global Energy Sector (International Energy Agency (IEA), 2021) called for the scaling up of solar and wind provision in the 2020's to 630 gigawatts (GW) of solar production.

Future Energy Scenarios (FES) was produced by National Grid in 2021 and outlines credible pathways for energy in the coming decades, having regard for both demand for electricity that arises from the shift away from high carbon fuels to hit reduced emissions targets and the anticipated increase in

electric vehicles ahead of the ban on petrol and diesel vehicles in 2040. Annual demand is anticipated to double between 2020 and 2050.

Local Plan Policy S2 sets out a high-level policy for the presumption in favour of sustainable development. This sets out that the Council will take a positive approach reflecting the presumption in favour of sustainable development within the NPPF and state the Council will work with applicants to seek solutions to secure development improving the economic, social and environmental conditions in the area.

South Derbyshire District Council declared a Climate Emergency in June 2019 in doing so it committed to:

- *Strive to make all South Derbyshire District Council owned activities carbon neutral by 2030 and achieve carbon neutrality across South Derbyshire before the Government target of 2050.*
- *Call on the UK Government to provide the powers and resources to make the 2030 target realistic.*
- *Work with partners across the District and region to deliver this goal through all relevant strategies*

Derbyshire County Councils Renewable Energy Study provides a spatial assessment of energy opportunities across the County and is intended to support local development planning and contribute towards a collaborative approach to reducing greenhouse gas emissions and achieving net zero by 2050. In order to achieve the referenced national emissions targets the report sets out (amongst other things) the expansion of low carbon energy supplies will be required to meet the clean electricity needs which it states will treble from 2020 to 2050.

The report shows that of all renewable energy sources Solar generates the highest proportion in the district and countywide, amounting in total to 202.2 GWh/ year. The report showed that within a 3-year period (i.e. by 2024 there could be up to an additional 129.69 MW generating capacity within the County if all schemes consented or in planning were approved and built out.

The report identifies that Solar PV is the dominant form of renewable energy deployment in Derbyshire, comprising 76% of the total installed capacity of energy generation in the region. This figure comprises 126.7 MW of large scale, and 143.7 MW of microgeneration, installations. Large scale installations are located predominantly in the south of Derbyshire, with notable clusters around Swadlincote.

The report progresses to set the various considerations for solar development setting out that ground mounted solar PV requires suitable space, with minimal shading which increases the feasibility of various locations. It identifies potential opportunities for ground mounted systems including low value agricultural land, brownfield, contaminated land, industrial land and quarries. In assessing the areas of the county most and least suitable for ground mounted solar the report identifies this as a constrained site (noting there are 3 ratings, more constrained, constrained and less constrained).

Policy SD6 of the Local Plan relates to Sustainable Energy and Power Generation and sets out that the council will support renewable and energy development subject to the environmental impacts having been appropriately considered and schemes not giving rise to unacceptable impacts on landscape, townscape, character, ecology or the historic environment, or cultural heritage assets. Furthermore, proposals should not give rise to unacceptable impacts on amenity or safety concerns as a result of noise, emissions shadow flicker, electro magnetic interference emissions to ground or air, odour or traffic generation or congestion.

Policy BNE5 sets out that development outside of the settlement boundaries as defined in SDT1. SD6 is not one of the exception policies. The other criteria within BNE5, against which the principle of this development is assessed, is iii) which allows for development that is *unavoidable outside the settlement boundaries* and *will not unduly impact on landscape character and quality, biodiversity, best and most versatile agricultural land and heritage assets.*

Policy SD6 gives broad support for renewable energy generation, policy S2 supports sustainable development. The supporting information puts forward that solar projects require land outside the settlement boundaries and on this basis the development complies with BNE5. Both Policy SD6 and BNE5 include matters of principle and matters in relation to the material considerations of a

development. For brevity and to avoid repetition the matters of Principe are within this section and material considerations are set out in the following sections.

The Planning Statement sets out that the Solar Farm will play a significant role in mitigating climate change and supporting the move towards a low carbon future it will deliver 21.09 MW of renewable energy which is stated to be sufficient to power over 7,792 homes per annum. In doing so it will provide carbon savings of upward of 4,354 tonnes of carbon per annum and 174,160 over the lifetime of the development.

The foregoing assessment of the relevant policy context as well as the national requirements for development of renewable energy schemes demonstrate the policy support for renewable energy generation. The principle of the development is therefore considered to be acceptable. The following sections consider the impact of the development in relation to the specific criteria under which the proposed development must be considered.

Design and the landscape and visual impacts of the development upon the character of the surrounding area

The NPPF sets out that decisions are required to contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes in a manner commensurate with their statutory status or identified quality within the development plan.

Local Plan Policy BNE4 describes how local distinctiveness and quality in the landscapes of South Derbyshire will be protected and enhanced through sensitive implementation of careful design. It sets out that developers will be expected to retain valued components such as mature trees and established hedgerows and topographical features within the development. The policy states that development that will have an unacceptable impact on landscape character, visual amenity and sensitivity and cannot be satisfactorily mitigated will not be permitted. It further requires that developers demonstrate consideration of the landscape character areas and types and have regard to the recommendations within *The Landscape Character of Derbyshire.*

The Derbyshire Spatial Energy Study identified the landscape sensitivity of the site area as being low when it assessed the various levels of landscape sensitivity across the County for the purposes of different types of energy developments. The levels potentially afforded to all areas ranged on a 5 point scale from very low; low; moderate; high to very high. The methodology for characterising the sensitivity of landscapes within the County is set out in Appendix A to the Study. It is considered by officers that though the site doesn't fall within the 'very low' category, the site being within the low category helps to establish the level of sensitivity and officers have considered this in their review of the LVIA submitted in support of the scheme. The Study defining the area as a low level of landscape sensitivity gives support to the findings of the LVIA, which, at a site-specific level assess the sensitivity of the landscape as medium. This reassures Officers that the assessment has robustly assessed the sensitivity of the landscape.

The application is supported by a Landscape and Visual Impact Assessment (LVIA) which has been undertaken by a chartered landscape specialist. The application site lies within the Melbourne Parklands area and Estate Farmlands character type within this area. The information submitted in support of the application sets out that the area and type both have medium sensitivity and the magnitude of change resulting from the development will be low, with minor effects from both construction and on completion. Residual minor adverse impacts are concluded.

In terms of the visual impact of the development this is assessed to vary depending upon the receptor at which the view is assessed. Officers have worked with the applicant to secure photomontages to aid this understanding better. At landscape maturity the residual impacts at the assessed receptors range from no effect to moderate adverse effects.

Viewpoint	Residual Effects after mitigation (all are adverse)
1. View south from Newton Lane	Minor
2. View north west from Entrance to Knights Lodges	Moderate / Minor
3. View north west from Junction of Newton Lane and Knights Lane	Minor
4. View north west from PROW Footpath	Moderate
5. View south west from Willington Bridge	Minor
6. View south west from Hill Top Farm and PROW Footpath	Minor
7. View south west from B5008 Burton Road	Minor
8. View south west from Newton Lane and PROW Footpath	Moderate
9. View east from PROW Footpath	Minor
10. View north east from PROW footpath near Newton Mount	Moderate
11. View north east from PROW by Grafton Smallholding	No effect
12. View south east from PROW Footpath	Moderate
13. View east from PROW footpath	Minor

The LVIA submitted demonstrates that the applicant has had the necessary regard to the landscape types and the relevant documentation. The layout of the site and proposed landscaping retains features such as the hedgerows and trees that offer character to the area.

The proposed development will have an impact upon the character and appearance of the surrounding area. The comments received from residents in respect of the impact on the character of the area and the landscape have been considered throughout the application process. The photomontages sought to supplement the original LVIA were requested in an attempt to better understand the visual impacts of the development. It is considered, based upon these and the LVIA in full that the findings of the LVIA can be agreed in respect of the impact of the development.

The landscape and visual impacts are not considered to be unacceptable, having regard for policy BNE4, similarly as the landscapes are not designated at a national level it is considered that the introduction of development should not be prohibited, nor that the landscape is subject to a higher degree of control. The time limited nature of the scheme, but permanence of the landscaping and field boundary enhancements also serve to mitigate the impacts somewhat, the 40 year period is accepted to be relatively insignificant when compared to the longevity of landscape features such as hedgerows and topography, through noted to be more significant against our own lifetimes.

It is considered the impact should be weighed in the balance as in its own right does not present a policy conflict or robust reason for the refusal of the application.

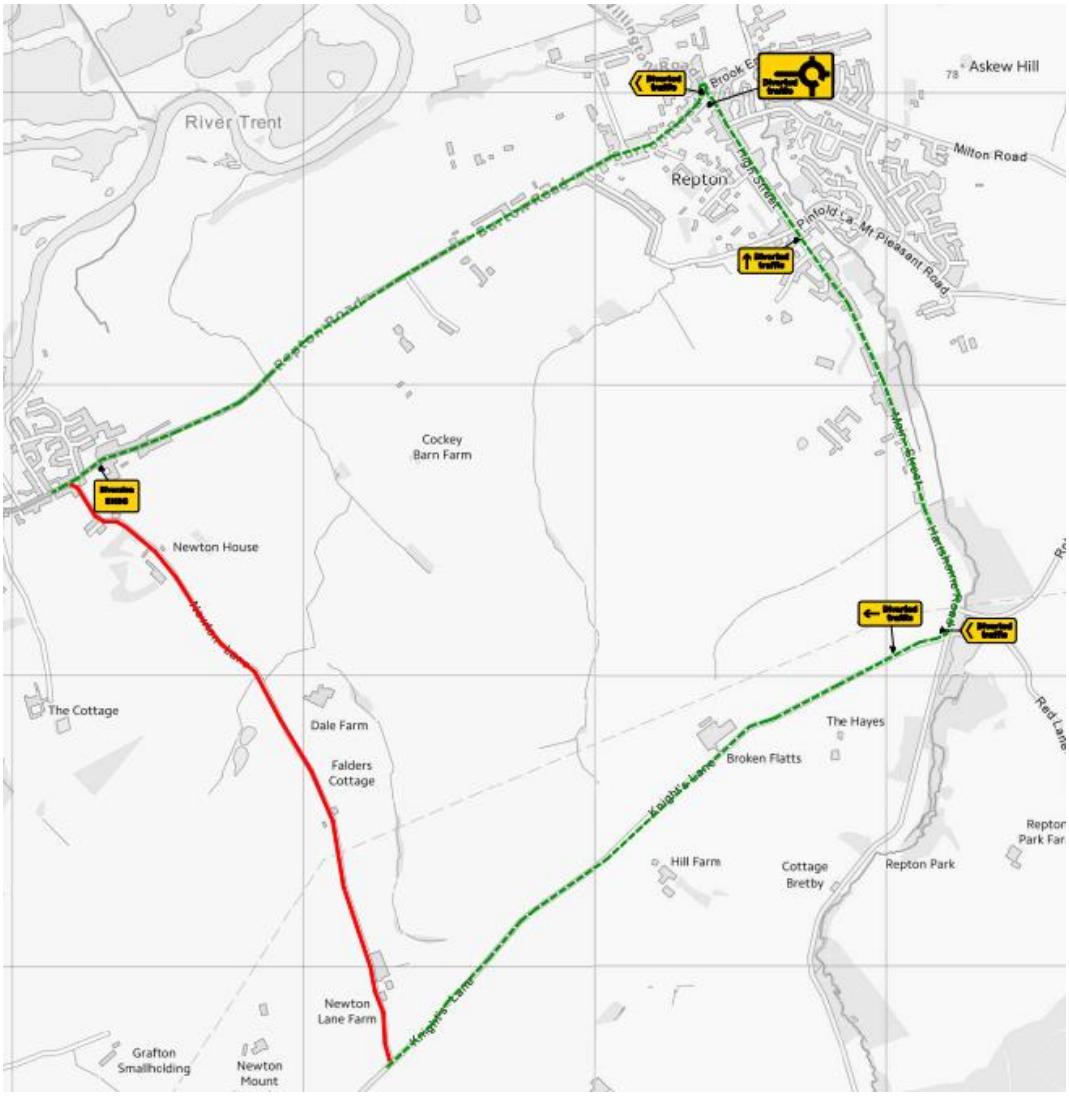
Highway safety and access

The NPPF requires in paragraph 114b that during the consideration of development proposals it should be ensured that safe and suitable access to the site can be achieved. Where this is unachievable the Framework advises that development can be refused.

Local Plan Policy INF2 sets out permission will be granted for development where travel generated,

including goods vehicle movement, has no undue detrimental effect upon local amenity, the environment, highway safety or the efficiency transport infrastructure.
Two rounds of consultation with the Local Highway Authority have been undertaken and Officers have asked questions specifically regarding highway safety reflecting the concerns raised by elected members and members of the public regarding the use of Newton Lane for construction traffic, including Heavy Goods Vehicles. The Highway Authority have reviewed the application and additional visibility splays that they requested following the initial round of consultation. They set out in their response that the construction of the development will only be achievable if a Temporary Traffic Regulation Order, 'TRO' is put in place for the duration of the development period. The TRO process, like other infrastructure and highway requirements is separate to the planning regime.

The TRO would result in Newton Lane being temporarily closed to two-way traffic and traffic being routed on a diversion from via Repton to Newton Solney. The route proposed as shown within the Transport Statement is shown on the map below:



Officers understand the strength of public feeling about the potential for disruption caused by the rerouting of traffic during the construction period from members of the public, the Parish Councils of Newton Solney and Bretby and a local primary school. Officers have to assess the application proposals against planning policy. The TRO process is subject to a separate public consultation process for which the Council is not the determining authority. Planning Policy, in particular the NPPF advises in paragraph 116 that *Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.*

The development during construction will result in 7 x two-way journeys by HGV's daily for an estimated period of 38weeks. During the operation phase it is anticipated that there will be 2 x two-way

van trips each month. The supporting information sets out in addition to a temporary TRO the applicant will submit a construction traffic management plan to further seek to minimise any highway safety impacts.

The supporting information sets out that during the construction phase the temporary closure of Newton Lane will serve to ensure that vehicles travel in a single direction and remove concerns regarding the inability of vehicles to pass at certain points and address the lack of visibility to the south of the access, as with vehicles only travelling south, only visibility is needed to the north to enable vehicles to safely leave the site. During the operation period the information sets out the movement frequency would be akin to existing movements to and from the site and as such would not increase highway safety issues or have additional impacts in terms of increased vehicle movements to and from the site.

The Highways Officer in review of the scheme offers no objection subject to conditions in relation to the temporary TRO being approved prior to the construction of the development, a Construction Management Plan and the construction of the access prior to the commencement of other development on the site.

Having regard for the provisions of paragraph 116 of the NPPF and given the temporary nature of the diversion Officers consider that, subject to conditions, the impacts of the development in respect of highway safety and capacity are not such that would present a robust reason for the refusal of the application. And on that basis the application has demonstrated policy compliance.

Loss of best and most versatile agricultural land

The NPPF describes how planning decisions can work to *Conserve and enhance the natural environment*. Paragraph 187b states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including economic and other benefits of best and most versatile agricultural land.

Local Plan Policy BNE4, Landscape and Local Character, states in part E *The Council will seek to protect soils that are 'Best and Most Versatile' .... and wherever possible direct development to areas with lower quality soils.* The relevant explanatory text repeats the NPPF (at the time the policy was written) that The NPPF states that planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land and that local authorities should seek to use areas of poorer quality land in preference to that of higher quality. It is noted in the current version of the NPPF (2024) the latter part of the NPPF's advice is contained within footnote 65, attached to paragraph 188 which seeks to guide plan making processes.

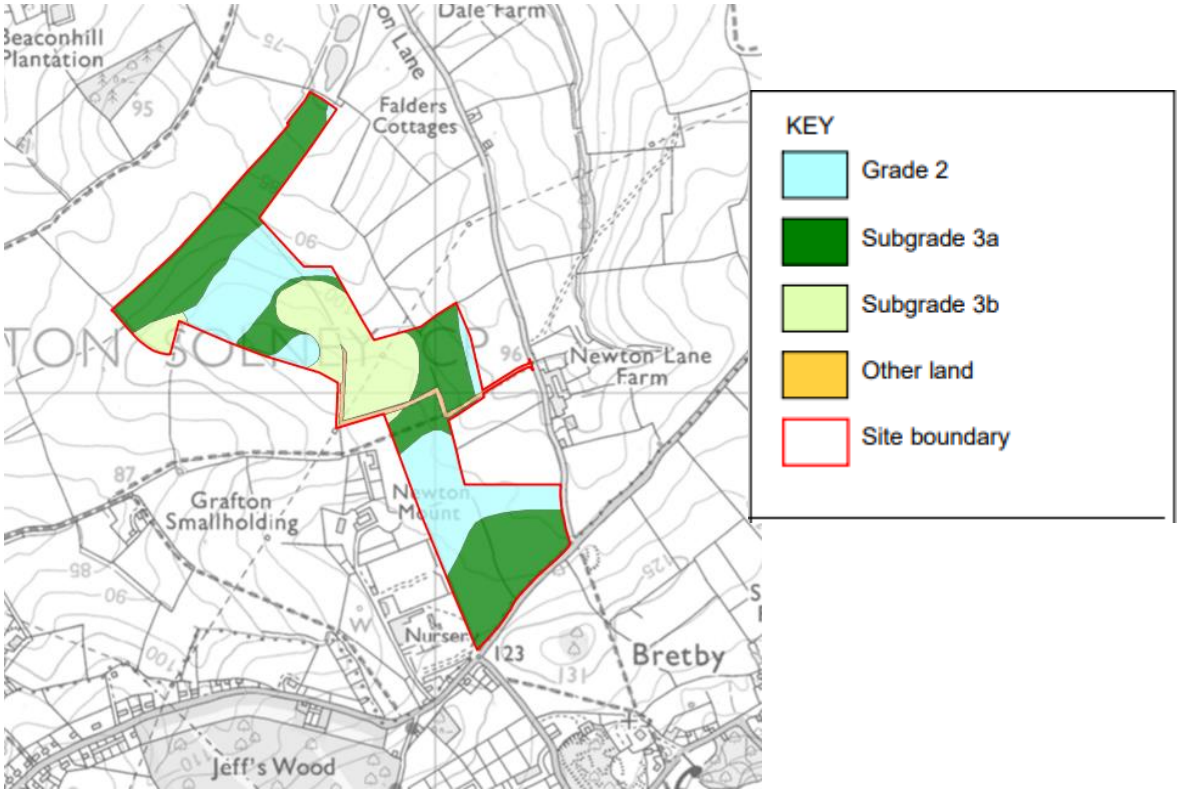
Part v) of policy BNE5, is one of the criteria to be met by development in rural areas, subject to the demonstration that the development complies with one of the exceptions that allow for development within the rural area. The report has set out above that the development is considered to be unavoidable outside the rural area in this instance. Part v) requires the development does not unduly impact on best and most versatile agricultural land.

The Planning Practice Guidance advises LPA's assess proposals using both the maps and detailed site survey reports. In consideration of this application both considerations have been undertaken and Natural England consulted. No objection is offered in relation to the proposed development, this predominantly being based upon the temporary and reversible nature of the proposed development and their consideration that the land can be returned to agricultural use.

Natural England also advised in their comments that the LPA should ensure they have sufficient information available to make a decision on matters in relation to the loss of agricultural land. Officers have made this recommendation based upon the AL study, the alternative sites assessment and having regard for recent appeal decisions and court judgements both in the district and more widely, for renewable energy developments.

The application is supported by an Agricultural Land Survey which classifies the soils within the site and shows that 22.5ha of BMV land will be taken out of use to enable the development. The

application site is noted from the Councils Geographical Information System, at a high level (rather than site specific level), to sit within an area of around 10.57km (1057ha) square of Best and Most Versatile agricultural land. The site, extending to around 28.6ha in total comprises 8.4ha in Grade 2 and 14.1 in Subgrade 3a, thus totalling 22.5 hectares of Best and Most Versatile (BMV) agricultural land. This would equate to around 2% loss within this specific area of South Derbyshire.



The alternate site assessment details the sole other surveyed site to have a lower classification on the ALC grading and also to be close to a point of connection. However, the other site was more heavily constrained and assessed as having only around 15ha of developable area, with large woodland areas that were undevelopable and surrounding woodland that it states would reduce the efficacy and amount of generation. Though not assessed in depth as part of the application. The Alternative Site Assessment shows the impacts of the alternative site on other planning considerations to be greater than at the proposed site.

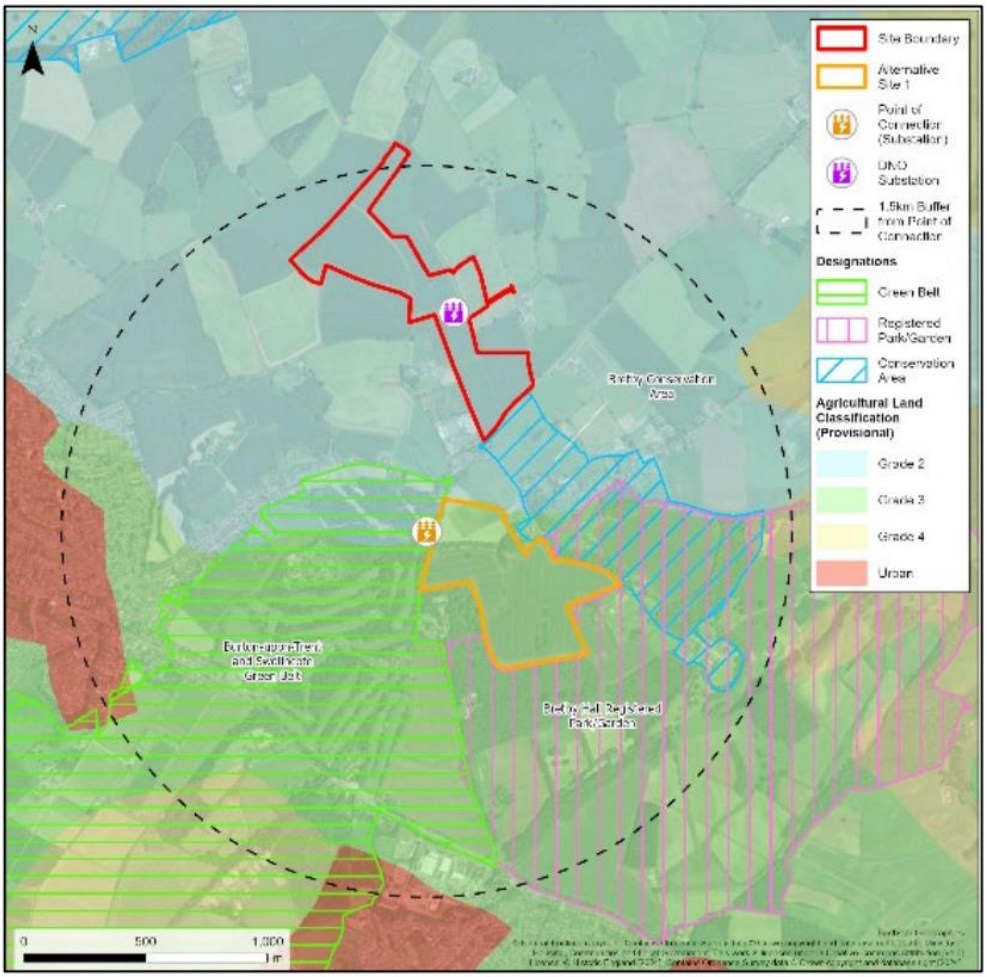


Figure 4.1: Identification of alternative sites

Turning to the limited time period for the development it is noted that the site would be taken out of use for the 40-year operating period together with the construction and decommissioning periods, the construction period is noted to be around 38 weeks from the supporting information. It seems appropriate to assume a period between 41 and 44 years from the point of development commencing to the point of decommissioning.

The above assessment in terms of the quantum of land in the surrounding area is included within the application having regard for recent appeal decision reference APP/V4630/W/24/3347424. The appeal decision highlights in addition that '*significant development'* is not defined in either the development plan or the NPPF and is a matter of planning judgement.

It progresses to establish the scheme would result in 3.19ha potential temporary loss within its context of 2,300ha of surrounding land to be shown within grade 3. The inspector in this recent decision set out within the context given the site extent and the extent of surrounding agricultural land in the same grade it was not reasonable to regard the loss as significant. This would equate to around a 1% loss from the existing area of BMV land. In the case of this application site the loss would be around 2% from the area of Grade 2 land surrounding the development. Officers consider that where an inspector concluded a 1% loss was not significant, they should not consider a 2% loss to be significant either.

The further test within Policy BNE4 is that development will be *directed to areas with lower quality soils wherever possible*, within BNE5 the policy test is that development will not *unduly impact* Best and Most Versatile (B&MV) agricultural land.

Officers consider the alternative site assessed demonstrates that in this instance, it is not possible to direct the development elsewhere, and in reaching this conclusion have regard for other appeal decisions where inspectors have concluded that it is not beholden on the applicant to exhaustively

search for alternative sites. Officers consider the BNE4 test is met on this basis.

In applying the test of Policy BNE5 in terms of whether the development 'unduly' impacts BMV land Officers turn to the definition of unduly, '*more than is necessary, acceptable or reasonable'*. It is in this instance arguable that the loss is only what is necessary to meet the development needs for the size of the site and necessary infrastructure, landscaping and biodiversity enhancements, which are co-located thus making good use of land. Following from the loss being necessary it needs to be assessed to understand whether it is acceptable or reasonable. The temporary loss equates to 22.42ha having regard for the area of hardstanding serving the DNO substation which is around 0.08ha in area. In the context of the surrounding of 1057ha. Furthermore Natural England set out that '*We consider that the proposed development, if temporary, is unlikely to lead to significant <u>permanent</u> loss of BMV agricultural land, as a resource for future generations'.*

The response goes on to state that the *'This is where solar panels are secured to the ground by steel piles with limited soil disturbance and can be removed in the future with no permanent loss of agricultural land quality likely to occur, provided appropriate soil management is employed and the development is undertaken to high standards.'*

The Planning Statement submitted confirms that the solar panels are mounted on poles which are piled into the ground to a depth of approximately 1m. This is stated in the Natural England response to be one of a few contributing factors that help maintain soil quality. The other factors listed are the implementation of appropriate soil management and that the development undertaken to a high standard. the site can be returned to agricultural use.

It is noted that the site is currently used for arable farming and food production and that there are public concerns raised regarding this loss. In order to ensure the concerns are properly explored the assessment of the report and recent appeal decisions has been reviewed and Natural England Consulted. Based upon the assessment Officers consider that temporary use of the site, subject to compliance with necessary and reasonable conditions, does not present a robust reason for the refusal of the application in this instance.

Conditions are proposed within this recommendation for soil management scheme as recommended by Natural England, subject to compliance with this the development is considered consistent with the requirements of the NPPF and the local plan.

<u>Flood risk and drainage</u>

Development is required by the NPPF and local Policy SD2 to be achievable without increasing or exacerbating flooding problems. The detail of policy SD2 further state that the sequential approach to flood risk management will ensure that development me guided to areas at lowest fisk of flooding. The application site lies within Flood Zone 1 where there is the lowest chance of flooding from any waterbody.

In addition to having regard for flood risk as part of the siting of development, the design of development should ensure that drainage is incorporated via sustainable drainage schemes which mimic natural drainage. This is set down with Policy SD3 of the local plan together with the requirement that developers be required to design schemes that reduce pressure on local drainage infrastructure.

In respect of drainage the site has been shown via testing to be unsuitable for infiltration. The drainage hierarchy sets out that following infiltration discharge to an existing water body is considered to be the next best option. The drainage strategy, on this basis proposes to introduce a small swale located north of the DNO substation that will collect runoff from this impermeable area, run off will be filtered for pollutants and the discharged via a hydrobrake into a pipe connecting via an existing culvert to an existing ditch at the north of the site.

The application has been reviewed by the Council's Local Flood Officer who maintains that the site may increase flood risk to Newton Lane. These concerns are also raised from members of the public who have commented on the application and current flooding problems on Newton Lane.

The Lead Local Flood Authority have also reviewed the proposals and sought additional information from the applicant which has been provided. The LLFA offer no objection subject to the inclusion of drainage design, management and maintenance, construction surface water management and soil management plan conditions. Their comments also highlight the culvert pipe at point b is heavily silted and recommend steps are taken to cleans this prior to development.

Concerns in relation to existing flooding problems are given due regard, however, the comments of the LLFA and conditions requested indicate that the development can be progressed without introducing new flooding problems or exacerbating the existing flooding problem. It is not for the applicant to resolve existing flooding issues within the area and on this basis the application is considered to meet the relevant policy requirements.

Impact upon residential amenity

Development is required to be appropriate for the location, and take account of the likely effects of pollution on living conditions and in doing so mitigate and reduce to a minimum potential adverse impacts arising from noise generated from new developments.

The Local Plan sets out in Policy SD1 that development will be supported where it does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments. The latter part of the policy considers the need for a strategic buffer between conflicting land uses in order that they do not disadvantage each other in respect of amenity issues including noise, odours, fumes or dust and other disturbances including from vibration or light.

The application site is located within the rural area and away from densely populated locations. Notwithstanding this there are numerous dwellings within short distances from the site. Concerns have been raised from local residents regarding potential for noise emissions from the panels and associated infrastructure. The applicant has supplied a Noise Technical Note at the request of Officers of the Council. This identified the closest noise sensitive receptors as residential dwellings to the east and west of the site.

It summarises the sound power of the equipment proposed on site. The assessment sets out that the predicted *worst case scenario* sound levels will be 28 LAeq,T dB at dwellings to the west. The average predicted output is shown to be much lower. The conclusions of the report rule out impacts at night and for average operation during the day as the noise levels are likely to be below the threshold for human hearing. The daytime levels are stated to be below the British Standard guidance both internally and externally.

The Councils Environmental Health Officer has been consulted and offers no objection following their review of the submitted Noise Impact Assessment. They request conditions restricting hours and days of construction activity. The condition is included, and the application considered to accord with the policy requirements.

Historic Environment and Archaeology

Section 72 of the Planning Listed Building and Conservation Areas Act 1990 places a duty upon the Local Planning Authority to pay special attention to preserving or enhancing the character or appearance of a Conservation Area. It states that significant weight should be given to any harm found to arise to the character or appearance of the Conservation Area, as a result of development.

Section 66 of the Planning Listed Building and Conservation Areas Act 1990 places a duty upon the Local Planning Authority have special regard for the preservation of the building or its setting. Significant weight should be given to any harm found to arise to a listed building or its setting as a result of development.

The application is supported by a Heritage Assessment in accordance with the requirements of the of NPPF and Policy BNE10 of the Local Plan. The site does not contain any designated heritage assets but is within 1km of 8 Grade II Listed Buildings, 2 Conservation Areas and a Scheduled Monument as well as a Grade II Registered Park at Bretby Hall. The Heritage Assessment concludes that the only asset potentially affected was the Bretby Conservation Area.

Officers have engaged with the County Archaeologist who has provided a conditional response to the application, requesting a Written Scheme of Investigation be completed and submitted to the Local Planning Authority for consideration. This recommendation is in part based upon the findings of independent pre-application advice between the Archaeologist and Applicant which considered the potential for evidence of the Viking Great Army within the area. Officers have included this condition within the recommendation.

Officers have also consulted Historic England on the proposals who defer in their response to archaeology and conservation specialists. Having regard for the proximity of the site to heritage assets and that none are contained within the site itself, Officers have reviewed the guidance within the NPPF. The NPPF advises that harm to a heritage asset or its setting should be weighted against the public benefits of the scheme.

The Listed Buildings in proximity to the site are some distance from the site and any impacts that may arise to the settings of these are considered to be reduced by the surrounding topography that largely forms a visual barrier meaning that intervisibility from and to the site / asset is extremely limited or not present depending upon the asset's location. The development within the setting of the Bretby Conservation Area, is considered within the Heritage Assessment which confirms the defining characteristics of the conservation which contribute to its significance as the *architectural / artistic interest of the Conservation Area is embodied in the visual appearance and architectural style of the buildings situated within the area*. The Heritage Assessment also sets out that *The intervening topography results in no intervisibility between the significant area of the Conservation Area and the Site.* It concludes the development would not result in harm to the Conservation Area.

The proposed development is supported by information assessing its' impact upon the setting of heritage assets. In respect of built heritage, no objections are received, and no conditions are requested. The development is considered to accord with the requirements of policy in this regard.

Archaeological conditions are requested and included as set out above and subject to compliance with these the development can be considered to accord with the requirements of the relevant policies in this regard.

Ecology and biodiversity

Biodiversity and the need to protect the natural environment are contained within the environmental objective of the NPPF, this is expanded upon in Section 15 which advises how decisions should conserve and enhance the natural environment by protecting sites of biodiversity value and minimising impacts on, and providing net gains to, biodiversity

Policy BNE3 of the Local Plan set out the LPA's commitment to supporting development that contributes to the protection, enhancement, management and restoration of biodiversity and delivers net gains to biodiversity though the protection of site of importance from inappropriate development within and adjacent to those sites.

The application is supported by a Biodiversity Metric and an Ecological Impact Assessment. The conclusions of the Ecological Impact Assessment (EcIA) set out that the development can be undertaken successfully suitable to mitigation and pre commencement conditions and surveys for Bager due to the highly mobile nature of the species and to ensure their protection. Enhancements proposed have been designed to provide commuting and foraging opportunities across the site with mammal gaps in the hedgerows and landscaping to include species attractive to local wildlife.

The DWT comments identify the site will achieve more than 200% net gain to habitats and more than 100% gain to hedgerows exceeding the mandatory requirement. The application is considered to accord with policy in this respect and gain above 10% is considered in the balance as a benefit of the scheme.

Trees and Landscaping

The NPPF sets out the importance of trees within development, the contribution made by trees to the quality of the environment is recognised in paragraph 136 of the NPPF

which requires planning decisions seek to incorporate tress into development and include necessary measures to ensure the longevity of newly planted trees.

Policy BNE7 of Local Plan part 2 discusses the requirements for development affecting trees, woodland and, or hedgerows. Of relevance to this application, the policy sets out that where development could affect trees and hedgerows that have amenity, ecological, landscape or historic value development will be expected to demonstrate the development is informed by relevant surveys and that appropriate tree and root protection measures are taken. Part D of the policy sets out that where new planting is proposed consideration should be given to species in keeping with the character of the area.

The application proposes the retention of trees within the site, it is supported by a landscape strategy which shows additional tree planting across the site with large groupings at the southeast and north west corners, seeking to provide landscape screening at visual receptors. Through the planning process officers have sought amendments to include a greater amount of planting around the DNO substation to helps screen this from view.

At present the landscape strategy does not include full specification or size of the proposed species, and it is thought appropriate therefore to condition this to enable a degree of mature planting to be included to aid with screening of the development in the earlier years and support maturity earlier than otherwise might be achieved.

Conclusions and planning balance

The NPPF states that there are three dimensions to sustainable development, namely economic, social and environmental and that these should be considered collectively and weighed in the balance when assessing the suitability of development proposals.

The development proposed will undoubtedly have a visual impact of varying degrees upon the surrounding landscape this is assessed within the LVIA which has been updated to provide additional information during the consideration of the application. However, the landscaping details submitted and secured by condition are considered to mitigate the impacts and the residual impacts are therefore afforded moderate weight in the balance.

The temporary loss of best and most versatile agricultural land is afforded moderate weight against the development in the planning balance. The loss will be a generational loss, however it is nonetheless a temporary loss given that the development can be reversed and the land restored to agricultural use. Conditions secure the management of soil during the construction and operation period to support this. The land and soil in this quality would therefore be available for future generations to bring the site back into agricultural use.

Some economic benefits will be delivered through the construction and operation phases in terms of the jobs generated.

Environmentally the proposed development delivers low carbon and renewable energy, thus helping to reduce emissions from the production and use of non-renewable sources. This is afforded significant weight in the planning balance.

In terms of biodiversity and protected and priority species the development is achievable without having detrimental impact to species and providing a substantial net gain to biodiversity above the mandatory requirement, the substantial gain is afforded significant weight in the planning balance.

The benefits of the scheme are considered to outweigh the harms arising from the development and it is recommended for approval subject to the conditions as set out below.

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

Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

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

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

2. The development hereby permitted shall be carried out in complete accordance with the plans referenced below:

   Site Layout Planning, C0002461_01, Rev. L, 13/11/2023
   Typical Section Through Array, C0002461_05, Rev C, Dated 25/07/2024
   Typical Building Plans & Elevations, C0002461_04, Rev. B, 25/07/2024
   Typical Fence Detail, C0002461_06, Rev. B, 25/07/2024

   Visibility Splay at Site Access, 2209013-02, Rev. P03
   Landscape Strategy, 1396_100, Rev I, Newton Solney Solar Farm, dated 24.04.2024

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

   Reason: In order to ensure a high quality and sustainable development in accordance with the requirements of Policy BNE1, Policy BNE3, Policy BNE4, Policy SD1, Policy INF2 and Policy BNE7 of the South Derbyshire Local Plan and the National Planning Policy Framework.

3. This is a Temporary Planning Permission and shall expire no later than 40 years from the date of the first generation of electricity from the development ("The Expiry Date"), or within six months of either of the following events whichever is the sooner,

   i. the cessation of electricity generation by the solar PV facility; or
   ii. any permanent cessation of construction works for a period of 6 months or longer, prior to the solar PV facility coming into operational use, and for the purposes of this condition 3 the date of the events in 3.i and 3.ii shall be known as the "Termination Date".

   iii. The solar PV panels, frames, inverter modules, substations, and all associated structures and apparatus and buildings (including but not limited to for any underground apparatus installations and cables) and fencing approved shall be dismantled and removed from the site in accordance with the schemes approved by this Permission and the Site shall be restored to exclusive Agricultural Use.

   The developer shall notify the Local Planning Authority in writing no later than five working days following electricity generation.

   iv. The site shall subsequently be restored in accordance with an appropriate scheme and timescale, the details of which shall be first submitted to and approved in writing by the Local Planning Authority no later than three months before the Expiry Date or within 3 months of the Termination Date. (Note: for the purposes of this condition, a permanent cessation shall be taken as a period of at least 3 months where no development has been carried out to any substantial extent anywhere on the site).

   Reason: In accordance with the applicants stated intentions and in order to ensure that this is a temporary planning permission and to secure the satisfactory restoration of the site, in accordance with the requirements of Policy S1, Policy S2, Policy BNE1 and Policy BNE4 of the South Derbyshire Local Plan and the National Planning Policy Framework.

4. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:
   i. SLR Consulting Limited. (02/08/2024). Flood Risk Assessment and Surface Water Drainage Strategy. Ref: 402.064306.00001. Revision 2.
   ii. Anesco. (07/11/2024). Site Layout Planning. Ref: C0002461_01. Revision L.
   iii. SLR Consulting Limited. (18/12/2024). Planning Application Consultation Response. Ref: 402.064306.00001 including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team"
   iv. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015),

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

   Reason: In order to ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided to the Local Planning Authority, in advance of full planning consent being granted in accordance with the requirements of Policy SD3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

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

   Reason: In order to ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development in accordance with the requirements of Policy SD3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

6. Before the development hereby approved is commenced, including any site clearance or preparatory works, a soil management plan shall be submitted to and approved by the Local Planning Authority. The plan shall demonstrate the following as a minimum:
   i. How damage to soil horizons and ground cover will be mitigated and remediated during and after construction and for future decommissioning. Soil infiltration rates can vary widely depending on ground conditions such as soil compaction and ground cover.
   ii. How soils will be protected and where necessary, stored and managed on the site during construction, and during the life of the development

   The development shall be carried out and maintained for its' lifetime in accordance with the approved details.

   Reason: In order to ensure that the properties of the soil profile remain as close as is reasonably practicable to pre-development conditions, damage is mitigated and remediated and the ability of the soil to infiltrate is not diminished in accordance and to ensure the preservation of the existing soil quality for future agricultural use in accordance with the requirements of Policy S2 and Policy BNE4 with the requirements of Policy SD3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

7. Before the development hereby approved is commenced a security scheme to reflect the comments of the Derbyshire Constabulary Dated 05th September 2024 to include 24 hour monitored intruder detection devices and CCTV coverage shall be submitted to an approved in writing by the Local Planning Authority.

   Reason: In accordance with the requirements of Policy BNE1 of the South Derbyshire Local Plan and the National Planning policy Framework.

8. No works shall commence on the site until a temporary Traffic Regulation Order for the following has been secured:
   • To make Newton Lane one way southbound for the duration of the construction works.
   • Provide temporary parking restrictions at the junction between Newton Lane and Newton Road.
   Any diversion route for traffic required for the temporary Traffic Regulation Order will be approved as part of the TRO.

   Reason: In the interests of Highway Safety in accordance with the requirements of Policy S6 of the South Derbyshire Local Plan and the National Planning Policy Framework.

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

   Reason: In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development in accordance with the requirements of Policy S6 and Policy INF2 of the South Derbyshire Local Plan and the National Planning Policy Framework.

10. No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the local planning authority in writing, and until any pre-start element of the approved Written Scheme of Investigation has been completed to the written satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and
    1. The programme and methodology of site investigation and recording
    2. The programme for post investigation assessment
    3. Provision to be made for analysis of the site investigation and recording
    4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
    5. Provision to be made for archive deposition of the analysis and records of the site investigation
    6. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation"

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

    c) The development shall not be brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under condition (a) and the provision to be made for publication and dissemination of results and archive deposition has been secured.

    Reason: In order to enable potential archaeological remains and features to be adequately recorded, in the interests of the cultural heritage of the District, recognising that initial preparatory works could have unacceptable impacts in accordance with the requirements of Policy BNE2 of the South Derbyshire Local Plan and the National Planning Policy Framework.

11. No development shall take place (including demolition, ground works, vegetation clearance and movement of plant, machinery and materials) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following. a) Risk assessment of potentially damaging construction activities. b) Identification of “biodiversity protection zones”. c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction. d) The location and timing of sensitive works to avoid harm to biodiversity features. e) The times during construction when specialist ecologists need to be present on site to oversee works. f) Responsible persons and lines of communication. g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person. h) Use of protective fences, exclusion barriers and warning signs. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

    Reason: In order to ensure that protected and priority species and habitats are adequately safeguarded in accordance with the requirements of BNE3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

12. A Habitat Management and Monitoring Plan (HMMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. This shall identify the habitats to be retained, created and / or enhanced on the site and specify the appropriate management prescriptions to secure the predicted condition targets, as per the approved biodiversity metric for the application. The HMMP shall also set out a monitoring schedule to ensure targets are met and remedial actions to take if not. Guidance on producing a HMMP can be found here: https://www.gov.uk/guidance/creating-a-habitat-management-and-monitoring-plan-forbiodiversity-net-gain

    Reason: For the avoidance of doubt, in accordance with the applicant's stated intentions and in order to deliver a net gain to biodiversity in accordance with the requirements of Policy BNE3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

13. Prior to building works commencing above foundation level, a Species Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. Approved measures shall be implemented in full and maintained thereafter. The Plan shall clearly show positions, specifications and numbers of features, which will include (but are not limited to) the following:
    i. tree-mounted bat and bird boxes along the perimeter of the site (mature trees within hedgerows).
    ii. fencing gaps for mammals and brown hare.
    iii. habitat piles

    Reason: In order to provide species enhancements in accordance with the requirements of Policy BNE3 and the National Planning Policy Framework.

14. Prior to the commencement of development, including preparatory site clearance, a detailed badger survey for any recently excavated badger setts on the site or within 30 metres of the site boundary shall be undertaken. The results and any appropriate mitigation/licensing requirements shall be submitted to the Local Planning Authority for approval. Such approved measures must be implemented in full.

    Reason: In order to safeguard protected species in and around the site in accordance with the requirements of Policy BNE3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

15. Notwithstanding the submitted information and before the development hereby approved is commenced a full specification for Tree Planting shall be submitted to and approved in writing by the Local Planning Authority. This shall include:

    i. Species as included within the Landscape Strategy, Rev I,

ii. Proposed timing of planting to include advance planting no later than the first planting season following the commencement of development
iii. Quantum, size and maturity of species
iv. a comprehensive management and maintenance plan

Reason: In order to provide sufficient planting and landscaping and achieve a high-quality development in accordance with the requirements of Policy BNE1, Policy BNE4 and BNE7 of the South Derbyshire Local Plan, the Trees and Development Supplementary Planning Document and the National Planning Policy Framework.

16. Notwithstanding the submitted details, prior to their incorporation into the development full detailed plans including the proposed dimensions, materials and finish, including colour of the solar panels, frames, inverters, substations, DNO substation, equipment and enclosures, including boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The Development shall be provided in accordance with the approved details and retained as such for the lifetime of the proposed development.

    Reason: In order to ensure a high-quality development and minimise the impact on the character of the surrounding area in accordance with the requirements of Policy BNE1 and policy BNE4 of the South Derbyshire Local Plan and the National Planning Policy Framework

17. Within one month of the commencement of development a public right of way signage plan for the operational period of the development shall be submitted to and approved in writing by the Local Planning Authority. The signage shall thereafter be maintained for the lifetime of the development in the approved locations.

    Reason: In order to prevent conflict between site traffic and users of the public right of way and in the interests of highway safety in accordance with the requirements of Policy S6 and INF2 of the South Derbyshire Local Plan and the National Planning Policy Framework.

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

    Reason: In order to safeguard protected and priority species from undue disturbance and impacts, noting that initial preparatory works could have unacceptable impacts; and in order to secure an overall biodiversity gain in accordance with the requirements of Policy BNE3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

19. Except in an emergency, no site clearance, construction, or site works shall take place other than from 08:00 to 18:00 Mondays to Fridays, and from 08:00 to 13:00 hours on Saturdays. There shall be no such activities whatsoever on Sundays, public holidays and bank holidays

    Reason: For the avoidance of doubt and in accordance with the applicant's stated intentions and in order to safeguard residential amenity in accordance with the requirements of Policy SD1 of the Local Plan Part 1 and the National Planning Policy Framework.

20. No external lighting shall be provided within the application site, without the prior written permission, on application, of the Local Planning Authority.

    Reason: In order to ensure that protected and priority species and habitats are adequately safeguarded and any disturbance is prevented in accordance with the requirements of BNE3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

21. Within one month of their incorporation into the site a statement of good practice including photographs detailing the installation of species enhancement measures pursuant to condition 13 be submitted to

the local planning authority, demonstrating that the enhancements have been selected and installed in accordance with the requirements of the condition.

Reason: In order to provide species enhancements in accordance with the requirements of Policy BNE3 and the National Planning Policy Framework.

Informatives:

a. You are advised that a Traffic Regulation Order (TRO) is required. You must submit a plan to scale of an indicative scheme for a TRO, along with timescales for commencement and completion of the development. Please be aware that the statutory TRO process is not straightforward; involving advertisement and consultation of the proposals.
You should expect a minimum of six months to elapse between the Highway Authority's TRO Team confirming that it has all the information necessary to enable it to proceed and the TRO being advertised. You will not be permitted to implement the TRO measures until the TRO has been sealed, and we cannot always guarantee the outcome of the process.
We cannot begin the TRO process until the appropriate fee has been received. To arrange for a TRO to be processed contact the Highway Authority's Implementation Team at development.implementation@derbyshire.gov.uk.
The cost of implementing any lining, signing or resurfacing required by the TRO is separate to the TRO fees, which solely cover the administration required to prepare, consult, amend and seal the TRO.

b. The applicant's attention is drawn to the procedures for crane and tall equipment notifications, please see: https://www.caa.co.uk/Commercial-industry/Airspace/Event-and-obstacle-notification/Crane-notification/

c. The applicants attention is drawn to the comments of the Lead Local Flood Authority in their response dated 23rd January 2025 and advised that they should have due regard for these and any timing or additional works that may be required.

d. Biodiversity Net Gain

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition (the biodiversity gain condition) that development may not begin unless:

(a) a Biodiversity Gain Plan has been submitted to the planning authority, and

(b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be South Derbyshire District Council.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements listed below are considered to apply.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

e. The applicants attention is drawn to the legal requirements for Public Rights of Way which are referenced within consultee comments from Derbyshire County Council and the Ramblers Association they are advised to contact the County Council PROW Team should they have any queries in this regard. Of particular importance:

- The footpath must remain open, unobstructed and on its legal alignment.
- There should be no disturbance to the path surface without prior authorisation from the Rights of Way Section.

- Consideration should be given to the safety of members of the public using the path during and after the works. A temporary closure of paths will be permitted on application to DCC where the path(s) remain unaffected on completion of the development.
- There should be no encroachment of the path, and no fencing should be installed without consulting the Rights of Way section

f. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. Further information is also available on The Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority. Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com.

18/02/2025

Item No. **1.4**

Ref. No. **DMPA/2024/0635**

Valid date: 15/05/2024

Applicant: Dove Valley Park Limited **Agent:** IMA Architects

Proposal: **Erection of 4no buildings in B2/B8 and ancillary E(g) uses, associated infrastructure, service yards, landscaping and a structural landscape buffer at land to the east of Dove Valley Park and the erection of an innovation centre in sui generis use at Plot 2 within Dove Valley Park Land to the east of Dove Valley Park, Park Avenue, Foston, Derby**

Ward: **Hilton**

Reason for committee determination

Reason for committee

The application is reported to planning committee for the following reasons:

- At the request of Councillor Andrew as local concern has been expressed about a particular issue, specifically, lack of compliance with Policy E7 in relation to visual intrusion and noise concerns.
- The application is for a major development and has received more than four objections from members of the public

Executive summary

The application is received in full for the development of land to the east of Dove Valley Park to comprise 4 commercial units in class B2 (Light Industrial) and B8 (Storage and Distribution) with ancillary Eg (Office) uses. Within Dove Valley Park the application proposes the development of an Innovation Centre (sui generis) to support training and apprenticeships working with the businesses on Dove Valley Park and offer incubator and additional project spaces to a variety of businesses.

Objections have been received in relation to the location of the development, which is within the rural area and the impact of the development in amenity and landscape visual terms as well as concerns relating to the impact on the surrounding road network.

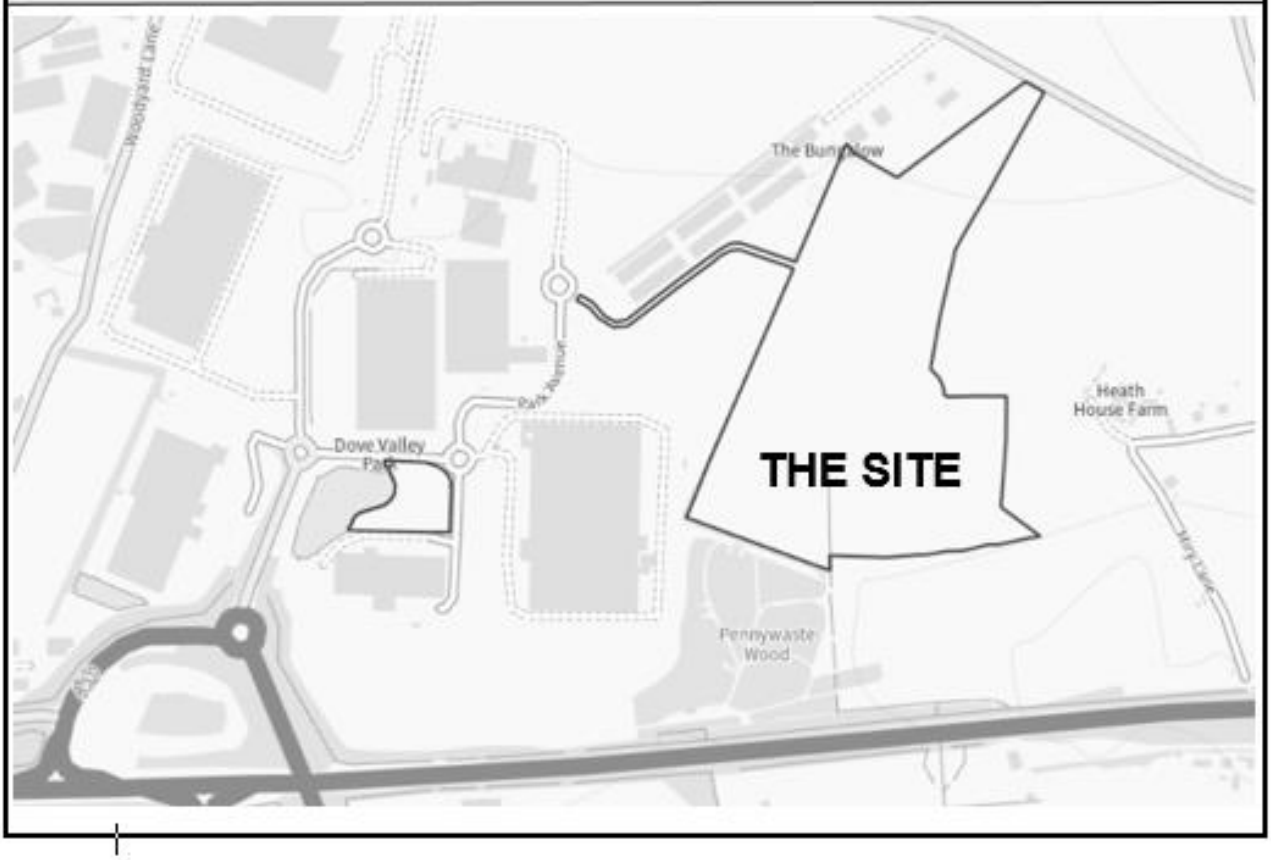
The scheme is assessed, in accordance with guidance within the National Planning Policy Framework, to present economic benefits which should be afforded significant weight. There are further benefits, and indeed harm arising from the proposals, however none are considered to outweigh the economic benefits, having particular regard to the absence of any objections from statutory consultees or experts.

On this basis Officers consider, subject to the necessary legal agreements and conditions the application is suitable for approval.

Site Description

The application site is comprised of two areas of land, one within the existing Dove Valley Park area and associated allocation and the other to the east of the existing site and allocation. The site within Dove Valley Park lies immediately south of Park Avenue and east of Packenham Boulevard, which is the main entrance to the site from the surrounding road network, between this and the site lies an existing balancing pond. This site benefits from previous approval for the development of an industrial unit extending to around 2,235m square for development of a commercial unit. Spatially this site is at the centre of Dove Valley Park. It extends to around 0.7ha and is proposed for the site of the innovation centre. This site lies wholly within the Parish of Foston and Scropton and Hilton Ward.

DMPA/2024/0635 – Land to the east of Dove Valley Park, Park Avenue, Foston, Derby



The second site area lies to the north and east of this site and the surrounding existing development and proposes a connection off an existing roundabout on Park Avenue to provide access. It is an irregular parcel of land extending to just over 14hectares. The site is bound to its western periphery by the existing units and infrastructure associated with Dove Valley Park. To the south lies Penny Waste Woodland which is a Local Wildlife Site and subject to a Tree Preservation Order which extends into the site. To the northwest lies commercial units set on the former air strip and accessed off an unnamed road that connects Bent Lane and Woodyard Lane, to the east of the site lie agricultural fields and a small cluster of residences and further single residences beyond these. Beyond the immediate site confines the A5 runs parallel to the southern periphery of the site. The site is currently in agricultural use with more than 80% falling into class 3a or 2 and therefore considered to be Best and Most Versatile (BMV) agricultural land. There are hedgerow and typical field boundaries within and at the peripheries of the site and a number of trees are interspersed across these boundaries. The site lies wholly within Flood Zone 1 The site lies predominantly in the Parish of Foston and Scropton with the northern section lying within Church Broughton and Hilton Ward.

The wider Dove Valley Park Estate is located immediately north of the A50 which forms part of the Strategic Road Network and existing units on site include a range of manufacturing, logistics and food manufacturing and distribution businesses. The site benefits from a layout providing vehicular and pedestrian access off the main entrance to the park and an internal layout consistent with that of a large industrial estate.

Settlement boundary	Outside	Flood zone	1
Neighbourhood Plan Area		Green belt	No
Conservation area	No	Listed building	No
River Mease SAC Zone of Influence	No	Allocated site	No
Tree preservation order	Partial	Coal Mining risk	Low
Agricultural Land Classification	>80% BMV	National Forest Area	Not within
Great Crested Newt risk zone			

The proposal

Industrial and commercial units & the Innovation Centre

The application proposes the erection of 4 sheds with plot 11, to the east of the existing development and the erection of an innovation centre on and existing plot more centrally located within Dove Valley Park between existing units.

The Plot 11 site is proposed to contain 4 units in use classes B2 (general industrial) or B8 (storage and distribution) with ancillary E(g) (office) use. The supporting information indicates that the units could operate on a 24-hour basis without detriment to amenity of residential dwellings beyond the site. Of the total site area around 2.21 hectares of *structural landscaping* is proposed, this lies predominantly to the eastern periphery and comprises a landscape bund and structural planting to this area. This is the area closest to residential development and the landscaping located here serves to provide a buffer. It is proposed that a new public footpath would run through this area of the site and connect Pennywaste Woodland with the unnamed road to the north of Dove Valley Park. The image below shows the landscape area in green with the proposed path in a dashed yellow line.

The table below summarises the size of the proposed buildings, their loading and car parking provisions:

Unit	Dimensions	Footprint	Maximum height	Loading bays	Car parking
11a	80m by 30m	2400m²	15	3	21 with additional motorcycle and cycle parking
11b	131m by 75m	9845m²	17.5	10	88 with additional motorcycle and cycle parking
11c	261m by 125m	32733m²	21m	34	253 with additional motorcycle and cycle parking

11d	97m by 50m	4912m²	17.5m	7	44 with additional motorcycle and cycle parking
Innovation centre	Rear elevation - 48m North Side elevations 20m South side elevation 17.5m Front elevation - 38m	719m²		0	27 car parking spaces and one coach space

Public Transport Infrastructure

The application proposes to site a bus stop and bus turning facility within the plot 11 area at the head of the main entrance road into plot 11. The developer proposes to fund for an initial period of 18 months a bus route from Derby through to Dove Valley Park as part of this application.

Landscaping

To the eastern part of the site circa 2.7 ha will be used for structural landscaping including a visual bund ranging in height from around 1.5m to 5.5m from the surrounding ground level. The bund will be a landscape bund and tree planting is proposed on top of the bund to further help screen the proposed plot 11 units from views from the east outside the site. Within the landscape area it is proposed to have various types of planting including woodland, meadow, shrub, tree and plants.

Applicant's supporting information

Agricultural Quality Report, land of Woodhouse Lane Church Broughton, report number 2308/01, dated 15th April 2024

The Agricultural Quality report provides a summary that the agricultural land quality survey has been undertaken of 15.4 ha of land and has found the land to have variable soils and drainage and is formed of a mixture of subgrades 3a (B&MV) and 3b (not B&MV). it confirms the field layout that comprises the site and the surrounding development and that the site is formerly part of the World War II RAF Church Broughton airfield. It stated the surveys were taken out in April 2024 and that the main soil types were: *Natural Fine Loamy Soils*; *Disturbed Soils* and *Gravel Soils* a description of the soil types encountered is provided. It sets out the survey has been used in conjunction with the agro-climatic data to classify the site. It summarises 12.3ha of the surveyed area (80%) to be grade 3a; 2.9ha (19%) to be grade 3b; the remaining 0.2ha (1%) is other land, which is non-agricultural wooded areas.

Arboricultural Impact Assessment, Method Statement and Tree Protection Plan, Dove Valley Park - Plot 11, reference RSE_7665_R2_V4_ARB, dated April 2024

The Arboricultural Impact Assessment (AIA) provides an overview of the trees on site in terms of their status and category according to the relevant British Standard, the constraints these present to the proposed development, the extent of tree retention and the removal necessary to facilitate the proposed development. The AIA includes an overview of the purpose and scope of the report the relevant regulatory and policy framework and an overview of the site context, the survey methodology, limitations and findings. The results notes that the south boundary of the site is subject to tree preservation order TPO 44 and therefore statutorily protected.

The results further confirm assessment of 56 individual trees, 11 tree groups, a woodland section and a hedgerow. Summarising the Arboricultural characteristics the report states '*There was a moderate amount of tree cover on the site with the highest value and largest areas of tree cover towards the southern boundary*'. The findings within a table (pg. 11), categorise the tree quality as below: Category A - 2 individual trees and 1 woodland; Category B: 27 individual trees and 3 groups of trees; Category C 28 individual trees, 8 groups of trees and 1 hedgerow; Category U: 2 individual trees.

In terms of the Arboricultural Impact of the development the assessment sets out that the arboricultural constraints of the site have been used to inform the proposed site layout design and that where possible trees in Category A and B are retained and integrated into the proposals. Advice on the root protection of trees within and adjacent the site is offered. The AIA proposes that 2 category U trees are present, one requiring removal and the other identified as being retained as a habitat snag after

removal of deadwood and handing deadwood, subject to its location away from proposals and public access. T19 is a category U tree proposed for removal as it is dead, it lies to the south of the site within TPO 44 (noted above) and co-located with 8 category B trees which are all required to be removed to facilitate the development and G9, a category B group which requires partial removal to facilitate the development. The report sets out tree protection methods for the construction period and precautionary recommendations including a 2 stage visit for site monitoring purposes as well as potential necessary further arboricultural visits and post development soil remediation. The report briefly discusses the translocation proposed for T18 a Category A Oak tree, a separate report on this is summarised below. Recommendations for tree planting and after care are also proposed. A full schedule of surveyed trees, a Tree Constraints Plan and Tree Protection Plan comprise the appendices.

Design and Access Statement, prepared by IMA Architects on Behalf of Dove Valley Park Limited, dated February 2024, revision F

The Design and Access Statement (D&AS) provides an overview of the application site both in terms of the wider context, the existing built and natural environment features and the employment, economic and planning contexts for the development. It sets out the policy context within which it considers the proposals should be considered and the consultation that has been undertake with 2 local Parish Councils and Burton and South Derbyshire College.

The Design Concept is stated to include wider site enhancement proposals including the site wide improvements of pedestrian footpaths through landscaping, maintenance, clearance and planting, countryside routes through the proposed structural landscaping to connect Heath Top and Pennywaste wood. The provision of a new bus route connecting Derby and the surrounding areas to DVP and a stop and turning are within the [plot 11] site to serve this. The innovation centre, offsite woodland husbandry area in Pennywaste Woodland, the provision of double yellow lines to all estate roads, the D&AS states that the benefits will be secured via condition or S106 obligations.

The D&AS submits that the site of DVP is an important strategic location that is identified within the local plan and enables the District to take advantage of identified demand for employment development. It sets out the Innovation Centre (IC) will provide a central hub for meetings flexible office accommodation and catering facilities, and it will do so in collaboration with Burton and South Derbyshire College the development of the IC will be funded by Clowes with running and maintenance managed through the DVP management company. In respect of the units to the east of DVP (11a - 11d) these are stated to be developable without detrimental effects on the amenity of the area by noise

Education Intent Offer, prepared by Burton and South Derbyshire College.

The document provides an overview of BDSC and their strong and successful history of collaboration locally, regionally, nationally and internationally to support business training and development needs across various technical and professional disciplines. It provides the example of the current Toyota UK manufacturing apprenticeship at Burnaston which provides annually around 250 engineering and manufacturing apprenticeships in a purpose built, on-site development centre. It sets out that BSDC as a nationally rated Outstanding provider with Ofsted that outperforms competitors by around 15%. It further notes the colleges skills promise which supports circa 95% of students to sustained positive destinations (employment).

It progresses to set out the Education Offer for the DVP Innovation Centre to include 4 training and development aspects to service the locality and regional training and development needs. The first is the apprenticeship offer which it states would seek to provide a learning hub for apprenticeship training and supporting DVP and regional businesses to deliver necessary skills, knowledge and behaviour training to blend the on and off the job training with onsite single locality and consider opportunities for 50 - 100 apprenticeships annually across a wide range of Apprenticeship Standards, with significant proportions, residing within South Derbyshire conurbations, and/or those within reasonable travel to learn distances, boosting regional skills, employment, and prosperity. The second is Workplace SWAPs (Sector-based Work Academy Programmes): BSDC would seek to provide an on-demand sector-based work academy to support the regional business recruitment needs when attempting to scale workforces. These funded initiatives help unemployed individuals gain the skills and experience to improve their chances of finding work. The third is skills bootcamps that would provide on demand sector-based skills bootcamps which are funded, intensive short term training programmes that are designed to equip attendees with specific skills in a shorter training period. The final is adult learning programmes which are available to support regional businesses and community learning for South

Derbyshire residents.

The document sets out that a significant proportion of apprentices taking up apprenticeships are residing in South Derbyshire and surrounding areas, and this serves to boost regional skills, employment and prosperity. They further note that the adult learning programmes would be open to the rural communities in the district. An indicative timetable is provided within the document.

Market overview for Dove Valley Park, prepared by Cushman and Wakefield, dated 19/08/2024
The overview provides detail of the economic landscape, focusing on the Derby and South Derbyshire District. It highlights the historical employment trends, population growth projections, and the demand for industrial and business land in the area. The statement emphasizes the significance of employment land and the challenges hindering its accessibility to potential investors. It also discusses the impact of market challenges on the UK Industrial & Logistics Property market and the positive demand for industrial/logistics accommodation across the UK. Additionally, the document addresses the economic position of Derbyshire, its contribution to the national economy, and the focus on creating better-paid jobs and opportunities.
It details potential occupiers that could fill units on the expanded Dove Valley Park citing their type of business and needs in terms of the building. These are noted to be a Pharmaceutical distribution business, an online retailer, a local manufacturer and a builders merchant.
Furthermore, the statement delves into the employment context, citing data from the Derby and South Derbyshire Employment Land Review and the downward trend in employment rates over the last five years. It also outlines the population growth projections and the demand for industrial and business land in South Derbyshire. It highlights the need for sustainable employment activities and the support for proposals that diversify and expand the range of sustainable employment activities in the district.

Ecological Impact Assessment, reference: RSE_5833_R2_V1_LECIA, dated 06/04/2024
The Ecological Impact Assessment (EIA) provides a summary of ecological features of the site and nearby designated sites including Pennywaste Woods, Local Wildlife Site, and the SSSI at Hilton Gravel Pits (noting the proposals do not require consultation with Natural England). They confirm the site is comprised of short managed species poor grassland with hedgerows, line of trees, bare ground and ditches. The EIA scope within the report is stated to be to assess the potential for protected species and habitats to be present on the site of land at Plot 11 of Dove Valley Park. It further confirms this was undertaken using the following:

- Desk based assessment.
- Extended Phase 1 habitat survey
- protected species assessments.

These were based upon the findings of the Preliminary Ecological Appraisal (PEA). The report confirms its aims to:

- Classify habitat types at the site based on the UK habitat Classification methodology.
- Evaluate potential for presence of protected species.
- identify ecological constraints that may affect the scheme design.
- provide recommendations for further actions required.
- Identify likely significant effects on the ecological receptors.
- Assess if the proposals are compliant with legislation and policy on biodiversity.
- identify opportunities for ecological enhancement to provide a net gain to biodiversity in line with the NPPF.

In respect of habitats, with the exception of a group of trees within the site considered to be ecologically valuable which the EIA states will not be removed, 5.2 of the report states that the grassland removal required to facilitate the proposals is not considered to present a significant ecological impact, owing to the overall low value and context of the site. In respect of protected species, the assessment concluded that the site was of negligible value for Great Crested Newt / terrestrial phase amphibians. For bats the site was considered to offer low quality foraging and commuting habitats, notwithstanding this the survey, in recognition of potential use of the linear features at the sites periphery makes recommendations for bat sensitive lighting, the report noted the presence of features suitable for bird nesting and recommends works to take place only outside bird nesting season (March - September inclusive). The site was assessed as being unsuitable for reptiles; water vole, otters and white clawed

crayfish and no mitigation has been recommended for these species. Similarly, no evidence of badgers was identified though the report acknowledges the surrounding hedgerow and scrub provide opportunity for Sett building and a residual chance for other terrestrial mammals to forage and commute within the site. On this basis the report advises precautionary measures.

Flood Risk Assessment and Drainage Strategy MA11840/FRA/R03, dated 17th April 2024
The Flood Risk Assessment sets out the site location and the scope of the report which is confirmed to assess Plot 11 as a greenfield site and discusses Plot 2, noting the full planning permission (DMPA/2022/0566). The report notes the presence of an existing ditch across the site which flows into Pennywaste Wood and pipe inlets which it asserts are likely to have drained part of the historic airfield surface. The assessment confirms the location of the site within flood zone 1 and the flood risk vulnerability classification as 'Less vulnerable' and highlight that, on the basis of this, the exception test is not required and that the sequential test need not be applied by virtue of the location in the lowest area of flood zone. Flood risk from various potential sources is assessed within section 6 of the report and in all instances the assessed risk is considered to be low.

In respect of foul water flows, the FRA includes details of the proposed connection to the existing mains sewer within Park Avenue and the proposed flow rate. The foul drainage strategy sets out that a gravity connection to the existing network is not possible due to the layout and topography of the site and on this basis a foul pumping station will be required and will be located roughly centrally within the site to the northern side of plot 11d. This will pump the gravity flows from site 11 via a rising main into the adjacent development to connect to the foul sewer within plot 3.

The surface water drainage strategy sets out that by virtue of the greenfield nature the drainage system will be designed to restrict flows to equivalent greenfield runoff rates, which is assessed to be 4.7l per second per hectare. The strategy sets out that the site is not suitable for infiltration and as such the sustainable drainage strategy will discharge to an existing watercourse that takes flows into the Pennywaste Woodland area. Prior to discharge to this watercourse the system will channel surface water from hard surfaced parking and servicing areas via petrol and oil interceptors into an attenuation pond, flows from the roof structures will also pass to this pond albeit through a separate pipe network. The pond will receive all flows and will form a treatment train for the surface water flows as low flows will flow through the pond area removing the silts and hydrocarbons into the grass and vegetated base of the pond. Downstream a flow control will restrict the discharge to the necessary run off rate to a small open swale capable of accommodating the flows and forming the second stage of treatment prior to outfall to the existing watercourse.

Landscape Visual Impact Assessment, Plot 11 Dove Valley Park, Report No: 24.1860.R1C dated 12/08/2024
The appraisal focuses on the proposed Plot 11 development lying to the east of the existing Dove Valley Park allocation. It encompasses various elements such as landscape survey work, potential visual receptors, construction effects, residual effects, and the significance of the effect.

The conclusions drawn from the appraisal indicate that the proposed development is expected to have a minimal to negligible impact on the landscape. The assessment takes into account factors such as the position of the development within the landscape, local topography, size of the site, and the extent of the proposed development. It also highlights the use of infrastructure planting to soften the edges of the development and ensure its assimilation into the landscape.

It emphasises that the proposed development does not harm any existing landscape features such as ridge and furrow, hedgerows, trees, woodlands, or significant grassland habitats. It also notes that the development does not affect any designated areas of nature protection, Conservation Areas, Registered Parks and Gardens, or areas of historic interest.

In terms of visual impact, the appraisal suggests that the significance of the visual change will be slight, with negligible impact on visual receptors. It also highlights the use of infrastructure planting to screen both the proposed and existing industrial developments, thereby reducing the visual impact.

Overall, the conclusions drawn from the Landscape & Visual Impact Appraisal indicate that the

proposed development is not expected to have a significant adverse impact on the landscape. The assessment considers various factors and mitigation measures, ultimately leading to the conclusion that the impact on the landscape is minimal and manageable.

This revision includes within the Appendix a number of viewpoints showing the approximate extent of the site within views from various locations within the zones of theoretical visibility. In a number of cases this demonstrates the site visibility within the surrounding context of built development and in others the site within a rural setting.

Noise Assessment (Plot 11A – 11D) Dove Valley Park Ltd, prepared by SLR Consulting, SLR Project no: 403.065173.00001, Revision: 04, dated 06/08/2024

The assessment describes the surrounding area and built and natural development with relationship to the application site for plot 11. It identifies in figure 2-1 4 nearby Noise Sensitive Receptors (NSR's) as being NSR1 – Rectory Farm on Dark Lane; NSR2 – Heath House Farm on Bent Lane; NSR3 – Residential Dwelling on Miry Lane; NSR4 – Residential Dwelling at The Bungalow. the noise report includes a summary of the standards and methods used in the assessment of noise impacts arising from the proposed development. It provides an overview of the baseline noise environment which was surveyed over a four day period from Friday 03/11/2023 - Monday 06/11/2024 confirming the weather conditions, and equipment used and setting out the baseline noise levels at the monitoring locations during daytime and nighttime on each of the four survey days.

The report progresses to set out the noise sources that will be present in the post development scenario as: HGV movements within the Site; HGV reversing alarms; car movements within the Site to parking spaces and noise from fixed Plant. In section 5 the report provides predicted sound levels at the nearest noise sensitive receptors. It concludes that during all assessed time periods the noise arising from the noise sources of the proposed development is predicted to remain below the background sound levels at all nearby residential dwellings and on this basis the assessment provides a positive indication of a low impact.

Phase 1 Geo-Environmental Assessment, Commercial Land at Plot 11 Dove Valley Park, report ref: GML24123/1/1, dated April 2024

The report reviews the site location and surroundings and previous uses including those associated with the former Church Broughton Airfield and the agricultural use and the risks in the construction and operation of plot 11 for commercial uses. The Phase 1 environmental assessment is stated to be a desk-based study and site assessment undertaken by Geo-Matters Ltd. It discusses the potential for source-pathway-receptor or SPR pollutant scenarios for the site. and sets out the relevant guidance and potential sources of contamination. It identifies *Landfill and potential made ground* as potential onsite sources and *Made ground / airfield / Landfilling* as potential off-site sources*.* It identifies the potential pathways and receptors and makes recommendations and identifies risks for construction and concludes that a full phase II geo-environmental intrusive site investigation including ground gas monitoring should be undertaken to determine specific recommendations for the development.

Transport Assessment, Plot 11 Dove Valley Park, Project no: 22521, dated 26/04/2024

The Transport Assessment (TA) sets out the assessment of the proposed site for plot 11 and how it seeks to determine the relevant highway issues and potential solutions of the development of plot 11. It provides a policy overview of the NPPF and relevant Local Plan Policies and an overview of the wider DVP development and its location. In respect of sustainable transport, the TA sets out that footways with verges are provided along the main accesses into DCP as are dropped kerbs crossing and splitter islands to each of the roundabout arms on-site. It further discusses the various Public Rights of Way (PRoWs) connecting Dove Valley Park to Hatton, via Church Broughton Road. It further confirms the proposed new countryside walkway that will be provided to the eastern boundary of the site to connect PRoW to the south and the existing road to the north of DVP. It provides an overview of the existing bus services and the current ongoing discussions seeking to extend the existing service by providing a turning area within plot 11 and the provision of a new bus service to provide connection to Derby. It further confirms the nearest train station and the existing connection via bus to this station and the opportunity for multi-modal transport to be used for employees travelling via train.

The assessment sets out the existing, proposed and committed development within DVP and the wider area that has been included within analysis of the traffic generation, distribution and assignment for the

purposes of the TA which includes forecast traffic growth to 2028. It sets out that the proposed development is anticipated to generate 201 two-way movements during the AM and PM peak periods. It states that the impact of this level on the standard of the network in the vicinity of the site is considered to be minimal. It sets out the junctions within DVP and on the surrounding network for which capacity analysis has been undertaken and the scenarios which have been assessed together with the suite of modelling programmes used (Junctions 10). All junctions assessed are stated within the TA to *'perform well within capacity, with negligible queues and delays'* in the post development scenarios.

The summary and conclusions of the TA set out that the traffic impacts arising from Plot 11 is minimal, that internal junctions and those on the surrounding road network operate well within capacity in all assessment scenarios. They further confirm that the site layout and loading areas to the individual plots have been tracked using large articulated vehicle and large cars and show these can be accommodated without issue, further tracking has been undertaken to confirm a single deck bus can use the proposed turning facility. The conclusions confirm the proposed new bus service to link DVP to Derby and the linkages to nearby facilities. The conclusions set out the requirements of the NPPF to provide safe and suitable access to the site for all users and to promote sustainable transport modes and states that this is complied with. It states that as the development proposes safe access for all users and the provisions of the NPPF only allow for refusal of applications on highways grounds in instances where the proposed development would result in unacceptable impacts upon safety or severe residual impacts upon the road network, the proposals are concluded to accord with transport related policies and should not be resisted on traffic or transport grounds.

Relevant planning history

Plot 2

DMPA/2022/0566 - Full planning application proposing the erection of an employment building (Use Class B8, B2 and Ancillary E(g) at Plot 2 with associated landscaping, drainage, car parking, refuse stores and other infrastructure. **Approve with conditions -** 29/04/2023

Plot 11

No relevant planning history was shown within plot 11.

Responses to consultations and publicity

Natural England - No objection 05/09/2024
Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

East Midlands Airport - No objection 21/08/2024
No objection, request an informative note is attached.

National Highways - No objection 08/08/2024

Subsequent comments: The comments confirm the no objection response is in relation to both plot 2 and plot 11.

Initial comments: National Highways response state they offer no objection to the proposed development. It expands upon this stating that the TA has been reviewed and that the TRICS database indicated the will be 95 2-way journeys in the AM peak hour and 127 in the PM peak hour. They note the TA uses ARCADY to assess the impact on the two roundabouts serving the A50 slip roads and that the 2028 assessment of the junctions operate within capacity and does not change materially as a result of the development - they confirm no objection to the development of plot 11 on this basis. 04/07/2024

Severn Trent Water - No response to consultation received at the time of publication.

Derbyshire Wildlife Trust No objection subject to conditions 23/01/2025
Final comments: DWT confirm the translocation method is acceptable and request that additional

details in this respect are added into the CEMP: Biodiversity condition. They further note that two separate HMMP's, on each for the onsite and off site biodiversity net gain areas will be required, and that the offsite BNG area will also require a legal agreement.

Subsequent comments: Confirm review of additional information, inclusive of the Biodiversity Net Gain Letter Report (Ramm Sanderson, August 2024) and the associated revised Statutory Biodiversity Metric (Ramm Sanderson, August 2024) and have the following comments and recommendations to make.

Biodiversity Net Gain (BNG): Our previous response regarding the BNG for the above application requested the need to address the biodiversity loss as a result of the proposed development. The letter report and revised metric produced by Ramm Sanderson (August 2024) details that an offsetting area located east of Penny Waste Wood Local Wildlife Site (LWS) will be used to address the loss. The land east of Penny Waste Wood LWS comprises ~4.75ha of 'Poor' condition 'modified grassland', 0.018ha of 'Moderate' condition 'modified grassland', 0.9ha of 'Moderate' condition 'other woodland; broadleaved', 0.02ha of 'bramble scrub', 0.01ha of 'Moderate' condition 'mixed scrub' and 0.07ha of 'developed land sealed surface', totalling 5.80ha. Approximately 0.67ha of habitat will be lost to facilitate the creation of 'Good' condition 'other neutral grassland', 'mixed scrub', 'Priority Habitat Ponds' and 'Moderate' condition 'urban trees'.
Approximately 4.16ha of 'Poor' condition 'modified grassland' and 0.018ha of 'Moderate' condition 'modified grassland' will be enhanced to 'Good' condition 'other neutral grassland' via the sowing of a wildflower mix such as Naturescape N5 species-rich Long Season Meadow Mixture (or similar approved). 0.01ha of 'Moderate' condition 'mixed scrub' will be enhanced to 'Good' condition via appropriate management to create clearings / glades and rides.
Two 'Native Hedgerow with trees' are present within the offsetting area. Approximately 0.3km of a 'Poor' condition section of hedgerow will be retained. The remaining hedgerow sections (totalling 0.4km) will be enhanced.
The above implementations are considered to be appropriate and suitable to address the loss. The scheme therefore results in a +48.51% gain in habitat units and +14.84% gain in hedgerow units with trading rules satisfied. The development therefore meets the mandatory +10% net gain target as stipulated by the Environment Act 2021.

It should be noted that the off-site land will need to be secured via a legal agreement with the LPA such as a Section 106. The production of a Gain Plan will be required post-determination to tie together the gains, and a Habitat Management and Monitoring Plan (HMMP) will be required to secure the gains long-term (below).
Roosting Bats – Trees: It is welcomed that letter report highlights that no trees with bat roosting potential will be cleared to facilitate the development. However, our previous comment relates to the translocation of a medium-sized oak tree within the centre of the application site (T10). The submitted EcIA (Ramm Sanderson, April 2024) does not provide any details regarding the ground level tree assessments undertaken but states that 'Potential roosting features for bats noted' regarding the 38 individual trees. The roosting potential of the oak tree is currently unknown so impacts pertaining to the translocation cannot be assessed. It may be that the tree has 'negligible' bat roosting potential, and that the impacts are therefore minimal, but further clarity regarding this matter would be appreciated.

Subsequent comment - Object / further information required 22/07/2024
Biodiversity - comments note that the post development proposals will result in a net loss to habitat units of 31.81% and a net loss of hedgerow units of 25.49%. They set out that this does not meet the requirement for 10% net gain and as such advise the applicant to reconsider the design of the landscaping proposed to lessen loss, further advising that is on-site net gain can not be achieved that other sites will be required to deliver net gain to biodiversity.
Protected species - comments require a ground level tree assessment (prior to determination) of the impact of the development on roosting bats. Further pre-determination surveys for badger were also requested.

Initial comments - Object - further information required 28/06/2024
Designated sites - comments note the site lies within the multiple impact risk zone for SSSI but that the current proposals are not relevant to the criteria and therefore no negative impacts are proposed.

They further note that the Pennywaste Woods Local Nature Reserve is immediately adjacent the site and that 10m buffer, secures with a DEP for biodiversity and a <BEMP will be required to minimise impacts.
Protected species - in respect of nesting birds, foraging bats, great crested newts reptiles hedgehog and brown hares, the comments review information supplied and request precautionary measures to be included within a Construction Environment Management Plan for Biodiversity, secured via condition of any forthcoming planning approval. In respect of roosting bats, the comments state that further survey work of trees on site is required.
Biodiversity - Further clarification on the biodiversity gain / loss from the site is requested and advice is offered to the applicant in this regard.
In addition to the above conditions are recommended for:

- Construction Environment Management Plan for Biodiversity
- Biodiversity Gain Plan
- Landscape and Biodiversity Enhancement and Management Plan (LBEMP)
- Species Enhancement Plan

Derbyshire County Council

Derbyshire County Council - Archaeology - No objection - 12/11/2024
Subsequent comments: Confirm that the applicant has provided results of a geophysical survey in response to the Archaeologists previous comments. Confirm the survey appears of be of good quality and displays features relating to the WW2 Church Broughton airfield, along with magnetic disturbance relating to a 19th century farm site, and some linear features representing post-medieval field boundaries. They confirm these features are of minimal significance, and there is no evidence of the type of prehistoric features encountered elsewhere in the vicinity. The comments confirm that, on this basis, they feel the site is of low archaeological potential and further archaeological involvement is not required.

Initial comment: Note the site, size and location of the proposed development and confirm entries on the Derbyshire HER for earthwork ridge and furrow (MDR14571) and for the WW2 Church Broughton airfield (MDR2677). The comments set out that the evidence of LiDAR seems that it is unlikely ridge and furrow earthworks still survive, and that the available plots of the former airfields show only dispersal areas within the site boundary.

The comments further note the site is in proximity to known Bronze Age archaeology (Dove Valley Park Plot 10) 380m to the south-west, and cropmark archaeology 150m to the west (MDR2679), with further prehistoric remains including Bronze Age round barrows known from either side of Foston Prison c1.7km to the west (MDR798, MDR800). The Archaeology team state that the landscape around Foston seems to have had significant use in the prehistoric period. For this reason, they consider the proposal should be supported by some form of heritage impact assessment to address the archaeological potential for prehistoric activity based on the evidence of nearby sites, in order to meet the requirements of the NPPF (para 200).

They request a geophysical survey carried out by a recognised archaeological geophysics provider and state that once this information has been made available they should be reconsulted on the development proposals.

Lead Local Flood Authority (LLFA) - No objection subject to condition 10/01/2024
Subsequent comments: No objection subject to the inclusion of prior commencement conditions in relation to:

- Detailed design, management and maintenance plan for the proposed drainage of the site
- A construction surface water management plan

And informative notes as set out in their full comments dated 10/0/2025

Initial comments: The comments state no objection in principle but request the following additional or amended information:

- The FRA should be updated to apply a sensitivity test of 35% for 1 in 30 yea and 40% for 1 in 100-year events for a range of rainfall intensified. the comments note that this calculation will change the volume of storage required and request confirmation that the calculations will be based on the new climate change and the FRA be updated and resubmitted to reflect this.
- Request details of the width of buffer to the swale to allow for maintenance of 3m - 4.5m depending upon the width of the swale
- Details of the management and maintenance of the surface water drainage systems and those parties responsible for such maintenance during the operational lifetime of the development (noted to be acceptable at detailed design stage).
- Assessment of the capacity, condition and wider connectivity for the existing ditch which the development proposes to discharge to be submitted.

Object 07/08/2024

Derbyshire County Council - Local Highway Authority - No objection subject to conditions 12/09/2024
Final comments - awaited at the time of publication.
Subsequent comments: No additional comments and previous comments still apply. 12/09/2024
Initial comments: - No objection subject to conditions 05/07/2024: Comments confirm the County Council have no objections to the proposed development and that based upon their analysis there would not be an unacceptable impact on Highway Safety or a severe impact on congestion. Conditions requested are summarised below:

- Construction management plan
- Secure parking for cycles and motorcycles
- Electric vehicle infrastructure strategy
- Travel plan implementation, review and details.
- implementation of access, parking and turning arrangements.

Further informative notes are requested.

Derbyshire County Council - Public Rights of Way - No objection subject to conditions 11/09/2024
Subsequent comments: Confirm review of the additional plans including those for the proposed Right of Way. Welcome the addition to the network, it improves connectivity from Foston and Scropton FP 9 through to the lane to the north and the landscaping looks to offer a desirable green corridor that is acceptable to the public, connecting to the existing RoW and the highway. All these indicate a positive and welcome addition to the network. Nothing further to add to previous comments 18/06/24.
Initial comments: Confirm that Foston and Scropton Public Footpath No. 9 runs along the south and west edge of the main area of the proposed development site, as shown on the plan. They note the plan for the intended PRoW within the development, shown in image 3.7 of the D &A Statement. Wherever possible ways should be provided which pass through green corridors - landscaped or open space areas away from vehicular traffic. They should be generally acceptable to the public. It is important that new routes which go to the edge of the site join the public rights of way or highway network to avoid access and maintenance problems arising later. From the Masterplan, FP 9 appears to remain within the existing green corridor. The proposed PRoW would also appear to meet these criteria as it passes through a green area, meets FP 9 and exits onto the lane to the north of the site. We would request further communication regarding the details and surfacing at the intended point of intersection with FP 9.

Providing FP 9 remains safeguarded; the Rights of Way Section has no objection to the proposals. Please note FP 9 has a legal width of 2m. Request informatives relating to:
• The footpath must remain open, unobstructed and on its legal alignment.
• There should be no disturbance to the path surface without prior authorisation from the Rights of Way Section.
• Consideration should be given to the safety of members of the public using the path during the works. A temporary closure of paths will be permitted on application to DCC where the path remains unaffected on completion of the development.
• There should be no encroachment of the path, and no fencing should be installed without consulting the Rights of Way section

Comments further confirm that at the date of writing, no applications which affect the site have been received under Section 53 of the Wildlife and Countryside Act 1981.
This information is provided without prejudice to any claimed rights, which might subsequently be proven to exist under Section 53 of the Wildlife and Countryside Act 1981. 18/06/2024.

Peak and Northern Footpaths Society - No objection subject to condition 16/08/2024
Subsequent comments I regret that the complexity of this application, with its very large number of documents, is too great for me to consider in detail. I note that the county council's rights of way officer made a very comprehensive consultation response to the previous application for this site, and I fully endorse all that she wrote. I trust that she will consider this new application in a similar manner, to try to ensure that the enjoyment of the public using the public footpaths crossing and near the site is protected and, where possible, enhanced.

Initial comments: I note that it is proposed to legally dedicate a new public right of way around the site - this should be a condition of the planning permission. I do not have to time to examine the complex array of documents, but I assume that this is in addition to retaining the legal route of Foston and Scropton Footpath 9. If I am mistaken, any change in the nature and location of this path must have the authority of the county council and/or be the subject of a legal order. 18/06/2024

South Derbyshire District Council

Biodiversity Officer – No objection subject to obligations
Subsequent comments: Confirm the monitoring fees necessary in respect of the translocated tree and the offsite biodiversity net gain.
Initial comments: Consider the translocation of the Category A tree would require monitoring for a period of 30 years to determine the success of the translocation.

Economic Development Manager – No objection
The bus service will also benefit existing businesses and employees on the business park – travel costs (intention to offer free travel) and CO2 savings. Existing businesses have been struggling with skills shortages
The bus will provide access for SD residents on the southern edge of Derby (as well as from the city more generally) to the business park (current bus service links settlements to the south and west)
Expansion of the business park and the number of employees will help to support the existing 401 service (Burton – Uttoxeter). This is currently being financially supported by DCC.
Key to the bus is the 24 hour operation and as a dedicated service the ability to align with the shift patterns of the businesses.
The site has the potential to fill an employment land availability gap in the short term, with some of the District's main employment allocations being dependent on infrastructure investments that are likely to take longer to progress. Or having been purchased by businesses for their own future requirements.
Proposed mix of unit sizes will maximise their appeal to a range of potential occupiers
The green credentials of the buildings.
Innovation Centre will provide a focal point to the business park where business located on the site and more widely in this part of the District can hold meetings, network, host training sessions and events

Environmental Health Officer - No objection subject to conditions - 24/01/2025

Final comments: confirm that following revised Noise Impact Assessment they are content that the condition restricting hours of use of the development can be removed but request all other conditions to remain.

Subsequent comments: Following the amendment, my comments remain the same, see attached. 14/06/2024
Initial comments: Comments of the Environmental Health Officer (EHO) request conditions to safeguard amenity and residential amenity for:

- Days and hours of construction activity
- Contaminated land investigation, remediation and validation

- Full specification of plant / equipment including noise levels and mitigation
- Restrictions on delivery days and hours

Tree Officer - No objection subject to condition 04/02/2024

Final comments: Confirm review of the Plot 11 Arboricultural Impact Assessment, Method Statement and Tree Protection Plan April 2024 and note the presence of a SDDC TPO no 44 W1 1985 consisting of oak, ash and lime woodland is located to the south boundary of the development site. An oak tree T18 was assessed as a BS5837 category A tree, this tree is within the footprint of the new development, and it is proposed to translocate the tree to a new location on site. There is a risk that the translocation of the tree may not be successful, and it is proposed to plant replacement trees in mitigation. Further note 8 moderate quality trees Category B and the part removal of a moderate quality group G9 that are within the woodland TPO will require removal to facilitate the development. 3 low quality category C trees will require removal. To mitigate this loss of trees it is proposed to plant replacement trees to mitigate the loss. 2 trees a dead ash T19 and a storm damaged oak T42 were found to be unsuitable for retention category U.

The root protection areas (RPA) of the retained trees are to be protected with temporary protective fencing erected prior to commencement of construction works on site.

The Arboricultural Method Statement recommends tree works in Table 5. The Tree Officer considered that the proposals for tree removal, translocation and protection are satisfactory and the proposed landscape planting to mitigate the tree losses should be subject to condition.

Initial comments on tree proposed for translocation: Mature tree moving can be undertaken using a rootball, frame and crane method.
Preceding mature tree moving it is advised that root pruning of the tree is undertaken up to 2 years previously. The longer the period of root pruning preparation that can be undertaken, the better chance there is that the mature tree will establish in the new location.
For large mature trees such as the oak T18 an aftercare period of up to 10 years would be required.
There is no precise definition of a veteran tree. There are 3 guiding principles:

- trees of interest biologically, aesthetically, or culturally because of their age.
- trees in the ancient stage of their life.
- trees that are old relative to others of the same species.

The oak T18 has a stem diameter of 76cm and a height of 15.0m. It is an open grown tree with canopy width of 14.0m. The oak T18 is not in the ancient stage of life and is not old in relation to other oak trees. It likely that it has the biodiversity value of a mature tree.
It is my view that the oak T18 is not of a sufficient size and age to be classed as a veteran tree in accordance with SDDC Tree Management Policy 2011 and would not be subject to NPPF (paragraph 175c) definition as an irreplaceable habitat. 07/11/2024

Hatton Parish Council - No objection 18/06/2024

Foston and Scropton Parish Council - No objection subject to condition - 21/06/2024
Comments confirm the Parish Council follow the lead of Church Broughton Parish Council and support conditions put forward by the Council appertaining to the planning application. They request to be copied into any correspondence.

Church Broughton Parish Council - No objection subject to conditions and obligations 08/09/2024
Subsequent comments: The Church Broughton Parish Council has reviewed the amended plans associated with the above Planning Application, including the updated LVIA with photomontages of key views and updated landscaping proposals, and the addition of trees to the landscape bund.
It is noted that design improvements have been made by the developer to reduce the adverse impacts of the development and as such the Church Broughton Parish Council is prepared to withdraw its previous objection subject to the following:
1. Earth bunds – all reasonable efforts are made to maximise the height along the eastern and northern boundaries of the site, especially at the north end.

2. Tree and shrub planting – ensure that a comprehensive long term maintenance programme is implemented to support the survival of the trees and therefore the proper screening of the site.
3. The proposed new permissive footpath along the eastern boundary of the site is incorporated into the definitive map such that it becomes a Public Right of Way.
4. Light pollution – ensure that low level “downlighting” is a requirement of the scheme as Dove Valley Park has many facilities being unnecessarily lit, including upwards throughout the night, causing distress to residents of Church Broughton.
5. Noise – confirmation that the noise levels will be acceptable and not be intrusive, especially at night. Note that the revised noise report dated 6th August 2024, section 7 concludes that the noise levels will be acceptable only during the daytime. It makes no comment on nighttime noise levels.
6. A requirement that construction traffic will only access the site from within Dove Valley Park and not use Woodyard Lane or Bent Lane or the unnamed road along Heath Top, to access the site from the north.
Finally, if planning permission is granted, the developer should be required to commit to a Section 106 Agreement covering the permissive footpath, the proposed bus service, contributions to the repair of local rural roads suffering from intensive use by construction and industrial traffic, and a substantial contribution towards local community projects.

Initial comments: The Church Broughton Parish Council objects to the above Planning Application because the proposed development does not meet the requirements of Planning Policies BNE5 and E7; it does not diversify or expand the range of sustainable employment or support the social and economic needs of the rural communities, and the development will cause undue impact in terms of light pollution, noise and visual impact to nearby residents. It is also noted that this green field site is not identified for development in the published local plan and the proposed site layout appears to be over developed with large buildings very close to boundaries and massive expanses of impermeable surfaces.
It is however acknowledged that SDDC may decide to grant permission and therefore a Parish Council working group has been established and met with the developer (Clowes) to discuss various design and landscape changes to reduce and minimise adverse impacts to the community as a result of the development. This engagement with Clowes has been positive so far but has not yet concluded. The attachment lists the issues under discussion. Subject to a satisfactory outcome of these discussions over the coming weeks, the Parish Council could review its position and potentially withdraw its objection, especially if the various commitments by Clowes are written into conditions, in the event that planning permission is granted.
Finally, if planning permission is granted, the developer should be required to commit to a Section 106 Agreement covering the permissive footpath, the proposed bus service, contributions to the repair of local rural roads suffering from intensive use by construction and industrial traffic, and a substantial contribution towards local community projects.
Issues under discussion between Church Broughton Parish Council and Clowes in relation to Planning Application DMPA/2024/0635:

- 1.Footpaths – existing and new
- Site layout adjustments to minimise noise.
- Earth bunds – maximise heights and continuity along the eastern boundary.
- Tree and shrub planting to ensure maximum screening and creation of woodland corridors, including comprehensive long-term maintenance programmes
- Building colour schemes to minimise visual impact
- Light pollution – Dove Valley Park has completely changed the sky at night for the worse around Church Broughton, with many of the facilities being unnecessarily lit all night long.
- New Bus route – possibility of extending the route to include a stop in Church Broughton.
- Assurances that no further development will take place on adjacent land beyond this proposal.
- Assurances that construction traffic will access the site from within Dove Valley Park and not use Woodyard Lane or Bent Lane and the unnamed road along Heath Top, to access the site from the north - Object - 09/07/2024.

Public comments
27 comments were received in response to consolation and publicity of the application.

Of these 21 comments objected to the proposed development, these are summarised below:

Unallocated site / outside DVP

a) The D&A statement says the development will complete DVP, however only the innovation centre is within DVP., the remainder of the proposed development is located on agricultural land to the east of DVP. Whilst the innovation centre is appropriate development the proposed 4 units that would expand the industrial area beyond the limits of DVP are not appropriate. All sites within DVP should be used before any industrial development is considered on agricultural land outside DVP and other more suitable brownfield sites should be considered where there is nearby rail freight, in accordance with the NPPF. Industrial expansion to the east of Dove Valley Park is not included in the current Local Plan.
b) the proposed development conflicts with Policy S1, the sustainable growth strategy; Policy S6, sustainable access; Policy E1 Strategic Employment Land Allocations 2011- 2028; Policy E2 Other Industrial and Business Development; Policy E7 Rural Development; Policy SD1 Amenity and Environmental Quality; Policy BNE1, High quality development; Policy INF2 Sustainable Transport; Policy BNE5 Development in Rural Areas Outside of settlement boundaries. the proposed development conflicts with Policy S1, the sustainable growth strategy; Policy S6, sustainable access; Policy E1 Strategic Employment Land Allocations 2011- 2028; Policy E2 Other Industrial and Business Development; Policy E7 Rural Development; Policy SD1 Amenity and Environmental Quality; Policy BNE1, High quality development; Policy INF2 Sustainable Transport; Policy BNE5 Development in Rural Areas Outside of settlement boundaries.
c) The proposed development of Plot 2 within DVP is appropriate but the development of Plot 11 within a rural area outside a settlement boundary is not appropriate. Whilst Policy S2 notes that the Council has a presumption in favour of sustainable development, this planning application does not accord with the policies in the Local Plan Parts 1 & 2, particularly the policies on Economic Growth, in particular Policy E7 for rural development, and Sustainable Development. It doesn't comply with Policies BNE1, BNE4, BNE5 and INF2 and should therefore be refused.
d) In my view the proposed development does not comply with the principle of Policy E7 for rural development (i.e. it doesn't diversify and expand the range of employment activities and doesn't support the social and economic needs of rural communities in the District) and doesn't comply with policy BNE5.
e) despite proposed mitigation refusal of the application and containment of development within the existing boundaries is preferable - and I hope the planning committee will take note of the detrimental impact upon nearby residents

Amenity

a) The proposed units on Plot 11 are speculative development that are not designed for a particular end use. It is not appropriate to have no constraints on the operational/working hours (as noted in Section 4.2.5 1 of the D&A statement) when the end use is unknown. The operational/working hours needs to be controlled from the outset so that there is no nuisance when the actual use is known. Section 4.2.6 of the D&A statement states, "There will be no detriment to the amenity of the area by noise, vibration, smell, fumes, smoke, set, ash, dust or grit will occur, by nature of the use of the building". It is not possible to say this without knowing what the end use of the buildings on Plot 11 will be.
b) The manoeuvring of vehicles, particularly HGVs with reversing alarms will have a significant impact on noise levels as has been found at the new bottling plant at DVP. Providing such a large number of parking spaces does not encourage the use of public transport to access the site. The Noise Impact Assessment (NIA) has assumed no HGV or car movements between 9pm and 6am which contradicts the D & A Statement and Planning Application which applies for 24 hour seven days per week proposed working. The Noise Impact Assessment modelling also assumes that all fixed plant is located 1.5m above ground. However, on other industrial buildings the plant is often located on the roofs where the sound will carry much further and will not be screened by landscaped bunds. The NIA does not consider the influence of the wind direction when assessing the background noise level. Living in this area near the A50, we have quiet days and noisy days from the A50 road noise. The NIA states that the noise from the development will be less than the background noise at the nearby receptors. However, this is unlikely to be the case on the days when we have north or north westerly winds and it is relatively quiet.
c) the noise levels being controlled, especially at nights. (If there is to be 24-hour HGV movement, this will have an impact on our properties. We can hear the dogs at Happy Hounds in the day (luckily this is

not 24-hour provision) and this is further away than the proposed site)
d) the noise assessment is flawed and needs repeating as it does not cover a 24-hour time period. There will be according to the application 24 HGV movement associated with the development and this is not taken into account in the Noise assessment. If this is not completed, then council is unable to fairly assess the impact on our properties that lie immediately East of the proposed site.
e) The Church Broughton area is blighted by light pollution from other developments around the DVP area that are not obliging by their planning conditions. The fact that I have been unable to communicate personally with a planning enforcement officer means I worry that non-compliance with lighting will remain unactioned. Indeed how is lighting going to be positioned to reduce upward glare, pollution to the properties to the East and enable the wildlife areas to thrive.
f) The intended use will have constant movement of heavy transport requiring round the clock lighting which will be intrusive and affect the quality of life for surrounding residents, alongside this there will be a significant increase in noise associated with the activities.
g) Light and noise pollution should be kept to a minimum

Design, visual impact and landscaping
a) there is inconsistency between the building height as shown on plan and as described within the D&A Statement. The building heights do not take into account the circa 11m change in levels across the site and the use of ridge and haunch heights is misleading.
b) the industrial development of the 4 units will have an impact upon the surrounding landscape the proposed units can be expected to significantly impact the wider landscape from a number of viewpoints.
c) All the above problems prevent this application from fulfilling the requirements of the SDDC Planning Policies that the development does not have undue impact on neighbouring land, people and the character of the locality.
d) Further information about the tree planting, type of trees and how to ensure that maintenance of the trees is forthcoming. Other developments locally have not watered the trees that had been planted at the wrong time of year and that have since died.
e) I object to the proposals as the impact upon residential property will have a visual impact of the large structures
f) There is insufficient information on the bund to the East that should help mitigate noise. Is continuous? it should be . What is the height of it? It should be possible with a 1 in 3 gradient that a bund can be built with to mostly be 6 meters of height on almost all the eastern boundary.
g) landscaping conditions requested to reduce visual, noise and light pollution, with additional request to control night time lighting

Highways, access and transport
a) Additional traffic. Woodyard Lane is already a pothole nightmare as well as too narrow for HGVs to safely use. I'm assuming all traffic to the site will use the main DVP roads. Access by any other way should be strictly forbidden - and enforced.
b) It doesn't comply with INF2 on sustainable transport - planning policy is supposed to shift development away from use of cars and HGVs to rail freight and public transport. I think the planners should be following the Local Plan and not just allowing any development through regardless of whether it complies or not
c) Traffic impacts from recent development has increase, big lorries using smaller country roads is making recreation more dangerous (dog walking, running and cycling).
d) Traffic routeing is a problem
e) Although after a meeting with developers via the parish council which was positive if they continue to be considerate. I have concerns around the road structure/system and noise with 24 hour HGV movement
f) Can attempts be made to have the access for HGVs onto the A50?

Flooding and drainage
a) Flooding is bad here, tree loss will exacerbate this

Other
a) The proposed development would increase DVP by 20% and already affect residents of Church Broughton and the surrounding wildlife and villages, this would be of further detriment

b) would also like to ask why Clowes, the developers, are already suggesting buildings 11A to 11D are available for use in an advertisement for Dove Valley Park I recently saw on line? That seems to me to be jumping the gun a bit.
c)) If SDDC decides to grant permission for the proposed development, conditions must be included to achieve some level of mitigation for the local communities affected, including but not be limited to:
• Limits imposed on working hours (including no night-time or weekend operations), noise levels, lighting levels and vibration from operations to minimise the impact on local residents
• Limits on emissions for unknown activities
• Raising the proposed landscaped bund as high as possible to minimise impacts on nearby properties and local area
• Ensure permeable surfacing used for all car parking and access roads
• Ensure a viable bus route to Derby is provided and maintained for the lifetime of the development
• No construction or operational traffic permitted on Woodyard Lane or Heath Top
• Require the applicant to make a contribution to the local Community as compensation for the adverse impacts such as:
o Resurfacing Woodyard Lane
o Make a contribution to other local Community projects
d) Recent changes have made living here worse, further development will make this worse

Ecology and biodiversity

a) There has been a lot of developments nearby over the last few years on previous green space with wildlife an open countryside. There are habitats that have been displaced and dead deer have been seen on the roads.
b) How is the ancient Oak going to be maintained after it has been moved and I require further information as to the chance of its survival and what happens should it not.
c) The impact upon the environment and wildlife in the area as well as wildlife corridors will be disrupted.
d) trees of a significant age and standing are likely to be affected.
e) There will be a massive impact to wildlife in owls buzzards sparrowhawks and kestrel. Foxes hares rabbits and squirrels which are all in decline. We need to preserve green spaces.
f) In Addition light pollution from the complex will also be detrimental to the environment and countryside;

increase the bund height as high as possible and adapt the buildings (colour etc) to reduce the visual impact on a farming area. My other concerns are to maintain any public footpaths and protect wildlife in the area

No objections subject to conditions – 3 responses received
a. Request the design and location of the building, in relation to plot 11c and the existing public right of way (PROW), be scrutinised and request that the footpath and Pennywaste wood are not encroached - also request commitment that all footpaths are cleared to allow all reasonable access
b. Request noise screening for the loading bay to plot 11c and landscaping and tree planting to plots 11 a and b and that HGV movements at night be minimised.
c. the height of landscape bunds be sufficient to mask buildings at all points
d. tree planting includes a mix of evergreen shrubs and native deciduous species to ensure year round screening this should be maintained by the applicant / land owner
e. request consideration of a woodland corridor to the eastern site periphery and the maximisation of bat and bird boxes
f. all surface water run off to pass through an interceptor to alleviate risk to Pennywaste woodland from pollutants
g. Oak tree relocation to be supported by 3 year maintenance plan and replaced in the event of loss with a mature Oak
h. Sensitive lighting to protect the night sky
i. Bus route should be extended to include a stop in Church Broughton
j. confirmation that no further development in surrounding land will be undertaken
k. restriction of both HGV and construction traffic to prevent use of Woodyard Lane and the unnamed road from Woodyard Lane to Bent Lane - should be a requirement of any CMP and permission

l. More can be done to blend the buildings into the landscape, sky - current proposed cladding is a stark contrast and should be amended, multiple comments request this to be addressed
m. plant corridor should be increased in height and width to minimise the impact of light and noise pollution
n. Consideration of the wildlife and habitat impacts and maximising landscaping and green spaces to minimise harmful effects

6 response have been received which request conditions or obligations. These are summarised as:
a) we would like mitigating actions to be taken to significantly reduce any impact on the local properties, we are extremely concerned about this.
b) From our property we will be able to see the buildings and therefore the resulting light and noise pollution. We can already see lights at night from earlier developed areas which is horrid. We can hear the lorries that reverse into the earlier developments, and this will become much worse now it is going to be so near to our property. We live in an area that has a lot of wildlife, bats, owls, deer etc and despite the fact the building of this development will severely impact on these animals the resulting light and noise will double this impact going forward.
c) a guarantee should be provided that the height of the buildings will not go above what is outlined on the current planning application. This has been a big issue at the current Lidl bottling plant.
d) we would like the planning committee and Clowes to consider mitigation in regards to:
• Noise and disturbance to the local properties
• Light pollution
• Height of building and loss of privacy and beauty of the area
• Wildlife erosion and impact
e) Tree planting scheme - must include a mix of evergreen trees and shrubs, in addition to the different native deciduous trees to ensure year-round screening with different mix of colours. Maintenance must be provided by Clowes
f) Noise screening for the loading bay at Plot 11C, and landscaping / tree planting providing some screening to the loading bays of Plot 11A and 11B. HGV movements at night, minimised.
g) can the design and precise location of the building be scrutinised to ensure that the footpath and Penny Waste Wood is not being encroached upon. Commitment to ensure that all footpaths, definitive or permissive, would be cleared to allow all reasonable access.
h) Earth Bunds - soft landscaping design suggests that there will be bunds or earth mounds created for mitigating adverse visual impact and potential noise issues.
Required - the height must be sufficiently relative to the height of the proposed buildings, especially given the scope for increased height at the widest point.
i) Environmental - The site is home to many ground nesting birds and other wildlife and soft landscaping scheme includes bat boxes and bird boxes.
Required - could these be increased to the maximum possible number rather than gestures towards this issue. Could a “woodland corridor" to the eastern perimeter of the site be considered.
j) all the water to be passed through a separation interceptor to remove relevant potential contaminants.
k) Oak Tree - Relocation of an 18-19m high oak tree to another part of the same site.
Required - a recommendation for a minimum 3 year maintenance schedule to give it the "best possible chance of survival". If in the event that the tree does not survive then a replacement Oak of mature years to be provided by Clowes.
l) New Bus route - whilst the site is huge and provides for 407 car parking spaces, the new bus route is a welcome idea.
Required - Could its route be extended to include a stop in Church Broughton, which is currently not served by buses and therefore many local people remain reliant on cars.
m) further Development - There are serious concerns and rumours that Clowes intends to keep acquiring more and more neighbouring land and expanding DVP further still
Required - Documented confirmation that NO further development will take place.
n) HGV movement - There are serious concerns within the community about HGVs and construction traffic potentially using Woodyard Lane and the unnamed road along Heath Top, to access the site from the north. Confirmation that all construction traffic would gain access to the site from within DVP. And would be a requirement of the Construction Management Plan and expected to be a condition of any permission which is granted.

o) or example increasing the height and width of the plant corridor where ever possible; the East side of plot 11A appears to have no bund (from what I can see) or large trees (except at either end) presumably because of its relatively narrow width. I would like to think something further could be done here to reduce the impact of noise and lighting from this side.
p) I would like to think as part of the compromise between local business and environment (both residential and green areas) there could be some kind of reassurance that this development will be the last on this side of the general industrial area at Foston.

Following the second round of consultation 1 comment in support of the application / removing a previous objection was received:
a) I am pleased to see that the main points I made in my objection seem to have been addressed. It is important that the authorities enforce the conditions to be imposed re care of the trees and environmental factors for many years after the development is built. I withdraw my objection.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:
2016 Local Plan Part 1 (LPP1): S1:Sustainable Growth Strategy; S2: Presumption in Favour of Sustainable Development; S3: Environmental Performance; S5: Employment Land Need; S6: Sustainable Access; E1: Strategic Employment Land Allocation; E2: Other Industrial and Business Development; E5:Safeguarded Employment Sites Dove Valley Park; Policy E7: Rural Development; SD1: Amenity and Environmental Quality; SD2: Flood Risk, SD3: Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4: Contaminated Land and Mining Legacy Issues, SD5: Minerals Safeguarding, BNE1: Design Excellence, BNE2: Heritage Assets, BNE3: Biodiversity, BNE4: Landscape Character and Local Distinctiveness, INF1: Infrastructure and Developer Contributions, INF2: Sustainable Transport and INF7: Green Infrastructure

2017 Local Plan Part 2 (LPP2): SDT1: Settlement Boundaries and Development, BNE5: Development in the Countryside, BNE7: Trees, Woodland and Hedgerows

The relevant National Guidance is:
2024 National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)

The relevant Local Guidance is :
South Derbyshire Design Guide SPD
Section 106 Agreements A Guide for Developers SPD
Trees and Development SPD

The relevant legislation is:
The Town and Country Planning Act 1990
The Community Infrastructure Levy (CIL) Regulations 2010 (as amended)
The Town and Country Planning (Tree Preservation)(England) Regulations 2012

Planning considerations

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

- Policy and the principle of development in this location
- Design and impact upon the character of the surrounding area.
- Economic development, employment and training
- Residential Amenity
- Highways, access and parking
- Flood risk and drainage.
- Ecology and biodiversity
- Trees and landscaping

- Agricultural Land
- Developer contributions
- Other issues
    - Archaeology
    - Public right of way
- Conclusion and planning balance

Planning assessment

Policy and principle of the development in this location
Section 38 (6) of the Planning and Compulsory Purchase Act (2004) sets out that the determination of applications must be made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for the application site comprises the Local Plan, Part 1 (2016) and Part 2 (2017), in this location there is no adopted neighbourhood plan.

The NPPF advises that local planning authorities (LPA's) should work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area and that decision makers at every level should seek to approve applications for sustainable development where possible. Section 6 focuses on building a strong, competitive economy and sets out that planning decisions should help to create the conditions in which businesses can invest, adapt and expand. It further advises that significant weight should be placed on the need to support economic growth and productivity.

Paragraph 87 further advises that planning decisions should recognise and address the specific locational requirements of different sectors and includes making provision for clusters or networks of various industries (a); parts b and c further confirm provisions should be made for storage and distribution opportunities in suitable locations especially where these is a need to support supply chains and provision for the expansion and modernisation of other industries of local, regional or national importance to support economic growth or resilience.

Paragraph 89 confirms that in some cases development that meets local business need within rural areas may have to be found adjacent, or beyond existing settlements in location not well served by public transport and, that, in such circumstances it is important to ensure development is sensitive to its surroundings, doesn't have an unacceptable impact upon local roads and exploits opportunities to make a location more sustainable.

The application site lies outside any defined settlement boundary and is not an allocated site, though it does directly adjoin an allocated site. Policy SDT1 of the Local Plan Part 2 is therefore relevant to this application, this requires that development proposals outside the settlement boundary are limited to those considered acceptable by Policy BNE5. Policy BNE5 defines the types of development acceptable in Rural Areas, stating that planning permission will be granted where the development is allowed for subject to a number of criteria, of relevance to this proposals are the following criteria:
i) allowed for by policies H1, H22, E7, INF10, H24, H25, H26, H27 or H28; or
v) will not unduly impact on: landscape character and quality, biodiversity, best and most versatile agricultural land, and heritage assets

It should be noted that the proposals must satisfy one of the criteria from i - iiii and the requirements of criteria v.

This application is assessed to establish if it complies with the requirements of Policy E7 and therefore the requirements of part i) of Policy BNE5 and is, on that basis, compliant with the development plan and therefore acceptable in principle. Whether or not the development complies with the requirements of part v) are discussed in the relevant sections discussing the material merits of the development proposed.

Policy E7 states that the Council will support development proposals which diversify and expand the range of sustainable employment activities on land outside of settlement boundaries provided that these support the social and economic needs of the rural communities of the District. It sets out that the

Council will support proposals for the re-use, conversion and replacement of existing buildings and the development of new buildings where:

i) it is supported by a sound business case
ii) the local highway network is capable of accommodating the traffic generated
iii) development will not give rise to any undue impacts on neighbouring land;
iv) it is well designed and of a scale commensurate with the proposed use

These are the tests set out to establish if the principle of development is acceptable and in compliance with the development plan and the NPPF. The proposed innovation centre is located within the site wide allocation and here the principle of development is considered acceptable in this location. The proposed units 11a, b, c and d, lie outside the allocation and these must therefore be assessed against their compliance with E7 and BNE5.

The Dove Valley Park site as allocated is recognised to provide a range of sustainable employment opportunities, predominantly these are within the manufacturing sector, and are noted in the cases of Futaba, to be part of the supply chain of Toyota. Other existing operations on site are linked to manufacturing of engines, water extraction and printing of food packaging. The units proposed in the rural area are of a substantial size to meet the needs of the manufacturing, storage and distribution units. It is important to note that manufacturing industries typically generate a higher employment density (number of jobs) than storage and distribution uses of a similar size.

In considering the application Officers have sought additional information from the applicant's team on a number of occasions in order to test the business case put forward and to understand any potential impact upon allocated employment / commercial sites within the District. In seeking to understand the need for units of this kind, having regard for the currently unidentified status of end users for plots 11 a - d Officers have drawn on the expertise of the Economic Development Manager. The supporting information indicates that the site provides an opportunity for the development proposed to come forward promptly with existing infrastructure in place to connect the sites to Dove Valley Park.

The Economic Statement from Cushman and Wakefield sets out that the East Midlands is recognised as the most important logistics location within the UK and that it experiences a shortage of land. Further information on the need for logistics and industrial business premises is also provided detailing that due to increases in take up consistently exceeding demand, current supply is low. Data provided indicates continuing growth and in Q2 of 2024 demand was 60% higher than Q2 2023. Demand is also noted to be higher for new, purpose built 'Grade A' properties than for existing properties. Evidence is further provided regarding the current types of businesses seeking comparable units within South Derbyshire and the neighbouring authorities.

The above mentioned high level of demand, together with evidence on the type of businesses seeking units in the area and the low level of supply are considered to provide a sound business case on which the application and proposed development is considered to meet the requirements of Policy E7 i). Policy E7 does not require that the diversification or the expansion of sustainable employment activities to be mutually affiliated. The provision of the proposed development will expand the range of employment opportunities, both during construction and operation of the development. The flexible use between B2, B8 and ancillary opportunities in Eg(iii) are however considered to provide opportunities where, subject to business needs there could be diversification of opportunities together with expansion.

On this basis, by satisfying the requirements of Policy E7 it is considered the development proposed complies with criteria i) of Policy BNE5 and that development in this site is acceptable in principle. The employment and training benefits are expanded upon further in the relevant section below.

<u>Design and impact upon the character of the surrounding area</u>

The NPPF sets out that, in order to conserve and enhance the natural environment planning decisions should contribute to protecting and enhancing valued landscapes in a manner commensurate with their statutory status or identified quality within the development plan.

Policy BNE1 of the Local Plan focuses on Design Excellence and sets guiding principles for development, of particular relevance to this application are part b: street design, movement and legibility, neighbouring uses and amenity and resource use.

Local Plan Policy BNE4 sets out that the character local distinctiveness and quality of South Derbyshire's landscape will be protected and enhanced through the careful design and sensitive implementation of new development. Part B of the policy expands stating that developers will be expected to retain key landscape components (including mature trees, established hedgerows and topographical features) unless it can be demonstrated that the loss of these features will not give rise to unacceptable effects upon the local landscape character (including the historic character), visual amenity and sensitivity. It further advises that consideration of the landscape character areas set out in *The Landscape Character of Derbyshire* and the guidance within the document in demonstrating that mitigation proposals are acceptable to the character of the landscape.

Policy BNE5 v) requires that development within the Rural Area will not unduly impact on landscape character. Policy E7, part v states that visual intrusion and the impact on the character of the locality should be minimised.

The application site lies across 2 Character Areas as defined within the Landscape Character of Derbyshire, the site of the innovation centre and the majority of the Plot 11 site lies within Needwood and South Derbyshire Claylands Character Area and the Settled Farmlands Character type within the area. The south east area of the site adjacent Pennywaste Woods lying within the Trent Valley Washlands and within the Lowland Village Farmlands sub character type. *The Landscape Character of Derbyshire* sets out the key features of the settled farmlands are the settled character with scattering of small villages reflecting the long history of exploitation for agriculture. Trees are stated to be well represented as are scattered hedgerow and dense lines of watercourse trees. The Lowland Village Farmlands are noted to include features such as nucleated settlement patterns with villages in high spots out of the flood plain. Within this character area it is stated the *original character* has been impacted by large scale development, various infrastructure types are cited as key contributors to the changes.

The Innovation Centre site is bound on all sides by the existing Dove Valley Park development and the views into the area are likely to be glimpsed views wholly within the context of existing development within Dove Valley Park. The design and siting of the Innovation Centre does not raise concerns from Officers in terms of the visual or landscape impacts.

Plot 11 however lies outside the existing Dove Valley Park, thus extending the built form into the existing rural area. To the eastern periphery of the plot 11 site it is proposed to include a landscaped area, the built form within this area of the site is proposed to be arranged with the largest unit, Plot 11c closest to the existing buildings on Dove Valley Park and smaller buildings, units 11 a, b and d located in positions closer to the landscaped area and residential dwellings as well as existing industrial units on Heath Top business park.

The arrangement is considered to achieve a layout which minimises the visual impact of the development, by siting the largest buildings closest to existing built form and siting smaller buildings, landscaping and the attenuation basin between the residential dwellings and the proposed commercial units. A landscaped bund with tree planting is proposed to be included within this area and is shown to range from 1.6m to 5.4m from the ground level to the top of the bund, excluding the tree planting proposed atop the bund.

In respect of the landscape and visual impact of the development of plot 11, the LVIA in support of the application submits that the proposals do not harm existing landscape features or designated sites. It further submits that, with mitigation, the landscape impacts are considered to be minimal to negligible on the landscape. The proposed eastern landscaping area is said to serve to assimilate the development into the surrounding landscape. Following the initial submission Officers requested that the LVIA be updated to include visual renders of the post development views from various vantage points when landscaping has matured.

The following image is taken from the closest assessed viewpoint and visualises the development showing the extent of the site and visualising the landscaping at 15years.

The requirement in assessing landscape and visual impact of a development is that this is commensurate with the status of the landscape in question. This area is not subject to any statutory designations that should require a stricter degree of control.

The visual impacts are assessed as being *slight* resulting in a negligible impact on visual receptors. The assessment again refers to the structural landscaping proposed within the application that will serve to screen the development and the rest of DVP from certain vantage points and thus mitigating the visual impact.

Officers note the critical importance of the landscaping in making the development acceptable in terms of its visibility. Officers therefore have attached several conditions, including one for 'advanced planting' of the easterly area of the site and the submission of detailed plans for the landscape bund together with detailed specification of, and a management and maintenance plan for, the proposed planting in this area. At present the relevant schedule proposes the minimum height of individual trees planted will be 3m, however, should this not be considered sufficient to the bund the inclusion of this condition serves to provide a mechanism by which the size and species could be amended.

Subject to the conditions securing mitigation the design, landscape and visual impact of the development are considered to be minimised in a manner commensurate with the requirements of the development plan and having regard for the undesignated nature of the surrounding landscape. On this basis the application is considered to accord with the development plan and national policies.

Economic development, employment and training

The NPPF sets out that planning decisions should help to create the conditions in which businesses can invest, expand and adapt and that significant weight should be placed on the need to support economic growth and productivity. It sets out that the approach taken should allow each area to build on its strengths counter any weaknesses and address future challenges. It further sets out that planning decisions should recognise and address the specific locational requirements of different sectors including making provision for clusters or networks of knowledge, creative industries, storage and distribution operations at a variety of scales and in accessible locations allowing for the efficient and reliable handling of goods, especially where this supports a supply chain, transport innovation and decarbonisation. and the expansion or modernisation of other industries of local, regional or national importance that support economic growth and resilience.

The Strategic objectives of the Local Plan seek to enable, support and promote a robust and diverse economy resistant to downturns and providing a strong base for sustainable growth which respects environmental limits and safeguards natural resources (3).

The most recent Employment Land Review (2023) for Derby and South Derbyshire consider South Derbyshire within the *Functional Economic Market Area* of the Derby HMA and includes Amber Valley, Derbyshire Dales and Erewash in Derbyshire; Broxtowe and Nottingham in Nottinghamshire; Northwest Leicestershire and East Staffordshire in Leicestershire and Staffordshire and identifies the economic issues within this area. Of relevance to this application, it notes strong competition in the strategic logistics market from the neighbouring Local Authority Areas and cautions developer awareness of his. It also sets out that evidence suggests there is unmet capacity within the East Midlands for B2 / B8 units, citing the recent Nottinghamshire Core and Outer HMA Logistics Study which identified a need for 137 – 155 hectares of B8 land in addition to those in the pipeline.

In terms of employment levels the study notes that employment in manufacturing has remained broadly table within South Derbyshire. Construction within the district is stated to have seen a reduction in jobs but an increase in businesses, noting it to be a strong sector that is apparently dominated by micro and small businesses. Transportation has seen the largest growing with 225 businesses in South Derbyshire.

Forecasts predict there will be a variance between loss of 2,394 jobs to a gain of 1,100 manufacturing jobs in the district, depending on the source of the forecast. Within the property market it is noted there is high demand and South Derbyshire has a shortage of B2 / B8 premises of all sizes. It further states that though demand is high there is a particular need on the Strategic Road Network including the A50 corrido and there are supply shortages of the scale of the units proposed

It is the consideration of the Economic Development Manager that the proposed mix of unit sizes will maximise appeal to a range of occupiers and the expansion of Dove Valley Park has the potential to fill an employment land availability gap in the short term as the District's main allocations remain dependant upon infrastructure investments of have been purchased in advance and anticipate of future need by existing businesses.
The Sustainable Growth Strategy sets out that the Local Plan will ensure the economic, social and environmental objectives are fully addressed. Part ii) sets out that it will retain, promote and regenerate employment development on sites in urban areas and other locations which are, or could be well served by infrastructure, including public transport. Part iii) sets out it will provide new infrastructure to support growth in the district including new transport and education provisions as well as other services and facilities. It is noted that this will be undertaken by obtaining appropriate planning obligations.

The application is supported by an Economic Impact Statement which seeks to establish the quantum of employment likely to be generated from the development proposed and works on the basis of 50% of the units being manufacturing and 50% being logistics (excluding the innovation centre). The below excerpt is taken from the economic impact statement:

> The new development plots will yield some **370-960 FTE (full time equivalent) on-site jobs** – the range being a function of the different density evidence available. The mid-point of the range is **665 FTEs**. Jobs are expressed in FTEs to align with the official guidance. The actual number of jobs, when an element of part time working is factored in, could be slightly greater.

Table 1 : Derivation of Jobs Impact

Assumed Mix	Total Floorspace (sqm)	Assumed Employment Density – based on current DVP occupiers	Assumed Employment Density – based on guidance	Range of On-Site Jobs (FTEs) (to nearest 10)
Plot 11 – Manufacturing (50%)	29,250	120 sqm per FTE	47 sqm per FTE	240-620
Plot 11 – Logistics (50%)	29,250	280 sqm per FTE	95 sqm per FTE	104-310
Plot 2 - Innovation Centre	600*	-	20 sqm per FTE	30
				370-960

* this is a subset of the 1,215sqm Innovation Centre. Some floorspace will be used for learning and collaboration space.

Officers have sought further detailed information on existing businesses on DVP and the nature of jobs - this confirms that 77% of jobs are in the manufacturing sector, however the employment density

figures show less FTE / sqm than the national guidance. This is displayed below, the document offers 2 potential explanations, the first that some existing occupiers have yet to fully utilise their space, and another is that the official guidance is dated. The Statement takes a mid-point generated from the onsite and national ranges when making projections, forecasting 665 FTE jobs. In discussing the robustness of the above figures and seeking to understand the benefit of the scheme the Council's Economic Development Manager has set out that the above figures are considered to be achievable based upon the current use of units within DVP.

	Total Floorspace (sqm) (% of total)	Total Jobs* (% of total)	Employment Density
X5 Manufacturing Operations	55,080 (59%)	454 (77%)	120 sqm per FTE
X2 Logistics Operations	38,085 (41%)	136 (23%)	280 sqm per FTE
Total	93,165	590	

*Total jobs rather than FTEs was provided by the occupiers. Given the vast majority of jobs in the manufacturing and logistics sector are full-time (circa 90%), then the measurement of FTEs will be very similar to total jobs.

The Statement further sets out the nature and quality of jobs in manufacturing and logistics which (contrary to opinion) are evidenced to offer a range of jobs that are well paid and sought after and include occupational ranges. It further notes that average FTE salaries within manufacturing and logistics are higher than the average salary across the wider economy. It further sets out that jobs within the innovation centre floorspace is likely to be spread across small / micro sized businesses in IT, consulting, media and finance occupations – significantly diversifying the range of jobs currently available on the business park.

The Education Intent Offer, proposed at the innovation centre sets out that it will provide training and apprenticeship opportunities on-site through partnerships with education/training providers and businesses, to meet not only the needs of employers but also students and rural communities. As noted within the *supporting information summary* of this document Burton and South Derbyshire College (BDSC) has a track record of providing Ofsted rated outstanding further education, perhaps of most importance is their achieved rate of 95% sustained employment outcomes. The College states it has high take up within South Derbyshire and the surrounding areas and on this basis it follows that opportunities provided through the innovation centre for training and apprenticeships will be available to residents of South Derbyshire.

The BSDC experience of successfully running an apprenticeship centre at Toyota further supports the chance of this being successfully replicated at Dove Valley Park, the benefits of which are to further provide for the needs of businesses and enhance the ability of South Derbyshire residents to access afore mentioned jobs in manufacturing and logistics at above national average salaries.

The Economic Impact Statement has undertaken further analysis that aims to portray the potential fiscal benefits (both on and offsite) of the proposed development. This highlights circa £1.4m in additional business rates annually, plus a further 75 - 190 off site jobs via wage expenditure in the local economy, and corporate supply chain purchases. Provision of an innovation centre would further support businesses on DVP and in the wider A50 corridor. The Statement notes the construction phase will provide the equivalent of 370 on and off site jobs annually for a period of 3 years, these are noted to be *very accessible local employment opportunities* that *deliver high levels of social mobility.*

In terms of economic growth and development the supporting Economic Statement and other documents regarding availability of units are clear that the region is a key location nationally with the East Midlands cited as being recognised as the most important logistics location in the UK. The market for logistics in the UK is noted to have changed dramatically in the last decade with increased emphasis on securing supply chains and infrastructure following Brexit and Covid Pandemic.

Throughout consideration of the application Officers have sought additional information to ensure sufficient detail was provided to enable a realistic understanding of the employment related benefits of

the scheme and to be clear on what training opportunities, transitioning via apprenticeships into employment would be provided by the innovation centre. In providing the information referenced above the applicants have evidenced the national and regional need for the proposed units at plot 11 and provided what is considered to be a clear narrative on the methods BSDC would use to provide the training and skills opportunities within the innovation centre. The national policy context is clear on the significant weight that should be placed upon the need to support economic growth and development. It is felt that the applicant has provided evidence of the levels of economic growth and employment opportunities that could be derived from the proposed development.

Benefits of the innovation centre will need to be secured through the section 106 agreement. It should be noted that in discussion and since submission of the initial application pack, Officers have sought to bring forward delivery of the innovation centre in order to secure the associated benefits. The applicant has agreed to the following commencement, completing and opening targets for the innovation centre, linked to the build of Plot 11:

- The development of the innovation centre will commence prior to completion of 50% of the shell and core of the plot 11 a - d units.
- The innovation centre will be complete prior to the completion of the plot 11 units.
- The innovation centres will be available to the college and other beneficiaries on, or before, the date upon which the 4 plot 11 units are made available to the market / occupiers respectively.

Officers consider this section to establish the policy compliance of the scheme in terms of demonstrating the economic benefits of the development and the wider employment and training support benefits of the use of the innovation centre by BSDC. The benefits of the training and skills provisions are considered to contribute to compliance with policy E7 in terms of sustainable employment activities and support of the social and economic needs of the rural communities in the District.

Residential Amenity

The NPPF sets out that development should be appropriate for the location, and take account of the likely effects of pollution on living conditions and the natural environment and in doing so mitigate and reduce to a minimum potential adverse impacts resulting from noise from new developments.

Policy SD1 of the Local Plan part 1 sets out that the Council will support development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments. The latter part of the policy considers the need for a strategic buffer between conflicting land uses in order that they do not disadvantage each other in respect of amenity issues including noise, odours, fumes or dust and other disturbances including from vibration or light.

Policy E7 iii) reiterates this setting out that development will be acceptable where it does not give rise to any undue impacts on neighbouring land.

The application in respect of the Innovation centre is not considered to give rise to concerns of adverse impacts upon neighbouring amenity, this is simply due to its location at the heart of Dove Valley Park adjacent to other commercial uses which serve not only to prevent immediate conflict but also to insulate any more distant residential dwellings from any impacts.

The Plot 11 area lies outsides the existing built envelope and between the existing Dove Valley Park and residential dwellings to the east. The closest point between the site boundary and residential dwellings is just over 90m measured on plan, unit 11a, the most northerly unit will be circa 290m from the nearest residence to the southeast, 11b, 314m 11c, 254m and 11d 202m. One residential dwelling, The Bungalow lies within the area of Heath Top Business Park approximately 20m from unit 11b and Rectory Farm lies approximately 250m north west of the site periphery.

The application is supported by a Noise Impact Assessment that assess how nearby residential dwellings will be affected by noise arising from HGV movements, car parking and fixed plant within the site. The assessment includes data on the existing noise climate and baseline noise levels during the week and at weekends. Based upon the expected noise levels arising from the development and the

existing noise climate the assessment concludes that in respect of noise there will be low impacts arising from the proposed development.

It is noted that there is a high level of concern from and objection to the proposed development stemming from the potential for noise to affect residents. The Environmental Health Officer has considered the application and information submitted and offers no objection to the proposed 24-hour use of the site. They make this on the basis that conditions are included to restrict days and times of construction activity; details of days and hours of construction activity and the requirement that full specification of all plant and equipment are provided prior to their incorporation into the development together with the anticipated noise levels and any required mitigation.

In addition to conditions recommended by the Environmental Health Officer to protect residential amenity Planning Officers have considered the potential impacts arising from industrial uses in this area and the proximity of residential dwellings and the concerns voiced by members of the public in this regard in response to the application. At this stage it is unknown the specific operations of companies who will occupy the units, this is also a full planning application, so any controls necessary must be attached to any decision granted. On this basis, and having regard for the wide range of operations that could be undertaken by businesses falling into these use classes officers consider it reasonable and necessary to include a condition restricting activity outside the buildings and within the service yards.

It is considered, subject to the conditions as set out within this report that the scheme complies with the relevant policies that seek to safeguard residential amenity.

Highways, access and parking

The NPPF requires that applications for development should ensure that sustainable transport modes are prioritised, taking account of the vision for the site, the type of development and its location; that safe and suitable access for all users to the site can be achieved. Paragraph 117 sets out that applications should give priority first to pedestrian and cycle movement within and around the site and where possible to facilitating access to high quality public transport.

Policy S6 of the Local Plan looks to minimise the need to travel and make efficient used of transport infrastructure and services as well as encouraging use of sustainable transport modes. It seeks to achieve this by seeking patterns of development that enable travelling distances to be minimal and make the best use of existing transport infrastructure and services.

Local Plan policy INF2 sets out that planning permission will be granted for development where the arising travel generated does not have an undue detrimental impact upon amenity, the environment, highway safety, the efficiency of public transport networks or transport infrastructure; where appropriate provision is made for safe and convenient access to and within the development for all transport users and that car travel is minimised relative to the needs of the development. In respect of parking it requires that appropriate provision is integrated into development alongside the need to encourage travel on foot, cycle and public transport in preference to private car by minimising parking provision. Specifically in relation to public transport the policy sets out that the council will work to improve services and infrastructure within the District and that development should be designed to accommodate public transport

The provisions of Policy E7 part ii) require that development on land outside the settlement boundaries will be supported where the local highway network is capable of accommodating the traffic generated by the development. The application is supported by a Transport Assessment which advises of the policy context and sets out the

The application is supported by a transport assessment and travel plan and conforms with paragraph 118 of the NPPF and INF2 in this regard, the TA has assessed the impact upon capacity at junctions and in terms of increased movements as being minimal in the context of the surrounding network and on this basis acceptable. The use of a travel plan and associated monitoring thereafter further serves to meet the requirements of policy INF2 part c) in seeking to minimise car travel generated from the development. The inclusion within the proposed development of public footpath linkages is also considered to have the potential to increase opportunities for pedestrians to access the site. The

proposals and supporting TA have been reviewed by National Highways, due to the proximity of the development to the Strategic Road Network and the potential for traffic generated from the development to impact upon this. National Highway confirm that on review of the supporting information the development does not materially impact the capacity of the roundabouts serving the A50 slip roads and confirm no objection to plot 11 or plot 2.

Derbyshire County Council have also reviewed the application and confirm no objection subject to conditions in their response. Officers support the requested conditions which secure parking, access, cycle and motorcycle parking as well as the implementation and monitoring of the travel plan. The travel plan monitoring fee is set out below in the 'Developer Contributions' section of the report.

As part of the application in recognition of the need to support sustainable access to the development the applicant proposes to fund a bus service, operating to provide a direct link between Derby and Dove Valley Park to provide access to employment opportunities. Through the application Officers have sought to clarify this provision and the funding arrangements. It is proposed that the applicant will fund this service to provide return journeys to three shift patterns daily (with the exception of Christmas Day, Boxing Day and New Years Day). The service would be funded by the applicant for an initial period of 18months with the provision of £175,000 to fund the service and an additional £10,000 to fund local marketing of the service. It is proposed that the service would provide not only for the needs of plot 11 and the innovation centre but also for the needs of other existing businesses on DVP, following the initial 18month period the partial funding of the service would be transferred to the Dove Valley Park management company.

The service will operate on a 24 hour basis to support the shift patterns at DVP, the scheduling will be run in accordance with information on this and secured through the 106. The service will operate to improve access for South Derbyshire Residents living in areas on the southern edge of Derby City as well as residents of Derby City and adds to the current connections to the site from the 401 which links Burton and Uttoxeter to the south and west to DVP.

The route may form connections to existing public transport links and strengthen the District wide public transport offer. It is further considered by the Economic Development Manager that the increased number of units will not only be served by the proposed bus route but will also help to sustain the existing 401 route though increasing the number of units on the site.

It is considered that the contributions towards public transport and the integration of the bus stop and turning area within plot 11 serve to address policy requirements in relation to public transport methods. The funding of the service and associated marketing for an initial period are considered to be reasonable and proportionate, noting that subsidisation of the service by DVP Management Company would secure the service in the long term should it have good uptake and provide access to employment opportunities for residents and to the labour market for businesses.

The application has demonstrated that the proposed development will not have an unacceptable impact upon highway safety or severe residual impacts upon the capacity of the road network and as such demonstrated there is no robust reason for a refusal on highway safety grounds. It has further demonstrated it will be accessible to users of different transport modes and will increase the opportunity for extension of the existing bus route in addition to funding a new direct bus route to Derby, which is a clear benefit of the scheme. The proposals are therefore assessed to meet the policy requirements for sustainable access and highway safety and capacity and to provide permanent benefits through improved public transport infrastructure via the provision of a dedicated turning facility and temporary benefit through the initial provision of a dedicated bus service. Subject to conditions and obligations the proposals fulfil the requirements of the development plan in this regard.

Flood risk and drainage

The NPPPF requires that when Local Planning Authorities determine planning application they should ensure that flood risk is not increased elsewhere, detailing further that where appropriate site specific flood risk assessments should support planning applications. It progresses to detail that where development could affect drainage on or around the site sustainable drainage systems that control flow rate and reduce volumes of runoff, proportionate to the nature and scale of the proposal, should be

incorporated into the development. They further detail for major sites this sustainable drainage systems should take account of advice from the Lead Local Flood Authority (LLFA) have appropriate proposed minimum operational standards and have maintenance arrangements in place to ensure acceptable standards of operation for the lifetime of the development.

Local Plan Policy SD2 Flood Risk sets out that when considering applications the council will follow the sequential approach to flood risk management in giving priority to sites with the lowest risk of flooding. In respect of drainage Policy SD3 sets out that the council will work with other authorities and developers to ensure that the wastewater treatment and drainage infrastructure are managed effectively in a coordinated manner by employing a number of principles. Of relevance to this application are working with the County Council to ensure that new development incorporate sustainable drainage schemes that reduce demand for potable water supplies and mimic natural drainage where possible. Part C of the policy sets out that surface water from new development will be expected to be managed using Sustainable Drainage systems, discharge to water courses or connection to surface water sewers will be expected to be utilised to manage surface water.

The application site lies within Flood Zone 1 where there is the lowest probability of flooding from all sources. The application proposes to utilise sustainable drainage systems to manage surface water flows. The site has been assessed as being unsuitable for infiltration due to the clay nature of the soils and on that basis the sustainable drainage strategy proposes to discharge to an existing watercourse within the site and leading to Pennywaste Wood. The drainage design proposes to use a series of pipes and attenuation, including where necessary oil and petrol interceptors to treat the surface water run off prior to discharge. This includes the use of attenuation storage crates beneath some of the hard surfaced area of the site and an open attenuation basin that will serve to provide further treatment via the removal of hydrocarbons and pollution from the water before discharge. A flow restriction device will limit the flow from the attenuation basin to that of the assessed greenfield runoff rate for the site.

The Lead Local Flood Authority have reviewed the application and confirm that, subject to submission of a detailed design and proposed management and maintenance arrangements for the sustainable drainage system they are able to offer a conditional response to the application. In addition they require the submission of details for the management of surface water during the construction period.

In respect of foul water flows the proposed connection to the mains sewer is in accordance with Policy SD3 of the local plan and subject to scrutiny under the relevant approvals process with Severn Trent, whom have not responded to consultation on this application.

The development proposes to use sustainable drainage systems to manage surface water from the development in a method which is stated to both remove pollutants from the flows and restrict these to the current assessed greenfield runoff rate. Subject to the detailed design of the surface water drainage system complying with the submitted strategy, which is included as a condition of this recommendation, the drainage matters are compliant with the development plan policies and the NPPF.

Ecology and biodiversity

Biodiversity and the need to protect the natural environment are contained within the environmental objective of the NPPF. Section 15 expands upon how decisions and plans should conserve and enhance the natural environment by protecting sites of biodiversity value and minimising impacts on, and providing net gains to, biodiversity. The provisions of the Environment Act in respect of a mandatory 10% net gain to biodiversity (BNG) are applicable to this application.

Policy BNE3 of the Local Plan set out the Councils' commitment to supporting development that contributes to the protection, enhancement, management and restoration of biodiversity and delivers net gains to biodiversity.

The application is supported by an Ecological Impact Assessment and Biodiversity Metric. The development is considered within these not to raise concerns that there are protected species within the application site for plot 11 though some habitats suitable for commuting and foraging bats and badgers are identified around the sites peripheries. The Derbyshire Wildlife Trust have reviewed the application and the supporting information and confirm that, subject to a suite of conditions being

attached they have no objection to the development.

The development of plot 11 will, without the creation and enhancement of off-site habitats, result in a net loss to biodiversity. The Biodiversity Metric shows that the proposed enhancements off-site and on-site will cumulatively lead to a net gain to biodiversity of 48.51% in habitat units and a 14.84% gain in hedgerow units. The proposals would therefore satisfy the requirement of the Environment Act for a 10% net gain to biodiversity and the units above 10% (38.51%) can be considered a benefit of the proposed development. The proposals are therefore considered to comply with the relevant development plan policies and other material considerations.

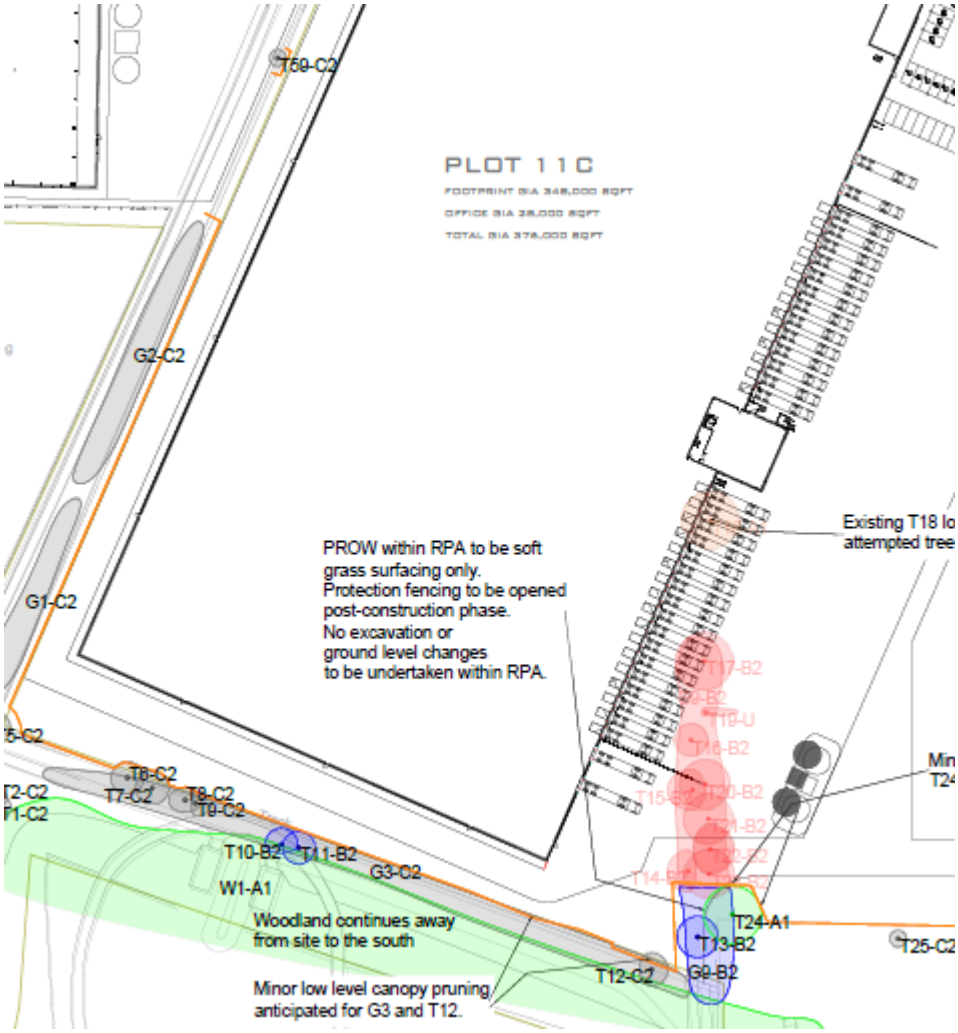
Trees and landscaping

The importance of trees within development and the contribution made by trees to the quality of the environment is recognised in paragraph 136 of the NPPF which requires that policies and decisions seek to incorporate tress into development and take measures to ensure the longevity of newly planted trees.

Paragraph 193 c advises that development resulting in the loss or deterioration of irreplaceable habitats such as veteran trees should be refused unless there are wholly exceptional circumstances.

Policy BNE3 v) sets out that development will be supported which contributes to the protection, enhancement and management of biodiversity wherever possible by protecting veteran tress from loss, unless the need for, and benefits of the development in that location outweigh the loss. Policy BNE7 of Local Plan part 2 discusses the requirement for development affecting trees, woodland and, or hedgerows. Of relevance to this application, the policy sets out that where development could affect trees and hedgerows that have amenity, ecological, landscape or historic value development will be expected to demonstrate the development is informed by relevant surveys and that appropriate tree and root protection measures are taken. Policy further sets out that the felling of protected trees will be considered in accordance with national guidance and regulations taking account of the amenity, ecological, landscape and historic value. It further sets out that where protected trees are subject to felling or removal a replacement of an appropriate number of species, size and in an appropriate location will normally be required. Part D of the policy requires consideration of new planting to ensure the species are in character with the surrounding area having regard for the potential for wider benefits from a range of different species.

The information submitted with the application in relation to trees on the site sets out that the removal of protected trees is needed to facilitate the proposed development. These 8 individual trees within Category B and partial Group 9 lie to the south of the site and adjacent to Pennywaste Woods.



The soft landscaping design submitted with the application includes the planting of 73 individual trees; 4 multi-stem trees; and 18 fruiting and flowering trees and shows the inclusion of T18, the Category A English Oak adjacent the bus stop. This location will be visible on entry to Plot 11 and, it is considered would form a focal point on entry to the site in the long term.

A separate report about the method of translocation for T18 has been provided and reviewed by the SDDC Tree Officer who confirms in their comments that mature tree moving can be undertaken using a rootball, frame and crane method. They provide further advice regarding preparatory root pruning works to improve the chances of successful translocation. They note an aftercare period of around 10 years will be required. They set out the guiding principles for veteran trees and confirm they do not consider the tree to be a Veteran Tree but state it has a biodiversity value of a mature tree. Officers have included a condition to secure a scheme to set out the advance pruning and detail of the translocation of T18 in advance of the translocation process and to provide management and maintenance (aftercare) plans for the necessary period. In addition, the Biodiversity Officer requires a fee for monitoring of the tree.

The tree replacement ratio for the site, noting that 8 trees and part of one group of trees is proposed for removal is 1:11.88 meaning that for each individual tree removed 11.88 trees will be planted on site. Turning to the groups of trees 5 mixed woodland areas are proposed within the landscaped areas to the eastern periphery of the site.

The following species are listed within the Tree specification:
Acer campestre - Field Maple Heavy Standard * 2
Prunus padus - Bird Cherry * 2
Alnus glutinosa - Black Alder * 4
Quercus robur - English Oak * 6
Sorbus aucuparia - Rowan * 7

Quercus petraea - Sessile Oak * 8
Tilia cordata - Lime * 12
Acer campestre- Field Maple * 12
Pinus sylvestris - Scots Pine * 16
Total = 69

Betula pendula - Silver birch (Multi Stemmed) * 4
Total = 4

Reviewing this quantum there is an anomaly within the quantum proposed and set out within the supporting information - Officers propose to secure details of the requite tree and the specification within the Landscaping schedule by way of condition. Similarly, to ensure the visual benefit of the trees planting is realised as soon as possible Officers have adopted the approach that planting within the eastern periphery of the site forming the 'structural landscaping' should be conditioned to be undertaken within the first planting season after the date of permission, should members be minded to approve the application, rather than in the first planting season after the development is complete which is more usual. The basis for this, lies in both arboricultural and landscape benefits of the scheme. 'Advanced Planting' offers benefits in terms of ensuring the landscape screening of the proposed units in plot 11 are realised as soon as possible to mitigate the impact of the development.

Tree planting and soft landscaping within the areas of the commercial units and Innovation Centre is proposed to be conditioned on a unit by unit phased approach. In the case of these areas of the development implementation prior to development would inevitably lead to conflict between the trees and the development that may result in harm to the planted trees and as such is not a logical approach.

It is important to note that, if the application is approved the planning permission has the effect of granting permission for the removal of those trees subject to a TPO without the requirement for any further application to the Council in this regard. Having regard for the removal on site of protected trees it is considered appropriate to protect the proposed mitigation landscaping by way of a new tree preservation order in order to ensure that any future removal is subject to a higher degree of control and to further secure the afore mentioned landscape and design benefits. Tree loss and mitigation are considered to comply with the requirements of the relevant development plan policies.

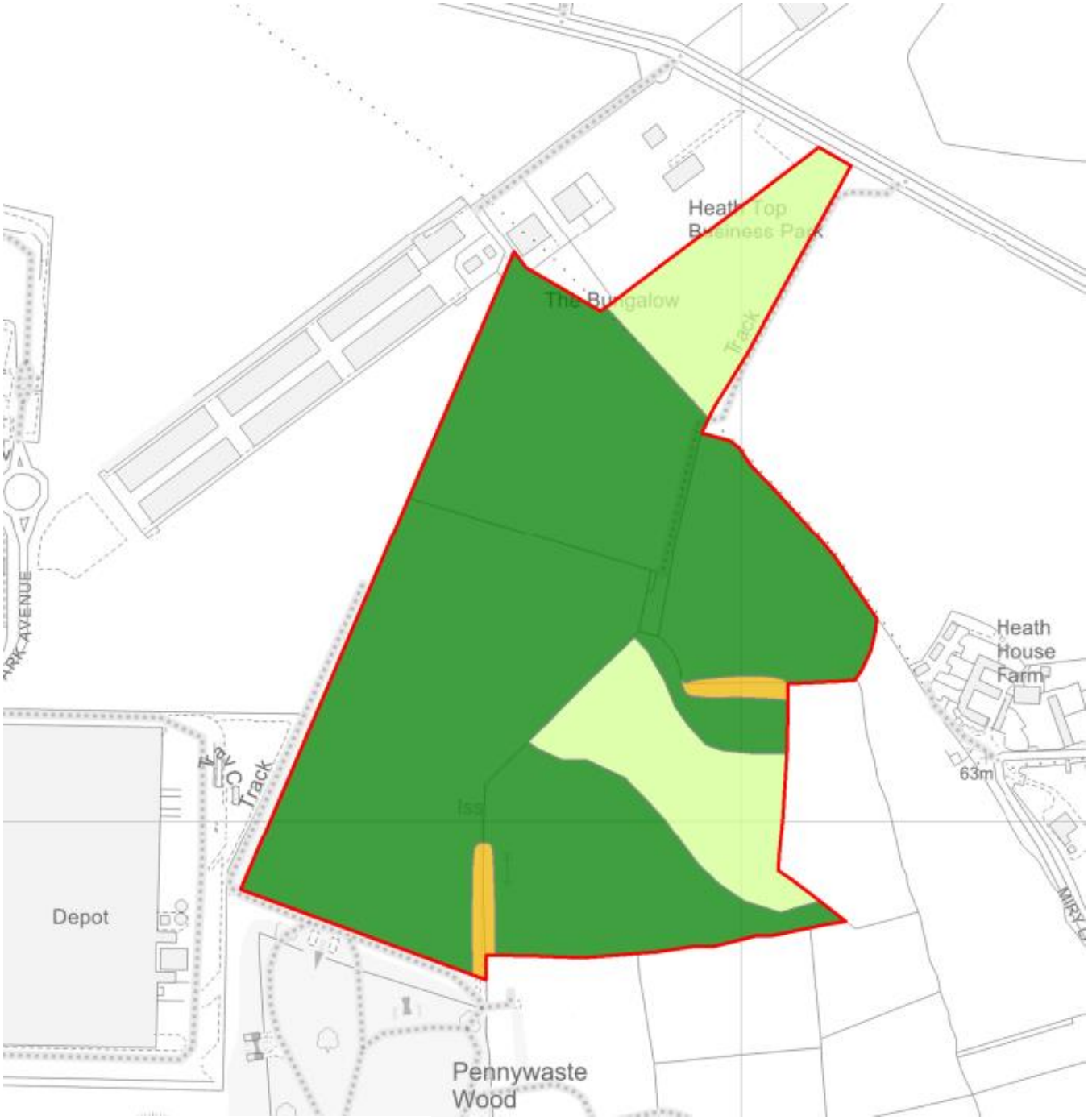
Agricultural Land

Section 15 of the NPPF sets out how plans and decisions can have an impact on *Conserving and enhancing the natural environment*. Paragraph 187b advises that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including economic and other benefits of best and most versatile agricultural land and of trees and woodland.

Local Plan Policy BNE4, Landscape and Local Character, includes at part E the statement that *The Council will seek to protect soils that are 'Best and Most Versatile' .... and wherever possible direct development to areas with lower quality soils.* The relevant explanatory text repeats the NPPF (at the time the policy was written) that The NPPF states that planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land and that local authorities should seek to use areas of poorer quality land in preference to that of higher quality. It is noted in the current version of the NPPF (2024) the latter part of the NPPF's advice is contained within footnote 65, attached to paragraph 188 which seeks to guide plans.

Part v) of policy BNE5, is one of the criteria to be met by development in rural areas, subject to the demonstration that the development complies with one of the exception policies. it is considered above that the proposal does comply with the requirements of Policy E7 and is therefore acceptable in the rural area. Part v) requires the development does not unduly impact on best and most versatile agricultural land (amongst other criteria which are discussed in the relevant sections).

The Agricultural Quality Report submitted in support of the application sets out 12.3ha of the plot 11 land is grade 3a land and therefore best and most versatile.



KEY

- Subgrade 3a
- Subgrade 3b
- Other land
- Site boundary

Officers have consulted Natural England on the proposed development however they have issued a *no*

objection response to the proposed development. This may be because the quantum of B&MV land is less than 20ha, which is the threshold for where Natural England are a statutory consultee.

The South Derbyshire Local Plan Policy test within policy BNE4 is that development will be *directed to areas with lower quality soils wherever possible*, within BNE5 the policy test is that development will not *unduly impact* Best and Most Versatile (B&MV) agricultural land.

In assessing the proposals against these tests it is considered that, within the site there is no opportunity to direct the areas of development to areas with lower quality soils. The applicant has set out at length the benefit of this specific site in economic, logistics and timely delivery to support the case for development in this location. Based upon this consideration Officers do not consider it within the scope of this application to be able to fulfil the policy aspiration of BNE4 to direct development to areas with lower quality soils, as it is not possible within the site subject of this application.

Assessing whether the application will unduly impact B&MV agricultural land as set out in Policy BNE5 Officers turn to the definition of unduly which is noted to be **more than is necessary, acceptable, or reasonable** within the Cambridge dictionary, it is clear that the B&MV agricultural land will be lost should the development proceed, it is arguable that the land lost is what is necessary to allow for the development, whether the necessary loss can be justified as acceptable or reasonable is somewhat more subjective. The threshold where a Local Planning Authority must consult Natural England for the loss of B&MV is 20 hectares, despite the application site falling below this figure Natural England were consulted on the application and have offered no objection to the proposals. On this basis it could be considered reasonable to assume that the 20ha value may be a minimum figure for the 'unduly' test within the policy and anything below this threshold could be considered to be acceptable.

The loss is permanent, policy explanation to BNE4 recognises that development (soil sealing) has an irreversible and adverse impact on the national and local stock of B&MV land. A recent appeal decision on the loss of Best and most Versatile Land has taken the view that in the context of the wider area of Best and Most Versatile a loss of just over 3ha in an area of around 20ha (APP/V4630/W/24/3347424) was not a significant loss that would justify the dismissal of the appeal. It is noted that that decision was for a temporary permission for a 40 year period however, applying the same approach, the site sits within an area of 3,860ha the site of 15.4ha would equate to around 0.4%. This is not considered to be a significant loss. On this basis whether the permanent loss is reasonable Officers consider falls to be weighed in the planning balance as to whether other material considerations justify the loss of 12.3ha of best and most versatile agricultural land such that the loss could be considered reasonable.

Developer contributions

The NPPF advises that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or obligations.

The application proposes to deliver a net gain to biodiversity beyond the mandatory requirement, however, both mandatory and additional BNG is only possible through the use of additional sites beyond the application site. These are required to be secured via a legal agreement. In addition to securing the sites and tying the net gain to the proposed planning decision, the Councils Biodiversity Officer requires that a contribution to the ongoing monitoring of biodiversity reporting, which is determined on the size and scale of the site, to be £6420.83 for small sites less than 10ha and of moderate difficultly for the 30 years. In addition to monitoring of the off-site BNG the Councils Biodiversity Officer requires £3,379.09 to enable monitoring of the translocated tree within the site.

The applicant, in recognition of the current absence of dedicated bus service proposes to fund for an initial period of 18 months, or to a max spend of £185,000 (£10,000 additional secured through the application process for marketing) a bus service to connect Derby to Dove Valley Park. In discussions with the County Council the LPA is unable at this time to establish a preferred trigger point for the commencement of the service and considers it appropriate this be negotiated as part of the Section 106 process. The bus service is intended to be available to all existing businesses and employees and it is intended that travel will be subsidised or free for employees. This will also serve to support reduction in skills shortages by opening up the labour park.
The proposed Innovation Centre will be developed by the applicant at their cost and then transferred to

the Dove Valley Park management company for ongoing management of the site and to support the use by businesses within the site and the Burton and South Derbyshire College. During the application process Officers have agreed the following trigger points to ensure timely delivery of the Innovation Centre:

1. Commencement of development of the innovation centre prior to completion of 50% of the shell and core of the 11 a - d units.
2. Completion of the innovation centre prior to the completion of the Plot 11 units
3. Availability of the innovation centres to college and other beneficiaries on or before the date upon which the 4 Plot 11 units are made available to the market / occupiers respectively.

Ongoing management and maintenance of the footpath will be undertaken by the DVP Management Company Ltd; however, it is understood that ownership will be transferred to a Parish Council. On this basis it is considered to secure a plan for the transfer of ownership, together with details of the management and maintenance arrangements via the legal agreement. The trigger point for opening of the paths is likely to be within 6 months of the completion of the development **or** prior to the occupation of the first unit, whichever is sooner.

Forestry management plans are proposed within the supporting information. It is considered that the trigger point for these will also be *before the occupation of the first unit* these will be supported and implemented at a stage appropriate to the developments implementation and having regard for seasonal constraints.

A Travel Plan monitoring fee is also sought from the County Highway Team - this is £6,600.00.

There remains a degree of negotiation to take place in the S106 process and there is scope that some of the trigger points are amended during that process. Further details will also be set out within the obligations attached and Officer request that members delegate negotiations to the Head of Planning and Strategic Housing.

Other issues

Archaeology
The county Archaeology Team have reviewed the application and the applicant has provided additional details, as set out within the *Responses to Consultation* section. Following the submission of additional information the County Archaeologist confirms there is no further need for Archaeological works at the site.

Contaminated Land
Section 11 of the NPPF focuses on making effective use of land and sets out that planning decisions should promote this to meet the needs for different uses, while safeguarding and improving the environment. Policy SD4 requires that applicants demonstrate that schemes in areas known to be at risk of instability or contamination demonstrate, through investigations, that the scheme will incorporate any necessary remediation methods to render the development proposed safe.

The application is supported by a Phase 1 Geoenvironmental Assessment that recommends a full Phase II geo-environmental intrusive site investigation including gas monitoring be undertaken to determine specific recommendations for the proposed development. The application has been reviewed by the Environmental Health Officer who requests conditions in relation to further investigation in the form of a Phase II survey.

Public right of way
The route of the proposed public path through the site has been confirmed to meet the necessary connectivity criteria and the County PROW Team request only informative notes in this regard. The path will be subject to obligations within the S106 for its transfer, management and maintenance.

Conclusion and planning balance

Officers have attached significant weight in the planning balance to the economic benefits of the

scheme, in accordance with the requirements of the NPPF and having regard for the supporting information which details the national and regional need for units such as these and the high level of market demand. The local picture of greater levels of manufacturing and provider for apprenticeships with a track record for working with businesses further supports the case to the development of units that support the development of the innovation centre are also attached significant weight.

The bus route proposed to be funded will be secured via a section 106 agreement. Extensive dialogue with the applicant and DCC team shows there is an appetite from the existing provider and the use of the service will be sustained in the long term through subsidisation by existing businesses should it be proven to be needed and well used. This offers a good benefit from the development in terms of launching a service, however given the benefit secured by this permission would only be temporary it is only afforded moderate weight in the planning balance.

The permanent creation of public footpaths is seen as a benefit of the scheme and is afforded moderate weight in the planning balance.

Design and impact upon the character of the surrounding area, though this is demonstrated to be of a design commensurate with the industrial surroundings and the landscape and visual impacts are considered to decline as the proposed landscaping scheme matures the development does constitute a permanent change to the landscape and the introduction of commercial industrial features to a previously undeveloped area. The harm arising from this is however mitigated by the proposed landscaping. Notwithstanding this, given there will be some degree of visibility, as such a minimal degree of harm to the character of the surrounding area is considered to be appropriate.

It is appropriate here to include the weight afforded the removal of protected trees to facilitate the development, this is afforded moderate weight in the planning balance, given the AIA sets out that the loss of these trees will result in a '*high reduction in arboricultural and landscape value as a result of the cumulative loss of multiple moderate quality tree and group G9 forming part of TPO44',* without the proposed substantial levels of mitigation landscaping this may have been afforded more weight in the planning balance.

Impacts upon amenity through noise pollution are considered minimal, and mitigated by, layout and design of the development within plot 11 and therefore does not present a reason to refuse the application. It does, non-the-less *result* in some harm, as the levels will not be significant at receptors it is considered appropriate to afford minimal harm to this due to the permanent nature of the proposals.

Use of best and most versatile agricultural land is an unarguable harm of the development, however it is noted that the loss equates to less than 20ha and Natural England have not objected to the application in this regard. In the absence of an objection from the statutory consultee, recent case law on the matter as discussed in the relevant section of the report the permanent loss of Best and Most versatile land, is afforded moderate weight against the proposals. And as set out above, whether or not this is reasonable falls to be considered against the merits of the scheme in the planning balance.

Similarly the loss or biodiversity, and mitigation, would also be a significant harm, however the proposed mitigation complies with the requirement for 10% and substantially exceeds this in achieving 48% on and this basis the loss and 10% can be considered neutral and the additional net gain to be a more than minimal benefit of the proposals.

There is substantial benefit in terms of the economic objective as set out within the NPPF and support for growth, employment and training opportunities, these are afforded significant weight in the planning balance. The proposed connective path is also afforded significant weight. The bus service moderate weight, due to its temporary nature, and the net gain above 10% to be between minimal and moderate weight.

Harms of the development are weighed as follows. The visual impact of the proposed development on the area and the impacts upon amenity are afforded minimal weight against the development. The permanent loss of Best and Most Versatile Land, moderate weight against the development, having regard for the quantum of the loss and the lack of any objection from Natural England, the loss of TPO

trees also afforded moderate weight against the development, given the substantial mitigation planting proposed.

On balance, the benefits and harms afforded minimal and moderate weight are considered to balance each other, the significant weight of economic and training benefits is considered to contribute towards the benefits of the proposals and therefore in the absence of any objection from statutory consultees the application is considered to provide economic and social benefits outweighing the harms to the surrounding environment and is therefore recommended for approval subject to a S106 and conditions as set out below.

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

Recommendation

A. Grant delegated authority to the Head of Planning and strategic housing to negotiate a deed of variation and complete an agreement under Section 106 of the Town and Country Planning Act 1990 so to secure the planning obligations to the previously approved development are carried over to this application, as outlined in the report.

B. Subject to A, Approve the application subject to the following conditions:

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

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

   The development hereby permitted shall be carried out in complete accordance with the plans referenced below:

   Proposed Overall Site Plan, 220001-IMA-ST-XX-DR-A-051108, 08/04/2024
   Proposed Site Plan, 220001-IMA-ST-XX-DR-A-051101, 18/01/2024
   Innovation Centre – Proposed Ground Floor Plan, 222013-IMA-IC-00-DR-A-052500, 23/01/2024
   Innovation Centre - Proposed First Floor Plan, 222013-IMA-IC-01-DR-A-052501, 03/01/2024
   Innovation Centre – Proposed Elevations, 222013-IMA-IC-XX-DR-A-053500, Rev P01, 23/01/2024
   Innovation Centre - Proposed Roof Plan, 222013-IMA-IC-R1-DR-A-052502, Rev P01, 23/01/2024
   Plot 11A - Proposed Ground Floor Plan, 220001-IMA-WH-00-DR-A-052100, 09/01/2024
   Plot 11A - Proposed Main Office Floor Plans, 220001-IMA-OF-ZZ-DR-A-052101, 08/01/2024
   Plot 11A - Proposed Elevations, 220001-IMA-WH-XX-DR-A-053100, dated 08/01/2024
   Plot 11A - Proposed GA Sections, 220001-IMA-WH-ZZ-DR-A-054100, 09/01/2024
   Plot 11B - Proposed Ground Floor Plan, 220001-IMA-WH-00-DR-A-052200, 10/01/20204
   Plot 11B - Proposed Main Office Floor Plans, 220001-IMA-OF-ZZ-DR-A-052201, 11/01/2024
   Plot 11B - Proposed Elevations, 220001-IMA-WH-ZZ-DR-A-053200, 10/01/2024
   Plot 11B - Proposed Roof Plan, 220001-IMA-WH-R1-DR-A-052203, 11/01/2024
   Plot 11B - Proposed GA Sections, 220001-IMA-WH-ZZ-DR-A-054200, 11/01/2024
   Plot 11C - Proposed Ground Floor Plan, 220001-IMA-WH-00-DR-A-052300, 22/02/2024
   Plot 11C - Proposed Main Office Floor Plans, 220001-IMA-WH-ZZ-DR-A-052301, 12/01/2024
   Plot 11C – Proposed Roof Plan, 22001-IMA-WH-ZZ-DR-A-052303, 12/01/2024
   Plot 11C - Proposed Hub office Plans, 220001-IMA-WH-ZZ-DR-A-052302, 18/01/2024

Plot 11C - Proposed Elevations, 220001-IMA-WH-ZZ-DR-A-053300, 12/01/2024
Plot 11C - Proposed GA Sections, 220001-IMA-WH-ZZ-DR-A-054300, 16/01/2024
Plot 11D - Proposed Ground Floor Plan, 220001-IMA-WH-00-DR-A-052400
Plot 11D - Proposed Main Office Floor Plans, 220001-IMA-OF-ZZ-DR-A-052401
Plot 11D - Proposed Elevations, 220001-IMA-WH-ZZ-DR-A-053400, 17/01/2024
Plot 11D - Proposed Roof Plan, 220001-IMA-WH-ZZ-DR-A-052402, 17/01/2024
Plot 11D - Proposed GA Sections, 220001-IMA-WH-ZZ-DR-A-054400, 17/01/2024
DVP Plot 11, Landscaped Bund Proposal, 0359, Rev P03, dated 04/07/2024
Coloured Sections Through Bund, 220001-IMA-ST-XX-DR-A-051120, 08/02/24
Dove Valley Park – Proposed Public Right of Way, 220001-IMA-ST-XX-DR-A-051113, 23/08/2024
Proposed External Fencing Plan, 220001-IMA-ST-XX-DR-A-051103, 19/01/2024
Access Road, General Arrangement, From Plot 3 to Plot 11, MA11840-DVP11-6000, 30/11/2023
Proposed Drainage Strategy, MA11840-DVP11-2000, Rev C, 17/04/2024

Soft Landscape Plan, Sheet 1 of 8, (96)001 Rev D, 17/01/2024
Soft Landscape Plan, Sheet 2 of 8, (96)002 Rev D, 17/01/2024
Soft Landscape Plan, Sheet 3 of 8, (96)003 Rev D, 17/01/2024
Soft Landscape Plan, Sheet 4 of 8, (96)004 Rev D, 17/01/2024
Soft Landscape Plan, Sheet 5 of 8, (96)005 Rev D, 17/01/2024
Soft Landscape Plan, Sheet 6 of 8, (96)006 Rev D, 17/01/2024
Soft Landscape Plan, Sheet 7 of 8, (96)007 Rev D, 17/01/2024
Soft Landscape Plan, Sheet 8 of 8 (96)008 Rev D, 17/01/2024

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

Reason: For the avoidance of doubt and in accordance with the applicants stated intentions in order to ensure a high-quality, sustainable development that does not harm the character of the surrounding area or adversely affect residential amenity in accordance with the requirements of Policy S1, Policy S2, Policy BNE1, Policy BNE4, Policy

2. Before the development hereby approved is commenced, including any site clearance or preparatory works, details of a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority. The plan shall include but not be restricted to:
i) Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
ii) Advisory routes for construction traffic;
iii) Any temporary access to the site;
iv) Locations for loading/unloading and storage of plant, waste and construction materials;
v) Method of preventing mud and dust being carried onto the highway;
vi) Arrangements for turning vehicles;
vii) Arrangements to receive abnormal loads or unusually large vehicles;
viii) Highway Condition survey;
ix) Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

   The approved plan shall thereafter be adhered to throughout the site clearance and construction periods.

   Reason: In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development in accordance with the requirements of policy INF2 of the South Derbyshire Local Plan and the National Planning Policy Framework.

3. Before the development hereby approved is first commenced, excluding site clearance but prior to preparation of foundations and ground levels, details showing the existing and proposed land levels of the site including site sections spot heights and contours and the finished floor levels, ridge and eaves heights of all buildings hereby permitted with reference to the finished floor levels, ridge and eaves heights of neighbouring buildings shall have been submitted to and approved in writing by the Local

Planning Authority. The development shall be undertaken in strict accordance with the approved details.

Reason: In order to ensure a sustainable form of development that meets the requirements of Policy S1 and Policy BNE1 of the South Derbyshire Local Plan and the National Planning Policy Framework.

4. Before the development hereby approved is commenced, including any site clearance or preparation works details of how additional surface water run-off from the site will be avoided during the construction phase shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the LPA, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.

   Reason: In order to ensure that surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development in accordance with the requirements of Policy SD2 and Policy SD3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

5. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site of plot 11 and plot 2, in accordance with the principles outlined within:
   a. Flood Risk Assessment, Document Reference: MA11840-FRA-R03, dated 17 April 2024, prepared by Millward Consulting Engineers and Agents response to LLFA dated 16 August 2024, including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team
   b. And DEFRA's non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority

   Reason: In order to ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided to the Local Planning Authority, in advance of full planning consent being granted in accordance with the requirements of Policy S1, Policy SD2 and Policy SD3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

6. Before the commencement of the development hereby approved:
   a) A Phase II contaminated land site assessment shall be undertaken to include ground gas investigation and risk assessment and full intrusive site investigation as recommended by the phase I report submitted with the application. The site investigation shall be carried out by a competent person in accordance with the current U.K. requirements for sampling and analysis. A report of the site investigation shall be submitted to the local planning authority for approval.

   Reason: To protect the health of the public and the environment from hazards arising from previous uses of the site and/or adjacent land which might be brought to light by development of it, recognising that failure to address such matters prior to development commencing could lead to unacceptable impacts even at the initial stages of works on site. in accordance with the requirements of Policy SD1 and Policy SD4 of the South Derbyshire Local Plan Part 1 and the National Planning Policy Framework.

7. Where the site investigation identifies unacceptable levels of contamination, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall have regard to relevant current guidance. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures.
   The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

The developer shall give at least 14 days notice to the Local Planning Authority (Environmental Health Division) prior to commencing works in connection with the remediation scheme.

Reason: To protect the health of the public and the environment from hazards arising from previous uses of the site and/or adjacent land which might be brought to light by development of it, recognising that failure to address such matters prior to development commencing could lead to unacceptable impacts even at the initial stages of works on site. in accordance with the requirements of Policy SD1 and Policy SD4 of the Local Plan Part 1 and the National Planning Policy Framework.

8. The buildings hereby approved shall not be occupied until:
a) The approved remediation works required by 8 above have been carried out in full in compliance with the approved methodology and best practice.
b) If during the construction and/or demolition works associated with the development hereby approved any suspected areas of contamination are discovered, which have not previously been identified, then all works shall be suspended until the nature and extent of the contamination is assessed and a report submitted and approved in writing by the local planning authority and the local planning authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated through the process described in 7b to 8 above and satisfy 9a above.
c) Upon completion of the remediation works required by 7 and 9a above a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has achieved the approved remediation standard, together with the necessary waste management documentation shall be included.

Reason: To protect the health of the public and the environment from hazards arising from previous uses of the site and/or adjacent land which might be brought to light by development of it, recognising that failure to address such matters prior to development commencing could lead to unacceptable impacts even at the initial stages of works on site. in accordance with the requirements of Policy SD1 and Policy SD4 of the South Derbyshire Local Plan Part 1 and the National Planning Policy Framework.

9. Before the development hereby approved is commenced a scheme for the translocation of T18 including advanced preparations, translocation methodology, details of the proposed aftercare, management and maintenance of the tree and full details of any compensatory planting that would be proposed in the event of failure of the translocation process shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be implemented in complete accordance approved details.

Reason: In order to ensure the in accordance with the requirements of Policy BNE1 and BNE7 of the South Derbyshire Local Plan, the Trees and Development Supplementary Planning Document and the National Planning Policy Framework.

10. Notwithstanding the submitted information and before the development hereby approved is commenced a Tree Planting scheme and specification shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include but not be limited to:

a. Full specification and location of individual trees and their locations.
b. the timing of planting to include phasing of planting aligned to commencement and completion of development and planting in advance of, or concurrently with the development where possible.
c. Details of any additional tree protection measures or process for the submission of these to protect phased planting
d. comprehensive management and maintenance plan

The scheme shall include the provision of no less than 77 individual trees, to include a minimum of 4 multi-stemmed trees and no less than 684 trees to be included in the woodland.

Reason: In order to provide sufficient planting and landscaping and achieve a high-quality development in accordance with the requirements of Policy BNE1 and BNE7 of the South Derbyshire Local Plan, the Trees and Development Supplementary Planning Document and the National Planning Policy Framework.

11. The structural landscaping detailed within approved Soft Landscaping Plans Sheet 1 - 8 inclusive, (Drawing numbers (96)001 Rev D; (96)002 Rev D; (96)003 Rev D; (96)004 Rev D; (96)005 Rev D; (96)006 Rev D; (96)007 Rev D; (96)008 Rev D) including but not limited to:
i) tree planting;
ii) mixed woodland
iii) woodland edge planting;
iv) scrub planting;
v) wildflower planting;
vi) wildflower mixes
vii) grass mixes

Shall be implemented as soon as possible after the date of this permission in a scheme to include phasing where this achieves advanced planting relative to the commencement and completion of the development of units within plot 11 first to be agreed pursuant to condition 10 unless otherwise agreed in writing with the Local Planning Authority.

Reason: For the avoidance of doubt and in accordance with the applicants intentions and to enable the establishment of structural landscaping in order to ensure a high quality, visually screened development in accordance with the requirements of Policy BNE1 and BNE7 of the South Derbyshire Local Plan, the Trees and Development Supplementary Planning Document and the National Planning Policy Framework.

12. Within one month of the implementation of each phase of planting the applicant shall notify the Local Planning Authority detailing the location, quantum and specification of the planting undertaken and make the phase available for their inspection.

Reason: In order to provide sufficient planting and landscaping and achieve a high-quality development in accordance with the requirements of Policy BNE1 and BNE7 of the South Derbyshire Local Plan, the Trees and Development Supplementary Planning Document and the National Planning Policy Framework.

13. Before the development hereby approved is commenced (including demolition, ground works, vegetation clearance and movement of plant, machinery and materials) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include, but not be limited to, the following:
a) Risk assessment of potentially damaging construction activities.
b) Identification of “biodiversity protection zones”.
c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
d) The location and timing of sensitive works to avoid harm to biodiversity features
e) The times during construction when specialist ecologists need to be present on site to oversee works.
f) Responsible persons and lines of communication.
g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
h) Use of protective fences, exclusion barriers and warning signs.
Once approved the CEMP details shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: In order to ensure that protected and priority species and habitats are protected during the construction period in accordance with the requirements of BNE3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

14. Before the development hereby approved is commenced (including demolition, ground works, vegetation clearance and movement of plant, machinery and materials) a detailed badger survey for any recently excavated badger setts on the site or within 30 metres of the site boundary shall be undertaken. The results and any appropriate mitigation and licensing requirements shall be submitted to the Local Planning Authority for approval. Any measures approved by the process must be implemented in full.

    Reason: In order to safeguard protected species in and around the site in accordance with the requirements of Policy BNE3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

15. Before the development hereby approved is commenced, including any site clearance works an onsite Habitat Management and Monitoring Plan (Onsite HMMP) shall be submitted to, and be approved in writing by, the Local Planning Authority. This shall identify the habitats to be retained, created and / or enhanced on the site and specify the appropriate management prescriptions to secure the predicted condition targets, as per the approved biodiversity metric for the application. The HMMP shall also set out a monitoring schedule to ensure targets are met and remedial actions to take if not. Guidance on producing a HMMP can be found here: https://www.gov.uk/guidance/creating-a-habitat-management-and-monitoring-plan-forbiodiversity-net-gain

    Reason: For the avoidance of doubt, in accordance with the applicant's stated intentions and in order to deliver a net gain to biodiversity in accordance with the requirements of Policy BNE3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

16. Before the development hereby approved is commenced, including any site clearance works, an Off-siteHabitat Management and Monitoring Plan (Onsite HMMP) shall be submitted to, and be approved i n writing by, the Local Planning Authority. This shall identify the habitats to be retained, created and / o r enhanced in the off-site areas identified as biodiversity improvement areas
    and specify the appropriate management prescriptions to secure the predicted condition targets, as per the approved biodiversity metric for the application. The HMMP shall also set out a monitoring schedul e to ensure targets are met and remedial actions to take if not. Guidance on producing a HMMP can be found here:
    https://www.gov.uk/guidance/creating-a-habitat-management-and-monitoring-plan-forbiodiversity-net-gain

    Reason: For the avoidance of doubt and in accordance with the applicant's stated intentions and in order to deliver a net gain to biodiversity in accordance with the requirements of Policy BNE3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

17. Before the development hereby approved is commenced above foundation level a Species Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall thereafter be implemented in full and maintained in accordance with the approved details. The Plan shall clearly show positions, specifications and numbers of features, which will include (but are not limited to) the following:
    a) universal nest boxes to be erected onto mature trees
    b) external bat boxes to be erected onto mature trees
    c) Herptile hibernacula (log piles etc) within areas of green space
    d) Insect towers or houses within areas of green space
    e) fencing gaps 130 mm x 130 mm to maintain connectivity for hedgehogs.

    Reason: In order to provide species enhancements in accordance with the requirements of Policy BNE3 and the National Planning Policy Framework.

18. Before the development hereby approved is commenced, including any site clearance, tree removal or any equipment, machinery or materials are brought onto site, the tree protection measures detailed within Arboricultural Impact Assessment, Method Statement and Tree Protection Plan, Dove Valley Park - Plot 11, reference RSE_7665_R2_V4_ARB, dated April 2024 and shown on drawing references RSE_7665_TPP1, Rev. V4 shall be implemented.

The development shall thereafter be undertaken in complete accordance with the approved details and the recommended methods of working set out within the Arboricultural Impact Assessment, Method Statement and Tree Protection Plan, Dove Valley Park - Plot 11, reference RSE_7665_R2_V4_ARB, dated April 2024, and retained and adhered to for the duration of construction including any site clearance works. No fires, excavation, change in levels, storage of materials, vehicles or plant, cement or cement mixing, discharge of liquids, site facilities or passage of vehicles, plant or pedestrians, shall occur within the protected areas.

The Tree Protection measures shall be kept in place until all parts of the development have been completed, and all equipment; machinery and surplus materials have been removed from the site.

Reason: For the avoidance of doubt and in accordance with the applicants stated intentions, to ensure the satisfactory protection of trees and hedgerows within and adjacent the site in accordance with the requirements of Policy BNE3 and BNE4 of the South Derbyshire Local Plan, the Trees and Development Supplementary Planning Document and the National Planning Policy Framework.

19. Before the commencement of the development of the innovation centre hereby approved above foundation level a hard and soft landscaping plan together with a management and maintenance plan for this area of the site shall be submitted to and approved in writing by the Local Planning Authority.

    Reason: In order to ensure a high-quality development in accordance with the requirements of Policy BNE1 of the South Derbyshire Local Plan, the Sustainable Design Guide and the National Planning Policy Framework.

20. Notwithstanding the information submitted before the development hereby approved is commenced a plan, or plans, broadly in accordance with plans DVP Plot 11, Landscaped Bund Proposal, 0359, Rev P03, dated 04/07/2024 and Coloured Sections Through Bund, 220001-IMA-ST-XX-DR-A-051120, 08/02/24, and showing the extent and height of the landscape bund and the location, on, or adjacent to the bund of the public right of way, broadly in accordance with the route shown on plan Dove Valley Park – Proposed Public Right of Way, 220001-IMA-ST-XX-DR-A-051113, 23/08/2024 and providing detailed specification of the size and species of the proposed tree planting to be sited on the bund and the timing for development of the proposed bund shall be submitted to and approved in writing by the Local Planning Authority.

    Reason: In order to ensure that any conflict between the bund and the proposed public right of way are designed out prior to the commencement of the development and ensure that the development is adequately screened so as minimise the visual impact of the development on the character of the surrounding area in accordance with the requirements of Policy BNE1 and Policy BNE4 of the South Derbyshire Local Plan and the National Planning Policy Framework.

21. The development hereby approved shall not be occupied until the access, parking and turning facilities for each individual building has been provided as shown on the approved drawings. The facilities shall thereafter be retained in accordance with the approved detail for the lifetime of the development.

    Reason: In order to ensure the development is adequately served by safe access, sufficient parking and turning facilities in accordance with the requirements of Policy S6 and Policy INF2 of the South Derbyshire Local Plan and the National Planning Policy Framework.

22. Notwithstanding the submitted details before the commencement of any building hereby approved above foundation level full details of the external materials shall be submitted to and approved in writing by the Local Planning Authority.

    Reason: In order to ensure a high-quality development that integrated with the surrounding area in accordance with the requirements of Policy BNE1 of the South Derbyshire Local Plan and the National Planning Policy Framework.

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

occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.
The boundary treatments shall thereafter be retained and maintained in accordance with the approved details.

Reason: In order to ensure a high-quality development in accordance with the requirements of Policy BNE1 of the South Derbyshire Local Plan and the National Planning Policy Framework.

24. Prior to the first use of any of the buildings hereby approved details of sheltered, secure and accessible bicycle parking provision shall be submitted to and approved in writing by the Local Planning Authority. The cycle storage areas shall thereafter be retained and maintained for this purpose for the lifetime of the development.

    Reason: In order to promote sustainable travel and healthy communities in accordance with the requirements of Policy INF2 of the South Derbyshire Local Plan and the National Planning Policy Framework.

25. Before the first use of any building hereby approved an electric vehicle infrastructure strategy and implementation plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall contain details of the number and location of all electric vehicle charging points and shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851, and Derbyshire Highway Design Guide. Buildings and parking spaces that are to be provided with charging points shall not be brought into use until associated charging points are installed in strict accordance with approved details and are operational. The charging point installed shall be retained thereafter unless replaced or upgraded to an equal or higher specification.

    Reason: In order to promote sustainable travel and healthy communities in accordance with the requirements of Policy INF2 of the South Derbyshire Local Plan and the National Planning Policy Framework.

26. Before the occupation of any building hereby approved details of secure motorcycle parking spaces shall be submitted to and approved in writing by the Local Planning Authority. The spaces shall thereafter be retained for their intended use.

    Reason: In order to ensure safe and suitable access to the development for a variety of users in accordance with the requirements of Policy INF2 of the South Derbyshire Local Plan and the National Planning Policy Framework.

27. The Employment Travel Plan hereby approved shall be implemented and monitored in accordance with the regime contained within the Plan. In the event of failing to meet the targets within the Plan a revised Plan shall be submitted to and approved in writing by the Local Planning Authority to address any shortfalls, and where necessary make provision for and promote improved sustainable forms of travel to and from the site. The submitted details shall use Modeshift STARS Business to carry out this process and include mechanisms for monitoring and review over the life of the development and timescales for implementation. The approved Travel Plan shall be implemented, monitored and reviewed in accordance with the approved details.

    Reason: In order to reduce vehicle movements and promote sustainable travel in accordance with the requirements of Policy INF2 of the South Derbyshire Local Plan and the National Planning Policy Framework.

28. Within one month of their incorporation into the buildings hereby approved a statement of good practice including photographs detailing the installation of species enhancement measures pursuant to condition 16 be submitted to the local planning authority, demonstrating that the enhancements have been selected and installed in accordance with the requirements of the condition.

    Reason: In order to provide species enhancements in accordance with the requirements of Policy BNE3 and the National Planning Policy Framework.

29. Units 11a, 11b, 11c and 11d, as shown on plan reference Proposed Overall Site Plan, 220001-IMA-ST-XX-DR-A-051108, 08/04/2024 shall be used only for purposes falling within Class E(g)(iii)/B2/B8

Schedule to the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) and for no other purposes.

Reason: For the avoidance of doubt and in accordance with the applicant's stated intentions and to ensure a sustainable form of development and the safeguarding of residential amenity in accordance with the requirements of Policy S1, Policy BNE1, Policy E7, and Policy SD1 of the South Derbyshire Local Plan and the National Planning Policy Framework.

30. The innovation centre hereby approved and shown on plans Innovation Centre – Proposed Ground Floor Plan, 222013-IMA-IC-00-DR-A-052500, 23/01/2024; Innovation Centre - Proposed First Floor Plan, 222013-IMA-IC-01-DR-A-052501, 03/01/2024; Innovation Centre – Proposed Elevations, 222013-IMA-IC-XX-DR-A-053500, Rev P01, 23/01/2024 and Innovation Centre - Proposed Roof Plan, 222013-IMA-IC-R1-DR-A-052502, Rev P01, 23/01/2024 shall be retained in its proposed sui generis use for its lifetime

    Reason: For the avoidance of doubt and in accordance with the applicant's stated intentions and in order to ensure diversity within the employment offer and training opportunities of Dove Valley Park in accordance with the requirements of Policy E7 of the South Derbyshire Local Plan and the National Planning Policy Framework.

31. Prior to the installation of any street lighting, external lighting or lighting affixed to external faces of the buildings hereby approved, an external lighting strategy incorporating the recommendations of paragraph 5.4.2 v of Ecological Impact Assessment, reference: RSE_5833_R2_V1_LECIA, dated 06/04/2024 shall be submitted to and approved in writing by the Local Planning Authority.

    Reason: For the avoidance of doubt and in order to safeguard protected and/or priority species from undue disturbance and impacts in accordance with the requirements of Policy BNE3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

32. All industrial, workshop and manufacturing processes shall be carried out within the approved buildings and no such works shall be carried out in the open, neither shall any items, goods, materials, plant, vehicles or containers be stored in the open spaces around the development or the service yards unless otherwise agreed on application to the Local Planning Authority.

    Reason: To adequately protect the amenity of nearby residents and to safeguard the character and appearance of the area in accordance with the requirements of Policy BNE1 and Policy SD1 of the South Derbyshire Local Plan and the National Planning Policy Framework.

33. No commercial waste or waste containers shall be kept or stored within the car, cycle or motorcycle parking areas. Provision for waste shall be within the building or servicing areas and all waste shall be securely stored.

    Reason: For the avoidance of doubt, to ensure the safe storage and removal of waste and to preserve the character and appearance of the area in accordance with the requirements of Policy BNE1 and Policy BNE4 of the South Derbyshire Local Plan and the National Planning Policy Framework.

34. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, unless specifically agreed pursuant to other conditions of this permission, no external lighting shall be provided within the application site, without the prior permission on application by the Local Planning Authority.

    Reason: For the avoidance of doubt and to ensure the amenities of nearby residents are adequately protected in accordance with the requirements of Policy SD1 and Policy BNE1 of the South Derbyshire Local Plan and the National Planning Policy Framework.

    Informatives:

    a. a) The development hereby approved includes the construction of new highway. To be considered for adoption and ongoing maintenance at the public expense it must be constructed to the Highway

Authority's standards and terms for the phasing of the development. You are advised that you must enter into a highway agreement under Section 38 of the Highways Act 1980. The development will be bound by Sections 219 to 225 (the Advance Payments Code) of the Highways Act 1980.
Contact the Highway Authority's Implementation Team
at development.implementation@derbyshire.gov.uk. You will be required to pay fees to cover the Councils cost's in undertaking the following actions:
• Drafting the Agreement
• Set up costs
• Approving the highway details
• Inspecting the highway works
You should enter into discussions with statutory undertakers as soon as possible to co-ordinate the laying of services under any new highways to be adopted by the Highway Authority.
The Highway Authority's technical approval inspection fees must be paid before any drawings will be considered and approved. Once technical approval has been granted a Highway Agreement under Section 38 of the Highways Act 1980 must be completed and the bond secured.

b. The applicant's attention is drawn to the procedures for crane and tall equipment notifications, please see: https://www.caa.co.uk/Commercial-industry/Airspace/Event-and-obstacle-notification/Crane-notification/

c. The applicant's attention is drawn to the comments of the Lead Local Flood Authority, as detailed within their response dated 10th January 2025, in respect of the minimum information requirements for drainage conditions set out within this decision. The applicant is advised to review these comments in detail prior to the submission of any application to discharge conditions and to contact the Lead Local Flood Authority should they require any further information or clarification.

d. The development hereby approved includes the construction of new highway. To be considered for adoption and ongoing maintenance at the public expense it must be constructed to the Highway Authority's standards and terms for the phasing of the development. You are advised that you must enter into a highway agreement under Section 38 of the Highways Act 1980. The development will be bound by Sections 219 to 225 (the Advance Payments Code) of the Highways Act 1980.
Contact the Highway Authority's Implementation Team at development.implementation@derbyshire.gov.uk. You will be required to pay fees to cover the Councils cost's in undertaking the following actions:
• Drafting the Agreement
• Set up costs
• Approving the highway details
• Inspecting the highway works
You should enter into discussions with statutory undertakers as soon as possible to co-ordinate the laying of services under any new highways to be adopted by the Highway Authority.
The Highway Authority's technical approval inspection fees must be paid before any drawings will be considered and approved. Once technical approval has been granted a Highway Agreement under Section 38 of the Highways Act 1980 must be completed and the bond secured.

e. The proposed development will require a Travel Plan as part of the transport mitigation package (together with a Monitoring Fee and Default Payment) and the Applicant/Developer is required to enter into a legally binding Planning Obligation Agreement with the County Council to secure the Travel Plan.
Derbyshire County Council has published guidance on how it expects travel plans to be prepared, this guidance is freely available from the County Councils website. As part of this process the applicant must register for Modeshift STARS and ensure that their targets have been uploaded so that progress on the implementation of the Travel Plan can be monitored.
Modeshift STARS Business is a nationally accredited scheme which assists in the effective delivery of travel plans, applicant can register at www.modeshiftstars.org

f. It is expected that contractors are registered with the Considerate Constructors scheme and comply with the code of conduct in full, but particularly reference is made to "respecting the community" this says:
Constructors should give utmost consideration to their impact on neighbours and the public.
• Informing, respecting and showing courtesy to those affected by the work;
• Minimising the impact of deliveries, parking and work on the public highway;
• Contributing to and supporting the local community and economy; and
• Working to create a positive and enduring impression, and promoting the Code.
The CMP should clearly identify how the principal contractor will engage with the local community; this should be tailored to local circumstances. Contractors should also confirm how they will manage any local concerns and complaints and provide an agreed Service Level Agreement for responding to said issues. Contractors should ensure that courtesy boards are provided, and information shared with the local community relating to the timing of operations and contact details for the site coordinator in the event of any

difficulties.
This does not offer any relief to obligations under existing Legislation.

g. Biodiversity Net Gain

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition (the biodiversity gain condition) that development may not begin unless:

(a) a Biodiversity Gain Plan has been submitted to the planning authority, and

(b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be South Derbyshire District Council.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements listed below are considered to apply.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

28/01/2025

2. Planning and Other Appeals

2.1 Appeal Decisions

Reference	Place	Ward	Outcome	Decision level
DMPA/2022/1547	Thulston	Aston	Allowed	Committee

(References beginning with a DMPA, DMPN, DMOT or 9 are planning appeals and references beginning with an ENF or E are enforcement appeals)

Planning Inspectorate

Appeal Decision

Site visit made on 9 December 2024

by U P Han BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 January 2025

Appeal Ref: APP/F1040/W/24/3348958
Land at Broad Lane, Thulston, Derby DE72 3FD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs M Warden against the decision of South Derbyshire District Council.
- The application Ref is DMPA/2022/1547.
- The development proposed is conversion of barn to residential accommodation including the re-construction of the existing stable block.

Decision

1. The appeal is allowed and planning permission is granted for the conversion of a barn to residential accommodation including the re-construction of the existing stable block at Land at Broad Lane, Derby DE72 3FD in accordance with the terms of the application, Ref DMPA/2022/1547, subject to the conditions in the attached schedule.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was issued on 12 December 2024. Comments were sought from the main parties as to the relevance of the revised Framework to the appeal, and I have taken the comments received into account in my consideration of the appeal.

Main Issues

3. The main issues are:

   - whether the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and the development plan;
   - the effect of the proposed development on the openness of the Green Belt;
   - whether the proposed development would result in an enhancement of the building's immediate setting; and
   - if the development is inappropriate, whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether Inappropriate Development

4. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework further establishes that development in the Green Belt is inappropriate unless one of the exceptions listed in paragraph 154 applies.

5. The proposal would meet elements of three of the exceptions, notwithstanding only one exception is required. These exceptions are; (c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building, (g) limited infilling or the partial or complete redevelopment of previously developed land which would not cause substantial harm to the openness of the Green Belt and (h)(iv) the re-use of buildings provided that the buildings are of permanent and substantial construction.

6. Policy S8 of the South Derbyshire Local Plan (June 2016) (the SDLP) states that development proposals in the Green Belt will be assessed against national policy and is therefore consistent with the Framework.

7. Policy H28 of the SDLP relates to residential conversions outside of settlement boundaries and permits such development provided the building is; (i) of a permanent and substantial construction, (ii) suitable for conversion without extensive alteration, rebuilding and/or extension, or (iii) constitutes the re-use of a suitable redundant or disused building or would secure the future use of a heritage asset.

8. The appeal site relates to land containing a single storey stable block and a two-storey barn with a private stone surfaced drive accessed from Broad Lane. It is located close to the southern boundary of Thulston and washed over by Green Belt. The site adjoins the rear of the appellant's house and garden and is enclosed by paddocks to the west and south. The stable block sits parallel with the barn with a small gap between them, and a hard surfaced area in front.

9. The proposal seeks to convert the existing barn into a 2 bedroom dwelling, demolish the existing stable block and erect a single storey extension to the barn where the stable block is currently located. The single storey extension would accommodate a kitchen/ dining area, a single garage and two replacement stables. The proposed dwelling would be served by the existing access and a new garden to the front.

10. The barn was built in 2016 and is of steel framed construction with timber cladding and concrete floor. The submitted structural survey concludes that the existing building is in structurally sound condition and capable of conversion. In the absence of evidence to the contrary and based on my site observations, I have no reason to disagree. The building is of permanent and substantial construction meeting criteria (i) of Policy H28 and paragraph (h)(iv) of the Framework.

11. The Framework does not provide a definition of 'disproportionate additions' and therefore an assessment of whether a proposal would amount to a

disproportionate addition over and above the size of the original building is a matter of planning judgement. Similarly, there is no definition of 'extensive' referred to in Policy H28.

12. New windows would be inserted to the first floor of the existing barn. The existing door and garage door on the ground floor would be partially blocked up and changed to a window and front door. Accordingly, these alterations would not constitute extensive alteration or rebuilding of the existing barn.

13. Given the height and massing of the proposed single storey extension, it would not represent a disproportionate addition to the existing barn. Furthermore, part of the extension would house replacement stables and the extension would occupy broadly the same footprint as the existing stables, and be of a similar height, width and depth to them.

14. The Council contends that as the existing stables would be demolished, it is not of permanent or substantial construction, neither is it suitable for conversion without extensive alteration or rebuilding. However, the proposal does not seek to convert the stables, only the barn. Policy H28 permits alterations, rebuilding and/ or extensions to a building to provide residential accommodation on the proviso that they are not 'extensive'. I have found that the proposed alterations and extension to the barn would not be extensive and would not result in a disproportionate addition to the original building. Therefore, the unsuitability of the existing stables for residential conversion is not a relevant consideration.

15. Furthermore, the Council does not dispute that the existing structures and hard surface is previously developed land. Based on the evidence before me and my site observations, the proposed extension to the existing barn would also constitute the partial redevelopment of previously developed land as defined in Annex 2 of the Framework.

16. For the reasons given, the proposal would not be inappropriate development in the Green Belt, complying with Policy S8 and H28 of the SDLP and the Framework. I will now consider the effect of the proposed development on the openness of the Green Belt.

Openness

17. Openness is an essential characteristic of the Green Belt that has spatial and visual aspects. The existing barn is clearly visible from the adjacent highways due to its height and the flatness and openness of the surrounding land. The proposed extension would effectively replace the existing stables and closely reflects its scale and massing. The small gap between the barn and stables would be filled but the proposal would result in less sprawl as the built form would be displaced further north into the site. Accordingly, openness of the Green Belt would be preserved and there would be no conflict with Policy S8 of the SDLP and the Framework.

Enhancement of Immediate Setting

18. Policy H28 of the SDLP requires all residential conversions outside settlement boundaries to result in the enhancement of the building's immediate setting. The proposal seeks to reduce the perceived prominence of the existing barn which is atypical in terms of design, colour and external materials. More subdued external cladding is proposed which would help the proposal to

integrate with its rural surroundings. The proposed fenestration would interrupt the expansive, unbroken walls on the barn. Furthermore, the consolidation of the built form would reduce its projection into the open countryside. Overall, the proposal would give the appearance of a cohesively designed, sensitively converted rural building which would be in keeping with its countryside location.

19. For the reasons given, the proposed development would result in an enhancement of the building's immediate setting. Hence it would comply with Policy H28 of the SDLP.

Other Matters

20. The Council has a 5.76 years supply of housing land, but this does not represent a cap or maximum number of dwellings that can be permitted.

21. The Council has raised no concerns about the impact of the proposal on highway safety and I have no reason to disagree.

22. I have considered a third party's argument that the proposal would set a precedent for similar developments in the adjacent field. However, the field is not previously developed land and does not contain any structures that could be converted or re-used. Therefore, it is not directly comparable to the appeal site. In any event, each application and appeal must be determined on its individual merits.

23. The existence of a derelict house in the vicinity does not sufficiently justify refusing planning permission in this case.

Conditions

24. The Council has provided a list of suggested planning conditions, which I have considered against the Framework and advice contained in the Planning Practice Guidance (PPG). Where appropriate, I have amended wording for clarity and precision and have removed tailpieces to conditions that circumvent the statutory route to vary conditions or deprive interested parties of the opportunity to comment.

25. Along with the standard time condition, the approved plans should also be specified to provide clarity and certainty.

26. It is necessary to ensure that the garage space is used in connection with the proposed dwelling to maintain adequate parking provision. Accordingly, a condition is imposed to secure this.

27. A condition requiring the access drive to be surfaced with tarmacadam or similar material for a distance of at least 5 metres behind the highway boundary is necessary to prevent loose stones from being deposited onto the highway in the interests of highway safety.

28. To ensure satisfactory refuse and recycling facilities are provided for future occupiers, I have imposed a condition requiring details to be agreed with the Council. However, it is unnecessary for this to be a pre-commencement condition.

29. A limit on the water consumption rate is justified by Policy SD3 of the SDLP.

30. Given that the proposal has been assessed against Policy S8 and H28 and to control incidental curtilage development, the removal of permitted development rights is warranted. However, the Council's suggested condition is not sufficiently clear and precise. I have therefore imposed a more specific condition that refers to the relevant legislative provisions.

31. A condition controlling the hours of demolition and construction works is necessary to safeguard the amenity of nearby occupiers.

32. A bird nesting survey appears to have been undertaken within the Bat Survey Report (dated August 2023). This confirms that the existing barn does not have the potential to support nesting birds. Two defunct swallow nest cups were located in the stable block, however no active nests were observed. Therefore, a condition requiring the submission of a bird nesting survey is not necessary. However, a biodiversity mitigation and enhancement plan is required in order to enhance biodiversity but it is not necessary for this to be a pre-commencement condition.

33. A condition requiring the window serving the first-floor bedroom on the north elevation of the building to be glazed in obscured glass and non-opening is necessary to protect the privacy of the future occupiers and the occupiers of nearby dwellings.

34. The condition suggested by the Council in relation to materials would circumvent the statutory route to vary conditions or deprive interested parties of the opportunity to comment and would therefore not meet the PPG. In any event the condition is not necessary as the materials would be specified in the approved plans/ drawings.

Conclusion

35. The proposed development would not be inappropriate development in the Green Belt and would result in an enhancement of the building's immediate setting. Accordingly, it would comply with the development plan. There are no material considerations to indicate that a decision should be taken other than in accordance with it. For the reasons given above, the appeal should be allowed.

U P Han

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following drawings and details:
   - Michael Evans & Associates LTD Structural Statement Job No. 23-206 (1 August 2023)
   - ML-Ecology Preliminary Bat Survey Report (11 August 2023)
   - GRT Architecture Design & Access Statement
   - Proposed Site Plan Drawing No. 001
   - Existing Site Plan Drawing No. DLB2214-01
   - Existing Floor Plans Drawing No. DLB2214-02

- Existing Elevations Drawing No. DLB2214-03
- Existing Elevations (2) Drawing No. DLB2214-04
- Proposed Elevations Drawing No. 002
- Proposed Floor Plans Drawing No. 003

3) The garage hereby permitted shall be kept available at all times for the parking of motor vehicles by the occupants of the dwelling and their visitors and for no other purpose.

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

5) Prior to the first occupation of the development hereby permitted, details of the refuse and recycle store shall be submitted and approved in writing by the local planning authority. The refuse and recycle store shall be carried out in in accordance with the approved details and maintained as approved.

6) The development hereby permitted shall not be occupied until the Building Regulations optional requirement of a water consumption rate of no more than 110 litres per person per day has been complied with.

7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, B, E, F and AA of Part 1, and Class A of Part 2 of Schedule 2 to the Order shall be undertaken.

8) Demolition or construction works shall take place only between 08:00 hours and 18:00 hours Monday to Friday and between 08:00 hours and 13:00 hours on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.

9) Prior to the first occupation of the development hereby permitted, a Biodiversity Mitigation and Enhancement Plan shall be submitted to and approved in writing by the local planning authority. Measures shall include (but are not limited to) the following: 2 x swallow cups/bespoke swallow nest boxes, 1x external universal nest box (avoiding southern elevations) and 1x external bat box (favouring southern elevations). All approved measures shall be implemented in full and maintained in perpetuity.

10) The building hereby permitted shall not be occupied until the window serving the first-floor bedroom on the north elevation has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

End of Conditions