

REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES

SECTION 1: Planning Applications SECTION 2: Appeals

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

1. PLANNING APPLICATIONS

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

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

1. The issues of fact raised by the Director of Community and Planning Services' report or offered in explanation at the Committee meeting require further clarification by a demonstration of condition of site.
2. Further issues of principle, other than those specified in the report of the Director of Community and Planning Services, arise from a Member's personal knowledge of circumstances on the ground that lead to the need for clarification that may be achieved by a site visit.
3. Implications that may be demonstrated on site arise for consistency of decision making in other similar cases.

Item 1.1

Reg. No. 9/2014/0948/OS

Applicant:
Mr Jonathan Harbottle
Providence Land Limited
c/o Agent

Agent:
Mr Tom Hutchinson
Howard Sharp And Partners LLP
79 Great Peter Street
Westminster
London
SW1P 2EZ

Proposal: **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT OF UP TO 75 DWELLINGS WITH ASSOCIATED PUBLIC OPEN SPACE AND SUSTAINABLE DRAINAGE AT LAND AT SK2520 3411 ROSLISTON ROAD SOUTH DRAKELOW SWADLINCOTE**

Ward: **LINTON**

Valid Date: **02/10/2014**

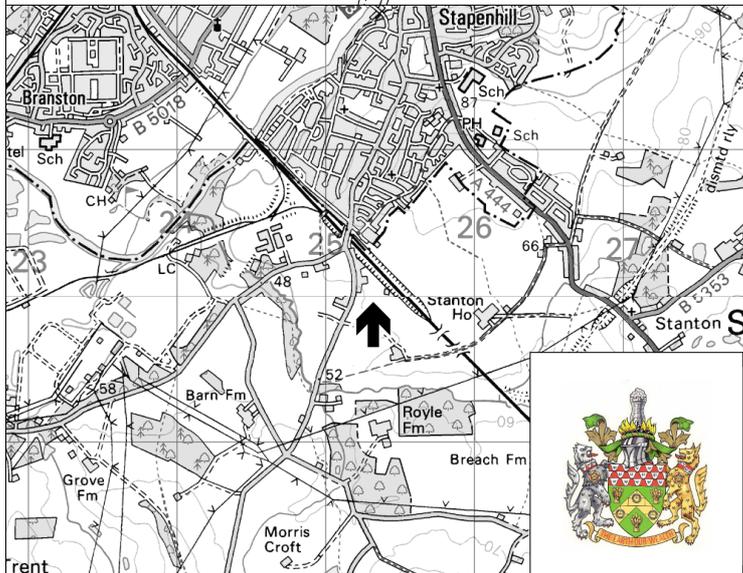
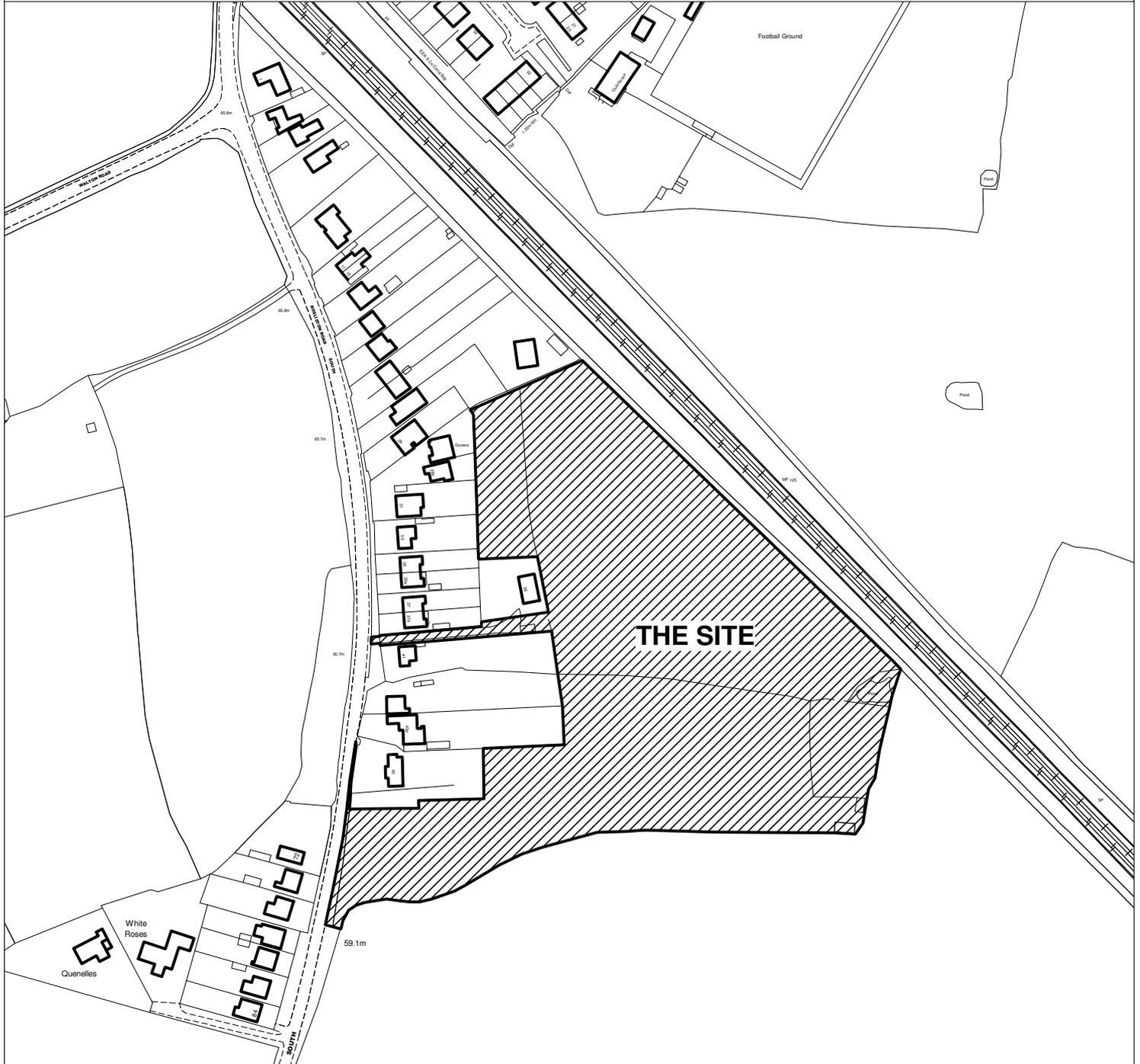
Reason for committee determination

The application has been brought to Committee at the request of Councillor Wheeler and because this is a major development, not in accord with the development plan and more than two letters of objection have been received.

Site Description

The application site comprises 2.89ha of garden and adjoining agricultural land (two fields) to the east and south of Nos. 29 to 45 Rosliston Road South. The majority of the site is mainly pasture and used for hobby farming purposes. There are existing mature trees along the southern and eastern boundaries, together with a row of trees which denotes the boundary between the two fields. The line of the Leicester and Swannington railway forms the north eastern boundary of the site. There is an existing pond in the eastern corner of the site. No.39, which is located to the rear of Nos.35 to 37a, and accessed via a 3m wide driveway between Nos. 37a and 41, is included within the red line and would be retained and incorporated into the proposed development. There are five buildings within the application site, three of which are used for hay storage and livestock accommodation with the remaining two being residential accommodation (No.39) and an associated domestic garage. The site slopes upwards in a northerly direction.

9/2014/0948 - Land at SK2520 3411 Rosliston Road South, Drakelow, Swadlincote (DE15 9UD)



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South Derbyshire District Council. LA 100019461. 2014

Proposal

The application is in outline with all matters reserved except for access for the erection of up to 75 dwellings together with associated public open space and sustainable drainage. A new vehicular access would be formed onto Rosliston Road South adjacent to No.45 and a pedestrian access would be provided between Nos. 37a and 41. An area of public open space and play area measuring a minimum of 0.47ha would be provided on the eastern part of the site. An amended plan also shows the provision of a 1m to 1.5m pedestrian footway to the front of Nos. 43, 43a and 45 where no footway currently exists. It is also proposed to realign the carriageway to incorporate the new footway which can all be accommodated within highway land so that existing private driveways would not be affected.

It is proposed to connect the new development to the existing mains sewer with surface water being controlled by a Sustainable Drainage System (SuDS) which would run south from the site to the existing pumping station, connecting to a manhole on the outfall from the pumping station.

Applicants' supporting information

The application is accompanied by several supporting documents, all of which are available to view on the Council's website. However, for ease of reference, these can be summarised as follows.

- Proposed Heads of Terms. This relates to a proposed Section 106 Agreement for contributions towards the provision of affordable housing, national forest planting, off-site recreation facilities, healthcare provision, education provision and waste and recycling facilities.
- Design and Access Statement (DAS). This demonstrates that the site could accommodate up to 75 dwellings, having regard to the national and local policies on new housing development. An indicative layout shows how the site could provide satisfactory access for vehicles, cyclists and pedestrians and would improve the connectivity of the site with the land around it. The principles within the DAS provide a sound basis to deliver high quality development at reserved matters stage in which the layout, scale, appearance and landscaping of the proposal would meet the national and local policies for securing good design and promoting healthy communities.
- Statement of Community Involvement. Whilst pre-application discussions have been had with the District and County Councils, Derbyshire Wildlife Trust and Severn Trent Water, the applicants made the decision to establish the principle of the development prior to seeking the views of the public and local community. They are willing to engage with the public when the reserved matters scheme is being worked up, taking account of comments made on the current outline application.
- Affordable Housing Statement. This provides an indicative housing mix ranging from one bedroom flats to four/five bedroom dwellings and confirms that a minimum of 30% would be affordable with a proposed tenure split of 65% social

and affordable rent, 35% intermediate, or as otherwise agreed with the District Council.

- Planning and Sustainability Statement. This concludes by stating that the site relates well to the existing built form and would form a logical small urban extension that infills behind existing dwellings. The site is contained by strong boundaries on all sides. The site is not protected under the Birds and Habitats Directives, neither is it a SSSI, within the Green Belt, a Local Green Space, an Area of Outstanding Natural Beauty or within a National Park. It does not materially affect a designated heritage asset or fall within a location at risk from flooding. It has no physical, environmental, access or ownership constraints. The only constraint is the existing countryside protection policy within the dated Local Plan which does not take account of housing need. The proposal represents sustainable development that would deliver significant, economic, social and environmental benefits, including making a significant contribution to the Council's housing land supply, and would qualify for the New Homes Bonus over a six year period.
- Noise and Vibration Impact Assessment. This concludes that there would be a low probability of adverse impact from passing freight trains both during the daytime and night time periods. An assessment of the impact of additional traffic flows indicates that there would only be a negligible increase in noise levels at existing sensitive receptor locations. During the construction phase of the project Best Practical Means would be implemented to ensure noise levels are kept to a minimum.
- Heritage Statement. This statement confirms that the site does not contain any archaeological sites or other heritage assets such as a Scheduled Monument, Listed Building, Conservation Area, World Heritage Site, Historic Park or Garden and Battlefield. The development of the site would not adversely affect the site or setting of any designated heritage asset.
- Flood Risk Assessment. This concludes that the proposed development would not be affected by current or future flooding from any source and the development would not increase flood risk elsewhere. The proposed measures to deal with the effects and risks are considered to be appropriate. There are no anticipated negative impacts associated with the proposed development. The proposed on-site drainage solution would be suitable to attenuate flows up to and including the 1 in 100 year + 30% rainfall event. Surface water from the development would be limited to a maximum rate of 14.9 litres per second and surface water flows from the site would not be increased. On-site storage would be provided through a variety of means such as oversized pipes, crates and the open attenuation area. All surface water will be stored within the site and released at a controlled rate. The on-site sewers will be offered to Severn Trent Water for adoption and connections into the existing sewerage system would be subject to Section 106 approval from Severn Trent Water.
- Ecological Appraisal. The poor semi-improved grassland compartments within the site are considered to be of low conservation value. The compartments were heavily grazed and comprise low species diversity. A single area to the south was ploughed during July 2014 and does not meet the criteria for neutral

grassland. The development layout (indicative) has been designed to retain much of the existing hedgerows although some inevitable disturbance or loss would occur as a result of the construction of the access roads. Mitigation would be provided through the gapping up and enhancement of existing hedges and/or through their replacement elsewhere within the site. With regard to habitats it is recommended that a nature conservation management plan for any retained and newly created habitats be implemented to ensure that the optimal benefits for biodiversity are achieved. The plan should span a minimum of 10 years and include details for appropriate management of semi-natural habitats, e.g. hedgerows, retained grassland and pond and should be designed by an appropriately qualified ecologist.

- Open Space Assessment. The open space provision on site has been calculated in accordance with the National Playing Fields Association Standards of 2.4ha per 1,000 people, resulting in a requirement for 0.43ha of public open space on the site. The actual provision within the indicative layout would be 0.47ha which allows scope for the sustainable urban drainage to be provided within the site without impacting on the amount of usable space for recreation. Some national forest planting would also be within the open space with the remainder being provided off-site via a contribution within the S106 agreement. The 0.47ha also takes account of the revised standard in the emerging Local Plan of 2.54ha per 1000 people. Assuming the Council would adopt the open space a contribution for maintenance would be made in accordance with the Council's requirements.
- Pre-development Tree Survey. All trees on the site have been surveyed from the ground and the survey is based on visual assessment only. A climbing survey has not been undertaken. Specific recommendations for remedial tree works have been included which are valid for 12 months, after which date it may be necessary to reassess the advice. The majority of trees and hedgerows are healthy and require no works to be carried out at present. A small number of specimens require remedial works, including pruning, with a recommendation that three trees be felled, as they are either dead or unhealthy and unlikely to last very much longer.
- Framework Travel Plan. An audit of existing travel facilities has been undertaken which identifies there are a number of facilities already in the vicinity of the sit to encourage travel by sustainable modes, including bus services and pedestrian routes to surrounding residential areas, and key local facilities including schools, health centres and retail. The broad objective of the Travel Plan is to promote the use of non-car modes to travel to and from the site. The Travel Plan has set out a package of measures that may be taken forward upon occupation of the development. It outlines how the Travel Plan would be administered by the co-ordinator in co-operation with the local Highway Authority. It also outlines a target for the reduction in private car use and a strategy for the monitoring and review of the plan. It is concluded that the Travel Plan provides a sustainable access strategy for the development.
- Transport Assessment. The level of traffic likely to be generated by the proposed development in the peak hours has been estimated using the TRICS database, based on a worst case assessment of up to 100 dwellings. The proposed site access junction has been capacity assessed based on opening year 2016 and

future year 2021 traffic flow scenarios with the inclusion of development traffic. Additional technical analysis has been undertaken to demonstrate that the number of development trips utilising the existing Walton Bailey Bridge is negligible and the existing shuttle signals operation can accommodate the proposals. It concludes that the Transport Assessment has demonstrated that the proposed development site is accessible by a variety of sustainable modes of travel and the trips generated by the development can be accommodated by the local highway network.

- Phase 1 Geo-environmental Risk Assessment. This concludes by stating that the site is considered to be suitable for the proposed development from a ground contamination perspective. However, it is considered prudent to undertake a preliminary site investigation to prove ground conditions and investigate the unlikely presence of shallow soil contaminants and ground gas. The site and surrounding areas are dominated by undeveloped agricultural land. A farm and associated farm buildings are located to the west of the site. There is limited potential for localised soil contamination in the western area of the site associated with the farm buildings and their construction. There is limited potential for ground gas associated with potential fill materials. The risk to human health receptors is considered to be low.
- Utilities Report. This confirms that the site is capable of being served by all the major utilities including South Staffs Water, BT Openreach, Western Power Distribution and British Gas.

Planning History

9/2001/0504 – Retention of field shelter – approved 19/07/2001

9/2003/0900 – Outline for one dwelling and garage – refused 09/09/2003

9/2005/1173 – Loft conversion and dormer windows – approved 22/11/2005

9/2006/0122 – Erection of agricultural building for use as a machine store, animal treatment area, and animal shelter for pigs and sheep – approved 04/04/2006

Responses to Consultations

The County Highway Authority comments on both the original application and the amended plan which indicates the slight realignment of the kerblin in order to provide a footway on the east site of Rosliston Road South between the existing and proposed site access. Whilst the footway does not fully comply with the Highway Authority's design criteria in terms of width, in view of the fact that an alternative pedestrian access between Nos. 37a and 41 would be provided and that visibility would be improved at the proposed access and those of the fronting properties, the benefits are considered to outweigh any concerns.

For the number of dwellings proposed a Transport Statement is required to accompany any planning application. With regards to accidents, the submitted document refers to data obtained from the Crashmap website rather than Derbyshire Constabulary and concludes that there is no significant highway safety problem as, in the last 5 years, no personal injury accidents have occurred on Rosliston Road South between the railway

bridge to the north of the site and the extend of the dwellings on the western side of the road. The Highway Authority is looking into accident data on the wider network with a view to identifying any locations where the introduction of the traffic generated by the development would exacerbate an existing situation. In the event that a pattern of problems exist that would be exacerbated by the development traffic, measures to mitigate the impact of the development would need to be addressed and included within the proposal. If investigations find no evidence of accident histories or patterns of causation or suitable mitigation measures are proposed to be implemented at the applicant's cost, the Highway Authority would not raise any objections to the proposal subject to the inclusion of conditions.

In a subsequent letter the Highway Authority confirms that whilst a number of accidents were identified at the crossroads close to the application site, no collisions resulted from vehicles turning into or out of Rosliston Road South towards Swadlincote. On this basis it would be difficult to demonstrate that the existing situation would be exacerbated by the proposed development traffic.

Finally, the Highway Authority is mindful of the fact that the nearby Drakelow Park development is restricted by planning condition and as part of the Section 106 Agreement to the building of no more than 100 dwellings before the Walton Bypass is open to traffic and improvement works are undertaken on Walton Road between the site and the Bypass. It is acknowledged that the current proposal would add to the traffic in the vicinity. Whilst it could be construed that there is a potential inequity between the obligations arising from the Drakelow Park permission and the possible absence of similar requirement being attached to the current application, it is considered that two significant issues arise:

Firstly, it will be recalled that the Transport Assessment (TA) submitted in support of the Drakelow Park proposal pre-supposed that the Walton Bridge and Bypass would be constructed and open to traffic prior to the permission being granted (the Bridge and Bypass having previously been proposed and permission granted in advance of, and unrelated to, Drakelow Park). As it became evident that the Bridge and Bypass would not be constructed in the timescale envisaged it was considered that, rather than requiring the TA to be fundamentally revised to take account of the absence of that infrastructure, and assessing the consequential vehicle trip redistribution and impact, mechanisms would be put in place to provide for a specified number of dwellings being constructed in advance of the expenditure on the Bridge/Bypass and improvements to Walton Road.

Secondly, noting that permission for Drakelow Park was granted in February 2012, the National Planning Policy Framework (NPPF) was published the following month. The current outline application is for up to 75 dwellings and is accompanied by a TA although, strictly speaking, a Transport Statement is generally acceptable when less than 80 dwellings are proposed. Paragraph 32 of the NPPF states that: *'Plans and decisions should take account of whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe'*.

In view of the above, it is considered that there is no evidence or justification supporting a requirement for the current proposal to contribute to works on Walton Road or associated with the Walton Bridge/Bypass.

Comments by Derbyshire County Council on the Travel Plan include the requirement for a contribution of £5,000 (i.e. £1,000 per annum for 5 years) towards the Travel Plan monitoring fee, secure and accessible cycle storage and the provision of electric vehicle charging points. The name and contact details of the Travel Plan Coordinator should be supplied to the LPA and DCC on appointment one month prior to first residential occupation and the person should remain in role for the full 5 year lifetime of the plan.

Severn Trent Water has no objections subject to a condition with regard to drainage details.

Derbyshire County Council requests developer contributions as follows:
£2,145.75 towards additional waste management capacity;
£188,937.87 towards the provision of 11 secondary school places (classroom project A at The William Allitt School).

DCC also requires the provision of access to high speed broadband for future residents and new homes designed to Lifetime Homes standards.

DCC Flood Risk Management Team recommends the inclusion of Sustainable Drainage Systems (SuDS) within the proposed development and advises the applicant to contact the Flood Team for guidance.

The County Archaeologist considers there is potential for previously unknown prehistoric/R-B archaeology and likely ridge and furrow earthworks within the site and required the submission of a detailed geophysical survey before commenting further on the application. As such he maintained a holding objection on grounds of non-compliance with the NPPF, para. 128. Since then further information has been submitted which overcomes his concerns subject to further work being carried out following the grant of outline consent and prior to the submission of reserved matters. This would be covered by a suitably worded condition.

The Environmental Protection Officer (contaminated land) requires conditions in respect of contaminated land.

The Environmental Protection Officer (noise) requires a condition in respect of noise mitigation detailing how noise impacts arising from the adjacent railway line will be controlled.

The National Forest requests conditions to ensure the retention of trees and hedgerows, new tree planting and nature conservation enhancements. There is also a requirement for £11,600 towards off-site planting.

Natural England considers that the proposal is unlikely to affect any statutorily protected sites or landscapes.

Derbyshire Wildlife Trust considers there are unlikely to be any protected species impacts associated with the proposed development but recommends the protection of all hedgerows to be retained during construction works. The Trust does not support the use of existing native hedgerows as private garden boundaries as their long-term retention and appropriate uniform management cannot be guaranteed. As a result their wildlife value is likely to significantly diminish. It is therefore advised that the existing

hedgerows should be retained within undeveloped green corridors with a suitable landscape buffer and that this is reflected in the final layout submitted as part of the reserved matters application. The Trust recommends a condition with regard to no removal of hedgerows, trees or shrubs between 1 March and 31 August.

The neighbouring local authority (East Staffordshire Borough Council) has no objections to the proposal.

The Council's Strategic Housing Manager requests 30% of the development to be affordable housing, of which a minimum of 68.1% should be for rent and a maximum of 31.9% for shared ownership. The housing mix should be as follows:

For Rent

15% 1-bed, 2-person flat/house
40% 2-bed, 4-person house/bungalow
35% 3-bed 5-person house/bungalow
10% 4+bed 7+person house/bungalow

For Shared ownership

66% 2-bed 4-person house/bungalow
34% 3-bed 5-person house/bungalow

The Crime Prevention Design Adviser recommends the extension of the pavement up to the new vehicular access and makes comments on the indicative site layout with regard to the overlooking of parking spaces and communal accesses.

Responses to Publicity

The local County Councillor objects to the proposal on the following grounds:

- No requirement for the dwellings as the site has not been identified in the local plan and new housing provision is being made in the area by the Drakelow Park development;
- The application site is a greenfield site which is not sustainable;
- Adverse environmental impacts, such as flora and fauna, diversion of footpaths, covenants on the land, flooding;
- Highway safety, particularly at Flint Mill crossroads, which is an accident blackspot, additional traffic and consequential impact on residents;
- Domestic sprinkler systems should be required for all new properties.

An objection has been received from Drakelow Developments which can be summarised as follows:

- The Drakelow Park development is subject to a planning condition (No.47) which restricts development beyond 100 houses until the Walton bypass has been constructed. It would be entirely unreasonable, illogical and irrational if the Council were to grant permission for this development given that the above restriction was considered necessary for Drakelow Park. The development

would utilise the same infrastructure and therefore, logically, permission cannot be granted until the bypass has been constructed.

- If permission is granted a condition should be imposed precluding development until the bypass has been constructed.
- A financial contribution of £300,000 towards the construction of the bypass should be required, given that it will unlock the highway infrastructure needed to allow the site to be brought forward.

Stapenhill Parish Council has concerns relating to:

- Increased volumes of traffic through Stapenhill;
- Increased HGV traffic through Stapenhill during construction;
- Increased pollution
- Adverse impacts on ecology.

A total of 35 letters and emails have been received in response to the application together with 9 letters/emails that were received prior to the application being submitted. All the representations raise objections to the proposed development, and these can be summarised as follows:

- a. The new footpath and realignment of the road would necessarily need to use land in private ownership and seriously infringe upon the view from the 60mph to the 30mph and would leave no buffer hedgerow or verge;
- b. Further strain on the road network;
- c. Speed surveys should be undertaken as, despite the 30mph limit, large numbers of vehicles regularly travel at speeds between 50 and 60 mph;
- d. Rosliston Road South is used by HGVs as an alternative route to avoid the A444, which has speed cameras in order to monitor speed limits;
- e. Disruption to day-to-day usage of driveways;
- f. Illegal parking will increase;
- g. Potential for increased number of accidents, particularly at Flint Mill crossroads where two deaths have already occurred;
- h. Localised flooding caused by previous road repairs and by the proposed development;
- i. Increased traffic on already busy road will cause congestion, pollution, noise, danger, disruption and invasion of privacy;
- j. Narrow width of road and lack of existing infrastructure;
- k. Lack of need, owing to Drakelow Park development;
- l. No capacity at schools or doctors;
- m. Adverse impact on character of village and the rural community and the open countryside – closure of green gap between Staffordshire and Derbyshire;
- n. Overdevelopment of site – less properties of single storey design would be more in keeping with the area – comparisons with Stapenhill are not relevant as the site is in Drakelow;
- o. Overdevelopment of the area in light of the Drakelow Park development;
- p. Future occupiers are likely to be young people in contrast to the current mature demographic state;
- q. Development of greenfield site (Greenbelt land) in the National Forest is against Government direction;
- r. Lack of pavement, narrowness of road has caused cars to cross the pavement and crash through domestic fences;

- s. Is the Council only interested in increasing Council Tax revenue from new properties rather than acting in the interests of existing local tax payers?
- t. Light pollution caused by street lighting;
- u. Overlooking of outdoor swimming pool and changing rooms and enclosure of existing property, impact on privacy;
- v. Potential increase in crime;
- w. Adjacent land is subject of a livestock holding agreement and allows for the keeping of cattle, pigs, sheep, hens etc. How do the developers intend to secure the boundary and avoid future confrontation that could arise?
- x. Lack of detail within the application, such as boundary screening;
- y. Lack of existing public transport to schools and doctors with one existing service currently under threat;
- z. No garages will result in cars being parked on the road which is inappropriate for the area;
- aa. Existing covenant forbids the use of the land for anything other than the keeping of chickens;
- bb. Blight on existing properties;
- cc. Impact on ecology including newts and wildlife habitats and feeding grounds for buzzards, kestrels etc;
- dd. Devaluation of existing property

Development Plan Policies

The relevant policies are:

Adopted Local Plan: Saved Housing Policies 6, 8, 9, 11; Saved Environment Policies 1, 9, 10, 11, 14; Saved Transport Policies 6, 7; Saved Community Facilities Policy 1B; Saved Recreation & Tourism Policy 4.

Emerging Local Plan: Policies S2, S6, H1, SD1, SD4, BNE1, BNE3, BNE4, INF1, INF2, INF6, INF7, INF8, INF9.

Supplementary Planning Guidance: Housing Design and Layout

National Guidance

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

National Planning Practice Guidance (NPPG), ID 50-001-20140306 – Rural Housing; ID 30-001-20140306 – Noise; ID 37-001-20140306

Planning Considerations

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

- The principle of the development
- The Council's five-year housing land supply and sustainability
- Visual impact
- Highway matters
- Ecology issues
- Miscellaneous issues, including the loss of agricultural land
- Section 106 obligations

Planning Assessment

Principle of development

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

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

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

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

The application site is located within the countryside, to the rear and south of existing residential properties that make up the small linear settlement of Drakelow, which comprises dwellings mainly positioned along both sides of Rosliston Road South. The old Leicester Line railway forms the north eastern boundary beyond which is an area of Green Belt that prevents urban sprawl between Burton upon Trent and Swadlincote. The weight to be attached to Local Plan policies is dependent on their level of consistency with the NPPF (para.215). The adopted Local Plan contains numerous saved policies relating to new residential development and countryside development that have been considered to be consistent with the NPPF although recently, an appeal decision questioned the validity of some policies in certain circumstances. When assessing this application against the adopted Local Plan it is clear that the proposals would be contrary to Housing Policies 6 and 8 and Environment Policy 1. It is evident that the site is not within a village confine, with Drakelow being classed as a rural settlement with no settlement boundary, but rather that the site lies in open countryside outside any settlement boundary.

Saved Housing Policy 6 only supports new housing development in rural settlements provided that they represent the infilling of a small gap for not more than two dwellings within small groups of housing and they are in keeping with the scale and character of the settlement.

Housing Policy 8 only supports new housing development in the countryside provided that it is necessary to serve a rural-based activity or that it is necessary to be in a countryside location.

Part A of Environment Policy 1 is similar to Housing Policy 8 in that it requires new development to be either essential to a rural-based activity or unavoidable in the countryside.

Whilst it is evident that the proposal does not meet any of the criteria in these three policies, it is clear that they should not be solely instrumental in reaching a decision on whether to approve or refuse consent as they could be considered to be out-dated when considering development of sites of this size when weighed against the need for housing in the district.

The Emerging Local Plan Part 1 was examined in Public at the end of November into December 2014. The Inspector has written to the both South Derbyshire and the Derby Housing Market Area authorities with further work that is required before the process can continue. In the Plan, Policy H1 – Settlement Hierarchy – includes Drakelow Village as a rural settlement where the level of housing accepted will be limited infill and conversion of existing buildings and local scale affordable and cross subsidy housing will be promoted on appropriate sites. Clearly, this is not the case here. However, although some weight can be afforded to the Emerging Plan now that it has progressed beyond its consultation stages and has reached the Examination stage, it would not be advisable to attribute it significant weight until such time as the Plan has been found to be 'sound' following the Inspector's Report.

Given that the proposals do not accord with Saved Housing Policies 6 and 8 and Environment Policy 1 of the adopted Local Plan, it is considered that the principle of the development has not been satisfied. Notwithstanding this, Members will be aware that the decision is not as clear cut as the above policy considerations appear to suggest. Another important material consideration is the Council's five year housing land supply.

The Council's Five year Housing Land Supply and Sustainability

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

In terms of paragraph 14 of the NPPF the presumption in favour of sustainable development must apply unless there are adverse impacts that would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole. It has been made clear through numerous appeal decisions made since the inception of the NPPF that any negative considerations would need to be substantial in order to justify refusal of an application that makes a meaningful contribution to strategic housing need. The mere presence of less than optimal

planning circumstances for any given development is not likely to outweigh the presumption.

The Council currently is unable to demonstrate that it has a five year housing land supply (the current figure is below four). Paragraph 49 of the NPPF is specific on this subject. It states: Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable sites. It follows, therefore, that, as the Council is unable to demonstrate a five year housing supply, Members should be approving the current proposal, provided that they consider the scheme to be sustainable development.

Whilst it is acknowledged that Drakelow village itself is devoid of any local services, it being comprised mainly of two rows of houses along Rosliston Road South, its close proximity to the local services available in Stapenhill to the immediate north of the village would meet the sustainability test for the site. Stapenhill, which is well within walking distance, offers a range of facilities, including a public house and a variety of shops, and is also served by much-used public transport.

Members will be aware of the recent appeal decision for High Street, Linton, where the Inspector concluded that Linton was sustainable, even though the available services were limited. In this case the range of local services available is much wider and more readily available. Consequently, it is considered that the site is sustainable and therefore it would meet the sustainability objectives of the NPPF.

Picking up the Inspector's conclusions within the Linton appeal and, indeed, continuing the theme that runs through the majority of other recent appeals, it is clear that regard must be had to paragraph 14 of the NPPF in that (if the presumption in favour of sustainable development applies) the benefit of the housing proposals has to be balanced against the harm to the countryside. Moreover, to justify resisting the proposals under paragraph 14 the harm must outweigh the benefit, not just marginally but rather '*significantly*' and '*demonstrably*'.

Visual impact

The majority of the application site is located to the rear of existing residential properties along the eastern side of Rosliston Road South confined by the railway line and as such would not feature as an intrusive or incongruous development in its location when viewed from the public realm. That said, the existing properties are predominantly single storey and therefore it is likely that a development of two-storey dwellings would have some impact on the surrounding area, mainly when approaching the site from the south (Rosliston). The creation of the new vehicular access would lead to the loss of some hedgerow although the majority of existing boundary hedgerows would be retained and enhanced. The application is in outline and therefore matters of layout and design are reserved for later approval. The indicative layout is fairly non-prescriptive, which provides a good opportunity to work with the developers prior to the submission of reserved matters in order to achieve a high quality design which reflects the character of the area both in terms of its countryside setting and existing development. Owing to the generous sizes of the gardens of the dwellings to the west of the site it would be possible to design an acceptable layout that would respect the privacy of the existing residents whilst achieving a development that would score highly when assessed

against the Building for Life criteria. There are no public rights of way within the site that would restrict the layout. The intention to retain existing boundary planting and hedgerows is to be welcomed and this would mitigate the impact of the development to a significant degree.

In conclusion it is considered that the location of the site is relatively recessive and any visual impact of the development could be minimised by ensuring the retention of existing boundary treatments together with additional planting where necessary and by working with the applicant prior to the submission of reserved matters to bring forward a high quality design that maximises its rural setting and features.

Highway matters

The development would be served by a single vehicular access, which would be positioned to the south of No.45 Rosliston Road South, where an existing gated field access is located. A pedestrian/cycle access would also be provided where an existing vehicular access serving No.39 is currently located.

The County Highway Authority (CHA) has commented on the proposed slight realignment of the kerbline in order to provide a footway on the eastern side of Rosliston Road South. Whilst the proposed footway does not fully comply with the CHA's design criteria in terms of width, the provision of the alternative pedestrian/cycle access into the site would off-set this and therefore the benefits are considered to outweigh any concerns. Incidentally, the installation of the additional footway would be carried out within highway limits and would not require any third party land.

The issue of additional vehicles and the increased use of the highway network in the vicinity of the site forms one of the major concerns of neighbouring residents. It has to be acknowledged that this section of Rosliston Road South is heavily trafficked and busy throughout most of the day. However, information submitted as part of the application indicates that between the Rosliston Road railway bridge to the north to the extents of dwellings on the western side of Rosliston Road South no accidents were recorded in the most recent 5 year period (2008 to 2012 inclusive). As such it is considered that there would be no significant highway safety problems requiring mitigation as a result of the development. The CHA has studied accident data on the wider network and has concluded that whilst a number of accidents were identified at the crossroads some 120m to the south of the application site, no collisions resulted from vehicles turning into or out of Rosliston Road South. On this basis the CHA is of the view that it would be difficult to demonstrate that the existing situation would be exacerbated by the proposed development and the additional traffic likely to be generated.

The CHA is mindful of the potential inequity between the development of Drakelow Park and this development. The Drakelow Park development is restricted by planning condition and Section 106 obligations to building no more than 100 dwellings before (i) the Walton bypass has been constructed and is open to traffic; and (ii) improvement works to Walton Road have been undertaken. As detailed above, the CHA acknowledges that the current proposal is likely to add to the traffic in the vicinity. However, it considers that two significant issues arise:

1. The Drakelow Park Transport Assessment (TA) pre-supposed that the Walton bypass would be constructed and open to traffic prior to planning permission

being granted. As it became evident that this would not occur during the timescale envisaged a decision was made to provide for a specified number of dwellings being constructed in advance of the bypass being constructed rather than fundamentally revise the TA to take account of the absence of the infrastructure and re-assessing consequential trip redistribution and impact.

2. The permission for Drakelow Park was granted in February 2012 and the NPPF was published the following month. Paragraph 32 of the NPPF states *inter alia* that 'Plans and decisions should take account of whether improvements can be undertaken within the transport network that, cost effectively, limit the significant impacts of development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe'.

In view of the above the CHA considers there is no evidence or justification supporting a requirement for the current proposal to contribute to works on Walton Road or associated with the Walton bypass.

Ecology issues

The site contains two ponds: a small waterbody adjacent to the site's eastern boundary and a shallow depression/ditch adjacent to a hedgerow along the access to No.39. No Great Crested Newts were found during the surveys. Similarly, no evidence of badgers, including setts, and reptiles were observed. The hedgerows, trees and scrub all provide suitable nesting habitat for bird species in the local area and it would be prudent, therefore, to include a condition or informative regarding nesting birds.

A number of features within the site are likely to provide opportunities for foraging bats, including a single horse chestnut tree, although there was no evidence of bats found at the time of the surveys. Of the existing buildings on the site three were assessed as being unsuitable to support bat roosts with the remaining two having low potential. Nocturnal surveys carried out during June and July 2014 indicated that no bats entered or left the buildings during the surveys.

It is considered, therefore, that there is unlikely to be any protected species that would be adversely affected by the proposed development. However, it would be of benefit to include a requirement for the provision of bat and bird boxes within the development in order to encourage wildlife into the development.

The comments of Derbyshire Wildlife Trust have been noted and it is proposed to include suitably worded conditions or informatives in regard to hedgerows and nesting birds as part of the permission.

Miscellaneous issues, including the loss of agricultural land

With regard to the loss of agricultural land, paragraph 112 of the NPPF advises local planning authorities to '*take into account the economic and other benefits of the best and most versatile agricultural land and that, where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use poorer quality land in preference to that of a higher quality*'. The paragraph has its origins in PPS7 (now superseded). In terms of the NPPF it should be recognised that although the soils on the site could support arable crops, in practice the land is

significantly restricted in terms of its ability to be farmed sustainably to its potential. Owing to their small size and awkward shape, the fields are inherently unsuitable for arable cropping; they do not form part of any farming unit and it is understood that they are only used incidentally by the occupiers of Nos. 39 and 45 Rosliston Road South (the applicants). Their contribution to the local economy is therefore considered to be negligible. Looking again at the Inspector's decision for the Linton appeal, he concluded that *"There is no compulsion in the NPPF for developers to use poorer quality agricultural land, although paragraph 112 encourages significant development to do so. There is, however, no definition in the NPPF of what is meant by the term 'significant development'. The same paragraph advises local planning authorities to take into account the economic and other benefits of the best and most versatile agricultural land"*. He went on to state that the NPPF is not intended to prohibit development on land just because it is currently in use as agricultural land, otherwise there would be no growth at all outside settlement boundaries. He consequently did not give much weight to the argument.

Section 106 obligations

Saved Community Facilities Policy 1B of the adopted Local Plan requires that major developments make adequate provision for community facilities, infrastructure and amenities made necessary by the development. This is supported in section 203 of the NPPF.

As part of the application documentation, the applicants have offered various obligations including affordable housing, open space/recreation facilities transport infrastructure and travel schemes, education and community facilities, recycling facilities and healthcare. With regard to affordable housing the applicants are happy to have this requirement within the Section 106 rather than by condition.

With regard to education, Derbyshire County Council has confirmed that Rosliston Primary School has spare capacity and is likely to have during the next 5 years. Consequently, there is no requirement for a contribution towards primary school places. Pupils currently attending the William Allitt Secondary School outweigh its capacity with a further projected increase over the next five years. As such, there is a requirement for a financial contribution of £188,937.87 towards the provision of 11 secondary places via the adoption of a classroom.

Applying the tests within paragraphs 203 and 204 of the NPPF with regard to planning obligations, contributions must be:

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

With regard to health contributions, the Derbyshire and Nottinghamshire Area Team of NHS England has yet to respond to the consultation. Whilst the Council often requests contributions for healthcare in new housing developments, this must be underpinned by evidence of need, and as that evidence has not been submitted by the NHS a financial contribution cannot be justified in this instance.

As already stated above, the NPPF advises that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Planning obligations should only be sought where they meet all the tests.

Taking each obligation in turn and applying the tests, the obligations listed below are considered to be reasonable and necessary to make the development acceptable:

- £28.61 per dwelling towards additional waste management capacity
- £188,937.87 towards the provision of 11 secondary places at William Allitt School
- Recreation comprising £372 per person for open space, £220 per person for outdoor facilities and £122 per person for built facilities plus a financial contribution towards the adoption/maintenance/management of the on-site public open space facilities and the SuDS
- £5,000 towards Travel Plan Monitoring
- The provision of 30% affordable housing of a tenure and mix specified by the Strategic Housing Manager and agreed with the applicants
- The provision of a minimum of 0.58ha on-site National Forest Planting. If it is not possible to provide a minimum of 0.58ha planting on site a financial contribution towards the shortfall can be required for off-site planting
- On-site provision of landscaped public open space/play space of 0.47ha minimum. The proposed play area to be equipped with natural play equipment.
- Works for the realignment of Rosliston Road South and the provision of a footway as indicated on the submitted drawing 1240-01 Revision B.

Overall Conclusions

As previously discussed there is a difficult balance to be struck in the determination of this application and the decision will not be as clear cut as one would wish. The information within the supporting documents and responses from statutory consultees has not raised any particular concerns with regard to 'technical' issues. The County Highway Authority is satisfied that the development could be made acceptable in highway safety terms with the imposition of conditions. Similarly, any wildlife within the site could be protected by mitigation and monitoring work. The detailed layout, design and impacts of the development would be given careful consideration at reserved matters stage. Therefore, the decision falls to be determined on more fundamental issues of principle. Whilst the application appears to be contrary to Housing Policies 6 and 8 and Environment Policy 1 of the adopted Local Plan, this is outweighed by the material considerations of the presumption in favour of sustainable development, which is the main objective (golden thread) running through the NPPF (and the Government's desire to 'significantly boost the supply of housing'). In this context involving a development that could be argued to be relatively sustainable, and given that the Council cannot currently demonstrate a five year housing land supply and only limited weight can be afforded to the emerging Local Plan, and bearing in mind the result of the Linton appeal, it is strongly recommended that the application is approved, subject to the applicant entering into a Section 106 Agreement to cover the above obligations and subject to conditions.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

- A. That the Committee delegate authority to the Planning Services Manager to conclude the signing of a Section 106 Agreement in pursuit of the provisions and contributions as set out in the planning assessment above;
- B. Subject to A, **GRANT** permission subject to the following conditions:

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

(b) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.

- 2. Approval of the details of the layout, scale, appearance and landscaping shall be obtained from the Local Planning Authority in writing before any development is commenced. The submitted landscaping details shall include a significant amount of new tree planting to reflect the site's location within the National Forest.

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

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

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

- 4. The submitted landscaping scheme required under Condition 2 above shall include details to show how the existing trees and hedgerows would be retained and protected during the course of development. The hedgerows that are to be retained and incorporated within the development shall be provided with undeveloped green corridors and a suitable landscape buffer. The works shall be carried out in accordance with the approved details.

Reason: In the interests of protecting wildlife and their habitats.

- 5. All planting, seeding or turfing comprised in the approved details of landscaping under condition 2 above shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting

season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

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

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

7. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.
B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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

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

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

9. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design,

materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

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

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

11. Prior to the commencement of development a Nature Conservation Management Plan, to include biodiversity enhancements and the incorporation of bat and bird boxes within the development shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

Reason: In the interests of nature conservation.

12. No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive unless a competent ecologist has undertaken a careful check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In order to protect nesting birds in the interests of nature conservation.

13. Prior to the commencement of development details of a scheme of noise mitigation, specifically detailing how noise impact from the adjacent railway line will be controlled, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In order to protect the amenities of the future residents of the development.

14. A. No development shall take place, until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the Local Planning Authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and

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/organisation 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 'A' above.

C. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under 'A' above and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

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

15. Prior to any other works commencing, a detailed design based on the topographical survey shall be submitted to and approved in writing by the Local Planning Authority in consultation with the County Highway Authority for the new access into the site, the new footway on the eastern side of Rosliston Road South fronting Nos. 41 to 45 and the application site and the realignment of the carriageway, generally in accordance with the amended application drawing No. 1240-01 Revision B.

Reason: In the interests of highway safety.

16. No development shall be commenced until a temporary access for construction purposes has been provided in accordance with a detailed design first submitted to and approved in writing by the Local Planning Authority. The access shall have a minimum width of 5.5m and be provided with 2.4m x 35m visibility sightlines in each direction, the area forward of which shall be cleared and maintained clear of any obstruction exceeding 600mm in height relative to the nearside carriageway edge.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

18. Before any operations commence involving the movement of materials in bulk to or from the site, facilities shall be provided that have previously been approved in writing by the Local Planning Authority, to prevent the deposition of mud or extraneous material on the access roads to the site. All construction vehicles shall have their wheels cleaned before leaving the site.

Reason: In the interests of highway safety.

19. The gradient of the new estate street shall not exceed 1 in 30 for the first 10m into the site and 1 in 20 thereafter.

Reason: In the interests of highway safety.

20. No building shall be occupied until a drainage scheme for the disposal of highway surface water has been completed in accordance with details first submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall take the form of a positive gravity-fed system, discharging to an approved outfall/public sewer, highway drain or watercourse, or a sustainable drainage system, which shall be managed thereafter in accordance with the agreed management and maintenance plan.

Reason: In the interests of highway safety.

21. Prior to the first occupation of any dwelling, the new estate street junction shall be constructed to Rosliston Road South. The access shall be laid out in accordance with the detailed design approved under condition 13 above, having a minimum width of 5.5m, 2 x 2m footways, 6m radii and visibility sightlines of 2.4m x 43m in each direction. The area forward of the sightlines shall be cleared, constructed as footway and taken into the highway.

Reason: In the interests of highway safety.

22. Prior to the first occupation of any dwelling, the carriageway realignment and provision of the footway on Rosliston Road South in the vicinity of the application site shall be provided. The works shall be laid out and constructed in accordance with the detailed design approved under Condition 13 above.

Reason: In the interests of highway safety.

23. The internal layout of the site shall be in accordance with Derbyshire County Council's 6C's Design Guide and Manual for Streets.

Reason: In the interests of highway safety.

24. A swept path diagram of the site shall be submitted at reserved matters stage to demonstrate that emergency and service vehicles can adequately enter/manoeuvre within the site and leave in a forward gear.

Reason: In the interests of highway safety.

25. Notwithstanding the submitted details, the existing access to No.39 Rosliston Road South located between Nos. 37a and 41, shall be reserved for pedestrians and cyclists only. The route shall be constructed to adoption standards with measures to prevent vehicular use of the route. The existing dwelling shall be served via the new estate street.

Reason: In the interests of highway safety.

26. Unless otherwise agreed in writing by the Local Planning Authority, space shall be provided within the site for the parking of two vehicles per dwelling and maintained throughout the life of the development free of any impediment to their designated use.

Reason: In the interests of highway safety.

Informatives:

Derbyshire County Council's Flood Risk Management Team strongly recommends that a Sustainable Drainage System (SuDS) be incorporated with the design of the detailed development and the applicant is advised to contact the Flood Team for guidance on the drainage strategy before the submission of the reserved matters application. Please

contact Chris Rogers on 01629 538092 for further information and assistance.

The monitoring of the archaeological work required will be undertaken by Derbyshire County Council and the applicant is advised to contact Steve Baker in the first instance for advice on the production of the written scheme of investigation on 01629 539773 or steve.baker@derbyshire.gov.uk

That the hedgerows on the application site may contain nesting birds. It is an offence under the Wildlife and Countryside Act 1981 to intentionally kill, injure or take any wild British breeding bird or its eggs or damage its nest whilst in use or being built. The nesting season normally encompasses the months March to August inclusive. If you are in doubt as to requirements of the law in this regard you should contact Derbyshire Wildlife Trust on 01773 881188

The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: pollution.control@south-derbys.gov.uk. Prior to the submission of reserved matters the applicant is advised to seek the advice of the Crime Prevention Design Adviser at Derbyshire Constabulary to agree a layout that would overcome some concerns with regard to the potential for crime. Please contact Keith Beswick on 0300 122 5392.

The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property. Derbyshire County Council recommends the applicant to consider making separate enquiries with broadband providers for the provision of broadband services for the development. Further information can be obtained from http://www.openreach.co.uk/orpg/home/contactus/connectingyourdevelopment/downloads/developers_guide.pdf

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

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

Item 1.2

Reg. No. 9/2014/1032/FM

Applicant:
Mr Dave Holmes
Threeways
Lullington Road
Coton In The Elms
Swadlincote
DE12 8EW

Agent:
Mr Darryn Buttrill
Bi Design Architecture Ltd
79 High Street
Repton
DE65 6GF

Proposal: THE ERECTION OF A REPLACEMENT DWELLING AND
DETACHED GARAGE AND FORMATION OF NEW
VEHICULAR ACCESS AT THREWAYS LULLINGTON
ROAD COTON IN THE ELMS SWADLINCOTE

Ward: SEALES

Valid Date: 30/10/2014

Reason for committee determination

The application could be construed as partly contrary to the development plan and therefore requires careful consideration by the committee.

Site Description

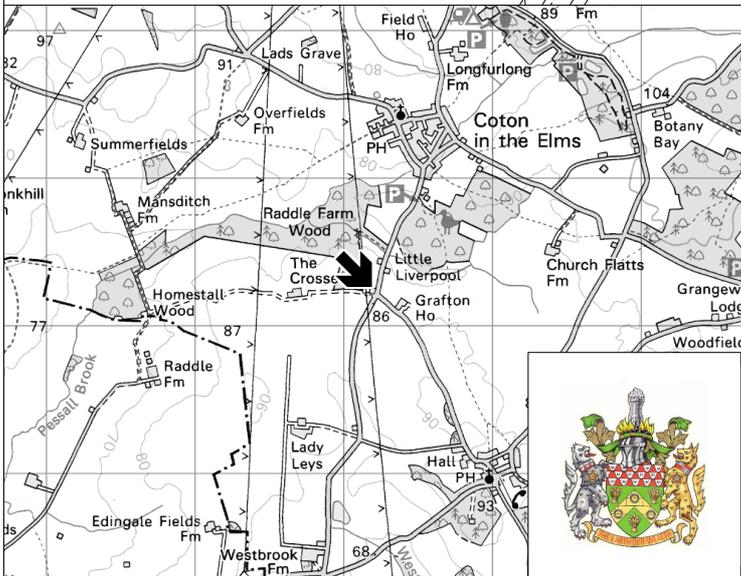
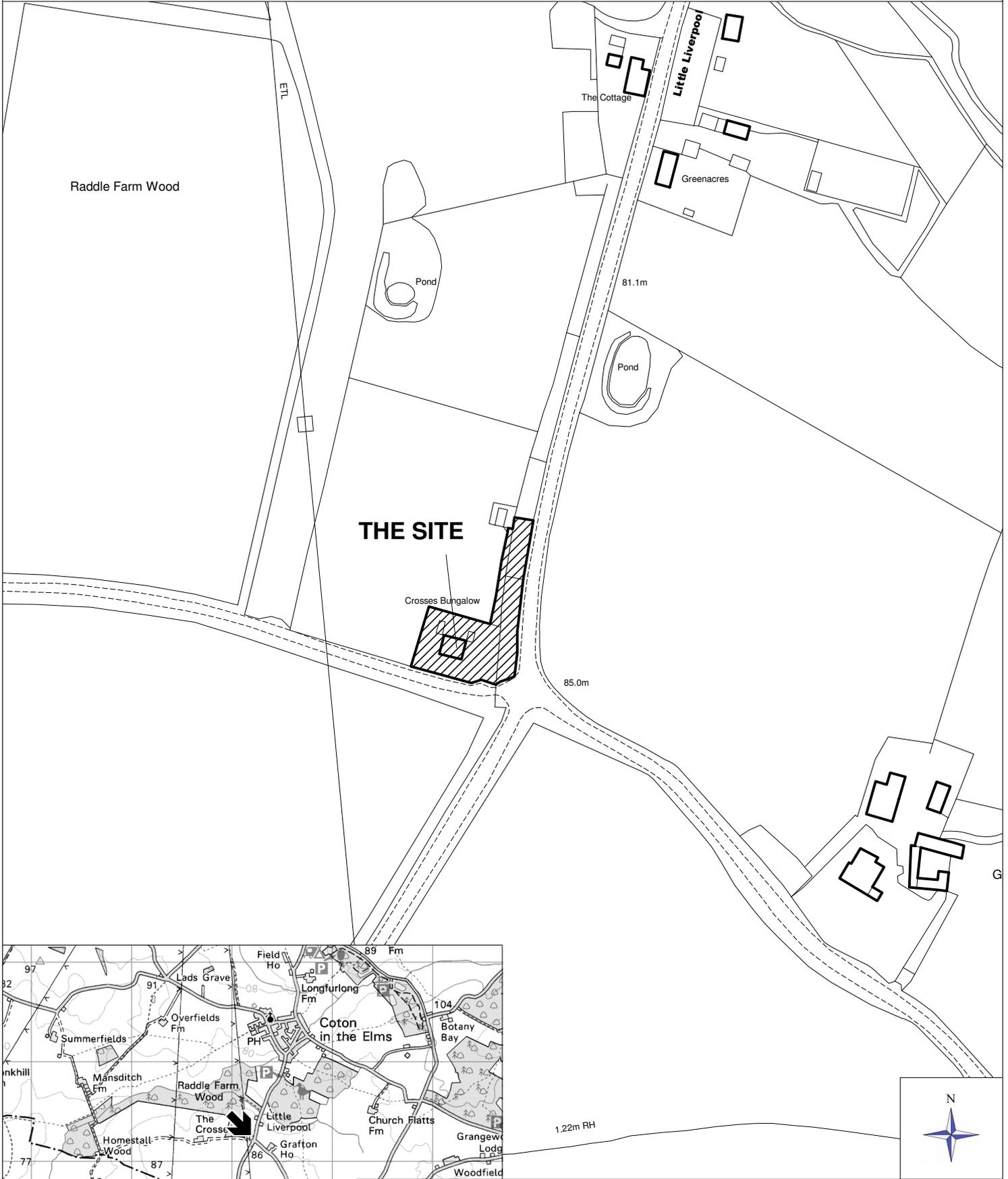
The existing dwelling known as Threeways (or Crosses Bungalow) is a single storey brick and tile property set within a good sized plot located at the junction of Little Liverpool, Lullington Road and a farm access track. The vacant dwelling is in a dilapidated state of repair with a part collapsed roof, exposing the property to the elements. The property has been badly vandalised and contributes very little to the surrounding rural area. The site lies outside the confines of Coton in the Elms and is within open countryside.

Proposal

The application is for the demolition of the existing dwelling and its replacement with a detached, part single and part two-storey, five-bedroom dwelling and detached double garage/loose box/store, together with the formation of new vehicular access off Little Liverpool Road. The proposed detached garage would be located to the northeast of the dwelling with its side elevation facing the road.

A new vehicular access would be created onto Little Liverpool Road and the existing access would be closed off.

9/2014/1032 - Threeways, Lullington Road, Coton in the Elms, Swadlincote
DE12 8EW



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South Derbyshire District Council. LA 100019461. 2014

Applicants' supporting information

The application is accompanied by a Design and Access Statement and a Bat and Bird Survey. These documents can be summarised as follows:

Design and Access Statement

- The proposal is for one bespoke family dwelling
- The existing dwelling and garage has a total footprint of 94.7 square metres; the proposed dwelling and garage would have a total footprint of 306.2 square metres.
- The position of the new dwelling would maximise the site area and provide a more private dwelling
- The finished floor level would reflect the existing natural topography with a ridge height of 9.73m for the dwelling and 6.2m for the garage
- New boundary walls behind hedgerows would frame the garden
- Design and materials have been chosen to blend with the local vernacular
- Proposal would represent a positive addition to the local economy
- Foul drainage would be via a Klargester bio-disk treatment plant
- The new vehicular access would be safer than the existing
- The site has good connections to local facilities and the wider area

Bat and Bird Survey

- No evidence of bats using the building
- The vandalism that has occurred to the building has opened the building to the elements and thereby reduced roosting opportunities for bats
- No requirement for emergence surveys
- Some evidence of birds nesting in existing garage
- New roosting opportunities for bats should be incorporated into the development
- Hedge replacement will provide opportunities for nesting birds.

Planning History

None found.

Responses to Consultations

The County Highway Authority considers that the proposed new vehicular access remains substandard but is an improvement over that available at the existing access. As such there are no objections subject to conditions.

Derbyshire Wildlife Trust considers that, as the building has been vandalised and opened up to the elements, it is unlikely that it would support roosting bats. A swallow's nest was recorded in the garage in 2012 but showed no signs of occupation during 2014. DWT supports the recommendation in the ecology report to incorporate suitable bat roosting opportunities into the new property and a suitably worded condition is recommended

Natural England has no objections with regard to the River Mease SSSI or SAC and advises that an Appropriate Assessment under the Habitats Directive is not required in

this instance. NE is also satisfied with the principle of the package treatment plant in the proposed location given the distance to the Pessall Brook which flows into the River Mease. The proposal for surface water to drain to soakaway should be secured by condition or legal agreement.

Severn Trent Water has not yet commented on the proposal.

Coton in the Elms Parish Council has no objections.

Responses to Publicity

One email of support has been received which 'likes the appearance of the planned development'.

Development Plan Policies

The relevant policies are:

Saved Local Plan: Housing Policies 8B, 11; Environment Policies 1, 10; Transport Policy 6

Local Plan Part 1 (Submission Version): S6, H1, H19, SD1, SD4, BNE1, BNE3, BNE4, INF2, INF8

National Guidance

National Planning Policy Framework (NPPF) paragraphs 7, 8, 14, 17, 47, 49, 56, 57, 109, 111, 119, 165, 186, 187

National Planning Practice Guidance (NPPG)

Local Guidance

Housing Design and Layout SPG

Planning Considerations

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

- Design and layout and compliance with Policy
- Highways

Planning Assessment

Design and layout and compliance with policy

The existing property is of a single storey, somewhat dated design and, for the most part, is hidden behind the boundary hedgerow that follows the line of the road. The property is currently vacant and, judging from its dilapidated appearance, has been so for some time. The property has been vandalised and stripped over the past few months, with the loss of lead and roof tiles. Part of the roof has collapsed exposing the building to water penetration and other elements. A domestic single garage within the

site is also in a state of disrepair and the associated garden land is overgrown and unkempt.

The proposed replacement dwelling would be positioned in a similarly central location within the site and be of a more traditional appearance with steeply pitched roofs, gabled extrusions and angular bay windows. A number of windows would have segmental brick arches with central keystones with others being positioned closely under the tog tooth corbelled eaves. The design of the proposed dwelling is considered to be appropriate for a larger family residence.

The proposed detached garage would provide parking for two vehicles and the size of the plot would also allow for ample manoeuvring space for four vehicles. The existing driveway would be closed off and the new splayed access created to the south of the proposed garage.

The proposed dwelling would be much larger than the original dwelling in terms of footprint, form and bulk, and, owing to its two-storey design, would be significantly more visible from the surrounding area particularly when approaching the site from Coton in the Elms and the Lullington direction. The most relevant adopted Local Plan Policy is Saved Housing Policy 8 (B), which supports replacement dwellings in the countryside provided that:

- (i) The form and bulk of the new dwelling does not substantially exceed that of the original;
- (ii) The design and materials are in keeping with the character of the surroundings;
- (iii) The new dwelling is on substantially the same site as the old; and
- (iv) There is no increase in the number of dwelling units.

As part of pre-application correspondence with the agent it was made clear that the proposed dwelling would not meet the first criterion of the above policy as the form and bulk of the proposal would exceed that of the original quite substantially. In this instance, however, there is a strong case to be made that the existing dwelling is neither attractive nor capable of providing a unit of accommodation that suits modern-day family living without extensive alterations, extensions and modernisation. It is considered that its replacement with the proposed dwelling would enhance the character of the rural area, improve the street scene to a considerable degree and result in a much tidier appearance of the site generally.

In terms of the emerging Local Plan Part 2, Policy BNE1 expects new development to be well designed and to follow a series of design principles, one of which is that it should respond to its context and have regard to valued landscape, townscape and heritage characteristics.

The site is fairly isolated in terms of neighbouring residents and therefore it is unlikely that the proposal would have any undue adverse impact in terms of privacy and amenity. The proposal is in compliance with Saved Housing Policy 11, criterion h) of Policy BNE1 of the emerging Local Plan and the Housing Design and Layout SPG.

In terms of national policy the proposal would meet the guidelines within the NPPF, particularly with regard to the delivery of housing and the importance of good design.

Highway Issues

Prior to the submission of the application discussions were had with the County Highway Authority with regard to the formation of the new vehicular access. The existing vehicular access into the site leads off the farm track to the south of the site. Visibility to the north and south from the farm track is poor owing to the presence of field boundary hedges and the alignment of the road. The situation would be improved by the provision of the new vehicular access as it would be located further to the north and provide for longer sightlines in both directions. Whilst it would still not be ideal the County Highway Authority recognises that it would be an improvement and therefore finds it difficult to object on highway safety grounds.

The parking and manoeuvring space within the site would be adequate for a dwelling of this size and consequently there are no objections on highway safety grounds.

Conclusion

Whilst the proposal clearly does not fully conform to adopted Local Plan Saved Housing Policy 8 (B), there is an argument for approving the submitted scheme in that it would result in a considerable improvement to the site and the surrounding area. The existing building and untidy nature of the site has a negative impact on the character of the area and it is considered the proposed replacement dwelling would remove this blight and go some way to improving the visual appearance of the local landscape.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

GRANT permission subject to the following conditions:

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

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

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

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

3. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to

be retained, together with measures for their protection in the course of development.

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

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

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

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

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

6. Prior to the commencement of development, details to show roosting opportunities for bats under the ridge tiles of the new roof of the proposed dwelling shall be submitted to and approved in writing by the Local Planning Authority and the works shall be carried out in accordance with the approved details.

Reason: In the interests of ecology.

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

Reason: In the interests of flood protection.

8. Prior to any other works commencing a temporary access shall be formed to the classified road on the eastern side of the site frontage. The access shall be located in accordance with the application drawing and provided with visibility sightlines of 2.4m x 40m to the north and 2.4m by 35m to the south, the area forward of which shall be cleared and maintained throughout the life of the development free of any obstruction exceeding 600mm in height relative to the nearside carriageway edge.

Reason: In the interests of highway safety.

9. Prior to first occupation of the new dwelling the access shall be laid out in accordance with the application drawing and constructed as a splayed vehicular crossover in accordance with Derbyshire County Council's specifications for vehicular accesses. The access shall be provided with visibility sightlines of 2.4m x 40m to the north and 2.4m x 35m to the south, the area forward of which shall be cleared and maintained throughout the life of the development free of

any obstruction exceeding 600mm in height relative to the nearside carriageway edge.

Reason: In the interests of highway safety.

10. Notwithstanding the submitted drawing any gates shall be set back 5m from the highway boundary and designed so as to open inwards only.

Reason: In the interests of highway safety.

11. Prior to the first occupation of the new dwelling the car parking and manoeuvring space shall be laid out in accordance with the application drawing and maintained thereafter free of any impediment to its designated use.

Reason: In the interests of highway safety.

Informatives:

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 12 weeks prior notification should be given to the Environmental Services Department of Derbyshire County Council before any works commence on the vehicular access within highway limits; please contact 01629 533190 or email ETENetmanadmin@derbyshire.gov.uk for further information.

Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

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

The applicant is advised that the length of hedgerow to be removed should be minimised as much as possible. Hedgerows are a Habitat of Principle Importance under the provisions of the NERC Act 2006. To compensate for the loss of hedgerow it is recommended that a replacement hedgerow is planted using native species in order to be of maximum biodiversity benefit.

It is further recommended that bird nesting opportunities are incorporated into the proposed development in order to promote maximum biodiversity benefits.

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions and by quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirements set out in paragraphs 186 and 187 of the National Planning Policy Framework.

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

Item 1.3

Reg. No. 9/2014/1046/FH

Applicant:
Mr R Minton
68 High Street
Repton
Derby
DE65 6GF

Agent:
Mr Darryn Buttrill
bi Design Architecture Ltd
79 High Street
Repton
DE65 6GF

Proposal: THE ERECTION OF EXTENSIONS AND EXTERNAL ALTERATIONS AND THE DEMOLITION OF A SINGLE STOREY LEAN-TO AT 68 HIGH STREET REPTON DERBY

Ward: REPTON

Valid Date: 12/11/2014

Reason for committee determination

This application is brought before Committee at the request of Councillor Stanton as local concern has been expressed about a particular issue.

Site Description

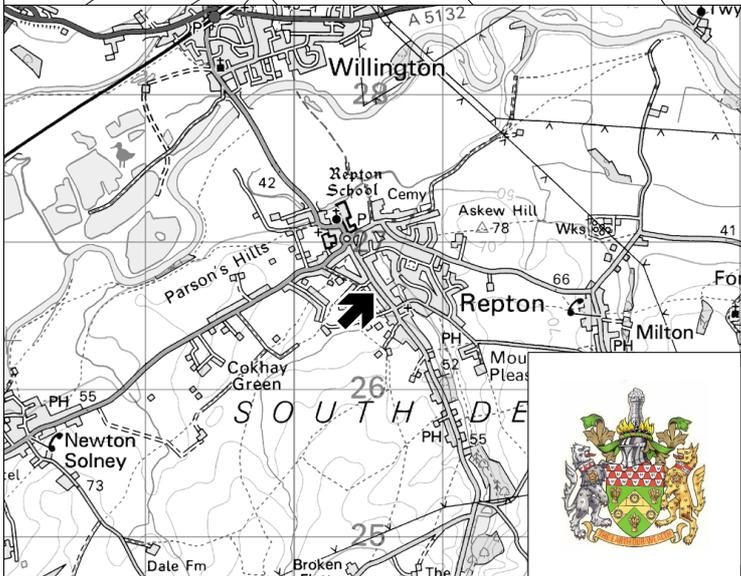
The application property is a 2-storey detached dwelling situated on the main thoroughfare through the village and within the Repton Conservation Area. The property is a long narrow building that has a gabled elevation that fronts the highway. The property sits on an incline which starts at highway level and rises towards the rear garden – the difference in levels between the application site and the adjacent properties and their back gardens being approximately 3 metres.

Proposal

The proposal is for the erection of a single storey extension to the northwest side of the property to provide a corridor between the internal rooms and a single storey replacement extension and a porch canopy to the southeast side. The existing front door is to be replaced by a single light window to a pattern that matches the existing windows on this elevation. Other external alteration include the replacement of a boarded door on the south west side with a half glazed timber door, the replacement of a second boarded door with a single light window and the replacement of an existing window with a half-glazed door with the new canopy above.

Applicants' supporting information

9/2014/1046 - 68 High Street, Repton, Derby DE65 6GF



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South Derbyshire District Council. LA 100019461. 2014

There is no supporting information since Design and Access Statements are no longer a requirement for householder applications in a conservation area.

Planning History

There is no planning history that is of relevance to the current proposal.

Responses to Consultations

Repton Parish Council objects to the proposal on the grounds that;

- it will result in a high extension up to the boundary line which will dwarf and overlook the neighbouring properties;
- the line of the development is too close to the party wall;
- the view from High Street will be changed and this is within the conservation area; and
- further development will not be in keeping with the Village Design Statement.

Responses to Publicity

2 representations have been received covering the following:

- The neighbour is very concerned with the lean-to extension to the right hand side of the building. The designers claim it will not affect the look of the property but it will from the gardens of No's 60, 58 and 56 High Street.
- There is a concern that not only will the neighbour suffer further loss of privacy but, due to the lack of gap between the proposed lean to and the neighbour's property line, there will be issues with drainage, destruction of hedging during building and, for the sake of a corridor, loss of peace and privacy in the neighbour's garden.
- The property is currently faced with white pebble, the plans state brick and aspects of the property due to be altered also includes stone. The plans imply a third visible building material creating a patchwork of materials on one property.
- The character of this part of the High Street will be altered by the work. The lean-to will take away what little privacy the neighbour has in their small end terrace garden, creating the effect of further terracing along the High Street with its proximity to the property line. The proposed works will have a visual and noise impact (by having the sounds of a corridor right next door to the neighbour's property).
- The neighbour's property also lacks a corridor to link rooms but that is the nature of many properties in Repton. The lean-to corridor is a clumsy addition to the property, it affects the look of the area and the privacy of the neighbour's property.
- If approved the application will have an adverse impact on the immediate area.
- The objector lives at 58 High Street, a nearby property, and the extension will go straight up to the border of No. 60 and take away natural light and space that will impact on the objector's garden. Being so close it will also take away some privacy.
- The extension is not of a character expected in a conservation area. It will appear as an unusual "block" from the objector's garden and the view from High Street will be out of kilter with the rest of the local environment.

- The applicants have a poor track record of border maintenance. Several years have passed since a wall they own collapsed into 50 High Street and it has still not been repaired.
- The objector will be very concerned if permission is granted that will directly and negatively impact on his privacy and the character of the conservation area.

Development Plan Policies

The relevant policies are:

Local Plan: Saved Environment Policies 12 and 13 and Saved Housing Policy 13 of the Adopted Local Plan.

Emerging Local Plan: Policies BNE1 and BNE2.

National Guidance

National Planning Policy Framework (NPPF) paragraphs 11-14 (presumption in favour of sustainable development), 57, 58 and 61 (requiring good design), 186 and 187 (positive decision-taking) and 196 and 197 (determining applications) and Chapter 12 (Conserving and enhancing the historic environment).

National Planning Practice Guidance (NPPG) – ID:21b-006 and ID:21b-014 (determining an application), ID:26 (good design), ID:18a-001 and ID:18a-018 (historic environment).

Local Guidance

Supplementary Planning Guidance:

- Extending Your Home (SPG)
- Repton Conservation Area Character Statement – Adopted 2013

Planning Considerations

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

- The impact of the proposal on the house and the character and appearance of the conservation area; and
- The impact of the proposal on the amenities of the neighbouring properties.

Planning Assessment

The impact of the proposal on the house and character and appearance of the conservation area

The property has been identified as a building that contributes positively to the special architectural or historic character of the conservation area in the Adopted Repton Conservation Area Character Statement.

The proposed single storey extension on the northwest side of the property is sympathetic to and in scale with the host property. The proposed extension is to be set

back from the principle elevation that fronts High Street by approximately 10 metres and would only be visible when viewed directly from the front of the property. Due to its set back position, the proposed extension would not adversely affect the street scene, or the character and appearance of the conservation area, when travelling in either direction along High Street.

The proposed single storey extension to the southwest side of the property replaces an existing very small single storey lean-to that provides access to a staircase to the upper floor of the building. The replacement extension has been sympathetically detailed and is in scale with the host property and again this extension would not be readily visible from the public realm.

The proposed porch canopy would define the new main entrance to the property and although the loss of the front door on the principle street elevation would alter the character and status of this side of the building, the property would still retain its full permitted development rights and this change could be carried out without the need for planning permission and as such it would be difficult to justify that this change would be unacceptable in visual terms. The other ground floor window and door alterations on the southwest side of the building could also be carried out without planning permission and are considered acceptable with regard to the external appearance of the property.

The proposals are therefore considered to be acceptable in visual terms and have been judged to have no detrimental impact on the general character of the area or the character and appearance of the conservation area in line with the requirements of Saved Housing Policy 13 and Environment Policy 12 of the Adopted Local Plan and emerging policies in the latest version of the Local Plan.

The impact of the proposal on the amenities of the neighbouring properties

Land levels between the application property and the adjacent dwellings are relatively flat at street level but rise to the rear of the properties by approximately 3m. As a result, the application property has split floor levels throughout.

The proposed single storey extension on the northeast side, whilst close to the boundary of 60 High Street, would have a blank elevation facing this property. This elevation of the application property already has 3 bedroom windows overlooking No. 60, which are the only source of light to this room, together with secondary windows to the kitchen and dining room areas at ground floor level that also overlook the neighbour. The addition of the single storey extension would improve privacy at ground floor level and there would be no change to the current situation at first floor level.

There are rooflights proposed in this extension that have the potential to be overlooked from the upper floor windows of No. 60 however the proposed extension is a non-habitable corridor which would link the existing ground floor internal spaces and privacy could be preserved between the neighbours by conditioning that these are obscure glazed and non-opening. Non-opening rooflights would also reduce noise levels, which is a concern raised by one of the objectors.

The Council's SPG advises that single storey extension should be decided on their own merit with regard to preserving privacy between neighbours. The northeast side extension presents a blank elevation to the adjacent neighbour and would also be sited alongside the neighbour's existing single storey outbuilding and it is therefore

considered that privacy would be preserved and can be further enhanced by the conditioning of the rooflights.

The single storey replacement extension on the southeast side is to accommodate an enlarged non-habitable hall space that would provide access to the existing ground floor study as well as retaining access to the upper floor. The proposed extension would face the existing brick boundary wall of 70 High Street and this is at an adequate level to preserve privacy between the properties. The new porch canopy on this side would have no impact on the neighbour.

The proposals are therefore considered to be in conformity with the requirements of the Council's SPG and Saved Housing Policy 13 of the Adopted Local Plan with regard to preserving privacy between the application property and the surrounding neighbours.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Prior to the first occupation of the extension hereby permitted, the rooflights in the northwest side extension hereby approved shall be permanently glazed in obscure glass and non-opening.
Reason: In the interest of protecting privacy between the application property and the adjacent neighbour.
3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.
Reason: To safeguard the appearance of the existing building and the locality generally.
4. Large scale drawings to a minimum Scale of 1:10 of external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The external joinery shall be constructed in accordance with the approved drawings.
Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.
5. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The

joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the building(s) and the character of the area.

6. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

Reason: In the interests of the appearance of the building(s), and the character of the area.

7. Pointing of the existing/ proposed building(s) shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish.

Reason: In the interests of the appearance of the building(s).

8. A sample panel of pointed brickwork 1 metre square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority prior to the implementation of any other works of pointing. The works shall be carried out in accordance with the approved sample.

Reason: In the interests of the appearance of the building(s) and the locality generally.

Informatives:

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner by quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

2. PLANNING AND OTHER APPEALS

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

Reference	Place	Ward	Result	Cttee/Delegated
9/2014/0406	Coton	Seales	Allowed	Delegated



Appeal Decision

Site visit made on 17 November 2014

by R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MCIL

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

Decision date: 16 December 2014

Appeal Reference: APP/F1040/A/14/2225383

Land to the rear of 12 Mill Street, Coton-in-the-Elms, Swadlincote, Derbyshire DE12 8ES

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr D Coaster against the decision of South Derbyshire District Council.
 - The application (reference 9/2014/0406, dated 25 April 2014) was refused by notice dated 23 June 2014.
 - The development proposed is the construction of a new dwelling.
-

Decision

1. The planning appeal is allowed and planning permission is granted for the construction of a new dwelling on land to the rear of 12 Mill Street, Coton-in-the-Elms, Swadlincote, Derbyshire DE12 8ES, in accordance with the terms of the application (reference 9/2014/0406, dated 25 April 2014), subject to the conditions set out in the attached Schedule of Conditions.

Main issues

2. There are two main issues in this appeal. The first is the visual impact of the proposed development on its setting. The second concerns the effect of the proposal on the supply of available housing land in the locality.

Reasons

3. Coton-in-the-Elms is a substantial village, with various local facilities, including a small village store and a primary school, among others. The village has connections to the surrounding area by bus service.
 4. The appeal site lies at the southern edge of the village, at the end of a small cul-de-sac that serves three dwellings, off Mill Street. The nearest properties to the appeal site are relatively modern though they are not very recently constructed. The proposed house would lie to the rear of a new house (leaving it with a smaller garden), but alongside another relatively new house. The gardens of this existing house and the proposed new house would extend beyond the buildings themselves but an existing paddock beyond the application site would be retained as such.
-

5. Thus, the proposed development would lie within the amenity area associated with existing residential property but would lie outside the village limits in a visual sense. It also lies outside the village confines boundary as shown on the adopted Local Plan.
6. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the statutory Development Plan unless material considerations indicate otherwise. Development Plan policies are therefore especially important.
7. Local policies are intended to restrict development in the countryside, outside the confines of existing settlements, and the proposed development would conflict with saved Policies of the South Derbyshire Local Plan, specifically with Housing Policy 5 and with Environment Policy 1. It would also conflict with Policy H1 of the South Derbyshire Pre-Submission Local Plan, though that does not yet have the force of an adopted Development Plan.
8. Even so, the proposed development would have only a limited visual impact on its setting. The new house would form part of a small group of dwellings at the edge of the village, along a private drive, and would harmonise reasonably well with the setting, complementing the historic development pattern of the village. The proposed new house would be traditional in style, in keeping with its surroundings.
9. There is no dispute that the Council cannot demonstrate a five-year supply of deliverable housing sites. In such circumstances Paragraph 49 of the 'National Planning Policy Framework' indicates that policies for the supply of housing should not be considered to be up to date. Paragraph 14 of the Framework advises that, in such cases, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
10. In this case, the appeal proposal would not comply with specific policies in the Local Plan (as noted above), though the harm that would be caused to the countryside would be limited, for the reasons given. The adverse impacts of the project would not be sufficient to significantly and demonstrably outweigh the benefit of providing an additional dwelling and thus making a small but real contribution to meeting the shortfall of housing within the district. In this instance, therefore, there is justification for granting planning permission despite the identified conflict with the Development Plan.
11. In reaching that conclusion, I have had regard to the appeal decision referred to by the Council, relating to land at Weston-on-Trent. In that case, however, it was found that significant harm would have been caused to the landscape character of the area and the balance of considerations was therefore different. Each case must be decided on its own merits, of course, and in the present appeal I am persuaded that the proposal would be acceptable.
12. I have, however, also considered the need for conditions and in imposing conditions, I have taken account of the conditions suggested by the Council in the usual way (including that relating to protected species), without prejudice to their main arguments in the appeal. I have concluded that conditions are necessary, to define the planning permission and to ensure that quality is

maintained, both in respect of the new building itself and the landscaping of the site. In relation to landscaping, boundary treatment car parking areas and access details, however, I have included wide ranging conditions to deal with these matters in the context of an overall scheme.

Roger C Shrimplin

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved drawings:
 - drawing number 05 (Proposed House Design);
 - drawing number 06 (Proposed Site Plan);
 - unnumbered drawing (Topographical Survey).
3. No development shall take place until samples (or specifications) of the materials and drawings (at appropriate scales) of the construction details to be used in the construction of the external surfaces of the new development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details, using the approved materials.
4. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. All these works shall be carried out as finally approved in detail. The details to be submitted shall include proposed and existing finished levels, means of enclosure and functional services above and below ground. The details of the hard landscape works shall include details of provision for car parking, boundary treatment and access design. The details of the soft landscape works shall include details of all existing trees in the vicinity of the proposed development (and details of the method of protecting them during the course of the work); planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants (noting species, plant sizes and proposed numbers or densities where appropriate) and implementation programme.
5. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the implementation programme approved by the local planning authority. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
6. Prior to first occupation of the dwelling hereby permitted, the area shown on the approved landscaping scheme as being dedicated to car parking and manoeuvring shall be laid out and brought into use as such. It shall be retained and used for no other purpose thereafter.
7. Prior to the commencement of any other operations, the revised access at Mill Street shall be laid out and brought into use, as shown on the relevant application drawing (number 06). Nothing above 0.6 metre high shall be located or allowed to grow within the visibility splays shown on the drawing.
8. The development hereby permitted shall be carried out in accordance with the recommendations made in the Phase 1 Habitat and Protected Fauna Survey dated 11 March 2014 with regard to protected species.