

# **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).

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## 1. PLANNING APPLICATIONS

**This section also includes reports on applications for: approvals of reserved matters, listed building consent, work to trees in tree preservation orders and conservation areas, 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.**

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
9/2014/1136	1.1	Mickleover	Etwall	1
9/2014/0431	1.2	Overseal	Seales	42
9/2014/1093	1.3	Repton	Repton	73
9/2015/0031	1.4	Newhall	Newhall	102
9/2014/0980	1.5	Hilton	Hilton	107
9/2014/1206	1.6	Barrow	Aston	119

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.** 9/2014/1136/OM

**Applicant:**  
CEG Land Promotions Ltd And  
Robert William Walmsley  
c/o Commercial Estates Group  
First Floor  
The Exchange  
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Harrogate  
HG1 1TS

**Agent:**  
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3rd Floor  
One St James's Square  
Manchester  
M2 6DN

**Proposal:** **OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT OF UP TO 300 DWELLINGS WITH MEANS OF ACCESS FOR APPROVAL NOW AND ALL OTHER MATTERS RESERVED FOR FUTURE APPROVAL (RESUBMISSION OF APPLICATION REF: 9/2014/0249 BUT INCLUDING THE PROVISION OF A ROUNDABOUT ON THE A516) ON LAND AT NEW HOUSE FARM ETWALL ROAD MICKLEOVER DERBY**

**Ward:** **ETWALL**

**Valid Date:** **27/11/2014**

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

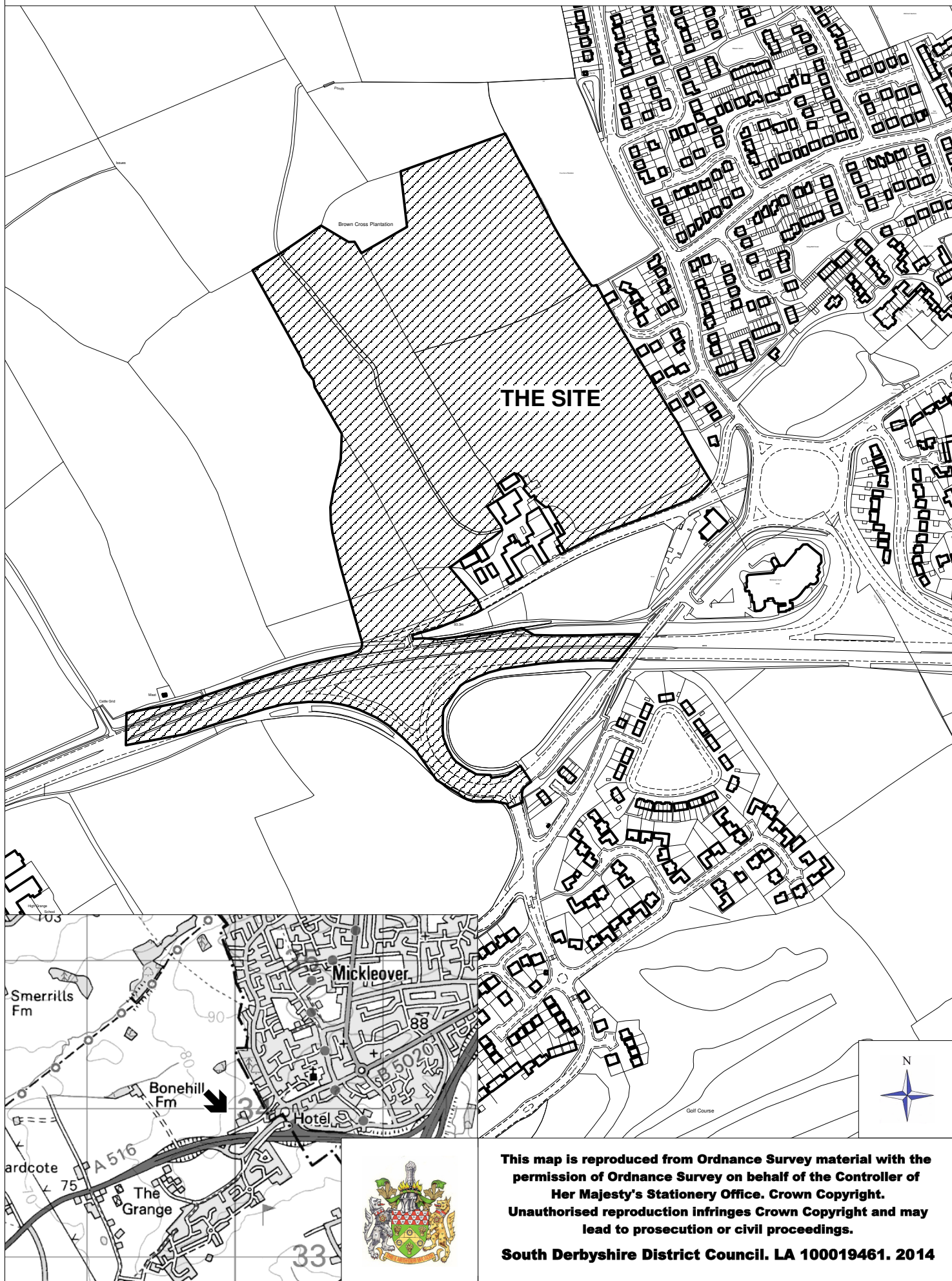
The application is the subject of an appeal for non-determination and as such the purpose of the report is to establish what decision the council would have made on the proposal if it was in a position to determine the application, and what should, therefore, form the grounds for the council's case at the appeal.

In that regard this is a major application, not in accord with the Development Plan, to which more than two objections have been received hence a resolution from committee is required. The Planning Inspectorate have confirmed that this appeal for non-determination should follow the inquiry procedure and have agreed for it to be linked to the existing appeal that is pending for a similar development, reference 9/2014/0249. A joint Public Inquiry is scheduled to take place commencing on 12 May 2015 and sitting over four days.

#### **Site Description**

The application site comprises 16.22 hectares of agricultural, greenfield land, situated to the north of the A516 Mickleover By-Pass and the Old Etwall Road which was stopped up when the by-pass was constructed. The site is immediately adjacent to the administrative boundary with Derby City and is west of properties on Ladybank Road,

9/2014/1136 - New House Farm Land, Etwall Road, Mickleover, Derby  
(DE3 0DN)



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**South Derbyshire District Council. LA 100019461. 2014**

Howden Close and Paxton Close on the Ladybank estate in Mickleover. The site has mature hedges punctuated by numerous mature trees as well as a dense group of trees along the boundary with Old Etwall Road, a group of trees beyond the northern boundary of the site, known as Brown Cross Plantation and to the north-east of the site within Derby City there is a group of mature trees west off Ladybank Road known as Four Acre Plantation that are protected by Derby City Tree Preservation Order no. 530.

## **The Proposal**

This application is a resubmission of a previous scheme that was refused by the Council at the meeting held on 28<sup>th</sup> October 2014, reference 9/2014/0249, and is much the same with the exception of the vehicular access to the site. As such this is once again an outline application which seeks permission for development of the site for residential development of up to 300 dwellings with all matters except for access reserved for future approval. An indicative Masterplan has been submitted which identifies the potential level of development. The illustrative Masterplan shows the main residential blocks provided throughout the site with buffers to the trees on Old Etwall Road, adjacent to Four Acre Plantation and to the north, adjacent to Brown Cross Plantation. The main area of public open space is shown as running in a north-south direction adjacent to the existing properties on Ladybank Road, Howden Close and Paxton Close. Surface water would be dealt with by way of soakaways with water being directed to detached surface water attenuation ponds in the north-west corner of the site.

Once again the matter of access is for approval at this outline stage and the detailed road junction plans again show the vehicular access from the A516 Mickleover By-Pass, with main and secondary roads running through the site. The vehicular access would be complemented by cycle/pedestrian links onto Old Etwall Road to allow a more direct route for cyclists and pedestrians in to Mickleover.

The detailed proposals for the vehicular access were the subject of extensive discussions between the applicant, the County Highway Authority and officers of this council both at pre-application stage and during the course of the consideration of this application where they were amended. The main difference between the previous application that was refused and this one is that the vehicular access would be via a new roundabout junction.

## **Applicants' supporting information**

### Planning Statement

The planning statement submitted in conjunction with the application states that the NPPF at Para.49 requires housing applications to be considered in the context of the presumption in favour of sustainable development. It states that the Council cannot demonstrate that there is a 5 year land supply of deliverable housing sites and consequently relevant policies for the supply of housing are not up to date in South Derbyshire. As Local Plan Policies EV1 and H8 (which are some 16 years old) effectively seek to control the supply of housing development they are out of date and the weight to be attached to the policies is reduced. It states that planning permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole and that the benefits of the proposals outweigh the impacts of the development. It claims that the

proposed development broadly accords with development plan policies with regards to its impact and on this basis and that there is a presumption in favour of granting planning permission for this sustainable development proposal, without delay.

### Design and Access Statement

The statement was supplemented by additional information and sets out the vision for the site, the site context as well as constraints and opportunities. Planning policies are also discussed as well as urban design objectives to create a high quality place; an inclusive place; a safe community; a legible place and a green environment. The statement states that the development proposals have been based upon the principles of Garden Suburb layout. It refers to the creation of generous areas of green space including gardens, greens and tree-lined avenues which are linked to the wider natural environment via a series of green corridors, will provide an attractive setting not only for the development itself, but also for the wider community. It states that at up to 300 dwellings, the scheme would achieve a low density of approximately 26 dph, typically a mix of predominantly semi-detached and detached houses and that it is anticipated that the prevalent scale of development will be 2 storeys (circa up to 8m ridge height), albeit that taller dwellings of 2.5 storeys (circa up to 10m ridge height) could be incorporated where visual emphasis is required. The Design and Access Statement describes how they consider that the proposed development seeks to deliver a sustainable, successful scheme that will contribute towards the design quality and character of the wider area. It states that the site provides an opportunity to deliver a high quality development of houses and open spaces. The Statement includes a Building for Life Assessment in which they consider that the proposal would score mainly “greens” i.e. that principles have been fully met, with one “amber”.

### Archaeological Desk-Based Assessment

The assessment provides a description of heritage assets affected by the proposed development of the site, and addresses the requirements of the law, relevant local planning policies and the Government’s National Planning Policy Framework. The Assessment establishes that the proposed development site does not contain any *designated heritage assets* (i.e. World Heritage Site, Scheduled Monument, Registered Historic Park, Registered Historic Battlefield, Listed Building, Conservation Area) and that development within the development site will not affect the significance of any designated heritage assets in the surrounding area. It states that one *non-designated heritage asset* (archaeological site) is recorded on the Derbyshire Historic Environment Record within the development site and that is an area of medieval ridge and furrow cultivation earthworks north-east of New House Farm (HER Monument reference 24308), although it states that it is of no archaeological interest.

The assessment concludes that the site has a low potential for significant archaeological assets of any date; that the proposed development of the site is likely to affect the non-designated heritage asset within the site, but will not affect the significance of assets in the surrounding area; that the non-designated heritage asset within the site is not of sufficient significance to outweigh the benefits of the proposed residential development.

The assessment states that the proposed development can be carried out without any impact on designated heritage assets, and without impacting on any significant non-designated heritage assets.

In view of the low level of previous archaeological investigation within the area, the report states that it is anticipated that the Local Planning Authority will require further archaeological survey of the site prior to development and that a standard planning condition can be used in this regard.

### Ecological Report

This report Following an extended Phase 1 survey in 2011, and in order to determine potential constraints associated with protected species, the appraisal included a subsequent suite of ecological surveys. In order to inform a planning application for 2014, this report includes an updated assessment with reference to the illustrative Masterplan and details the results of ecological appraisal, describing any features of ecological value found to be present. It also outlines the results from the protected species surveys and provides advice to help minimise impacts, thereby enabling the development to comply with current nature conservation policy and legislation. The conclusion of this report is that with an appropriate plan for the retention and enhancement of habitats (particularly woodland, trees and hedgerows) implemented, the current development proposals could provide a net gain of biodiversity on the site.

### Economic Benefits Assessment

This report sets out the potential economic benefits associated with the proposed residential development including jobs during construction and associated wage spend; £41m of local investment; £405,000 of additional Council Tax receipts and £2.6m New Homes Bonus as well as much needed affordable housing. It states that the development will produce high quality accommodation; support mixed communities; increase employment; improve public realm with green spaces and increase housing supply.

### Preliminary Appraisal Report (Desk Study)

This reports concludes that given that the majority of the site is greenfield, and that any risk from contamination proven is likely to be limited in extent/severity, and easily mitigated through normal development practices, it considers that these works could be carried out post-determination of the planning application.

### Landscape and Visual Impact Assessment (LVIA)

This report seeks to identify the sensitivity of each before considering the change that the introduction of the proposed housing development will introduce. Potential landscape, visual and character impacts of the proposals were assessed and mitigation proposals to ameliorate impact. The report concludes that the site has a Medium Landscape Sensitivity, Low Landscape Value and Ordinary Quality resulting in a capacity to accommodate residential development and that that the Visual Quality is assessed as Moderate and that the proposed mitigation measures in the form of new landscaping and areas of open space will fulfil some of the characteristics identified within the landscape character assessment.

### Noise Impact Assessment

This report examined noise as an issue relative to this residential scheme and it found significant levels of traffic noise were measured in the area near to the southern boundary with the A516 in the western part of the site and advises that it will be necessary to incorporate adequate noise mitigation measures in to the final design of the development. Recommendations include designing the layout so that dwellings themselves adequately screen gardens, and where necessary, sound insulation for the most exposed living room and bedroom windows.

### Statement of Community Involvement

This document provides an overview of the consultation undertaken by the applicant which they stated was established in order to encourage residents to participate in the consultation process. A brochure was mailed to 2,333 residents closest to the site, who were likely to have most interest in the development and it included a tear off comment form which could be easily returned without the need for an envelope or stamp. Following the consultation, in order to provide feedback to those who engaged in the consultation process, a letter was sent to all of those who participated in the consultation process. This explained the comments raised and how this is reflected in the proposals, as well as answering the questions raised.

### Flood Risk Assessment (FRA)

The report aims to demonstrate that the development would be acceptable in flood risk terms and from a drainage point of view relative to flooding risk and surface water drainage. It states that according to the EA Flood Map for Planning (Rivers and Sea), the proposed development site is located outside the 1 in 1000 year flood outline and is therefore defined as being situated within Flood Zone 1 under the NPPF. The site therefore has a low probability of flooding. The proposed development site, being located in Flood Zone 1, satisfies the requirements of the Sequential Test. Residential development is an appropriate use within this flood zone, as indeed are all uses of land. The report concludes that the risk of flooding from fluvial, groundwater, surface water, reservoirs, canals and other artificial sources is considered low.

In order to mitigate any residual risk of flooding from groundwater and surface water it recommends setting finished floor levels of all residential dwellings at a minimum of 0.15m above adjacent ground levels. The development proposes a new access on to the A516 and this route is shown to be located within Flood Zone 1 and will therefore provide dry access and egress to the site. The surface water drainage strategy outlined within this FRA seeks to demonstrate that surface water would be sustainably managed on site without increasing flood risk elsewhere.

### Transport Assessment

The Transport Assessment considered the current usage of the local network and assessed its suitability to accommodate the traffic that is likely to be generated by the proposal. It also considered the road safety characteristics of the highway network. It further considered the sustainability and accessibility of the site, including its proximity to local public transport services and the availability of facilities/services within sustainable travelling distances by a variety of transport modes. The assessment states that the impact assessment exercise has clearly demonstrated that the development generated trips can be safely/satisfactorily accommodated on the local highway network and, therefore, accords with the Adopted Local Plan (1998), National Planning Policy



Framework and the Draft Local Plan policies. It states that the Transport Assessment has demonstrated that the cumulative impact of the proposed residential development cannot be considered to be 'severe'. Hence, as required by paragraph 32 of the NPPF, the development should not be prevented or refused on transport grounds. It concludes that there are no highways or transport related reasons why the proposed residential development should not be granted planning approval.

### Travel Plan

This report sets out the applicant's strategy for co-ordinating measures to encourage sustainable transport (public transport, walking, cycling and car sharing) and combines it in one useful place. The objectives of the Travel Plan are to encourage sustainable transport.

### Arboricultural Report

This report looked at the trees affected by the development and it concluded that the trees surveyed were generally found to be in good condition. Five trees/groups have been recommended for removal for arboricultural reasons, twelve trees/groups/hedges require pruning works for reasons of public safety and to enhance their long term health and seven trees/groups/hedges require a periodical inspection as they have structural or physiological defects. The indicative proposals plans provided show that the designs aim to retain as many trees as possible and that the majority of the high amenity specimens will be retained, with only a minor percentage will be removed.

### **Planning History**

9/2014/0249 - OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT OF UP TO 300 DWELLINGS WITH MEANS OF ACCESS FOR APPROVAL NOW AND ALL OTHER MATTERS RESERVED FOR FUTURE APPROVAL – Refused for the following reason:-

*"The A516 Mickleover By-Pass is a busy, principal road which experiences a high number of high speed vehicular movements. South Derbyshire Local Plan Transport Policy 6 states that planning permission will not be granted for development which interferes with the free and safe flow of traffic and that policy is considered to be consistent with the National Planning Policy Framework at paragraph 32 which states, amongst other things, that safe and suitable access to the site can be achieved for all people. In the opinion of the Local Planning Authority the proposed means of access onto the A516 is fundamentally flawed in terms of type and design and the introduction of development related traffic using this proposed junction would be prejudicial to safe and effective traffic movement on the public highway, contrary to the advice contained in NPPF paragraph 32 and Local Plan Transport Policy 6."*

### **Responses to Consultations**

Natural England raises no objection to the proposal and has not requested any specific conditions be imposed but advises the proposal is unlikely to affect any statutorily protected sites or landscapes. They advise that the area could benefit from additional green infrastructure (GI) and encourage its inclusion and that the scheme could deliver enhanced biodiversity and landscape.

Peak and Northern Footpaths Society repeat the comments from their response on the previous application in which they advised that whilst they have no objection in principle to the proposed development they feel that the applicant has missed an opportunity to promote the use of sustainable transport by limiting access to and from the site on foot and cycle to just one very short link on to vehicular roads. There is an existing public footpath (FP 8 Radbourne) running to the north of the site from Greenside Court to National Cycle Route 54 and ought to be possible to provide a footpath/cycleway link from the north of the site to this footpath, legally and physically upgraded to a cycle track. If necessary NCR 54 could also be physically improved to enhance walking and cycling to Burton and to Derby. Links to FP 8 would also enable residents to easily access and enjoy the open countryside to the west of Mickleover on existing public footpaths. This is a very large development and the applicant should be more imaginative in the provision of walking and cycling links for access to amenities and for recreation.

The County Rights of Way Officer reiterates her comments on the previous scheme in which she stated that there are no recorded public rights of way crossing the site although any unrecorded one may have been acquired through uninterrupted use. As a consequence she raises no objections.

Derbyshire Constabulary Crime Prevention Design Advisor reiterates most of his comments on the previous scheme in which he stated that he has no issues with the principle of residential development but that the subsequently submitted layout and detail should be in accordance with the principles of designing in community safety, in respect of outward looking building elevations with the capability to supervise all open space, public realm and non-secured private space, including garden curtilage and parking plots and that all private garden space is secured at points within view. He states that from the illustrative layout supplied as part of this application there are some areas of concern as four parking courts where vehicles and the semi-private space within will be out of view of all or the majority of users. He states that the two footpath links proposed to the south of the site should be kept at least 2m wide with an open aspect and that at present the access track across the front of New House Farm has restricted access, and is to a greater degree assumed not to be in the ownership of the applicants and the more westerly footpath link location implies an extended route onto this track.

The Highways Agency has noted that the original application was refused due to access issues on the local road network but that the Highways Agency has previously responded with no objections. The current resubmission of the application is similar to the previous application and is not expected to have a material impact on the closest strategic route, the A38. Therefore they raise no objections as comments made for the previous outline application still stand for the current application.

The Housing Strategy Manager advises that there is a need for affordable housing in the area and requests the developer provide 30% affordable housing of which 75% would be for rent and 25% shared ownership. These provisions should be secured through a S106 agreement.

The Planning Policy Officers at Derbyshire County Council has advised that overall, the proposed development could provide for a sustainable form of development in the context of national, former regional, sub-regional and local planning policies, subject to the satisfactory resolution of a number of critical infrastructure issues relating to the

highways impacts and school place planning needs associated with the development of 300 dwellings on the application site.

With regards to highway matters they note that in the opinion of Derbyshire County Council as Highway Authority, the applicant has overcome their previous reason for refusal by demonstrating that a satisfactory means of access into the site can be achieved within the controlled land.

With regards to education matters, the proposed development falls within, and relates to, the normal areas of Etwall Primary School and John Port Secondary School. It is anticipated that the proposed development of 300 dwellings would generate the need to provide for an additional 60 primary place pupils, 45 secondary school pupils and 18 post -16 pupils. Etwall Primary School has a net capacity of 280 pupils and has 272 pupils on its roll. Projections indicate pupil numbers increasing to above capacity to 289 during the next 5 years. Projections therefore show that Etwall Primary School would not have sufficient capacity to accommodate the anticipated additional primary pupils arising from the proposed development.

In respect of secondary and Post-16 education, John Port Secondary School has a net capacity of 2,070 pupils and currently has 1,964 pupils on roll. The latest set of pupil projections (January 2015) indicate that the number of pupils on roll at John Port School will increase to 2,071 taking the school above capacity by the year 2020. Furthermore, there is significant development coming forward within the normal area of John Port School via recent planning approvals, current planning applications and the emerging South Derbyshire Local Plan. The County Council is working together with Derby City and South Derbyshire District Councils to plan strategically for the provision of secondary school places in this area over the longer term. The above analysis and future projected numbers of pupils on roll, and other recent planning permissions and proposed development coming forward within the normal area of John Port School, show that there would not be sufficient capacity at the normal area school to accommodate the additional pupils arising from the development proposed. The County Council therefore requests a financial contribution for the following:

- a) £683,940.60 towards 60 primary school places at Etwall Primary School;
- b) £772,927.65 towards the provision of 45 secondary school places at John Port School; and
- c) £335,302.20 towards the provision of 18 post-16 education places at John Port School.

With regards to other requests the Planning Policy Officers at Derbyshire County Council advises that the new homes should be designed to Lifetime Homes standards and informatives are also suggested relative to the incorporation of measures to allow broadband and the installation of domestic sprinkler systems.

Severn Trent Water has no objection subject to a condition relating to surface water and foul sewage disposal as well as an informative in relation to a public sewer within the site.

The Council's Contaminated Land Officer reiterates his comments on the previous scheme in which he stated that he has no significant concerns with respect to contamination but the site may be within influencing distance of historical activity which

could give rise to pollution. As a result a contamination condition is recommended along with an informative.

The Environment Agency raises no objection and requests a condition relating to the provision of details relating to surface water drainage.

The Council's Land Drainage Engineer repeated the comments from his response on the previous application in which he advised that his concerns had been addressed.

The County Archaeologist states that the proposal area contains a site on the Derbyshire Historic Environment Record (HER 24308), an area of medieval ridge and furrow earthworks described in the applicant's archaeological desk-based assessment as 'low' but otherwise not quantified. The archaeological potential of the site is at present largely unknown due to the absence of significant archaeological fieldwork in the area as noted in the applicant's archaeological study (4.4.2). The Mercia Mudstone geology west and south of Derby has not been significantly researched or investigated and elucidation of past settlement patterns in the area – with particular relation to the prehistoric and Romano-British periods – is therefore something of a research priority. Any previously undeveloped greenfield site of this scale has a significant – if at present undefined – potential for hitherto unknown archaeological remains.

To assess the level of this archaeological potential the applicant has submitted the results of a geophysical survey of the site. Although geophysical survey does not always perform reliably over mudstone geology, the survey results suggest that archaeological remains are not dense or complex. There are a small number of features of potential archaeological origin, which should be investigated in order to establish their character and significance. He recommends that this modest archaeological interest be addressed through a conditioned scheme of fieldwork in line with NPPF para 141, to comprise a trial trench evaluation in the first instance, and further mitigatory work in the event of significant remains being identified.

Derbyshire Wildlife Trust considers that the ecological works have been undertaken appropriately and the Trust recommends conditions be imposed to secure badger protection; hedgerow removal to avoid bird nesting season; the Reserved Matters providing green infrastructure as per the Masterplan and the submission of a Landscape and Ecology management Plan.

The County Highway Authority have stated that they recommended refusal of the previous application which is now the subject of an appeal. They advise that guidance regarding the type of accesses onto roads such as the A516 Etwall Road is contained in the Design Manual for Roads and Bridges (DMRB). The previous application proposed access into the site via a signal controlled junction onto the A516. DMRB recommends that, in the interests of highway safety, signal controlled junctions are not used on roads where it has been demonstrated by means of a speed survey that actual vehicle speeds exceed 65mph. Speed readings on Etwall Road produced readings of 69mph and 72mph, obviously in excess of 65mph and not a suitable location to introduce traffic signals.

The current application is for the same area of land at New House Farm as the previous application. However, the current application proposes to access the site by introducing a roundabout on the A516. The roundabout, as with the signals, would be capable of accommodating the proposed volume of traffic on the A516, the new road into the site

and the traffic joining from the south. The main difference is that the roundabout design can meet with the design criteria contained in DMRB whereas the traffic signal scheme cannot. The applicant has therefore overcome the Highway Authority's previous reason for refusal by demonstrating that a satisfactory means of access into the site can be achieved within controlled land.

The County Highway Authority state that they have noted the traffic flow forecast developed in the Transportation Assessment. Whilst they are satisfied that the traffic forecasts have been developed in accordance with prevailing best practice, there may be secondary reassignment effects arising from the changes in the highway network. These are not thought considered to be detrimental to the safe and efficient operation of the proposed roundabout access junction, or elsewhere on the network, and therefore are unlikely to materially alter the conclusion of the Transportation Assessment. It will be appreciated that it is invariably the case that the County Highway Authority does not endorse the content of a Transport Assessment. However, providing it is satisfied that revision to the content would not alter the conclusions then it is considered unreasonable for such revisions to be requested.

There are consequently no objections to the proposal from the highway viewpoint subject to the following conditions.

Derby City Council (DCC) made representations on the previous proposal and whilst the current application differs only in the proposed means of access, and whilst they acknowledged South Derbyshire did not refuse permission on the wider issues raised by DCC, they maintain those representations.

The City Council's previous representation stated that the previous application raised issues of concern that should be considered against the presumption in favour of sustainable development as set out in national policy. In particular, that proposal would result in a medium sized bolt-on to Mickleover that would not relate particularly well to the existing community and which does little to create a sustainable new community. Furthermore, it runs the risk of prejudicing the sustainable, longer term comprehensive development of a larger site in this area should a case for this arise in the future. For instance, it will make it harder to plan comprehensively for school places, shops and services within the site and for public transport penetration into the site.

DCC also considered that more than sufficient urban extensions are already being planned in and around Derby to meet both the City's housing need and a reasonable proportion of South Derbyshire's. More urban extensions to the city, particularly to the west and south, run the risk of undermining the strategy pursued in our aligned local plans. Taken with other development in and around Mickleover, there was a concern that an alternative strategic location is emerging.

They previously stated that there was also a danger that too high a proportion of the HMA's overall housing need will be met within the Derby Urban Area and that the sustainable housing needs of other parts of the HMA are not fully met.

They felt that at that stage there may have been a case to consider the application to be premature as defined in Para 014 of the Practice Guidance (In what circumstances might it be justifiable to refuse planning permission on the grounds of prematurity).

With regard to access and school place issues, the City Council previously commented as follows:

Access arrangements into and out of the site were a matter for Derbyshire County Council as highway authority for the area. The Highway Agency has previously expressed concern about strategic growth to the west of Derby, especially in the earlier parts of the plan period. Impact on Derby City's road network is unlikely to be significant enough to justify refusal of permission. The pedestrian link in the south east corner of the site shown on the illustrative master plan is approximately 255m from the nearest bus stop for the V1 and V2 service and 440m from the Mickleover service. This increases to over 700m from the V1 and V2 and 1km from the Mickleover service at the furthest extremity of the site. Whilst these are reasonable walking distances, it would be helpful if a pedestrian link onto Ladybank Road could be provided.

Whilst this site lies within a reasonable walking distance of the Mickleover District Centre, a piecemeal approach to development of this area will make it more difficult to secure new shops and services within the larger site being promoted in the local plan. This is a matter of concern as parts of the larger sites lie much further from Mickleover District Centre adding to the concern over a piecemeal approach to development.

They previously stated that schools were an issue for the County and South Derbyshire. The application includes no proposal for new school provision and presumably school children would need to be transported to schools elsewhere in the County. City primary schools are largely at capacity in this area and there are major housing developments proposed within the City that are likely to reduce capacity at nearby Derby secondary schools. Therefore, it is unlikely a cross border arrangement could be put in place in this case. This approach would not be sustainable and would do nothing to help create a local identity and new community. Further, it would make sustainable school place planning all the more difficult for any larger site.

The City Council previously considered that despite a change in circumstances from last year, there were still concerns over the proposal that weigh against it. Firstly, taken together with other proposed development in this part of Derby, it could undermine our wider aligned local plan strategies. Secondly, it does not relate well to the existing community and will lead to an unsustainable 'bolt-on' to Mickleover rather than a sustainable extension to it. Thirdly, it would make the delivery of a comprehensively planned, sustainable new community on the larger site more difficult should this be justified at some point.

With regard to their education comments made on the previous scheme, referred to above, they have amended them in their consultation response on the current application, stating that Derbyshire County Council, as Education Authority, is responsible for the provision of school places in this location. Whilst Derby City Council and Derbyshire County Council do work together closely to consider school place planning options for sites close to the City/County boundary, based on current primary school provision, it is unlikely that it will be possible for City schools to accommodate primary school children from this site. As we said in our earlier letter, this approach would not be sustainable and would do nothing to help create a local identity and new community. Furthermore, it would make sustainable school place planning all the more difficult for any larger site.

With regard to secondary school places, Derby City Council will continue to monitor citywide pupil numbers, including projections, and, once the timescales in relation to possible future development are clearer, the Council may consider and review options in more detail for secondary places.

They state that the City Council will continue to work together closely with Derbyshire County Council and schools on planning for school places.

As with the earlier representation on the previous scheme, they do not intend to comment on the access arrangements into and out of the site which are a matter for Derbyshire County Council as highway authority for the area. That said, they do wish to raise a number of more detailed issues related to access. They state that the District Council will be aware that concerns have been raised about the old Etwall Road being used by construction traffic during building works on this site. Whilst they see no suggestion in the application that this is the case, they consider that this route is wholly unsuitable for such use. They would therefore be grateful if any permission is suitably conditioned to prevent this. In their previous representation they identified s106 contributions that they requested be directed towards Derby City consisting of the following:

1. A proportion of the nominations for the affordable housing secured on the site to meet Derby's need for affordable housing, although it is acknowledged that this may not be through the S106 process itself.
2. Contributions towards highway improvements in the Uttoxeter Road corridor.
3. Improvements to health facilities to be discussed.

They maintain these requests, apart from the generic contributions towards highway improvements in the Uttoxeter Road corridor. Whilst they do not necessarily accept the CIL compliance issue raised against such generic contributions, they would now prefer to see a condition imposed on the granting of permission which requires the developer to agree a suitable scheme for improved pedestrian and cycle links between the development site and Mickleover. This would retain a degree of flexibility for discussion over the precise nature of improved links to be implemented under s278 of the Highways Act. They consider that these improvements are extremely important in securing a more sustainable and integrated form of development. The Transport Assessment states in para 5.1.6; "between the site and the centre of Mickleover there is continuous, well lit and overlooked footway provision. There are dropped kerbs and tactile paving at the Ladybank Road/Etwall/A516 roundabout." Whilst this may be correct, we do not consider that this footway provision is really suitable if it is intended to link an urban extension to the existing centre of Mickleover. The existing path, which runs along the A516 and links the proposed main access, is very narrow and very rural in nature and as it stands is unlikely to encourage new residents to walk into Mickleover. The link path to the east of New House Farm comes out onto the old route of the A516 and has no footways. They therefore consider that the applicants need to show how they are going to improve the pedestrian/cycle link to Mickleover, including where such routes cross existing roads and request an appropriate condition to require this, suggesting that it is implemented through s278 of the Highway Act 1980. Furthermore, for the avoidance of doubt, it would be helpful to have an indicative plan to the pedestrian/cycle route for agreement by both highway authorities prior to the application being determined. This could just have notes on it saying what the applicant is going to do.

The County Council's Flood Risk and Transport Asset Management Team state that a review of Derbyshire County Council (DCC) surface water model outputs indicate that the proposed site is unlikely to be subject to surface water flooding during the 1 in 100 year, critical duration rainfall event in its current land use. An analysis of the DCC surface water model outputs for the 1 in 1000 year critical storm duration rainfall event indicates that the site may be susceptible to some surface water flooding through the centre of the site. Derbyshire County Council strongly promotes Sustainable Drainage Systems (SuDS) to be incorporated within the design of a drainage strategy for any proposed development, applying the SuDS management train. In the absence of a detailed drainage design at this stage of the planning process, a detailed drainage design should be submitted and approved by the Local Planning Authority (LPA) in advance of the commencement of construction works on site.

The Council's Pollution Control Officer states that he has no objection in principle subject to conditions.

Amber Valley Borough Council raises no objection to the proposal provided the proposed developments at Hackwood Farm and Radbourne Lane are taken into consideration, particularly in respect of the highway network.

Derbyshire and Nottinghamshire Area Team of NHS England stated that a development of this size would lead to increased service demand which would not easily be accommodated within existing primary care resources and one practice has a temporary list closure in place due to the increase on clinical capacity required. It is unlikely that a single handed GP development would be the appropriate solution and investment in existing capacity would be ideally secured through a s106 contribution. We would wish to explore further in conjunction with CCGs and other stakeholders including what options are available and best value for money. Local practices are exploring options available to them to accommodate the housing proposed in the area but they are independent contractors and the Area Team must support them to identify a solution that does not destabilise the health economy. Options available include increasing capacity at existing surgeries by extending them or providing new premises. A number of practices expressing interest in receiving monies to increase capacity and that the CCG are currently working on their estates strategy but until all options have been explored we are unable to give a definitive answer as to where the s106 contribution will be spent however, we will ensure value for money. It should be noted that any such development would need to be considered and approved through the NHS England national process and would no doubt be considered more viable with s106 contributions.

Natural England has stated that they have no objection, advising that the proposal is unlikely to affect any statutory protected species or landscapes. Standing advice is provided in respect of protected species and information relative to biodiversity enhancements; landscape enhancements and SSSIs.

## **Responses to Publicity**

Burnaston Parish Council wishes to record its strong opposition to the granting of the above application, stating that when the draft Local Development Plan, which is currently being considered by the Planning Inspector, was drawn up following extensive consultation with local residents the proposed site was not included. At a conservative estimate the proposed development of 300 houses would lead to 1000 new residents



and some 400+ extra vehicles. The applicants have sought to suggest that Mickleover could comfortably accommodate this increase. It is quite clear however, that any development on this scale would have a considerable detrimental effect on the area placing intolerable additional pressure on local infrastructure, school and medical facilities and very limited local amenities. The main causes for concern are as follows:

1. The application proposes a new roundabout junction on the dual-carriageway of the A516. This would cause major disruption to traffic flow on a very busy trunk road and is clearly undesirable. In order to reach Mickleover the residents of the proposed development would have to cross the A516 and then use the existing local roads which are already overcrowded. The 'rush hour' in the village lasts considerably longer than the applicants claim and it is difficult to find a parking space for most of the week.

2. Local schools and GP practices are already overcrowded and one practice has already closed its door to new patients. Further, these essential services are not easily reached on foot from the proposed site as claimed in the application.

3. The provision of shopping and recreational facilities in the village is limited and the majority of local people travel afield for some or all of these activities. A large number of new residents would inevitably result in a significantly increased number of journeys with the accompanying problems of congestion and air pollution.

4. The proposed site is perfectly good farming land which improves the quality of life for local people and provides for wildlife in addition to meeting the need for food production which is a national concern. There are many suitable brownfield/demolition sites available elsewhere which offer a much more appropriate option for development.

A total of 170 letters have been received from local residents many reiterating objections on the previous application that was refused but also adding comments on the inclusion of the roundabout, which can be summarised by the following points:

### Traffic

- a) The proposed development will result in an increase in traffic: Mickleover is already suffering with traffic issues on Station Road in line with new developments on Western Road, Former Pastures Hospital Land, Station Road Nestle site and new development on Radbourne Lane.
- b) The proposed development would add to the traffic congestion already experienced in Mickleover.
- c) The traffic on A38/A516 often cuts through Mickleover, this development will encourage this and make this much worse.
- d) The roads in Mickleover are already overcrowded and are congested throughout the day, not only at peak times. It is difficult to access the village shop as the road is blocked and no parking is available. This results in dangerous driving/parking and aggressive behaviour.
- e) Car parking availability in Mickleover is already insufficient and car usage is the only means of accessing Mickleover for residents on the outskirts of the area.
- f) The proposed development will result in up to an additional 600 cars on the road in Mickleover. Whilst the Transport Assessment confirms that people will walk and use public transport to access facilities and services, statistics show that people do not rely on public transport.

- g) Public transport in Mickleover is ineffective and only partially serves the new development i.e. the V2 Burton Bus only partially serves the new development and is hourly. There appears to be no intent to provide sufficient public transport for any of the additional housing. There has been no bus routes indicated as part of the proposed development.
- h) The Transport Survey that was submitted as part of the supporting documents for the application was originally carried out in 2011, this document is therefore out of date.
- i) The Transport Survey that was submitted as part of the supporting documents for the application makes unrealistic assumptions with regard to sustainability i.e. the level of public transport usage, walking and limited car use.
- j) The proposed development will encourage road used to use of Burnaston as a “rat run”.
- k) A connecting road will be required from the A38 to the A50 to alleviate congestion.
- l) Wear and tear on the roads must be taken into consideration.
- m) The accessibility of the site is an issue; the proposed traffic lights on the A516 are likely to cause a significant number of accidents resulting from drivers travelling at high speeds.
- n) The development will appear to be accessed through Ladybank Road, despite the alterations to the A516 appearing to be dangerous. Speeds at Ladybank Road have already been reported as unacceptable.
- o) The traffic lights proposed on Hospital Lane would cause traffic back up in both directions.
- p) There is insufficient parking provided in the plans to accommodate the new residents. This will cause overspill parking and street parking.
- q) There are currently issues with pick up and drop off traffic at schools, this is likely to intensify as a result of the proposed development. There will be more school run traffic as a result of the proposed development and will result in parents travelling further for schools.
- r) The proposed pedestrian and cycle access at the end of Ladybank Road at the roundabout is very dangerous, there have been many accidents on this section of road.
- s) The Highways Agency will not allow any works to the west of the City until the work on the Little Eaton, Markeaton and Kingsway islands are completed.
- t) There appears to be a lack of understanding with regard to the level of traffic on A516, there is likely to be more congestion than stated in the Traffic Survey.
- u) There is likely to be an increase in accidents due to the proposed traffic lights being obscured by a natural bend and adjacent foliage.
- v) The amended proposal for installing traffic lights for access onto the A516 will contribute to delays.
- w) There is a considerable on-road parking issue which makes driving very hazardous i.e. Aldi outside of Derby Royal Hospital. Alternatively, it is a 20 minute walk to alleviate the parking issue.
- x) There is insufficient public transport infrastructure i.e. one bus lane on the road into Derby City at the point of the Royal Derby Hospital.
- y) The proposed junction on the A516 will be positioned on a blind bend and will create a crossing point. The removal of barriers on the dual carriageway will cause a number of accidents.
- z) Right-hand turning at the proposed junction on the A516 will be hazardous and will cause accidents.

- aa) The proposed alterations to the A516 does not address issues raised by Derbyshire County Council, it is likely to increase the risk of overshoot collisions, delays and rear end shunt type accidents.
- bb) There is no safe vehicular access from the site to Ladybank Road.
- cc) There are concerns about the number of vehicles that the development will create i.e. two cars per property and in the future when the children of the household obtain cars of their own, this number will increase.
- dd) The proposed development will create access issues for Country Park Residents.
- ee) There appears to be a lack of understanding with regard to the level of traffic on A516, the proposed access to the housing site would be detrimental and dangerous.
- ff) There is likely to be more congestion than stated in the Traffic Survey, they do not provide an accurate picture of real traffic flow and highway safety, it refers to peak hours as opposed to a holistic over view. The traffic statistics are recorded from 2011 and are therefore, out of date.
- gg) The amended proposal for the island access onto the A516 will contribute to delays and act as a "pinch point". Creating an island on a well-established dual carriageway will be dangerous and affect the free flow of traffic.
- hh) The proposed island will be dangerous to oncoming traffic from multiple locations and Mickleover Country Park Estate.
- ii) There is a considerable on-road parking issue in the area which makes driving very hazardous i.e. Aldi outside of Derby Royal Hospital. Alternatively, it is a 20 minute walk to alleviate the parking issue.
- jj) There is insufficient public transport infrastructure i.e. one bus lane on the road into Derby City at the point of the Royal Derby Hospital. Public transport, such as the bus routes are held up due to the volume of traffic on the Uttoxeter Road and frequently buses are overcrowded.
- kk) The proposed island on the A516 will be positioned on a blind bend and will create a crossing point. The removal of barriers on the dual carriageway will cause a number of accidents.
- ll) Right-hand turning at the proposed junction on the A516 will be hazardous and will cause accidents.
- mm) The proposed alterations to the A516 does not address the issues raised by Derbyshire County Council, it is likely to increase the risk of overshoot collisions, delays and rear end shunt type accidents.
- nn) There is no safe vehicular access from the site to Ladybank Road.
- oo) There are concerns about the number of vehicles that the development will create i.e. two cars per property and in the future when the children of the household obtain cars of their own, this number will increase. The provision for car parking/garaging is inadequate.
- pp) Access to the A516 by a proposed roundabout is unacceptable, the road is 70mph and the area is already recognised as being hazardous with a "black spot" for incidents, the proposed layout would exacerbate this.
- qq) There will be a detrimental effect on the traffic impact of the hospital and Fire Service i.e. emergency services positioned within the area.
- rr) There are buses and HGV's which use the A516 and the bend into the proposed island will be too tight to manoeuvre in some cases.
- ss) The proposed island could be used as a crossing point by pedestrians. This is particularly dangerous as children will most likely cross the A516 to access the bus to John Port School. The acceleration and deceleration points at the proposed island are located opposite a school.

- tt) The proposal will result in fewer people cycling in the area, as the island proposal is more dangerous to pedestrians and cyclists than the previous traffic light controlled junction.
- uu) Poor segregated pedestrian and cycle crossings. The proposed junctions will create unsighted entrances onto the main road.
- vv) The amended road layout extenuates the bends in the roads.
- ww) The cumulative impact of the traffic must be assessed against all development in the area, not in isolation i.e. the Pastures development, Onslow Road and Hackwood Farm will use the road infrastructure as well.
- xx) The proposed construction road is unsuitable for heavy vehicles and will create dangerous consequences on Ladybank Road and the proposed island.
- yy) Information that has been supplied is not correct; Primary Schools are not connected to the National Cycle Network.
- zz) The proposed island does not resolve the highway safety issues that led to the refusal of the previous planning application.
- aaa) Directing traffic from the current slip road to the proposed island would make the right hand turning out of Hospital Lane very unsafe.
- bbb) The A516 is frequently used by HGV's as substantial levels of traffic, the proposed development will lead to increased emissions and noise pollution.
- ccc) The proposed development will put further pressure on the existing roads in Mickleover.

### Infrastructure

- a) Mickleover does not have sufficient infrastructure to support the proposed development i.e. retail, education, GP surgeries, leisure facilities and other community services.
- b) The current needs of Mickleover are not sufficiently supported and it appears that there are no plans to accommodate the increase in the need for infrastructure i.e. the Tesco in Mickleover is too small to cope and cannot expand.
- c) Existing school places in Mickleover are near capacity. There are very few Primary Schools available and John Port School is one of the largest secondary schools in the country and is over subscribed.
- d) There are not enough places at the Doctors Surgery and a lack of medical services.
- e) There are not enough Dentist Surgery places/provision within the Mickleover area.
- f) Affordable housing needs to be built near to good public transport links and amenities with school places. More starter homes are needed for young people as opposed to luxury 4 and 5 bedroom homes.
- g) The site is not a preferred housing site in South Derbyshire District Council's Proposed Local Plan.
- h) The proposed developments on Western Road, Former Pastures Hospital Land, Station Road, the Nestle site, Varsity Grange, Harlow Fields and the proposed new development on Radbourne Lane result in around 4427 additional dwellings in and around Mickleover, through developments in Amber Valley, South Derbyshire and Derby City.
- i) The proposed development needs to be assessed in association with the other developments around the site in accordance with EIA 2011 Circular.
- j) The proposed development will be located at a 1 mile distance away from schools, shops and facilities. This travel is likely to be supported by car use.
- k) The fields that surround Newhouse Farm are some of the best examples of Medieval Ridge and Furrow ploughing sites.

- l) New House Farm is a working farm and the proposed development will result in building on prime grazing/agricultural land. "Turning farms into housing estates is bad for people and their environment".
- m) The proposed development would involve significantly building into the countryside. Further development on greenfield land would diminish Mickleover and would change the character of Mickleover forever.
- n) The proposed development will create a "sprawling suburb" and a characterless housing estate.
- o) The proposed development would ensure that Mickleover will be caught up in Derby's urban sprawl, where Mickleover is a village. Previous development in Mickleover during the 1970's has created substantial growth, any further growth would damage the area of Mickleover.
- p) There are more suitable brownfield sites within the district that will be more suitable for housing development than this particular site, as the proposed development will result in creating a forced urban extension to Mickleover.
- q) The proposed increase in houses in Mickleover could lead to an increase in crime. This development will increase; petty crime, littering and graffiti, similar to other larger housing estates.
- r) There is only one petrol filling station in Mickleover.
- s) Nottingham has addressed its infrastructure issues by incorporating a green electric tram, Derbyshire has not addressed the same problem.
- t) Reduced financial contributions (i.e. school places) shows a complete disregard by the applicant to the needs of the area. A Section 106 contribution for 60 primary school places and 25 secondary school places does not equate to 300 family homes being built.
- u) The nearest medical practice (Vicarage Road) has closed its list for new patients, as it is unable to provide appointments due to patient numbers.
- v) The A516 near to Dee Lane floods in heavy rain due to inadequate drainage.
- w) Reduced financial contributions (i.e. school places) shows a complete disregard by the applicant to the needs of the area. A Section 106 contribution for 60 primary school places and 25 secondary school places does not equate to 300 family homes being built.
- x) The nearest Secondary school is John Port, which will be substantially affected by the development, as the school cannot accommodate anymore pupils.
- y) The nearest medical practice (Vicarage Road) has closed its list for new patients, as it is unable to provide appointments due to patient numbers.
- z) There are inadequate police numbers at Swadlincote Station to accommodate the size of Mickleover with the addition of 300 dwellings.
- aa) The A516 near to Dee Lane floods in heavy rain due to inadequate drainage.
- bb) Mickleover has already accommodated substantial housing growth in the area, with no infrastructure to support it. The prospect of an additional 300 homes is unacceptable in the area.
- cc) The site is at risk of surface water flooding, the fields currently absorb a substantial amount of rain water; the development will cause the displaced water to flood elsewhere. SUD's have been put forward but it is not clear who will maintain these.
- dd) The pumping station at Ladybank Road is unable to cope; this issue will be exacerbated by the creation of 300 dwellings in the area.
- ee) A green space between Mickleover and Etwall needs to be maintained to prevent urban sprawl.
- ff) Insufficient shopping facilities in the area i.e. customers cannot access Tesco's and Parade Square as insufficient parking is available due to the volume of people shopping there.

## Ecology

- a) The proposed development will affect wildlife that has been seen on the site such as; hares pheasants, badgers, foxes, bats, owls, cuckoos, thrushes, sparrows, buzzards, skylarks, green woodpeckers, greater spotted woodpeckers, spotted woodpeckers, partridge, pheasants and glow worms.
- b) The proposed development will worsen light pollution in the area.

## Flooding

- a) The Environment Agency has identified areas of the site that suffer from surface water flooding.
- b) The topography of the site slopes downwards from South to North. There is significant flooding to the east of the existing development.
- c) The application makes significant reference to SUD's. However, these will need to be maintained.
- d) The sewage connection to the foul drain system is totally reliant on the existing system in Mickleover. This has been proven to be inadequate for the current number of dwellings and has resulted in instances (after heavy rain) where the sewage pumping station and culvert on Ladybank Road has been inundated and waste water has been forced up manhole covers.
- e) During heavy rain, surface water flooding has become an issue in Mickleover. The site currently acts a drainage space.
- f) The proposed development is not compliant with the Derby Urban Extension Strategy.

## Other matters

- a) The site currently acts as a clear separation between Derby City and South Derbyshire as a green wedge. The proposed development will appear to join the areas.
- b) It is necessary for brown field sites to be used for development as opposed to green field sites. The petrol station site in Mickleover is a good example of a site that should be developed first.
- c) The proposed development will negatively affect house prices.
- d) The proposed development will lead to the further development of Newhouse Farm i.e. the erection of 1,500 dwellings which will occupy the western edge of Mickleover from the A516 north to the Mickleover Greenway. Concerned that the proposed development will act as a "foot in the door" for future development in the Mickleover green space.
- e) The views of the green space are photographed by local residents and photography students, as a beauty spot.
- f) The proposed development of 300 dwellings would threaten the existing community.
- g) The occupiers of the proposed development will pay Council to South Derbyshire District Council but the services and facilities that will support the properties will be provided by Derby City.
- h) The proposed development has been formally submitted prior to the adoption of the local plan.
- i) The existing properties on Ladybank Road will suffer with a loss of privacy from the proposed development.

- j) Loss of Flora and Fauna; the proposed development at Newhouse Farm is likely to have irreversible negative consequences.
- k) The amendments do not solve the safety and transport concerns that were identified as part of the previous Planning Application.
- l) Loss of Flora and Fauna; the proposed development at Newhouse Farm is likely to have irreversible negative consequences.
- m) The site has a huge variety of wildlife, in particular; buzzards, kestrels, tawny owls and badgers, skylarks, bats and swifts.
- n) Request for Tree Preservation Orders (TPO's) to be placed on trees.
- o) The site is not designated for housing within the Local Plan Part 1 (Submission Version). This is not consistent with the plan for urban extensions across the HMA.
- p) The proposed development buffer is not sufficient, it is likely that this will disturb the badger sett.
- q) Brownfield sites and derelict land should be used first, as opposed to greenfield sites.
- r) Concerns raised about a possible increase in crime in the area, as a result of the new housing.
- s) On the basis that the long term plan is to create between 1500 – 2000 homes at Newhouse Farm, an Environmental Impact Assessment (EIA) will be required.
- t) There is not sufficient employment locally; it must all be accessed by car or vehicle.
- u) Development of this size would result in a loss of character for the area.
- v) The ecology of the "gateway to the Peak District" will be lost as a result of the development.
- w) The proposed island will generate more traffic, with problems tracking to Etwall, Hilton and Tutbury. The proposed railway bridge at Egginton will aggravate the situation further.
- x) There is sufficient housing the area currently, there is no reason for more development.
- y) The planning application does not represent a sustainable addition to South Derbyshire's housing supply.
- z) The site consists of medieval ridge and furrow farmland.

One letter of support has been received in which they state that:

- it is about time Mickleover was extended as there are not enough new/modern houses in the area:
- We live on the latest development and would like to move to a larger house and we only consider modern or new houses. This represents a great opportunity for us.

A letter has been received from John Port School in which they state that the school is effectively full and would need additional facilities to accommodate additional students. Given the impact on secondary education from a development of this size we would expect a section 106 contribution to fund the additional spaces at John Port School. The school will be full from September 2015 in years 7, 8, 9 and 11 and the number of children currently in our normal area primary schools will maintain maximum entry numbers for the foreseeable future.

A letter has been received from Councillor Keith, a City Councillor for Mickleover Ward, in which he states that he strongly objects to this planning application for the following reasons:

1. The proposed site has not been identified as a preferred site for development in SDDC's pending local plan. For this reason the District Council should refuse the application and the developers should be encouraged to re-apply on land so identified.

2. The granting of planning permission for the development of 300 houses (plus the other 1500 which would follow if allowed) would have a significant detrimental impact on the infrastructure of Mickleover. Planning Applications amounting to 940 houses are already submitted for development in and on the periphery of Mickleover Ward on preferred sites, plus another 530 houses near the northern boundary of Mickleover which are under construction will cause grid lock on the roads, put pressure on already FULL schools, already Full Medical Centres and Doctors Surgeries and will add to the already massive problems of parking around the Mickleover shopping centres.

3. Unsuitable and dangerous access to the site. The A516 Road Mickleover section is a free flowing fast dual carriage way and is used extensively. The introduction of a round a bout with multiple access roads would be inherently dangerous and create a serious hazard for motorists approaching/ using it in this location which often attracts fog and misty conditions. In reality we are not only considering access for only 300 homes because if this gets passed then developers would soon be queuing up to build an extra 1500 houses (which if approved) would access the site from this dangerous round a bout. Pedestrians, people with prams and wheel chair uses, residing on this site, using this access to get to and from Mickleover would find it very hazardous proving that this access is most unsuitable.

A letter has been received from Councillor Holmes, a City Councillor for Mickleover Ward, in which she states that the proposed traffic island would be inherently dangerous in regarded to traffic travelling from multiple locations and create unacceptable congestion by amending a fast moving dual carriageway. Neither does this second application adequately resolve safety and other highways / transport concerns that led to the recommendation for refusal by professional officers advising the planning committee members regarding the previous application. I would also like to highlight that South Derbyshire County Council Local Transport Plan Part 7, (which SDDC is guided by) - 'Guiding delivery - next steps: efficient transport network management'. This states that "Derbyshire's aim for its highway network is one on which people travel safely, with reliable journey time." and that "We will aim to reduce vehicle delays on the road... In order to manage the County network, the Council will continue to identify current and future causes of congestion and disruption, and to plan and take action accordingly." The Department for Transport LTP Guidance 2009 also states that decisions on transport policy / infrastructure should be based on "avoiding, reducing and minimising congestion or disruption." These polices and guidance would clearly not have been adhered to, or proper weight given, if this application is recommend for approval by officers.

The construction of a traffic island as part of this planning application will cause the A516 to become a congestion pinch point. This will add to local traffic delays and pollution. It would also risk the road becoming an accident blackspot, requiring further costly work and alterations in response (and that would be unlikely to resolve issues). This would be at great expense to South Derbyshire District Council and create a long-term transport issue for the authority, one that will prove difficult to resolve without causing further congestion or presenting new safety concerns. It will drive away investment in the area, reduce future, more sustainable and preferred housing options



and infrastructure. It puts at risk the principal and objectives of Derby City's and SDDC's local plans, both which are close to being adopted.

It must also be noted that the developer is clearly stating their intention for 1500 dwellings, of which the 300 currently proposed is just the first phase. The amount of car journeys created by just 300, let alone 1500 will be significant enough as to present significant transport issues on the A516 if an island with multiple access links is installed to intersect the road.

This proposal will also impact significantly on access into and out of Mickleover Country Park, Mickleover itself and cause a congestion pinch point for the traffic using the A516 as a route to the Royal Derby Hospital, Derby and other key link roads / suburbs.

There are also significant safety concerns in regard to line of sight / visibility for approaching drivers using the island and for drivers pulling out of or leaving the island via one of the access links.

On one or more of the above grounds, she considers that this application should be recommended for refusal by officers and the committee consider it accordingly.

A letter has been received from Councillor Jones, a City Councillor for Mickleover Ward, in which she states major concerns about the application for a roundabout at this site. The Highways Agency has expressed concern and objections to any large housing developments on the Western side of Derby until capacity of the A38 around the city has been increased. The work will not be completed until 2021 at the earliest. This roundabout is on a fast section of the A516 road and cars will be travelling at speed towards Derby and picking up speed away from the city in both cases a roundabout seems no better than the lights previously requested with vehicles forced to suddenly slow and stop potentially resulting in late braking and collisions. The sight lines are poor at this point with a bend in the A516 road. The layout of the junction with staggered exists may make visibility on exiting or entry to the roads off the roundabout poor leading to the potential for collision. There have been concerns raised in the supporting documentation as to the safety of the roundabout due to design and suggestions that there could be the risk of collision on some of the approaches and exists especially Hospital Lane which already serves 100s of houses. This would be worse in icy condition and I am aware that this stretch of the A516 road is already prone to frost and fog. The entry curves are too steep and could cause collisions. As this is a resubmission for the 300 Houses I would like to repeat my comments as follows: The traffic assessment within the application does not take into account fully the number of car journeys travelling into and through Mickleover using Etwall Road/Uttoxeter Road route and the impact on the Parade shopping traffic. The survey work for the assessment was done back in 2011 and should be considered as, "out of date." Also access to Mickleover District Centre from the northern part of the development is over one kilometre and more than ten minutes' walk which is above the recommended distance for accessibility. In addition the proposal that cyclist and walkers use the Menzies Mickleover Court Roundabout is flawed as this has always been a busy roundabout and several vehicles have left the road within the Mickleover ward boundary. It seems to me an unsafe route for cyclist and walkers. The bus provision is poor from the site involving only one bus service or a long 10 minute plus walk to access the Mickleover buses. This is not going to encourage sustainable transport and families may well be over reliant on the car. Schools, Doctors and other services that the number of new houses already given planning permission or currently pending permission within or in close proximity to

Mickleover would make the capacity of the public services within the ward unable to cope with another large development on its doorstep. There is potential for another 1000+ people requiring services such as G.P. practices and schooling for children both of which have clearly stated they are running at near full capacity. This outline application is for family housing and it is estimated that it would create four hundred extra children requiring school places; these cannot be accommodated in Mickleover schools which means parents will have to commute their children to schools in other areas. This issue needs to be addressed within the plans. I note that the current farming is not intensive and this has led to a diversity of wild life in the area. The ecological reports seem to be from 2011 and not up to date. This site was excluded from the final draft strategy of all three local Authorities in the Housing Market Area as being unsuitable at the current time for development there being more suitable locations within South Derbyshire District.

## **Development Plan Policies**

South Derbyshire Local Plan Saved Policies:

Housing Policies 8 & 11  
Environment Policies 1, 9, 11 & 14  
Recreation and Tourism Policy 4  
Community Facilities Policy 1  
Transport Policies 6 & 7

Submission Local Plan Part 1 Policies:

Policy S1: Sustainable Growth Strategy  
Policy S2: Presumption in Favour of Sustainable Development  
Policy S4: Housing Strategy  
Policy H1: Settlement Hierarchy  
Policy SD1: Amenity and Environmental Quality  
Policy BNE1: Design Excellence  
Policy BNE3: Biodiversity  
Policy BNE4: Landscape Character and Local Distinctiveness  
Policy INF1: Infrastructure and Developer Contributions  
Policy INF2: Sustainable Transport  
Policy INF9: Open Space, Sport and Recreation.

## **Local Supplementary Planning Guidance**

The Provision of outdoor playing space in new developments (as updated by the Council's S106 guide for developers), Housing Design and Layout.

## **National Guidance**

National Planning Policy Framework (NPPF), in particular:

Paras 6-10 (Achieving sustainable development)  
Paras 11-14 (The presumption in favour of sustainable development)  
Para 17 (Core principles)  
Chapter 1 (Building a strong competitive economy)  
Chapter 4 (Promoting sustainable transport)

Chapter 6 (Delivering a wide choice of high quality homes)  
Chapter 7 (Requiring good design)  
Chapter 8 (Promoting healthy communities)  
Chapter 10 (Meeting the challenge of climate change, flooding etc.)  
Chapter 11 (Conserving and enhancing the natural environment)  
Paras 186 & 187 (Decision-taking)  
Para 193 (Local Planning Authorities should only request supporting information that is relevant, necessary and material to the application in question.)  
Para 196 & 197 (Determining applications)  
Paras 203-206 (Planning conditions and obligations) Annex1 (Implementation)

The National Planning Practice Guidance (NPPG)

## **Environmental Impact Assessment**

Due to the nature and size of the proposal, it has been screened under Regulation 7 of the Environmental Impact Assessment (EIA) Regulations 2011. The proposal is considered to fall within paragraph 10b of Schedule 2 to those Regulations, being an infrastructure project. However having taken into account the criteria of Schedule 3 to the Regulations, the proposal was not considered to give rise to significant environmental effects in the context of EIA and the purpose of EIA. Accordingly the application is not accompanied by an Environmental Statement.

## **Planning Considerations**

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

- The principle and general sustainability
- Affordable housing
- Traffic and transport
- Impact on the character of the area
- Urban Design & Open Space
- Ecology
- Archaeology
- Flood risk and drainage
- Residential amenity
- S106 Contributions

### The principle and general sustainability

The South Derbyshire Local Plan Examination in Public (EIP) took place in November and December 2014 but at this stage the Inspector has not provided preliminary comments on the merits of strategic housing sites proposed for allocation in the SDSLP or those other sites being promoted for housing at the EIP, including the application site at New House Farm. The planning application should therefore be assessed on its own merits in the context of the more general sustainability and housing policies of the Saved Policies of the Local Plan and as a result, therefore, only limited weight can be attributed to the emerging Local Plan.

The application site is immediately adjacent to the boundary with Derby City and the suburb of Mickleover with its relatively good level of services and transport links to the east. The site can be considered to be classed as part of the Urban Area in the

Submission Local Plan's Settlement Hierarchy (H1) and such locations are envisaged to be capable of providing appropriate scale developments up to and including strategic sites (100 dwellings or more). However, it has to be noted that this hierarchy presently carries limited weight and whilst the proposed development is of a scale envisaged for the Urban Area, the site at present lies outside in the open countryside, as defined by adopted 1998 Local Plan, Policy H5.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that *"if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."* Paragraph 14 of the National Planning Policy Framework (NPPF) states *"at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking."* The NPPF makes it clear that for decision-taking this means approving development proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

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

Paragraph 215 of the Framework states that due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework. In terms of housing supply, paragraph 47 of the Framework 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 this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period. In addition there is a burden on the Local Planning Authority to identify 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 and that relevant policies for the supply of housing should not be considered up-to-date if the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites.

Derby City Council is concerned that the proposal would result in a medium sized 'bolt-on' to Mickleover that will not relate particularly well to the existing community and which does little to create a sustainable new community and could prejudice the sustainable, longer term comprehensive development of the larger site in this area should a case for this arise in the future. They also consider that more than sufficient urban extensions are already being planned in and around Derby to meet both the City's housing need and a reasonable proportion of South Derbyshire's and that more urban extensions to the city, particularly to the west and south, run the risk of undermining the strategy being pursued in the local plans. Taken with other development in and around Mickleover, there is a concern that an alternative strategic location is emerging. They are also concerned that there is a danger that too high a proportion of the HMA's overall housing need will be met within the Derby Urban Area and that the sustainable housing needs of other parts of the HMA are not being fully

met. They are also concerned that it will make a comprehensively planned larger development more difficult if needed at some later point in time.

Notwithstanding these concerns it must be remembered that this Council 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 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 objectively assessed housing needs of the Derby Housing Market Area has been concluded by the Local Plan Inspector to be 33,388 dwellings over the period 2011 - 2028, with South Derbyshire needing to provide 12,341 dwellings up to the end of the plan period. Whilst New House Farm is not one of the strategic housing sites promoted in the Local Plan Part 1, it is considered to be a sustainable location with appropriate services close by in terms of the presumption in favour of sustainable development. Mickleover has a range of facilities, services and transport options, and in acknowledgement of the contribution that the development would make towards meeting an identified strategic housing need the proposal represents sustainable development in principle. In the context of a Local Plan that is out of date in so far as policies relating to the supply of new housing are concerned, the presumption in favour of sustainable development would apply unless any adverse impacts would significantly and demonstrably outweigh the benefits. The progress on the Local Plan Part 1 is not at such an advanced stage to alter this position.

#### Affordable housing

The SHMA suggests, over the period of 2012 – 2017, there is a housing need for 1,723 affordable homes, (345 affordable homes per year), across South Derbyshire. The application site lies on the Derby Fringe and the Council's Housing Strategy Manager has advised that the development should provide 30% affordable housing of which 75% should be for rent and 25% shared ownership. Based on this current evidence, in order to deliver the affordable housing need a proportion of affordable housing is sought, underpinned by Local Plan saved Housing Policy 9 and Chapter 6 (para 50) of the NPPF.

The applicant has examined the evidence and has agreed to provide the requisite 30% sought by the Council's Housing Strategy Manager.

#### Traffic and transport

Once again this resubmission is in outline form and the matter of access to the site is for approval at this stage therefore the suitability of the access arrangements proposed have to be critically examined. It is noted that the previous application was refused solely on highway safety grounds which were considered would have arisen from the provision of a signalised junction at that location. The previous scheme would have resulted in traffic in both directions on the A516 dual carriageway, traffic accessing/egressing Hospital Lane and traffic accessing/egressing the development site all having to pass through the proposed signalised junction.

The main difference between the current scheme and the scheme that was previously refused is that the signalised junction has been replaced with a roundabout. The latest plans show the junction of the A516 Mickleover By-Pass and Hospital Lane significantly changed so the off-slip from the A516 westbound onto Hospital Lane and the on-slip, westbound from Hospital Lane, both closed off with traffic proceeding through a new roundabout which would be located on the A516. The result would be that all traffic in both directions on the A516 would have to travel across the roundabout as well as all traffic seeking access/egress onto Hospital Lane. One of the amendments to the proposals was also to omit footway links between the site and Hospital Lane which would have crossed the dual carriageway to make that route unattractive to pedestrians. An alternative route exists on the north side of the A516 which links up to Hospital Lane but then utilises the existing bridge over the A516.

The A516 Mickleover by-Pass is a classified, "A" road, and one that is relatively busy with vehicles travelling at high speed and the speed limit is currently the national speed limit. As such the alterations to create the access and accommodate the traffic generated by the proposal needs to be appropriate to this location. In order to address this matter and to form to a view on this matter the opinion of the County Highway Authority has been sought. Furthermore, due to the proximity of the A38 Trunk Road to the east, the views of the Highways Agency have also been sought. In the reply from the Highway Agency they have restated that as on the previous scheme which was refused on impact on the local road network, they are of the opinion that the proposal would not adversely affect the safe operation of the trunk road network and therefore raise no objection to the proposal.

The County Highway Authority have advised that the proposed roundabout junction can meet with the design criteria contained in DMRB whereas the traffic signal scheme previously promoted, refused permission and the subject of an appeal cannot. The applicant has demonstrated that a satisfactory means of access into the site can be achieved within controlled land. In light of this advice it is considered that the introduction of development related traffic using this proposed roundabout junction would not be prejudicial to safe and effective traffic movement on the public highway and as such the proposal accords with Paragraph 32 of the National Planning Policy Framework which states, amongst other things, that safe and suitable access to the site can be achieved for all people; and development should only be prevented or refused on transport grounds where the impacts of development are severe.

It is noted that Local Plan Transport Policy 6 states that planning permission will not be granted for development which interferes with the free and safe flow of traffic and that policy is relevant as it echoes the NPPF at paragraph 32. Having considered the advice of the County Highway Authority as well as the information accompanying the application it is considered that the current roundabout proposal would not lead to such an adverse degradation of highway safety to be reasonably considered to be contrary to the advice contained on Local Transport Policy 6 as well as paragraph 32 of the NPPF and therefore the highway safety aspect of the current roundabout proposal is considered to be acceptable.

#### Impact on the character of the area

Given the location of the site within the open countryside with views of the site from close proximity and more distant there would inevitably be an impact on the character of the area. One of the core planning principles in NPPF at paragraph 17 is to recognise

the intrinsic character and beauty of the countryside. It has to be acknowledged that the site is located within an attractive rural area on the edge of the city. Saved Environment Policy 1 although not a housing policy has an indirect effect of restricting housing delivery; and notwithstanding the interpretation of the policy by the Inspector at the recent appeal at High Street Linton, a more recent high court ruling suggests the policy can still be relied on, especially as the protection of character and landscape quality is wholly consistent with section 11 of the NPPF. The policy states that outside settlements new development will not be permitted unless it is essential to a rural based activity or unavoidable in the countryside; and the character, the landscape quality, wildlife and historic features are safeguarded and protected. Given the current shortfall in housing supply it could be argued that housing development is unavoidable in the countryside but this is still subject to ensuring (inter alia) that character and landscape quality are protected and safeguarded. EV1 also states that if development is permitted it should be designed and located so as to create as little impact as practicable on the countryside.

A Landscape and Visual Impact Assessment (LVIA) accompanying the application is the industry standard method of assessing the impact of the development on the countryside. In this case it concludes that the site has a Medium Landscape Sensitivity, Low Landscape Value and Ordinary Quality resulting in a capacity to accommodate residential development and that the Visual Quality is assessed as Moderate and that the proposed mitigation measures in the form of new landscaping and areas of open space will fulfil some of the characteristics identified within the landscape character assessment. The LVIA is considered to be a robust assessment and the local landscape character is such that it does not display characteristics that would reasonably justify further analysis. Mitigation can be achieved to a certain extent through good design as well as appropriate landscaping and the illustrative Masterplan shows how this can be achieved. There is a clear opportunity to provide a built form that creates a high quality environment incorporating local distinctiveness in accord with paragraph 60 of the NPPF and saved Housing Policy 11 of the Local Plan. Whilst the detail would be considered at reserved matters stage, the submitted Masterplan and Design and Access Statement provide an appropriate basis for this to happen and the development would appear as a relatively logical extension to Mickleover.

### Urban design & open space

The application is in outline only and all matters, except access, are reserved for future approval therefore it is not possible to carry out a full Building for Life assessment at this stage. Nevertheless the proposal presents some key aspects that would form the basis of a good scheme in urban design terms. It is reasonably well served by the public transport and within an acceptable distance of the numerous facilities within Mickleover, including educational, commercial and community facilities that help to make it a sustainable development. The proposed Illustrative Masterplan goes some way to demonstrate the key objectives presented within the Design and Access Statement, and would in principle create a reasonable basis for providing the scheme.

Issues relating to design and layout of the houses, how they relate to spaces, crime reduction measures and the provision of parking would be addressed through reserved matters submissions, although the principle objectives for these can be secured by conditions at this stage. Looking at this matter in the round, on balance it is considered that the proposal would accord with Chapter 8 of the NPPF and Saved Recreation and Tourism Policy 4 of the Local Plan.

## Ecology

The report submitted with the application concluded that with an appropriate plan for the retention and enhancement of habitats (particularly woodland, trees and hedgerows) implemented, the current development proposals could provide a net gain of biodiversity on the site. The submitted report was assessed by Derbyshire Wildlife Trust who considers that the ecological works have been undertaken appropriately. Their comments related to badger protection; hedgerow removal to avoid bird nesting season; the Reserved Matters providing green infrastructure as per the Masterplan and the submission of a Landscape and Ecology management Plan within the new development and these can be appropriately secured through the imposition of suitably worded conditions. Notwithstanding the submitted comments, subject to the recommended conditions of Derbyshire Wildlife Trust biodiversity at the site would be enhanced.

## Archaeology

The County Archaeologist has examined the Archaeological Assessment and advises that the proposal area contains a site on the Derbyshire Historic Environment Record (HER 24308), an area of medieval ridge and furrow earthworks described in the applicant's archaeological desk-based assessment as 'low' but otherwise not quantified. He states that the archaeological potential of the site is at present largely unknown due to the absence of significant archaeological fieldwork in the area as noted in the applicant's archaeological study (4.4.2). The Mercia Mudstone geology west and south of Derby has not been significantly researched or investigated and elucidation of past settlement patterns in the area – with particular relation to the prehistoric and Romano-British periods – is therefore something of a research priority. Any previously undeveloped greenfield site of this scale has a significant – if at present undefined – potential for hitherto unknown archaeological remains. He advises that investigation of these matters can be achieved through a conditioned scheme in line with NPPF para 141. Notwithstanding the submitted comments, this approach is considered to be appropriate and proportionate and as such would be compliant with Saved Environment Policy 14 and NPPF Chapter 12.

## Flood risk and drainage

The site is unconstrained by Flood Risk mapping published by the Environment Agency therefore the main focus therefore lies on surface water drainage arising from the development and it is noted that there have been issues with regards to the flooding of properties locally and downstream and therefore this issue is of particular importance. Sustainable Urban Drainage Scheme (SUDS) are to be incorporated within the scheme, as shown on the illustrative Masterplan in the form of surface water attenuation ponds in the north-west corner of the site. The Environment Agency have stated that they raise no objection to the proposal alongside the County Council's Flood Risk and Transport Asset Management Team and Severn Trent Water, therefore the proposal would be fulfilling policy objectives to ensure flood risk is not exacerbated on or off site. Notwithstanding the comments submitted, in terms of flood risk the proposal is considered to be acceptable subject to the inclusion of appropriately worded conditions to secure appropriate surface water drainage techniques.



As to foul water, despite concerns from neighbours, Severn Trent Water raises no objection subject to a condition. They do not raise concern either regarding capacity locally.

Notwithstanding the submitted comments, subject to the recommended conditions, the development would be in accord with Chapter 10 of the NPPF and the NPPG.

### Residential amenity

The general approach to the Masterplanning of the development remains similar to that the subject of the previous scheme. The site is immediately adjacent to the established residential properties on Ladybank Road, Howden Close and Paxton Close, as well as New House Farm itself, and the development of the site will clearly have a significant impact on the outlook from those properties. However, the proposed Masterplan shows a significant area of open space adjacent to them and in any case the interrelationship between the new homes and the existing ones would be properly assessed at reserved matters stage. It is considered that the number of homes proposed can be achieved in line with the Masterplan with a layout and design that accords with the Council's adopted residential space guidelines and the internal arrangements of individual dwellings would be assessed at reserved matters stage. The site therefore provides ample scope for reasonable amenities in terms of light, air and privacy for both existing and new dwellings; safe, functional and convenient layouts; private amenity space, and space for landscaping in accordance with Local Plan saved Housing Policy 11.

### S106 Contributions

As set out above, the Council's Housing Strategy Manager advises that there is a need for affordable housing in Etwall and requests the developer provide 30% affordable housing with a split of 75% rent, 25% shared ownership being appropriate for the location.

The Education Authority has advised that the proposed development falls within the normal areas of Etwall Primary School and John Port School. They require a financial contribution towards the provision of 60 primary school places at Etwall Primary School at £683,940.60; 45 secondary school places at John Port School at £772,927.65 and 18 post-16 education places at John Port School at £335,302.20. The total financial contribution requested by the County Council for education is, therefore, is £1,792,170.45.

The County Planning Policy Officer, as well as the education contributions, requests access to high speed broadband for future residents as well as new homes being deigned to Lifetime Homes standards.

The Council's S106 guidance makes provision to seek contributions towards built and outdoor facilities in the district. That document requires "Recreation – Outdoor Facilities" of £220 per person therefore if it were to be assumed that the indicative average occupancy would be 2.5 people per dwelling this would equate to £165,000 as well as "Recreation – Built Facilities" of £122 per person therefore assuming an indicative average occupation of 2.5 people per dwelling that would equate to £91,500.

The Council's S106 guidance also makes provision to seek a contribution of £551 per dwelling towards healthcare provision from residential development schemes and if this was levied this would total £165,300.

Derby City Council has requested nomination rights over an element of the affordable housing as well as unspecified improvements to health facilities.

From a planning point of view, legislation states that there are legal tests for when a S106 agreement can be utilised and these are set out in regulation 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 as amended (and as set out in para. 204 of the NPPF). In this case it is considered that the provision of the affordable housing, contributions towards education, as well as for built and outdoor facilities contributions could be compliant in principle. The applicant has, however, challenged these contributions, advising that they do not consider that the requests meet the tests set out in the 2010 Community Infrastructure Levy (CIL) Regulations and paragraph 204 of the National Planning Policy Framework (NPPF). In order to progress this matter further discussions with the applicant are required in conjunction the Education Authority and in regards to the built and outdoor facilities appropriate legal advice will be taken in order to conclude those matters.

The status of local GP surgeries, as illustrated by the letters received from local residents and Mickleover Medical Centre as well as the letters from Derby City Council and their local ward members, is clearly a significant issue locally and there is scope to request a financial contribution towards healthcare provision as set out in the Council's guidance. However, in order to levy such a contribution clear evidence of that need must be provided by the NHS England as well as evidence or a clearly deliverable solution that any monies would be used to contribute to. The comments of the Derbyshire and Nottinghamshire Area Team of NHS England in respect of the increased demand for healthcare are noted but in their reply they explicitly state that they are at very early stages in terms of coming up with a solution to address this matter. It is necessary to consider whether or not existing services (across multiple tiers if necessary – i.e. GP surgeries, hospitals, clinics, etc.) within the catchment of the site could handle the proposed increase in population (either in part or in full); and then outline (a) where and when the funds would be used and (b) how the amount per dwelling/head is justified. Their consultation replies do not provide the robust evidence needed and a further request for justification did not result in any such evidence. In the absence of such evidence the request cannot be considered to be CIL compliant and could not, therefore, be levied and it is considered that a contribution towards healthcare is not justified or compliant in this instance. It is also noted that at present there is no policy basis on which to secure the requested for new homes to be designed to Lifetime Homes standards or high speed broadband

### Conclusions

Whilst the proposal does not relate to one of the Council's preferred sites put forward for housing development through the Local Plan Part 1, it would be likely to be able to contribute to the early delivery of homes, helping in part the Council meet its requirement for a five year supply of deliverable housing.

By reference to the NPPF's (Para 7) three sustainability dimensions (economic, social, environmental) the provision of new housing would support economic growth, ensuring an attractive place to live for South Derbyshire's economically active population as well

as helping to supporting the vitality and viability of Mickleover. Construction jobs would also be created. This is supported by the site's accessibility to Derby, served by public transport. The proposed scheme would have a significant positive impact on local communities by providing new homes (market and affordable).

In terms of healthy communities the illustrative Masterplan includes open space and pedestrian/cycle links which would help to support active lifestyles and encourage alternatives to the car for accessing local facilities and employment opportunities.

The reports accompanying the application explain how a range of environmental factors have been taken into account to ensure sustainable development (including landscape, ecology, archaeology, and water). Mitigation has been included within the scheme to ensure the conservation and enhancement of key features. The scheme also helps to mitigate future climate change through reducing CO2 emissions by building new homes in an accessible location and reducing the need to travel by car. In terms of resilience to climate change impacts, the scheme has been designed to take this into account, namely through the provision of a sustainable drainage strategy.

The previous application was refused solely on highway safety grounds and the lack of a suitable vehicular access to the site. This issue is therefore now the most pertinent matter and remains the key issue when assessing the merits of the current proposal. It is considered that the proposed roundabout access onto the A516 Mickleover By-Pass would be acceptable in highway safety terms and there is no evidence that would counter this conclusion

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 Council advises the Secretary of State that the Council would have granted planning permission for the development and therefore will not be contesting the appeal against the non-determination of the application subject to the conditions set out in C. below, and
- B. That the Committee delegate authority for the final negotiations on the S106 contributions relating to education and recreation/POS facilities to the Planning Services Manager;
- C. Conditions as follows:
  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 appearance, landscaping, layout and scale (hereinafter called "the reserved matters") for each phase of the development shall be obtained from the Local Planning Authority in writing before any development is commenced in that phase. Plans and particulars of the reserved matters for each phase of the development shall be submitted in writing to the Local Planning Authority and the development of each phase shall be carried out as approved.

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

3. Notwithstanding the submitted master plan, the reserved matters submitted in accordance with condition 2 shall include the following urban design principles:
  - a) The provision of large growing tree species as described in the submitted Design and Access Statement (DAS) (para 4.14)
  - b) The provision of tree lined streets (DAS para 5.13) and retention of existing landscape features in accordance with the principles set out in the DAS.
  - c) The provision of greenway routes/green corridors to connect key green spaces as described in the DAS (para 4.2)
  - d) Provision for future pedestrian access as indicated in the DAS (Section 6.0).
  - e) Provision for future pedestrian access to the areas north and west.
  - f) Provision for pedestrian access towards bus stops
  - g) A central area of open space
  - h) Measures to minimise the risk of crime to meet the specific security needs of the application site and the development.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory. In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions; to promote the well-being of the area pursuant to the Council's powers under Section 2 of the Local Government Act 2000 and to reflect government guidance set out in Paragraph 58 of the NPPF.

4. No development shall commence until a scheme for phasing of the development has been submitted to and approved in writing with the Local Planning Authority. The scheme for phasing shall show the boundaries of the proposed phases of the development and shall include reference to the provision of the children's play spaces and other open spaces. The development shall be carried out in accordance with the approved scheme unless otherwise agreed through the approval of an updated phasing scheme for the development. In this planning permission, a reference to a 'phase' shall be construed as a reference to a phase as defined in the scheme for phasing approved pursuant to this condition 4.

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

5. No development of any phase shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved, unless otherwise agreed in writing by the Local Planning Authority. These details shall include trees to be retained showing their species, spread and maturity; proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.); proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.).

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

6. For the purposes of condition 5 above soft landscape works shall include planting plans; written specifications; schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and implementation programme.

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

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

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

8. For each phase a landscape management plan for the phase, including phasing and implementation strategy, long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority as part of the reserved matters submission in accordance with conditions 2 and 7. For each phase the landscape management plan shall be implemented as approved.

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

9. Any tree or shrub which forms part of the approved landscaping scheme for a phase pursuant to Condition 5 which within a period of five years from planting fails to become established, or becomes seriously damaged or diseased, or dies, or for any reason is removed, shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved in writing by the Local Planning Authority.

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

10. No site clearance works or development of a phase shall take place until there has been submitted to the Local Planning Authority for their written approval a

scheme showing the type, height and position of protective fencing to be erected around each tree or hedgerow to be retained in that phase. The scheme shall comply with BS 5837:2005.

The area within each phase surrounding each tree or hedgerow within the protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

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

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

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

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

12. Prior to the commencement of development, a surface water drainage strategy outlining the general system of drainage for surface water flows arising from the entire site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, shall be submitted to the local planning authority and approved in writing in consultation with the Environment Agency.

Thereafter, prior to the commencement of any phase of the development, a detailed surface water drainage scheme for that phase, shall be submitted to and approved in writing by the Local Planning Authority. The detailed surface water scheme for the phase shall accord with the approved surface water drainage strategy for the entire site unless otherwise agreed in writing with the local planning authority.

The surface water drainage strategy and each surface water drainage scheme to be submitted for a phase thereunder shall:

- Demonstrate that the surface water drainage system(s) are designed in accordance with CIRIA C697 and C687 and the National SuDS Standards, should the latter be in force when the detailed design of the surface water drainage system is undertaken.
- Limit the discharge rate generated by all rainfall events up to and including the 100 year plus 30% (allowance for climate change) critical rain storm to ideally the greenfield runoff rates for the site. As a minimum, the developed site must not exceed the run-off from the undeveloped site and must not increase the risk of flooding off-site.

- Demonstrate the provisions of surface water run-off attenuation storage in accordance with the requirements specified in '*Science Report SC030219 Rainfall Management for Developments*'.
- Demonstrate detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details of any attenuation system, and outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods.
- Confirm how the on-site surface water drainage systems will be adopted and maintained in perpetuity to ensure long term operation at the designed parameters.

No building shall be occupied within a phase until surface water drainage works for that phase have been implemented in accordance with the approved surface water drainage scheme.

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

13. No phase of the development shall take place until details of the proposed means of disposal of foul sewage for the phase have been submitted to and approved in writing by the Local Planning Authority. All foul water shall be directed into the main foul sewerage system. The development of each phase shall be carried out in accordance with the approved details.

Reason: In the interests of pollution control.

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

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

15. No development of a particular phase shall commence before details of the finished floor levels of each building within the phase has first been submitted to and approved in writing by the Local Planning Authority. The buildings within that phase shall be constructed in accordance with the approved details.

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

16. No development of any phase shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority that specifies the provision to be made for dust mitigation measures and the control of

noise emanating from the site during the period of construction of the phase. The approved measures shall be implemented throughout the construction period.

Reason: To protect the amenities of nearby residents.

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

Reason: To protect the amenities of nearby residents.

18. 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/organization to undertake the works set out within the Written Scheme of Investigation

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

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

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

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

a) creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and



b) open pipework greater than 150 mm outside diameter being blanked off at the end of each working day.

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

Reason: To ensure adequate protection of the species.

20. Where applicable to each phase, the reserved matters of landscaping shall provide for undeveloped areas of green infrastructure along the eastern boundary and adjacent to Brown Cross and Forty Acre plantations, the retention of mature trees, creation of wetland habitat and sufficient native hedgerow planting to ensure no net loss of hedgerow habitat.

Reason: To secure biodiversity enhancement in accordance with paragraph 118 of the NPPF.

21. For any phase no development or other operations shall take place until a landscape and ecological management plan (LEMP) for the phase has been submitted to and approved in writing by the local planning authority. The LEMP shall provide details of the long-term design objectives for nature conservation, management responsibilities and maintenance schedules for all landscape areas which are not in the ownership of individual properties. The approved LEMP shall be implemented and subsequently maintained in accordance with the approved details.

Reason: To secure biodiversity enhancement in accordance with paragraph 118 of the NPPF.

22. a) For any phase 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 any phase of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- c) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- d) If required by the conceptual model, no development shall take place until monitoring at the site for the presence of ground gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the 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: In the interests of pollution control.

23. 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: In the interests of pollution control.

24. Prior to any other works commencing, additional details of the new junction into the site from the A516 (Reference Bryan G Hall Limited Dwg. No.10/117/TR/003 Revision G) shall be submitted to and approved in writing by the local Planning Authority in consultation with the County Highway Authority. The details shall include lighting, drainage and landscaping within highway limits including the removal and reinstatement of the existing slip roads onto the westbound A516 carriageway. The new junction hereby approved shall be implemented in accordance with the approved designs prior to the occupation of the first dwelling on the application site. The applicant will need to enter into an Agreement with Derbyshire County Council under Section 278/38 of the Highways Act 1980.

Reasons: In the interest of highway safety and sustainability.

25. No work on the access from the A516 shall be commenced pursuant to Condition 24 until a temporary access for construction purposes has been provided in accordance with a detailed design submitted to and approved in writing by the Local Planning Authority. The temporary access shall be retained in accordance with the approved scheme throughout the construction period of the A516 access, or such other period of time as may be agreed in writing by the Local Planning Authority, free from any impediment to its designated use. Once the A516 access is completed in accordance with Condition 24, all construction and house building operations within the site shall be accessed via the A516 and not via the temporary access unless agreed in writing by the Local Planning Authority.

Reasons: In the interest of highway safety and sustainability.

26. Before any other operations are commenced within a phase, excluding construction of the temporary access referred to in Condition 25 above, space shall be provided within the phase for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles. The space shall be laid out and constructed within the phase in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the period of construction of the phase.

Reasons: In the interest of highway safety and sustainability.

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

Reasons: In the interest of highway safety and sustainability.

28. Notwithstanding the submitted information any subsequent reserved matters application for the layout of a phase shall include design of the internal layout of the phase in accordance with the current national and local guidance.

Reasons: In the interest of highway safety and sustainability.

29. For any phase, a dwelling shall not be occupied until the proposed new estate street, between the respective plot and the existing public highway has been laid out in accordance with the approved reserved matters drawings, such drawings to conform to the County Council's design guide, constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads.

Reasons: In the interest of highway safety and sustainability.

30. For each phase a swept path diagram shall be submitted at Reserved Matters stage to demonstrate that emergency and service vehicles can adequately manoeuvre within the phase.

Reasons: In the interest of highway safety and sustainability.

31. Unless otherwise agreed in writing, space shall be provided within the site for the parking of two vehicles per house and these shall be retained throughout the life of the development free of any impediment to their designated use.

Reasons: In the interest of highway safety and sustainability.

32. Before development begins details of how the Travel Plan submitted with the application (Reference Bryan G Hall Limited 10-117-007-07 Travel Plan) will be implemented, including timetables (which may provide for phased implementation), shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in accordance with the timescales specified therein, to include those parts identified as being implemented prior to occupation and following occupation, unless alternative timescales are agreed in writing with the Local Planning Authority. Reports demonstrating progress in promoting sustainable transport measures shall be submitted annually to the local planning authority for approval for a period of five years from first occupation of the relevant phase of the development.

Reasons: In the interest of highway safety and sustainability.

33. No development shall commence until a scheme for the improvement within the existing highway boundary of access for non-motorised highway users along the connecting road, which exists between the point at which the proposed footway/cycleway to be constructed in the south eastern corner of the site meets the connecting road and Old Etwall Road and the point at which the connecting road meets Ladybank Road, has been submitted to and approved in writing by the LPA. The scheme shall include details of the timing of the implementation of the improvement works. The development shall be carried out in accordance with the approved details and timing.

Reasons: In the interest of highway safety and sustainability.

34. Notwithstanding the submitted Masterplan, the reserved matters submitted in accordance with condition 2 shall include a detailed scheme of noise mitigation measures to demonstrate how the development will be protected from traffic noise, as recommended by the Noise Impact Assessment produced by Hepworth Acoustics accompanying the application.

Reason: To protect future occupiers from road traffic noise.

**Item**            1.2

**Reg. No.**        9/2014/0431/SMD

**Applicant:**  
**Mr David Prowse**  
**Persimmon Homes Ltd**  
**Meridian East**  
**Leicester**  
**LE19 1WZ**

**Agent:**  
**Mr David Prowse**  
**Persimmon Homes Ltd**  
**Meridian East**  
**Leicester**  
**LE19 1WZ**

**Proposal:**        **THE ERECTION OF RESIDENTIAL DEVELOPMENT OF  
64 UNITS WITH ACCESS PROVIDED OFF LAND AT  
SK2915 3206 VALLEY ROAD OVERSEAL  
SWADLINCOTE**

**Ward:**            **SEALES**

**Valid Date:**     **13/05/2014**

*Members will recall this application was again deferred from the November 2014 committee in order to obtain an independent traffic impact assessment with regard to the effect of the proposed development on the local road network. The report remains as it appeared on the agenda for the October and November committees; however, where additional information has been received as a result of this request, this appears within the report in italics.*

The report also refers to a recent appeal decision for High Street, Linton which has a strong bearing on the arguments contained in the Planning Assessment chapter of the report and which Members should bear in mind when making their final decision on the application.

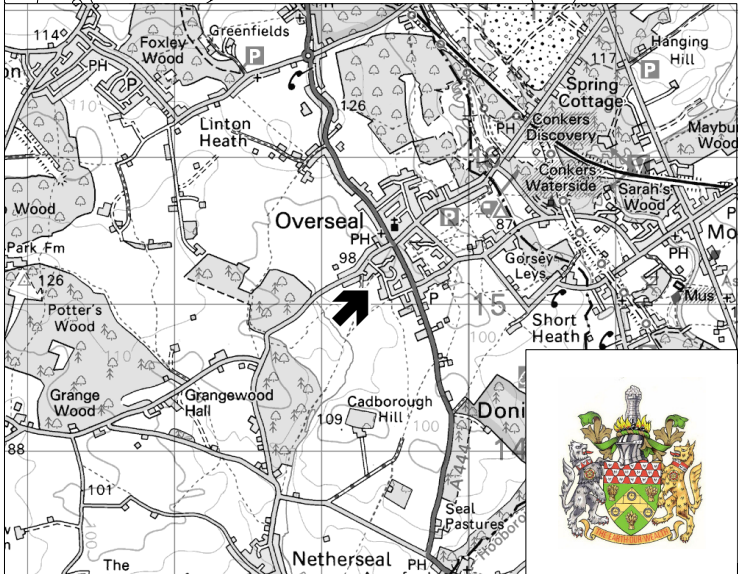
#### **Reason for committee determination**

The application is for a major development that is contrary to the development plan and has attracted more than two letters of objection.

#### **Site Description**

The application site measures some 2.05ha and lies to the southwest of the village. It is enclosed on two sides by residential development to the north and east and open farmland to the south, southwest and west, although there is a sewage treatment works immediately to the southwest. The site has a short section of frontage to Valley Road to the northeast from which pedestrian access is currently gained. The route of Public Footpath No.13 enters the site at this point and runs south-westwards crossing Public Footpath No. 9 outside the western boundary. Vehicular access into the site would be

9/2014/0431 - Land at SK2915 3206 Valley Road, Overseal, Swadlincote (DE12 6NL)



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**South Derbyshire District Council. LA 100019461. 2014**

taken from this point. There are existing trees within the hedgerows along the western and south-eastern boundaries of the site. The site lies outside but adjacent to the settlement boundary of Overseal and is within the River Mease SAC. It is formed by a single field of horse-grazed pasture with an historic ridge and furrow field pattern.

## **Proposal**

This is a detailed (full) application for the erection of 64 dwellings (amended from 61 originally proposed), together with the provision of estate roads, garages, landscaping, public open space, an equipped play area and the retention of a public right of way. The top section of the estate road would end at a turning head adjacent to the proposed LEAP. A private drive leading off the turning head would serve a further 5 properties. The public footpath would run parallel to the top section of the estate road. The lower section of the road would serve the remaining properties, terminating at a turning circle. A private drive would also lead off the turning circle and serve three further properties. The balancing (attenuation) pond would be located in the southern-most corner of the site. A footpath would link the pond to the LEAP.

A mix of one, two, three and four bedroom properties are proposed as follows:

8 x 1-bedroom flats  
7 x 2-bedroom dwellings  
29 x 3- bedroom dwellings  
20 x 4-bedroom dwellings

A Screening Opinion under the EIA Regulations has been undertaken and a view taken that the proposed scheme is not EIA development and will not require the submission of an Environmental Statement in support of the proposed scheme.

Similarly, a Habitats Regulations Assessment has been carried out which concludes that the proposed development would have no likely significant effect on the River Mease SAC and therefore there is no requirement to undertake an appropriate assessment.

## **Applicants' supporting information**

The application is supported by a number of documents, all of which are available to view on the Council's website. For ease of reference, these are listed below and a short summary of each is provided.

- Design and Access Statement
- Arboricultural Assessment
- Planning Statement
- Flood risk Assessment
- Transport Statement
- Landscape and Visual Impact Appraisal
- Ecological Appraisal
- Archaeological Desk-based Assessment
- River Mease SAC Impact Statement

### Design and Access Statement

The document includes a character assessment of the area, a sustainability appraisal of the site and discusses how the proposal relates to planning policy. It also evaluates the proposal against the constraints of the site and provides information on key vistas, the design concept and the principles of appearance and character. A Building for Life 12 Assessment is also included, which concludes by stating that the proposed development would score 12 out of 12.

### Arboricultural Assessment

This includes an arboricultural impact assessment of the existing trees, details of those that would be retained and details of the proposed tree protection measures for the retained trees.

### Planning Statement

This concludes by stating that the key material considerations in relation to the provision of additional housing justify the site's release for development. The development of the site represents an opportunity to secure economic, social and environmental gains in accordance with paragraphs 14 and 47 of the NPPF and is therefore in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004.

### Flood Risk Assessment

The document includes site details, flood risk, surface water run-off and flood mitigation measures. It concludes by stating:

- The site lies in an area of Zone 1 Flood Risk
- Finished levels would ensure flows within the boundary ditch system would be conveyed along the boundary and beyond
- Surface water drainage would connect into the existing surface water system to the south of the site
- Drainage would be designed to accommodate a 1 on 30 year event and be put forward for adoption by Severn Trent Water
- The system would connect into the attenuation pond and would accommodate flows generated by up to the 1 in 100 year event plus allowance for climate change
- Development proposals would include measures with respect to the River Mease SAC
- The development would not be at risk from flooding from external sources, would not increase flood risk associated with the development and its environment and would therefore be appropriate.

### Transport Statement

This is summarised by outlining the existing facilities within the village and the distances between those facilities and the proposed development. The nearest bus stops are around 300m from the site, on Main Street and Lullington Road, and therefore within the recommended maximum distance. Bus services operate regularly and include the provision of services to local schools. Existing traffic flows on Valley Road are minimal and 85<sup>th</sup> percentile vehicle speeds are well within the 30mph speed limit. Vehicular



access to the site would be provided via a new, simple priority junction onto Valley Road designed in accordance with the 6Cs Design Guide. The estimated traffic impact is minimal and not considered to have a significant impact on the existing highway network. Based on the findings of the Transport Statement it is considered that the proposed development would be acceptable in transport terms.

### Landscape and Visual Impact

This concludes as follows:

- The character of the site is influenced by the existing residential edge of Overseal
- The site is well contained by existing built development and established vegetation and has a strong defensible boundary with the open countryside
- Tree and hedgerow features would be retained
- The proposed layout would ensure that built development would be adjacent to existing residential edges with public open space and drainage attenuation adjacent to the open countryside and therefore not out of scale or context with the nature of the landscape
- No significant effects on the National Forest; moreover it has potential to benefit the local area through the proposed landscaping
- Visual receptors include relatively few existing residential properties (mainly those bordering the site), public rights of way (mainly limited to the public footpath crossing the site and those adjacent to the southern and western boundaries) and local roads (limited to fleeting views from short sections along Valley Road. There would be no views from Lullington Road or Burton Road.
- Overall the site comprises a single field with little landscape or ecological value and the proposed development would relate well to the existing residential edge of Overseal. It is considered that the proposed residential development is a relatively modest size and density of up to 64 dwellings with a robust green infrastructure and is the type and scale of development which can successfully be assimilated into the local landscape without any unacceptable landscape or visual effects.

### Ecological Appraisal

This concludes by stating that:

- The site is heavily grazed semi-improved neutral grassland which would be lost as a result of the development
- As the site is within the River Mease SAC and SSSI catchment there will be a requirement for a financial contribution towards the improvement of water quality in accordance with the River Mease Developer Contribution Scheme (DCS)
- Hedgerows along the site boundaries should be retained wherever possible, one in particular (H2) which is of high value to wildlife
- Removal of vegetation should avoid bird nesting season (March to September). If this is not possible vegetation removal should be preceded by precautionary checks for nesting birds
- Mature trees could be utilised by roosting bats and if they are to be lost further surveys would be required. If retained external lighting should ensure the potential roosts are not affected by light pollution

- Great Crested Newts may be present within the application site and access to offsite ponds should be sought to undertake further survey work. Otherwise terrestrial trapping of the site would be required
- Planting schemes should involve native species with an emphasis on species bearing nectar, berries, fruit and nuts to enhance the foraging opportunities
- Further opportunities to enhance the site include the provision of native trees, shrubs and climbing plants, both in rear gardens and throughout the site's green infrastructure together with bat and bird boxes, dead wood piles and insect houses.

### Archaeological Assessment

The Historic Environment Record for Derbyshire indicates there are few known archaeological sites in the vicinity of the assessment area. The area was once part of Leicestershire and is largely industrial in nature and was dominated by mining and clay workings for bricks and pipeworks. The land contained well-defined medieval ridge and furrow earthworks, which may need recording before any new development is commenced. The preservation of any underlying archaeological remains, if present, may be good although there may be some minimal disturbance close to where the sports grounds were situated and there may be some evidence of a pavilion on the northern part of the site.

### River Mease SAC Impact Statement

This concludes that, following discussions with the Environment Agency and Natural England, the impacts on the River Mease have been adequately considered as part of the proposals. The development would not adversely affect either the quality and ecology of surface watercourses or the quality and quantity of groundwater. Satisfactory arrangements could be made for the disposal of foul sewage and the control of surface water flows and water quality. It is therefore possible to conclude there would be no likely significant effect.

### **Planning History**

None

### **Responses to Consultations**

Natural England (NE) initially submitted a holding objection based on concerns relating to the impact of the development on the River Mease SSSI and SAC. However, NE is now satisfied that the specific issues that were raised in previous correspondence have now been met and has no objections subject to conditions with regard to developer contributions, details of the private drainage scheme, further plans and details of the attenuation pond, details of the planting and seeding scheme, the submission of a statement of construction and mitigation, ongoing management of the attenuation pond and gullies and detailed designs of the attenuation pond, including appropriate planting, the agreement of water quality outflow parameters, monitoring of the effectiveness of the attenuation pond and the submission of details of the capture and filtering out of road run-off.

Derbyshire Wildlife Trust initially raised concerns with regard to the loss of trees that offer potential bat roosts and the loss of semi-natural grassland. Following further discussions with the developer it is now intended to retain the two trees in question, protect all retained trees and hedgerows in accordance with BS 5837:2012 'Trees in relation to design, demolition and construction' and agree to pay a contribution of £6,000 towards the restoration and subsequent management of over 2ha of flower rich grassland. DWT recommends that this is secured through a Section 106 Agreement and that the contribution is made specific to grassland restoration and management at Swadlincote Woods.

The Environment Agency considers that the proposed development would be acceptable provided that a condition is included that requires the submission and approval of drainage details in order to prevent the increased risk of flooding, both on and off site, together with informatives relating to pollution, waste and water efficiency.

The local County Councillor has commented with regard to wildlife and archaeology; has requested contributions towards local infrastructure, particularly school places and public transport and that consideration should be given to health, shopping facilities, broadband and sprinkler systems.

Derbyshire County Council has set out its requirements, based on the revised number of 64 dwellings, as follows:

- £1,831.04 (£28.61 per dwelling x 64 dwellings) towards the provision of a new Household Waste Recycling Centre
- £99,470 towards developing a Greenway link (£36,750 land acquisition and £62,720 construction costs)
- £125,389 towards 11 primary school places at Overseal Primary School
- £137,408 towards 8 secondary school places at The William Allitt School
- £55,881 towards 3 post 16 places
- Access to high speed broadband services for future residents in conjunction with service providers
- New homes designed to Lifetime Homes standards
- The possible diversion of Public Right of Way Overseal Footpath 13.

The County Education Department has reiterated its requirements for financial contributions towards education provision as outlined above. The re-calculations have not resulted in any change. However, in response to the concern that there is no space at Overseal Primary School to expand, the County Council makes the following statement:

“When undertaking an assessment of pupil places, one of the considerations is whether a school building and site has the potential to accommodate the scale of growth indicated. Thus, the Development Contact Officer for Overseal Primary School has reviewed existing accommodation and layout, as well as looking at the overall site area and potential for an extension to the building. This review indicated that the primary school could accommodate expansion of pupil places and support areas (for example toilets, group spaces, resource room). Similarly, there is an on-going discussion with the Premises Manager at The William Allitt School about potential for expansion of places at that school; this is more complex but not impossible”.

The National Forest Company (NFC) has no objections subject to the detailed pond design incorporating further planting and a natural play approach being adopted for the LEAP, the NFC considers that the expectations within the planting guidelines to accommodate 20% of the site area as National Forest planting have been met and therefore there is no requirement for an off-site contribution towards NF planting.

The County Archaeologist considers that the site contains fairly well-preserved earthwork ridge and furrow, which are of undoubted landscape and historic landscape value and their loss would therefore be weighed as a material concern when considering the landscape and visual landscape impacts of the development. From an archaeological point of view, however, they possess little or no evidential value beyond confirming that the site lay outside the bounds of the medieval village and their isolation means that they can be considered of low significance only. Given the small size of the site and the absolute lack of any other indicators nearby, the very low level of probability of encountering archaeological remains does not, in this case, justify placing a further planning requirement on the applicant.

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

In its original response to the Transport Statement the County Highway Authority (CHA) stated:

- A topographical survey of the access is required with details of land ownership as the submitted plan does not accurately show the actual layout on the ground. The proposed visibility splays to the south of the access appears to cross third party land (probably owned by SDDC).
- The traffic flows cited in the Transport Statement indicate that the development would result in a significant increase in the number of vehicle movements at the junctions of Valley Road/Lullington Road and Valley Road/A444 both of which are substandard in terms of visibility.
- A more detailed drawing which clearly indicates the parking provision within the site is required.

In response to the above the applicant submitted further information; however the CHA remained concerned and subsequently commented as follows:

The submitted document demonstrates the shortfalls of the junctions of Valley Road, with both Lullington Road and the A444. The CHA's final comments are yet to be received but it has indicated that the scheme is acceptable in principle (this position will be updated at the committee). Notwithstanding this, the junctions are existing and it does not follow that the CHA would accept a new junction with substandard visibility. Visibility sightlines of 2.4m x 43m are required at a new access onto a road subject to a 30mph speed limit. Speed surveys have been carried out on both Lullington Road and A444 but not on Valley Road and no evidence has been submitted to substantiate the fact that visibility sightlines below that required standard are indicated on the plans. The developer responded by detailing speed readings for Valley Road which concluded that 2.4m x 33m visibility splays would be required for the site access junction and that these could be achieved. A drawing showing swept path details were also submitted.

The County Highway Authority has submitted a further response which is as follows: 'The applicant has submitted further information including additional traffic counts and speed readings, accident data and junction surveys in order to address [earlier] concerns. With regard to the junction of Valley Road with Main Street/Acresford Road (A444), the applicant has demonstrated that the visibility splays, to accord with actual vehicle speeds, can be satisfactorily achieved to the south and achieved in the northerly direction albeit with a slightly reduced minor road stop distance.

The junction of Valley Road and Lullington Road is considered to be satisfactory in the south westerly direction in terms of visibility although below the recommended standard to the north east, relative to posted and actual vehicle speeds.

However, these are both existing junctions and the accident data available for the past five years has shown no accident record associated with turning movement to and from these junctions. Furthermore, the traffic counts and projected increase in peak period movements at the junctions relative to existing movements is such that it would be difficult to demonstrate an impact which would justify an objection on highway safety grounds.

In respect of the proposed junction into the application site, it has been designed in accordance with current standards in terms of layout, geometry and visibility relative to actual measured vehicle speeds and the land required to provide this is all controlled.

On the basis of the above, there are no objections to the proposal from the highway viewpoint, subject to conditions and notes being included in any consent'.

In addition to the above response a further letter has been received from the CHA which endeavours to explain further the CHA's reasoning behind its recommendation. This is as follows:

- The posted speed limit on Main Street/Acresford Road is 30mph. However, speed readings were taken in the vicinity of its junction with Valley Road which showed that southbound vehicles slightly exceeded the 30mph limit. The applicant has demonstrated that, from a minor road distance of 2m, sightlines of 54m to the north and 43m to the south can be achieved with turning movements to or from this junction.
- The posted speed limit on Lullington Road is also 30mph. However, speed readings were taken in the vicinity of the Valley Road junction which actual vehicles speeds to be below 25mph in each direction. The visibility available in the south westerly direction at the Valley Road/Lullington Road junction exceeds the 33m which would normally be required for this speed but was below 33m in the northern easterly direction. However, in view of the fact that this is an existing junction, the limited increase in traffic generated by the development relative to the actual number of vehicle movements recorded in this location and the lack of any accidents recorded, the Highway Authority does not consider that an objection could be sustained.
- The proposed junction onto Valley Road has been designed in accordance with current standards in terms of geometry and visibility sightlines which accord with the speed survey submitted.

- It is understood that the developer has made reference to providing traffic calming features on Valley Road. The Highway Authority does not accept such measures to facilitate development and would have raised objections if a suitable junction into the site, which complied with the CHA's standards, could not be provided.
- The Highway Authority has given serious consideration to the proposal and concluded that harm to highway safety could not be demonstrated such that an objection could be sustained.

In terms of the internal layout the CHA considers the requested revisions are now acceptable, other than the issue of surface materials which remains unresolved. In order that the application can proceed the CHA is satisfied that a pre-commencement condition would overcome this issue.

The County Footpaths Officer advises that Overseal Public Footpath 13 crosses through the northern part of the site and advises that:

- the route should remain open and unobstructed and on its legal alignment at all times
- there should be no disturbance to the surface of the route without prior authorisation
- consideration should be given to members of the public using the route at all times
- a temporary closure of the route may be granted to facilitate public safety subject to certain conditions
- if a structure is to be erected adjacent to the right of way it should be installed within the site boundary so that the width of the right of way is not encroached upon.

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

The Crime Prevention Design Adviser has provided advice with regard to footpath links, the need for secure gates, the treatment of some house types with regard to views and the inclusion of windows to provide outlook.

Following further discussions with regard to the affordable housing mix and tenure, the Strategic Housing Manager has now agreed the level, mix and tenure of the affordable housing to be provided within the development.

*At the request of Members at the committee in November an extensive independent traffic report has been commissioned and carried out. The report has now been received and an executive summary is detailed as follows:*

*“Edwards and Edwards (E&E) Consultancy Limited have been commissioned to undertake an independent assessment of the impact of a proposed development comprising 64 dwellings at Overseal.*

*It is understood that White Young Green (WYG) were commissioned by the developers, Persimmon Homes, to undertake a Transport Assessment (TS) in support of the*

*Planning Application. It is also understood that the scope and content of the TS was agreed with the highway authority at Derbyshire County Council and the conclusion reached by both parties was that there were no objections in principle.*

*Notwithstanding the work already undertaken by WYG, E&E have collected and analysed new data. Indeed, in the interests of assuring South Derbyshire District Council that the review by E&E is comprehensive it extended the scope of the assessment to include additional junctions which involved the examination of queues at junctions within the vicinity of the proposed development site; traffic speeds on the local highway network; latest accident data within the local area and junction capacity analysis.*

*The analysis revealed:*

- 1. That the proposed development will not adversely affect the capacity of the junctions that Valley Road forms with Lullington Road and the A444.*
- 2. It is feasible to construct a new site access to the proposed development off Valley Road in accordance with the standard access requirements set out in the 6Cs Guide.*
- 3. In the context of locally recorded vehicle speeds, it is considered that there is restricted visibility at the two junctions Valley Road form with Lullington Road and the A444. It is worth noting that although the 'Y' distance at the two junctions are below recommended levels. Manual for Streets 2 states that based on research **'unless there is local evidence to the contrary, a reduction in visibility below recommended levels will not necessarily lead to a significant problem'** (para 10.5.9). The 5 year collision data supplied by Derbyshire Constabulary does not provide evidence of a safety problem at these junctions despite the restricted visibility imposing, albeit small, a degree of risk. This poses the question as to whether the restricted visibility and the risk it imposes to safety is sufficient to justify refusing planning consent on highway grounds. After careful consideration, it is considered that in view of the absence of evidence, in the form of collision data which are caused by restricted visibility, a refusal on highway grounds would be very unlikely to be sustained at planning appeal. Notwithstanding this, it is considered that WYG should have addressed this matter in their TS to consider whether a form of mitigation is feasible and justifiable in the context of planning condition tests set out in para 206 the National Planning Policy Framework.*
- 4. The review revealed that there is extraneous traffic (i.e. rat-running traffic) using Valley Road. This is traffic which is not local access traffic deriving access to and from existing houses directly or indirectly served by Valley Road. Although this is not considered to present a safety problem in itself this is a matter not addressed by WYG in their TS. Mitigating options to address the matter raised in 3) above might help address rat-running traffic through Valley Road.*

*In conclusion, it is considered that there are justifiable reasons for the delay South Derbyshire District Council has imposed to enable the local planning authority to properly consider the merit of the planning application. Following the work undertaken in this report it is recommended that discussion should be held with WYG and Persimmon Homes to share the findings of this review and to examine the feasibility of*

*options to address a risk pertaining to restricted visibility at the junctions in the context of the tests set out in para. 206 of the National Planning Policy Framework”.*

## **Responses to Publicity**

Overseal Parish Council strongly objects to the proposal on the following grounds:

- Unsuitable access
- Increased traffic
- Outside the village boundary
- Brownfield sites should be considered first
- Bus services have been changed and no longer exist
- Lack of capacity at the local school and doctor's surgery
- Impact on the character of the village
- Noise and disturbance to nearby elderly people and impact on privacy
- Impact on historical landform (ridge and furrow) and presence of a geological fault near to Valley Road
- Impact on protected species (bats roost in trees within adjacent site)
- Traffic count has not been agreed by the County Council
- Development should not be considered in isolation but as part of the next stage of the Local Plan
- A site visit should be made by members of the Planning Committee so that they can witness the problems before making a decision.

In a subsequent letter to the developers, Overseal Parish Council confirms it is not prepared to lift its objections to the proposal. However, if the planning committee were minded to approve the scheme, the Parish Council would welcome Section 106 contributions from the developer as follows:

£15,000 for the reinstatement of changing room facilities in the village,  
£15,000 as a start in providing outdoor fitness equipment in the village.

Netherseal Parish Council objects to the proposal on two grounds:

- Overseal School is at capacity and therefore the development could result in children travelling to Netherseal, which would cause traffic problems for Netherseal.
- Problems caused by additional traffic accessing the development via Valley Road which is narrow and contains several senior citizen properties.

The Peak and Northern Footpaths Society is pleased that the revised plan shows the route of Public Footpath 13 retained and incorporated into the development as the Society would have objected to any application to divert it. The Society also considers that there should be contributions to the off-site improvements of adjacent footpaths as these are likely to be used more frequently if the development goes ahead.

Safeguards, such as changes in surface colour, should be put in place to ensure the safety of walkers where vehicles will need to drive over the public footpath to reach houses to the northwest of the path. The footpath links shown on the original plan should be re-introduced.

The Derby and South Derbyshire Ramblers strongly object to the development as it considers the proposal is the start of further encroachment into the rural nature of the



area. There are sufficient environmental, biodiversity and access constraints that support a refusal of the application. If the application were to go ahead a kissing gate would be the preferred access to public footpath No.9 as a stile or wicket gate would allow access to the footpath by prohibited persons.

The Overseal Footpath Volunteer Group has asked to be notified when the development starts as it wishes to re-use the wicket gate at the eastern end of public footpath 13 where it enters the site. A kissing gate is essential at the western end of the footpath as this would prohibit cyclists and horses riders from accessing the lane to the sewage works. Bus services have been reduced since May and consequently the information is out of date. All secondary schools in the Swadlincote urban area are full beyond capacity as is the village primary school. A considerable sum will be necessary to accommodate the increase in pupil numbers. What are the safeguards to ensure the money is not used in other areas? The junction of Valley Road and Lullington Road is dangerous, particularly when turning right and an increase of 59+ cars cannot be called a modest increase. The application should be refused on safety grounds. Earlier concerns with regard to biodiversity still stand.

A total of 160 letters, emails and standard letters have been received all of which object to the proposal. These objections can be summarised as follows:

- a. Inadequate access into the site from Valley Road, being on a blind bend on the brow of a hill and hampered by parked cars owing to its narrow width – death trap waiting to happen
- b. Detrimental significant impact and harm on the surrounding countryside, the National Forest and the River Mease SAC
- c. Increased traffic and congestion on a road already used by tractors and other farm machinery during the summer months – potential to increase accidents to the elderly
- d. Site is outside the built-up area of the village – loss of another green field and overdevelopment of Swadlincote – use brownfield sites first
- e. Difficulties getting onto Lullington Road and the A444 from Valley Road owing to poor visibility caused by on-street parking and bends in the road and gridlock at the traffic lights on the A444
- f. Increased likelihood of accidents as Valley Road is used as a cut through to avoid traffic lights on the A444
- g. Insufficient local amenities to support the development and strain on existing facilities, such as schools and doctors with some children travelling many miles to school – future residents likely to commute and not contribute anything to the village – impact of waste collections and water pressure, telephone and broadband
- h. Pollution and noise from construction traffic and subsequent residents' vehicles could affect the health of many elderly people living on Valley Road by way of stress and lack of sleep (general health) – noise caused by car doors banging, children and pets, parties, barbecues and fireworks
- i. Existing junctions unable to cope with the additional dwellings
- j. Limited parking affecting existing businesses
- k. Amended plans are less obtrusive but no consideration given to the existing geological fault
- l. Possible overlooking and loss of privacy, loss of natural light, overdevelopment, greed

- m. The site should be inspected regularly during construction to ensure the development is being built correctly
- n. Evidence of badger activity via boundary hedges and possibility of a sett to the rear of properties on Valley Road – destruction of natural habitats
- o. Exacerbation of problems with flooding both ends of Valley Road
- p. Impact on wildlife on the site and within the hedgerows
- q. Loss of peace and tranquillity
- r. Location of play area close to existing rear garden
- s. Inadequate sewerage system to serve the development
- t. Concept of developing the field is ridiculous
- u. Loss of view and overshadowing
- v. Urban sprawl and loss of community identity
- w. Devaluation of property prices
- x. Increased use of the A444 by commuter traffic will make it unusable by locals
- y. Impact on existing tourism if more countryside is built on – no longer safe to cycle and walk – impact on public footpath
- z. Sections of Valley Road would benefit from improvements to allow two cars to pass
- aa. Proposed location of social housing and play area – they should be re-located elsewhere within the development
- bb. Impact of the proposed access on existing driveways
- cc. Loss of ridge and furrow which is part of our shared cultural heritage
- dd. Traffic reviews by the developer are selective and do not reflect the current problems – an independent survey should be undertaken
- ee. UK has gone mad with health and safety – Government should know that the development would ruin the village
- ff. Potential smell from the nearby sewage works
- gg. Proposed parking within the development appears inadequate, resulting in further on-street parking on Valley Road
- hh. Not a sustainable site on many levels and therefore contrary to the NPPF and NPPG – premature insofar as Part 2 of the Local Plan is concerned
- ii. Cumulative impact given that there is another site in Overseal that is in the SHLAA
- jj. Too many villages disappearing
- kk. Essential that all Members should visit the site before they vote on the application
- ll. *Possible misrepresentation of the School Governors' views at committee.*

The Local Planning Authority has also received a solicitor's letter of objection which has been sent on behalf of the Valley Road Action Group. This can be summarised as follows:

- Applicant's Planning Statement is inaccurate
- Proposal will result in large releases of green field sites at Overseal
- Overseal falls within the plan sub-area 'Southern Village Area' (SVA) where allocations are intended to be delivered through Part 2 of the Local Plan. Pursuing development in SVA villages just outside the SAC catchment including Overseal must be subject to certain surface water mitigation.

- This does not change the overriding conclusion that SVA villages perform “poorly in respect of biodiversity and in terms of objectives to make best use of existing infrastructure and reduce pollution”.
- According to the LPA, no strategic development has been identified in the southern villages at all, and the largest sites proposed around Overseal and Neverseal [Netherseal] are deemed unacceptable.
- Considerable benefits need to come forward as a result of the development in order to overcome the significant and demonstrable harm as defined by NPPF, para 14.
- NPPG emphasises the importance of brownfield first.
- Principal locations for new development must be in or adjacent to existing established cities and towns rather than villages.
- There are significant sustainable settlements north of Overseal and across the border where there are considerable expanses of brownfield sites.
- Greenfield sites perform badly.
- A site that is not sustainable remains so regardless of land supply shortfall. Presumption in favour only applies to sustainable development. Crucial difference.
- Other issues associated with the application and why it does not achieve compliance with the environmental role of sustainable development.
- Notwithstanding two serious accidents occurring at the entrance to the site, Highway Authority’s view is that “on balance” the application is satisfactory. Applicant’s transport consultant must have misgivings given the proposed access is both on a rise in the lane and on the inside rather than the outside of the bend. Whilst the sightlines would not be obstructed by physical features beyond the applicant’s control this may not remain the case as the adjoining occupiers may allow vegetation to grow including hedging that would obscure these minimum sightlines.
- Applicant acknowledges that “a payment will need to be made to upgrade the sewage works”. This puts the cart before the horse in sustainability terms and in terms of the NPPF, paras 8 and 14.
- Para 9 of the NPPF requires development to seek positive improvements to the quality of the built and natural environment as well as improving people’s quality of life, making it easier for jobs to be created in cities, towns and villages, moving to a net gain in biodiversity, improving the conditions in which people live, work, travel and take leisure.
- Nothing of significance to commend the development – doesn’t come close to satisfying the sustainability test, hampered by being a greenfield site, affecting the River Mease, in one of the least sustainable locations in the District as a whole. Overseal is not a centre of employment and those living on the new development will commute to Ashby, Derby and other built up areas.
- Pressure to release other land will be impossible to resist.
- Development of site will significantly undermine LPA’s strategy.
- NPPF is about “development in the right place”. A greenfield site in the poorest sub area shouldn’t leapfrog purely as a matter of expediency and timing, particularly as the Local Plan is making substantial progress.
- NPPG gives the LPA support in respect of “prematurity”.
- Recent appeal (landmark decision) *William Davies v SSCLG* 2013 concludes that NPPF 14 only applies to a scheme found to be sustainable development.
- Council must determine what is sustainable and the weight that should be given to various material considerations and is urged to firmly apply NPPF and NPPG;

and give very little weight to the volume of matters the applicant asserts supports the case.

## **Development Plan Policies**

The relevant policies are:

Adopted Local Plan: Housing Policies 5, 8, 9, 11; Environment Policies 1, 9, 10; Transport Policies 6, 7; Recreation & Tourism Policies 4, 8; Community Facilities Policy 1

Emerging Local Plan (Submission version March 2014) S2, S4, S6, H1, SD1, SD2, SD3, SD4, BNE1, BNE3, BNE4, INF1, INF2, INF6, INF7, INF8, INF9

Housing Design and Layout SPG

## **National Guidance**

National Planning Policy Framework (NPPF), paragraphs 7, 8, 9, 10, 11, 14, 17, 32, 34, 36, 38, 47, 49, 50, 56, 57, 58, 59, 69, 75, 103, 109, 118, 121, 186, 187.

National Planning Practice Guidance (NPPG)

## **Planning Considerations**

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

- The principle and general sustainability
- Highway Impacts
- Affordable Housing
- Impact on the character of the area
- Urban design and Open Space
- Impact on River Mease SSSI/SAC, Ecology and Archaeology
- Public Rights of Way
- Section 106 obligations
- Miscellaneous issues

## **Planning Assessment**

### The principle and general sustainability

The Council has submitted its Local Plan Part 1 to the Secretary of State and an Examination in Public is expected during November 2014. Until such time as the Examination takes place only limited weight can be given to it, although the more advanced the Plan the greater the weight that can be accorded to it, according to the NPPF. The site has been identified in the Strategic Housing Land Availability Assessment (SHLAA) as a site suitable and achievable for an estimated capacity of 41 dwellings. The proposed development is for a total of 64 dwellings, providing a mix of 1, 2, 3 and 4 bedroom properties, 19 of which would be affordable (30% of the total number), which is in accord with the emerging Local Plan.

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 planning permission unless:

- **'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits; or**
- **specific policies in this NPPF indicate development should be restricted'**.

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

In terms of housing supply, paragraph 47 of the NPPF requires local planning authorities to use their evidence base to ensure that their Local Plan meets the full, objectively assessed need 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 crucial to the delivery of the housing strategy of the plan period. In addition, there is a burden on the Local Planning Authority to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of at least 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites. The Council 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 appeal decisions made since the inception of the NPPF that any negative considerations would need to be substantial in order to justify refusal of any 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 objectively assessed housing needs of the Derby Housing Market Area have been agreed across the three local authorities, with South Derbyshire needing to provide 13,454 dwellings up to the end of the plan period in 2028.

The application site is considered to be in a sustainable location with appropriate services in terms of the presumption in favour of sustainable development. It has access to a range of facilities, services and transport options and in acknowledgement of the contribution that it would make towards housing need, the proposal represents

sustainable development in principle. In the context of the 1998 Local Plan, that is out of date insofar as policies for allocations are concerned, the presumption in favour of sustainable development would apply unless any adverse impacts would significantly and demonstrably outweigh the benefits.

In terms of housing policies in the current adopted 1998 Local Plan the site lies outside but adjacent to the existing western edge of the village confine boundary of Overseal. Policy H5 of the adopted Local Plan only supports new housing developments that can be accommodated within the village confines, which, clearly, is not the case here. However, recent appeal decisions have made it abundantly clear that where the local planning authority does not have a five year housing land supply, such policies should be considered to be out-of-date and currently should not be used as a reason for refusal, particularly where the site is in a sustainable location where a range of services and facilities are available. Overseal has been designated as a Key Service Village in the Settlement Hierarchy Policy of the emerging Local Plan (Policy H1) and therefore capable of accommodating this level of development. The site also forms part of the Council's Strategic Housing Land Availability Assessment (Site 0022) with an estimated capacity 41 dwellings (using a generic method of calculation at that time). The proposed erection of 64 dwellings is achievable without adversely affecting the amenities of existing residents and therefore is not considered to be overdevelopment of the site. It is considered that the proposed 64 dwellings would make a valuable contribution towards the Council's five year housing land supply, as well as contributing towards the need for social housing in the District.

The recent appeal decision relating to High Street, Linton has a significant bearing on the current proposal. Both sites are similar in that they are adjacent to existing confine boundaries, are in agricultural use and are affected by public footpaths. The Inspector states in Paragraphs 40 and 41 of the appeal decision:

"I therefore conclude that the lack of a five year supply of housing land carries significant weight in favour of the proposal. Although the proposal is contrary to ALP [Adopted Local Plan] policies EV1 and H5, these have little weight; they are out of date both in their age and also because the housing provision in the ALP has long been used up. As 'blanket ban' policies they patently fail to address the current issue of housing need in South Derbyshire, and the South Northamptonshire HCJ along with several appeal decisions, confirm my conclusion that such out-of-date policies should be given little weight. I have also found that the untested eLP [emerging Local Plan] should be given little weight.

Neither of the appeal cases submitted by the Council in support of its ALP policies outweigh my conclusion that these policies should be given little weight. The presumption in paragraph 49 of the Framework in favour of sustainable development therefore applies ....'

Many of the residents' objections relate to the lack of capacity at the local school and doctor's surgery. The developer has agreed to make contributions towards primary and secondary schools as requested by the County Education Authority and has confirmed that there is space available at both Overseal Primary School and The William Allitt School for expansion. The NHS for Southern Derbyshire has confirmed that the Overseal Surgery is not currently at capacity and would welcome any new patients that the development would bring.

## Highway Impacts

Discussions have been ongoing between the CHA and the developer since the submission of the application and further information has been submitted and approved on the impact of the proposed development on the junctions. Speed readings for Valley Road were presented in Appendix B of the Transport Statement which demonstrates 85<sup>th</sup> percentile speeds of 24.5mph northbound and 26.1mph southbound. A 'wet weather' reduction was applied in accordance with the guidelines in TA/22/81 of the Design Manual for Roads and Bridges with the result of 85<sup>th</sup> percentile speeds of 22.0mph northbound and 23.6mph southbound. According to the 6Cs Design Guide, visibility splays of 2.4m x 33m would be appropriate. Further discussions resulted in the CHA confirming that the proposal is now acceptable in principle in highway safety terms, i.e. there were no highway safety reasons for refusal, subject to consideration of the internal road layout. This has subsequently been agreed subject to conditions. On this basis it was concluded that no mitigation measures would be required at the A444 and Lullington Road junctions, as the additional information demonstrated that there would be a minimal traffic impact.

As already reported above the official response from the CHA has now been received which confirms that, following the receipt of additional traffic counts, speed readings, accident data and junction surveys, there remain no objections on highway grounds. It is considered, therefore, that a reason for refusal based on highway safety grounds would not have a sound basis at appeal, would therefore be unreasonable and likely to result in an award of costs against the Council.

*The independent traffic and speed survey has identified that the Transport Statement submitted on behalf of the applicants was flawed in that it did not properly consider the rat-running traffic on Valley Road and the capacity of the two main junctions on the A444 and therefore that Members were justified in delaying a decision until such time as that had been rectified. Notwithstanding this, the report concludes that in view of the absence of evidence in the form of data relating to collisions caused by restricted visibility, a refusal on highway grounds could not be sustained. It also recommends that discussions should be held between WYG and the developers to examine the feasibility of options (mitigation measures) to address a risk pertaining to restricted visibility at the junctions.*

## Affordable Housing

The SHMA suggests, over the period of 2012 – 2017, there is a housing need for 1,723 affordable homes (345 affordable homes per year) across South Derbyshire. The housing mix should reflect both the demand for houses registered on the current District housing waiting list and projected demand.

The SHMA recommends a mix of houses for rent as follows:

10% - 15% 1 bed, 2 persons flats/houses  
35% - 40% 2 bed 4 persons family houses  
35% - 40% 3 bed 5 persons family houses  
10% - 15% 4+ bed 7 persons family houses

and houses for shared ownership as follows:

Suggested 66% x bed 4 persons family houses  
Suggested 34% 3 bed 5 persons family houses

This current layout plan shows the provision of 19, one- bedroom, two-bedroom and three-bedroom affordable dwellings. The number equates to 30% in line with Council policy, and, following detailed discussions, the mix and tenure reflects the current need in accordance with the Housing Needs Survey. This would be provided as follows:

14 (75% of 19) social rented units comprising

- 8 x 1 bedroom flats
- 3 x 2 bedroom houses
- 3 x 3 bedroom houses

5 (25% of 19) shared ownership units comprising

- 2 x 2 bedroom houses
- 3 x 3 bedroom houses

The revised affordable housing mix has resulted in a slight revision to the proposed layout in terms of the location of the affordable housing and the submission of elevation drawings of the proposed flats. The proposed flats would be in the form of two, two-storey blocks and located towards the western side of the site close to and overlooking the LEAP. Each flat would have a single car parking space to the front of the building. Two visitor parking spaces would also be provided.

Although there would be no 4-bedroom affordable houses within the site, the Council's Strategic Housing Manager is satisfied with the revised housing mix and tenure. The requirement for 4-bedroom affordable homes would be met within the Council's development in Lullington Road that was granted planning permission earlier this year. Overall, no more than nine affordable dwellings would be clustered together within the site, which, again, is in line with Council policy.

#### Impact on the character of the area

Given the location of the site outside the Overseal village confine boundary and the proximity of the public right of way, there would, inevitably, be an impact on the character of the area. Whilst there are no buildings within the site, its character is influenced by the built form of existing housing on Valley Road and Clifton Close as well as being influenced by Valley Road itself. The public footpath crosses the northern part of the site and connects to the footpath beyond the site's western edge (No.9). It is proposed to incorporate the route of the footpath into the development by way of a green corridor that would run parallel to the northern-most estate road rather than taking walkers along the road itself. This is preferred by the footpath groups and the County Council. As such the footpath would remain on its definitive route thereby mitigating any likely harmful impact.

#### Urban design and Open Space

The application is for full planning permission and the layout has undergone considerable change during the life of the application with the total number of dwellings being increased from 61 to 64, in order to accommodate appropriate street widths, better street elevations and an acceptable affordable housing mix. Small clusters of



affordable dwellings would be distributed throughout the site. The layout has been designed so that there would be no loss of privacy for existing dwellings on Valley Road and Clifton Close through overlooking. The minimum distances, as stipulated in the Housing Design and Layout SPG, would be met.

Access would be taken from the existing pedestrian access off Valley Road, which is also where the route of public footpath No.13 starts. A balancing pond would be created in the southern corner of the site to provide sustainable drainage for the development. An equipped play area (LEAP) would also be provided at the western end of the site, just to the north of the point where public footpath No.13 leaves the site and joins with public footpath No. 9, which also forms an existing vehicular access serving the Severn Trent Sewage Treatment Works. The balancing pond and the LEAP would be connected by a pedestrian pathway that would run along the western boundary. The entire area along the western boundary would be landscaped, and a drawing to show the proposed soft landscaping proposals has been submitted. It is noted that The National Forest Company is satisfied that the required 20% of the site could be planted and therefore no off-site contribution is required. The route of public footpath No.13 would be separated from the northern estate road by a row of street trees and a landscaped buffer would be provided between plots 1 to 8 and the rear gardens of Nos. 55 to 73 Valley Road. In terms of urban design the layout scores 14/20 using the 2008 Building for Life criteria and is therefore considered acceptable.

#### Impact on the River Mease SSSI and SAC, Ecology and Archeology

Following an initial objection from Natural England with regard to the likely impact of the proposal on the River Mease SAC further information was submitted and it was confirmed that additional measures would need to be put in place to mitigate any effects. Following further discussion between the Local Planning Authority, Natural England and the developer, Natural England has since lifted its holding objection and a Habitats Regulations Assessment has now been carried out. This concludes that the proposed development would have no likely significant effect on the River Mease SSSI and SAC and as such there is no requirement to undertake an appropriate assessment for the proposed development. A developer contribution would be required under the River Mease DCS (see paragraphs on Section 106 contributions below).

The application site is the potential Local Wildlife Site SD R6375 known as Valley Road Field, noted for semi-improved natural grassland. Although the site was briefly viewed in 1999 by the Derbyshire Wildlife Trust (DWT) no detailed surveys were undertaken. However, based on current information the grassland vegetation is not considered to be of sufficient quality to meet Local Wildlife Site selection guidelines and as such should be considered as being of local interest only. However, DWT recommends that the developer compensates for the loss of the grassland by (a) providing areas of wild flower grassland within the green infrastructure of the site and (b) assisting in the management of grassland habitats elsewhere within the District. For example grassland habitats within Swadlincote Woodlands require active management urgently in order maintain their current diversity. It suggests that the developer could make a financial contribution to meet the cost of this management and a figure of £6,000 has been agreed as part of the Section 106 Agreement.

The Ecology Appraisal has identified that that at least two trees on the site have the potential to provide bat roosts. Initially it was intended to fell the trees; however the developer has since decided to retain the trees and therefore there will not be a

requirement to carry out further bat survey work prior to the application being determined.

There are no known badger setts within the site and DWT has not provided evidence to the contrary. Provided that the existing habitat creation is implemented as part of the landscape plan and the proposed off-site compensation measures are secured DWT considers that the development would have no net loss of biodiversity and as such would be in accordance with the NPPF.

### Public Rights of Way

Public footpath No.13 is fairly well used and as such it is considered important to retain it on its definitive line. This has been achieved by re-designing the layout to accommodate the route. After following the access road into the site, the footpath would 'split' from the estate road and cut across the front of plots 60 to 63 and to the side of one of blocks of flats. The route would be delineated by trees where possible and surfaced in a material to be approved by the Local Planning Authority. Following initial concerns from the County Council with regard to the original layout, an amended response was received which requires the applicant to be made aware of the public footpath and any possible future obstruction. The retention and incorporation of the public footpath into the layout contributes towards the provision of facilities for the wider area and therefore helps to make it a sustainable development.

### Section 106 obligations

A development of the size proposed triggers financial contributions in line with the Council's matrix. Based on a development of 64 dwellings (189 persons) the following contributions have been agreed with the developers:

New Household Waste Recycling Facility £1,831.04

#### Education

- £125,389 towards primary school places
- £137,408 towards secondary school places
- £55,881 towards post-16 school places

#### Recreation

- open space - £70,308
- outdoor facilities - £41,580
- built facilities - £23,058

Commutated sum towards maintenance of p.o.s. £23,475 for 10 years

Commutated sum for maintenance of attenuation pond = £44,000 for 10 years

River Mease contribution £16,742

Grassland restoration (offsetting grassland losses) £6,000

In addition to the above and notwithstanding its objection to the proposal, Overseal Parish Council has requested a financial contribution of circa £60,000 (roughly equating

to £1,000 per dwelling) should the application be approved. This would be put towards outdoor fitness equipment and the repair/refurbishment of sports changing rooms in the village. The developer has agreed to contribute £30,000 towards this with the balance being taken from the outdoor recreation facilities contribution. The District Council is working on the basis that the developer contributions are put towards specific projects rather than into an area pot and therefore the full recreation allocation (open space, sports pitches and built facilities) should go towards the improvement of recreation facilities in Overseal including, but not exclusively:

- change room repairs
- football pitch drainage
- new play equipment
- outdoor gym

It is considered that the above contributions are compliant with the Community Infrastructure Levy (CIL) Regulations as they are reasonable and necessary in order to make the proposed development acceptable.

### Miscellaneous Issues

Many of the objections points have already been addressed as part of this report. However, the following comments are relevant to the remaining points:

- Devaluation of property and loss of view – these are not material planning considerations
- Issues relating to pollution, odour and noise would be covered by environmental health legislation
- There is no evidence to suggest that tourism in the area would be adversely affected

### Conclusions

The application relates to one of the SHLAA sites put forward for residential development. The development is likely to be able to contribute to the early delivery of homes, helping the Council to meet its requirement for a five year supply of deliverable housing. By reference to the NPPF's three sustainability dimensions (economic, social and environmental) the provision of new housing would support economic growth, ensuring an attractive place to live for South Derbyshire's economically active population as well as helping to support the vitality and viability of the area. Construction jobs would be created and retail trade in the area is likely to benefit from the influx of new residents. The local schools would benefit from the substantial financial contribution. On balance, it is considered that development of the site would appear as a logical extension to the Overseal.

As confirmed by the Inspector in the Linton appeal, the lack of a five year housing land supply is a material consideration to which significant weight must be attached. Furthermore, the provision of 30% affordable homes in an area which has delivered an insufficient quantity in relation to its serious need is a further significant material consideration in support of the proposed development. The appeal site is in a sustainable location based on local facilities and services within the village. Although the impact of the proposal on the character and appearance of the landscape and setting of the village would result in limited visual harm it would fail by some distance to

significantly and demonstrably outweigh the material considerations in favour of the proposal.

The proposed scheme would have a positive impact on local communities by providing new homes (market and affordable). In terms of healthy communities, there would be a good level of green infrastructure, open space and recreation. Pedestrian links would be retained and incorporated into the layout which would assist in supporting active lifestyles and encourage alternatives to the car for accessing local facilities.

The reports accompanying the application explain how a range of environmental factors have been taken into account to ensure sustainable development (including landscape, ecology, arboricultural, flood risk and drainage). Mitigation has been included within the scheme to ensure the conservation and enhancement of key features and wildlife. The scheme also helps to mitigate future climate change through reducing CO<sup>2</sup> emissions by the provision of new homes in an accessible location and by reducing the need to travel by car. In terms of resilience to climate change impacts, the scheme has been designed to take this into account, namely through the provision of a sustainable drainage strategy and green infrastructure.

Revised layout drawings were received whilst compiling this report. As a result of the overall numbers increasing, neighbours were re-notified and certain consultees were re-consulted. Feedback on the revised plans was previously reported verbally at the October Committee.

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**

*In light of the additional highways study commissioned by the committee having raised no substantial concerns;*

*A. that the committee delegates authority to the Planning Services Manager to negotiate the detailed terms of the Section 106 Agreement with the applicant to secure the contributions referred to in the planning assessment of the report (as may be worded in accordance with targeting of contributions towards specific projects);*

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. SL/01 Revision E, received by the Local Planning Authority on 14th October 2014 showing the introduction of eight, one-bedroom flats, and a change in house types for plots 1, 3 and 4  
Reason: For the avoidance of doubt, the original submission being considered unacceptable.

3. No part of the development shall be carried out until precise details, specifications and samples of the facing materials to be used in the construction of the external walls and roof of the dwellings 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 character and appearance of the area.

4. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no dwelling shall be occupied 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 character and appearance of the area.

5. Prior to the commencement of the erection of the dwelling to which they relate, details of all cills, window headers, ventilation infill panels within windows, wet verge details without cloaking tiles, eaves and verge projections, block paving types and colours, and footpath/pavement materials and colours shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed strictly in accordance with the approved details.

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

6. Prior to the first occupation of any of the dwellings, details of the design and equipment for the LEAP, including the materials of the proposed equipment, shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out strictly in accordance with the approved details.

Reason: To safeguard the character and appearance of the area and to ensure the LEAP equipment is appropriate.

7. The soft landscaping for the development shall be carried out in accordance with the details shown on Drawing No. GL0267 01E received on 6th October 2014 unless otherwise agreed in writing by the Local Planning Authority.

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

8. Notwithstanding the submitted details, prior to the commencement of development in the adjacent areas, details of the measures for the protection of all trees and hedgerows to be retained shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented prior to the commencement of the development on the adjacent areas and retained in position until all building works on the site have been completed unless otherwise agreed in writing with the Local Planning Authority.

Reason: To protect the trees and hedgerows from undue disturbance.

9. Prior to the commencement the planting scheme for the street trees, details of the tree pit design 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: To ensure the long-term health of the street trees and in the interests of the character and appearance of the area.

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

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

11. No development shall take place until details of a scheme for the disposal of foul and surface water has been submitted to and agreed in writing by the Local Planning Authority. The surface water drainage scheme shall be based on sustainable drainage principles and include an assessment of the hydrological and hydrogeological context of the development. The drainage scheme shall demonstrate the surface water run-off generated up to and including the 100 year plus 30% (for climate change) critical rain storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The submitted scheme shall demonstrate how the drainage will discharge into the attenuation pond. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

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

12. In accordance with Condition 10 above the surface water drainage system(s) shall include:

\* the design to be in accordance with either the National SuDS Standards or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken;

\* Limiting the run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site;

\* Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm;

\* Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details of any attenuation system and the outfall arrangements;

\* Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long-term operation to design parameters.

Reason: For the avoidance of doubt and in order to prevent the increased risk of flooding both on and off site.

13. 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'.

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.

14. 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.

15. Prior to the commencement of the dwellings to which they relate, details of the finished floor levels 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.

16. Prior to the first occupation of any dwelling on the site, full detailed drawings of the attenuation pond, including depth, construction, Water Quality outflow parameters, materials and planting, shall be submitted to and approved in writing by the Local Planning Authority. The pond shall be designed to capture and filter out surface water run-off from the estate roads. The development shall be completed in accordance with the approved details.

Reason: In the interests of the completed development and to ensure there will be no adverse impact on the integrity of the River Mease SSSI and SAC.

17. Prior to the commencement of development a construction and mitigation statement shall be completed and submitted for approved in writing by the Local Planning Authority and the development shall be carried out strictly in accordance with the approved statement.

Reason: To ensure the integrity of the River Mease SSSI and SAC is safeguarded.

18. Prior to the occupation of the first dwelling on the site, details for the monitoring of the effectiveness of the attenuation pond 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: To ensure the attenuation pond is fit for purpose and a monitoring protocol is agreed with appropriate trigger points,

19. No development shall commence until a scheme for the provision of the affordable housing hereby permitted, as detailed on approved plan SL/01 Revision E, has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the NPPF or any future guidance that replaces it. The scheme shall include:
- \* the tenure of the affordable housing provision to be made which shall consist of not less than 19 dwellings;
  - \* the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing (if no RSL involved);
  - \* the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - \* the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Reason: To ensure the provision of affordable housing.

20. Prior to the first occupation on site, details of the surface materials to be used in all areas of proposed public highway shall be submitted to and approved in writing by the Local Planning Authority in consultation with the County Highway Authority. All such materials shall conform to approved standards for use in the public highway within Derbyshire.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

23. Before any other operations are commenced the new estate street junction shall be formed to Valley Road in accordance with the application drawings, laid out, constructed to base level and provided with 2.4m x 33m visibility splays in each



direction, the area in advance of the sightlines being levelled, constructed as footway and not being included in any plot or other sub-division of the site.

Reason: In the interests of highway safety.

24. No dwelling shall be occupied until the proposed new estate streets between each respective plot and the existing public highway have been laid out in accordance with the application drawings to conform to the County Council's Estate Road design guide, constructed to binder course level, drained and lit in accordance with the County Council's specification for new housing development roads.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

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

Reason: To ensure that adequate parking/garaging provision is available.

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

Reason: In the interests of highway safety.

28. The proposed access drive to each dwelling shall be no steeper than 1 in 15 for the first 5m from the nearside highway boundary.

Reason: In the interests of highway safety.

29. Prior to the occupation of the first dwelling on the site, details shall be submitted to the Local Planning Authority to show how bat boxes and bat tiles will be incorporated into the development and the works shall be carried out in accordance with the details that have been approved in writing by the Local Planning Authority.

Reason: In the interests of protecting the ecology of the area.

30. The development hereby approved shall be carried out in accordance with the Ecological Appraisal dated April 2014 unless otherwise agreed in writing by the Local Planning Authority.

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

#### Informatives:

The applicant is advised to consider and act upon as necessary the contents of the letter from the Environment Agency dated 29th May with regard to the Land Drainage Act 1991, the Control of Pollution (Oil Storage) (England) Regulations 2001, the Water

## Framework Directive, Waste and Water Efficiency

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

Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway 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.

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

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

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

The application site is affected by a public Right of Way (Footpath number 13 on the Derbyshire Definitive Map). The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 01629 533190 and asking for the Rights of Way Duty Officer.

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

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

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

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

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

Pursuant to Section 50 (Schedule 3) of the New Roads and Streetworks Act 1991, before any excavation works are commenced within the limits of the public highway (including public Rights of Way), at least 6 weeks prior notification should be given to the Director of Environmental Services at County Hall, Matlock (tel: 01629 580000 and ask for the New Roads and Streetworks Section). Pursuant to Sections 219/220 of the Highways Act 1980, relating to the Advance Payments Code, where development takes place fronting new estate streets the Highway Authority is obliged to serve notice on the developer, under the provisions of the Act, to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980.

Construction works are likely to require Traffic Management and advice regarding procedures should be sought from Dave Bailey, Traffic Management, 01629 538686. All road closure and temporary traffic signal applications will have to be submitted via the County Councils web-site; relevant forms are available via the following link - [http://www.derbyshire.gov.uk/transport\\_roads/roads\\_traffic/roadworks/default.asp](http://www.derbyshire.gov.uk/transport_roads/roads_traffic/roadworks/default.asp)

It is an offence to kill or damage or disturb bats or their roosts. If bats are found you are advised to inform Natural England, Block 7, Government Buildings, Chalfont Drive, Nottingham, NG8 3SN. Practical advice on how to protect/relocate any bats may be obtained from Malcolm Hopton, Derbyshire Bat Group, 9 Ashton Close, Mickleover, Derby, DE3 5QD, (Tel. 01332 511427).

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 Natural England or the Derbyshire Wildlife Trust.

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

This project has been screened to assess its impact on the River Mease SAC under the Conservation of Habitat and Species Regulations 2010. The assessment has concluded that the development would cause no significant impact and therefore an Appropriate Assessment is not required.

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 and negotiations and by determining the application as promptly as possible. 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** 1.3

**Reg. No.** 9/2014/1093/OS

**Applicant:**  
Hallam Land Management Ltd  
C/O Agent

**Agent:**  
Miss Kathryn Young  
Turley  
9 Colmore Row  
Birmingham  
B3 2BJ

**Proposal:** **OUTLINE APPLICATION (ALL MATTERS RESERVED EXCEPT FOR ACCESS) FOR THE RESIDENTIAL DEVELOPMENT OF UP TO 75 DWELLINGS AND ASSOCIATED INFRASTRUCTURE ON LAND AT SK3126 1850 MOUNT PLEASANT ROAD REPTON DERBY**

**Ward:** REPTON

**Valid Date:** 18/11/2014

**Reason for committee determination**

The item is presented to committee because this is a major development not in accordance with the Development Plan and subject to more than two objections.

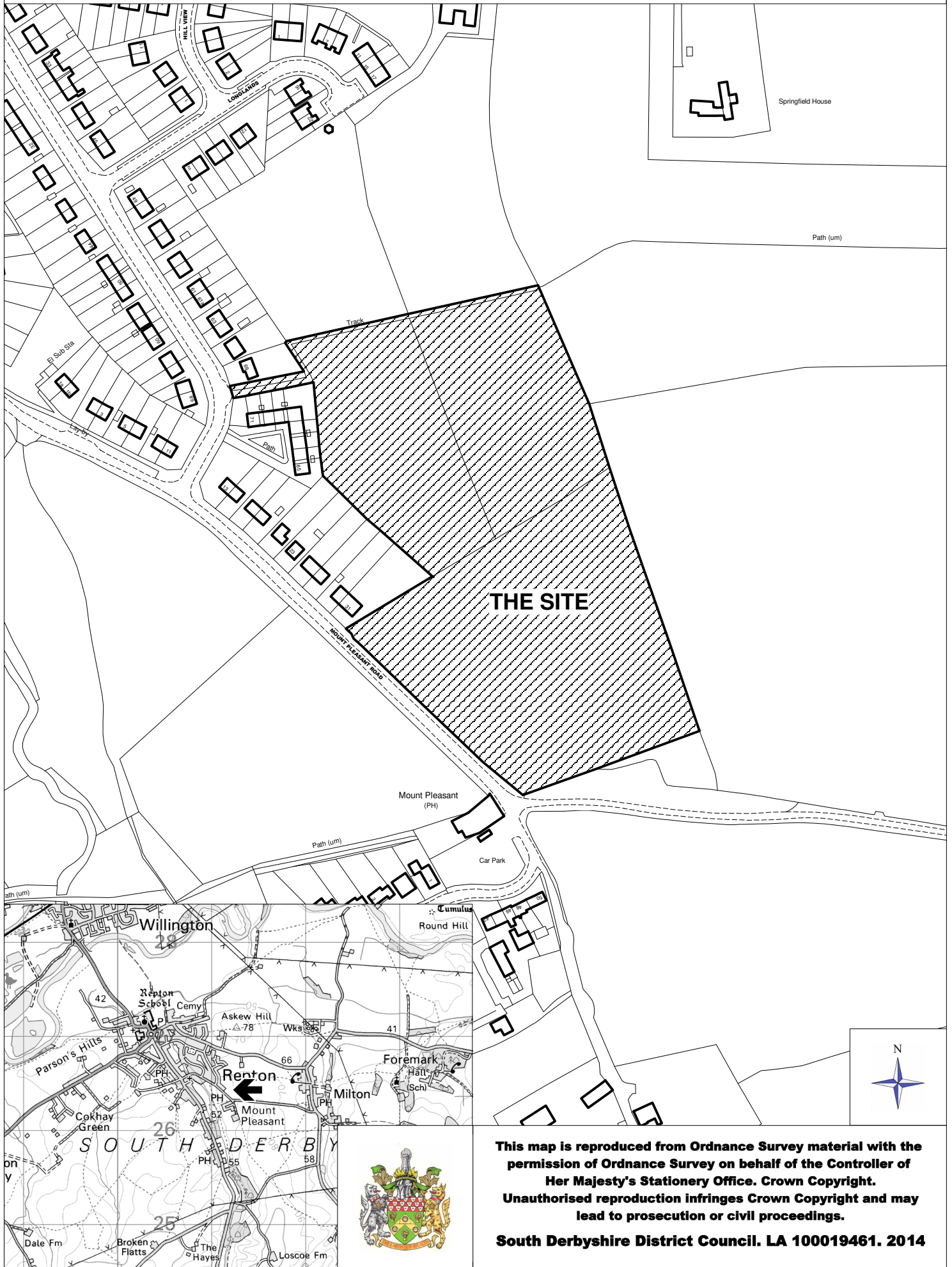
**Site Description**

The site extends to approximately 3.4 hectares of agricultural land located on the eastern edge of Repton. It is bounded by Mount Pleasant Road and Springfield Road (and properties thereon) to the east and south, and further agricultural land to the north – part of which benefits from permission for residential development (ref. 9/2013/0643 (outline) and 9/2014/1158 (reserved matters)). The site is irregular in shape comprising two distinctive fields bisected by an existing hedgerow and overhead power cables, with levels falling from the north-eastern corner towards the south and east.

The site boundaries are predominantly hedgerow and trees with rear boundaries to dwellings providing a mixture of fencing in addition. The exception is the north-west boundary along which public footpath 27 runs, with this route contained to a corridor by post and rail fencing. A small spinney of trees, protected by way of a Tree Presentation Order (TPO), lies to the eastern boundary of the site. Vehicular access to the site is currently gained via an existing field access off Mount Pleasant Road or from Longlands via the adjacent site with planning permission.

**Proposal**

9/2014/1093 - Land at SK3126 1850 Mount Pleasant Road, Repton, Derby  
(DE65 6GQ)



THE SITE

Mount Pleasant (PH)

Springfield House

Path (um)

Path (um)

Car Park

Willington

Cumulus Round Hill

Repton School Cemy

Askew Hill

Wks

Parson's Hills

Repton

Foremark

SOUTH DERBY

Mount Pleasant

Milton

Dale Fm

Broken Flatts

The Hayes

Loscoe Fm



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South Derbyshire District Council. LA 100019461. 2014

The application is in outline with access (as amended) to be considered in detail and all other matters to be reserved. It seeks to secure the principle of the erection of up to 75 dwellings (in a range of 2 to 4-bed units and a mix of types and tenures) with supporting infrastructure such as roads, sustainable urban drainage systems (SuDS) drainage and public open space (POS). The layout would provide for a new access onto Mount Pleasant Road, re-prioritising the existing route and turning it into the site, as well as footpath connections to the northern and southern corners of the site. Built form would be slightly set back from the north-eastern and south-eastern boundaries with substantial landscaping offered here. The POS would sit adjacent to that approved on the neighbouring site to the north. Dwellings would be largely 2 storeys and the pattern of built form would decrease in density towards the rural edges of the site. A small car park adjacent to existing Council owned sheltered bungalows would be provided for the use of those occupants.

### **Applicants' supporting information**

An Affordable Housing Statement acknowledges emerging policy seeking up to 30% affordable housing on such sites. It is considered the proportion of affordable homes to be delivered would directly meet the identified housing needs of the area; and in line with emerging policy and the Strategic Housing Market Assessment (SHMA), the affordable dwellings would be delivered with a satisfactory mix and tenure.

The Arboricultural Assessment considers trees and hedgerows on and adjacent to the site. A Tree Preservation Order (TPO) to the group of trees to the south-east boundary is acknowledged. It is noted in order to facilitate access a section of hedgerow to Mount Pleasant Road would need to be removed along with a further hedgerow and tree within the site. The trees and hedgerows affected are considered to be in the lower category for retention, albeit the hedgerow to Mount Pleasant Road is recognised to be of higher quality, although loss of trees and hedgerows is mitigated for within the indicative landscaping scheme in areas of open space. The alignment of some driveways and footpaths are likely to encroach upon the root protection areas (RPA) of some trees but realignment of paths to prevent incursion or implementation of no-dig construction methods could address this issue. Overall the small degree of removal to facilitate the proposals is not considered to significantly reduce the overall amenity value provided by tree cover, with the majority of trees retained and enhanced through additional planting.

The Design & Access Statement (DAS) provides an assessment of the site in the context of adopted and emerging planning policy. It is considered the proposed use is compliant with the aspirations and needs of the Council. The DAS also assesses the historic, spatial and physical context, highlighting any potential opportunities which could be harnessed. This assessment demonstrates that the site is largely free of technical constraints and benefits from a range of local services within a short walking distance. The DAS goes further to consider the indicative layout, scale parameters and access arrangements, as well as identifying character and appearance of existing development so that the proposal can respond. Overall it is considered the proposed development is locally responsive, creating a sustainable, high quality development which is specific to Repton.

The Flood Risk Assessment (FRA) concludes there is not a significant flood risk from rivers or other sources. It is proposed to minimise any remaining residual risk through design/setting of finished floor levels and surrounding ground levels. The FRA also suggests that infiltration may be viable and if so recommends this be the preferred

means of surface water disposal, but in the absence of infiltration test results at the current time and the absence of a watercourse the strategy is to discharge to surface water sewers within Springfield Road and Mount Pleasant Road via on-site balancing ponds/basins limited to greenfield rates of discharge. Foul drainage from the site would also discharge to the foul combined sewer system within these roads and Severn Trent Water Ltd has indicated that the local sewer system has sufficient capacity to accommodate both foul and surface water flows. It is therefore considered development can proceed without being subject to significant flood risk, whilst the development would not increase flood risk to the wider catchment area.

A Geo-Environmental Desk Study notes old gravel pits and an old quarry in the vicinity of the site, now infilled and subsequently occupied by residential development. A gas works was also present and also now appears to be occupied by housing. Radon protective measures are not deemed necessary and the site is not in an area affected by mining activities. No made ground or superficial deposits are indicated to underlie the site. The residential end use is considered high sensitivity given dwellings with gardens are proposed, although the risk to human health is considered to be low. The risk to controlled waters is also considered to be low. Intrusive investigation and chemical testing would be required in order to confirm the contaminative status of the site and identify ground conditions so to provide suitable foundations, whilst gas monitoring is recommended.

A Habitat Survey confirms there are no statutory designated sites affected although a number of Local Wildlife Sites (LWS) occur between 180m and 1km of it. These LWS are all physically isolated from the site by residential housing, roads and arable land; hence it is considered that these would not be adversely affected by proposals. It is noted the site incorporates a number of native hedgerows and associated trees that are of local ecological value potentially providing shelter, habitat and foraging opportunities for a range of wildlife, whilst remaining habitats are considered to be of low ecological value. It is recommended that retained hedgerows be gapped up using suitable native species with removed sections capable of translocation; and that retained trees and hedgerows should be suitably protected throughout works. Losses should take place outside of nesting season and be mitigated for by new tree and hedgerow planting throughout the site, linking to retained habitats on and off-site to facilitate the movement of foraging and commuting wildlife. It is recommended that native and ornamental/berry bearing trees and shrubs are planted, as well as installation of nesting boxes in retained trees. In respect of protected species, 3 trees were identified as providing potentially suitable features for roosting bats but since these are to be retained there is little concern and further surveys could be undertaken if works are necessary. Field boundary hedgerows and trees provide suitable foraging and commuting habitat for bats and any external lighting scheme should be designed to ensure that light spill is minimised. A badger sett and outlier holes have been identified and would be negatively affected, even following mitigation to compensate for natural foraging habitat lost and suitable protection measures during construction. It is however considered the population should adjust to the alternative foraging habitats relatively quickly. The site is considered to be unsuitable for supporting resident water vole and otter, perimeter hedgerows provide limited and suboptimal cover for great crested newts, and habitat suitable for use by reptile species is restricted to edge habitats, notably the bases of hedgerows surrounding the grassland fields.

The Heritage Assessment notes there are no designated or non-designated heritage assets within or adjacent to the site. The site is some distance from the historic (Saxon



and later) core of Repton and development would have no impact upon the Conservation Area. The geophysical survey undertaken suggests that no substantial archaeological remains exist. A conditional approach to recording archaeological interest is therefore considered appropriate.

A Landscape & Visual Impact Assessment (LVIA) accompanies the application. The assessed landscape effects at year 15 of the proposed development as a whole are likely to be minor to moderate adverse, with retention and enhancement of the majority of site landscape features and additional proposed landscaping partially offsetting these effects. The development would result in negligible effects on the townscape character of Repton itself, whilst within the local landscape context the proposals, where evident, would form part of the existing settlement backdrop. This is considered to result in minor adverse landscape character effects at worst at year 15. In terms of visual receptor impacts, where visible it is seen within the context of the adjacent settlement edge. For residential receptors adjacent to the site, where there is an open view the potential visual effects may be minor to moderate adverse due to the loss of the current view. Views from the adjacent public footpath are assessed as minor/moderate adverse, with the built development bringing the existing settlement edge view closer to the receptor. Generally as the landscaping reaches maturity it would assist in further integrating the eastern edge of the settlement within the landscape. Away from the site boundaries the landform, hedgerow, trees and occasional properties, filter or screen views from Springfield House, Mount Pleasant Road, the public footpath and adjacent properties at Askew Hill and the footpath between Milton and Repton. The residual effects following maturing of planting adjacent to the eastern site boundary range from negligible to minor adverse. In views from the surrounding landscape the residual visual effects have been assessed as negligible following the maturing of planting. In conclusion it is considered the illustrative proposals respond well to the local landscape character of the site, recognising and responding to opportunities to enhance the green infrastructure of the site. The setting back of built development from the site boundaries beyond green infrastructure would assist in integrating the site within the surrounding landscape. It is considered the nature of the landscape could accommodate a residential development of the proposed scale without significant adverse landscape or visual effects.

The Planning Statement considers the development would deliver a range of benefits for the local and wider community including the provision of high quality market and affordable housing in addition to New Homes Bonus revenue. A significant quantity of accessible open space would also be provided. The Statement considers the Development Plan to be materially out of date in respect of housing supply, although the proposal complies with other relevant saved policies. The proposal is also in accordance with the emerging Local Plan Part 1 and the NPPF comprises a material consideration of significant weight – particularly arising from the need to boost the supply of housing and to demonstrate a 5-year supply of deliverable housing sites. It is advanced in particular that the development would make a significant contribution towards meeting local housing needs, including both market and affordable housing; protect and enhance the local environment by focusing development in a sustainable location which has been allocated in the emerging Local Plan; and provide substantial economic benefits including the provision of construction employment opportunities, an increase in economic productivity, additional household expenditure and additional income for the Council. The Statement also concludes the site is accessible by a choice of modes of travel, that vehicular movements associated with the operation of the development can be absorbed by the local highway network and that the scheme is acceptable having regard to considerations in respect of ecology, flood risk and

ground conditions. In view of the foregoing it is felt the proposals represent a sustainable development which is fully compliant with prevailing planning policy and is sensitively designed to ensure that any impacts are limited in nature.

A Transport Statement supplemented by further correspondence considers the proposals would generate 50 two-way vehicular movements during the morning peak hour and 56 two-way movements during the evening peak hour, with indication of significant spare capacity. An accident study for the surrounding area has revealed that there are no existing highway safety concerns with it concluded that the additional traffic movements should not alter this situation. Traffic associated with the Primary School is transitory in nature and the development would not compromise the existing ability for manoeuvring between parked vehicles. Based on the traffic generation calculations and distribution model it is considered unlikely that the development would have a significant impact with it generating only a minimal increase in demand for travel by non-car modes such as walking, cycling, and public transport, which could be satisfactorily accommodated through the existing infrastructure. It is proposed that the site access would lead to a re-prioritisation of the arrangement of Mount Pleasant Road at this point, feeding vehicles into the site and terminating the westbound approach along the road at a new junction on this corner. The road west of this arrangement would benefit from a 5.5m wide carriageway (widened as necessary up to Springfield Road) and a footway the northern side. The required visibility splays informed by speed surveys are achieved. A new footpath emerging opposite the Mount Pleasant Public House is also proposed providing connectivity to footpaths terminating at this point and providing a material enhancement for walkers by permitting connection to the north through the site (via consented developments), and by reducing the need for walkers to utilise the active carriageway of Mount Pleasant Road. The Statement also identifies that future detailed design should provide an adequate number of car parking spaces conveniently located in relation to the property served so that any obstruction of carriageways and footways is limited. The site layout would also be designed to ensure that refuse collection vehicles can manoeuvre satisfactorily. Overall it is considered that, subject to provision of the identified improvements, the proposed development would be acceptable.

A Utilities Assessment identifies low voltage electricity cables crossing the central area of the site (requiring diversion), a gas main and water main along the edge of Mount Pleasant Road, a lack of foul or surface water sewers within or immediately adjacent to the site, and that no BT assets would be affected. It is outlined that the development can be satisfactorily supplied with electricity either directly to site or via connection from adjacent land to the north (assuming that land is developed first); there is sufficient capacity available to serve dwellings with gas and water; that Severn Trent Water has undertaken sewer modelling which indicates foul flows can be accommodated by the existing sewerage system without the need for capacity improvements, whilst surface water attenuation would be required in order to meet restricted discharge rates to surface water sewers. A modelling study concludes that surface water flows can be accommodated by the existing sewerage system without the need for capacity improvements.

### **Planning History**

None relevant to this site, although outline and reserved matters permission has been granted for development of 40 dwellings to the north (the Longlands site).

## Responses to Consultations

The Environment Agency considers the proposed development would be acceptable if a planning condition is included requiring a surface water drainage scheme for the site. This would need to be based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, as well as include details of how the scheme shall be maintained and managed after completion.

The County Flood Risk Management Team advises that any alteration to the impermeable surface area of the site may exacerbate surface water flood risk. Accordingly they strongly promote SuDS to be incorporated, ensuring that discharge from the developed site is as close to greenfield runoff rate as is reasonably practicable. Further advice on watercourses and drainage features, groundwater flooding and infiltration is offered. Finally they comment that no activities or works, including the proposed development, should deteriorate the ecological status of any nearby watercourse with the implementation of a SuDS scheme with an appropriate number of treatment stages appropriate in safeguarding against this.

Natural England raises no objection commenting that the proposal is unlikely to affect any statutorily protected sites or landscapes. They advise that the Council should seek separate advice on the impacts on protected species, noting their standing advice. They also comment that the proposal may provide opportunities for biodiversity enhancement in accordance with paragraph 118 of the NPPF, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes; as well as opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment.

Derbyshire Wildlife Trust raises no objection noting that surveys have been carried out to an acceptable standard by suitably experienced and qualified ecologists working to best practice standards. The surveys are considered to provide an accurate assessment of the nature conservation value of the site. The Habitat Survey identifies one hedgerow to be an important hedge under the Hedgerow Regulations 1997, with all hedgerows considered to be priority BAP habitat and 3 trees holding some potential for bat roosts. It is identified that the development would result in the loss of some semi-improved grassland of minor local value, but this is a minor impact. It is also identified there is potential for bats to be affected if mature trees are felled or trimmed or due to loss of hedgerow, with the latter along with disturbance caused during the development having potential to affect breeding or wintering bird species. Nevertheless it is considered that subject to suitable controls to retain and protect trees and hedgerows of value, and mitigation for losses through gapping of hedgerows elsewhere within the site, the impacts on these features would be acceptable. Measures to avoid or minimise impacts during construction should be adopted in full. The public open space and balancing pond and its immediate surroundings offer scope for further ecological enhancement and some potential biodiversity gain through creation of wetland habitat, and that given that a small area of semi-improved grassland would be lost it is recommended that areas of wild flower rich grassland are created as part of the green infrastructure within the site.

The County Highway Authority, following amendments to the proposals, raises no objection with the applicant altering the proposed junction to give priority to drivers accessing the site and traffic approaching on Mount Pleasant Road from the east giving way. This was dependent on forward and emerging visibility splays being provided and

the amendments provide for the required distances. They seek that the footway and associated street lighting should be extended from its existing limits, with the carriageway widened accordingly, allowing for the 30mph speed limit to be extended into the site. A footpath link onto Mount Pleasant Road at the southernmost corner of the site is also considered acceptable with emerging visibility (on the inside of the bend) acceptable subject to proper positioning and removal/relocation of hedgerow fronting the site. Conditions are requested to secure the above and a suitable standard for highway adoption purposes.

The Development Control Archaeologist considers the supporting documentation meets the heritage information requirements set out in paragraph 128 of the NPPF. It is noted Repton is an area of great archaeological sensitivity, with Saxon and Viking-age archaeology of national importance in the village centre, and recent finds indicating Roman to Saxon-period continuity in the grounds of Repton School. Although the site lies a little way outside the historic village core, there are documented records of Roman pottery and round barrows at Askew Hill, and of an Anglo-Saxon brooch and other metalwork north-east of the site. The location of the site on the fringes of the Trent Valley also raises the possibility of prehistoric archaeology. The site also contains, in its northern part, extant ridge and furrow earthworks and plough headlands. Although this is of some historic significance in relation to the medieval landscape around Repton, it forms a relatively isolated block and appears to have been somewhat degraded. The geophysical survey carried out on the northern part of the site noted the possibility of more ephemeral earlier archaeology being masked by the strong ridge-and-furrow response. With a consequent low-medium potential for the site to contain previously unknown archaeological remains, a scheme of archaeological evaluation (through trial trenching in the first instance) should be secured by condition.

The County Planning Officer seeks contributions towards waste and recycling facilities, education provision, access to high speed broadband services for future residents and that the dwellings are designed to Lifetime Homes standards. These should be secured by way of planning obligations contained in a Section 106 Agreement. In summary the commuted sums required are:

- £28.61 per dwelling towards additional waste management capacity;
- £188,937.87 for 11 secondary school places (through delivery of classroom project A at John Port School); and
- £74,511.60 for 4 post-16 school places (through delivery of classroom project A at John Port School, Post-16).

The County recognises that the viability of development schemes will vary and that if the developer considers the contributions sought would impact on the viability of the proposal to the point where the scheme would not go ahead, a full financial appraisal should be provided for review.

NHS England (Derbyshire & Nottinghamshire Area Team) considers the proposal would trigger the need to provide health related Section 106 funding of £551 per dwelling. They comment it is unlikely that the Area Team would support a single handed GP development as the solution to meeting the needs of the housing development and that the health contribution would ideally be invested in enhancing capacity/infrastructure with existing local practices, but they would wish to explore further what options are available to ensure value for money for all parties.

The Strategic Housing Manager seeks that 30% of the total number of dwellings be provided as affordable housing, in a tenure split of which no less than 75% are for

social/affordable rent and no more than 25% are for shared ownership. Based on 75 dwellings and needs in the local area, this would result in 17 two to four-bed dwellings for rent, and 6 two and three-bed dwellings for shared-ownership purposes. It is advised that affordable housing shall be 'pepper-potted' across the whole site in clusters comprising of no more than 10 affordable homes, with a cluster including no more than 6 flats; and that a condition is used to secure the overall requirements. Furthermore it is requested that car parking provision to be considered for the 8 existing sheltered properties at 65 to 71 Springfield Road with rear access into the site; and that as the Council owns the land carrying the public footpath adjacent to and rear of 69 Springfield Road, and the development being likely to increase future usage of this route, provision would need to be made for upgrading the route.

The County Rights of Way Officer raises no objection noting that Public Footpath 27 crosses the northern section of the site, subject to an informative.

Peak & Northern Footpaths comments that the indicative layout plan shows a well-thought out scheme with due regard paid to pedestrian access, noting Footpath 27 would be retained on its existing line. However they raise concerns that the surface of Footpath 27 should be improved to accommodate the extra use which would be generated by this and the other development to the north; the current fences alongside the path should be removed; and the crossing of the footpath by the proposed road must be clearly delineated on the ground so that vehicle users are aware of the presence of walkers in the path. Furthermore all the segregated footpaths through the site should be adopted or dedicated as public rights of way.

The Environmental Protection Officer advises there are no significant concerns with respect to contaminated land, although as there are historical features on the site which do have the potential to present risks to site workers, ends users and ecological receptors as a result of its development, conditions to identify and remediate any potential land contamination on the site are recommended.

The Pollution Control Officer raises no objection subject to conditions to control noise and dust during the construction phase and/or later occupation of the dwellings.

Severn Trent Water raises no objection subject to a condition to secure appropriate drainage.

The Crime Prevention Design Adviser considers there are no reasons why residential development should not be acceptable from a community safety perspective, with the indicative layout suggested having the potential to provide a secure and outward looking scheme. It is commented that the footpath link onto Springfield Road would be a potential problem at night if not lit as it would not have the benefit of any ambient light spread from the adjacent housing, whilst the footpaths on the remainder of the site where not adopted should be better served by light spread from the new housing. Enclosed parking courtyard would be best gated or overlooked and an active street-scene, well treated outward facing building elevations, defined private curtilage, secured individual rear garden access and in curtilage parking is recommended.

The Senior Legal Officer notes part of the site is owned by the Council with a public footpath and a 15 foot wide right of way for agricultural purposes only over the Council's land. With the land appearing to be about 22 foot wide, if it is proposed to upgrade the

footpath or make improvements to land either side of the footpath then the applicant would need to liaise with the Council separately on this matter.

## **Responses to Publicity**

Repton Parish Council objects on the following grounds:

- i) the proposal is disproportionate to the size of the village;
- ii) the site is elevated and prominent, and the separation between Repton and Milton would be reduced to just 3 fields;
- iii) there would be an adverse effect on the existing wildlife in this area;
- iv) the proposal is contrary to the recommendation in the Village Design Statement (VDS);
- v) the site is outside the village development boundary;
- vi) the development would impose additional strain on local infrastructure, including schools, drainage and roads
- vii) Mount Pleasant Road is unsuitable for the additional traffic; and
- viii) for the housing to be truly sustainable it should be closer to public transport.

Repton Village Society objects on the following grounds:

- i) the development is outside the Village Envelope and should be refused;
- ii) the draft Local Plan has allocated 100 dwellings to Repton which have been approved;
- iii) this development in addition to those approved would increase the number of dwellings by 20%, placing pressure on local roads and facilities;
- iv) the VDS requires the maintenance of the separation of Repton and Milton to avoid each community losing its identity, but this development would blur the rural skyline and further close the gap; and
- v) access to High Street from this site would be via Mount Pleasant Road, a narrow road with on street parking which already causes hold ups, whilst the High Street itself is congested by parking and at peak times queues can extend half a mile or more back on to Main Street.

10 objections have been received from 9 separate addresses, some identified to be adjoining or in the vicinity of the site. The following concerns are raised:

### Principle of development

- a) where is the evidence to support the need for these homes in Repton or South Derbyshire;
- b) there must be other areas that are more suited to such a development;
- c) the development is outside the village boundary;
- d) the scale of development exceeds the guidelines of the Local Plan Part 2 and should have been considered in Part 1, and in any case the development is premature;
- e) this development increases the allocation numbers to 115 and when added to Milton Road sites the numbers increase to over 200;
- f) precedent for further development along the road, creating the possibility of an unattractive ribbon development between existing housing;

### Services and facilities

- g) Repton does not have the amenities to sustain such a development;
- h) the lack of a doctor, NHS dentist or pharmacy in Repton;
- i) the development would increase pressure on already overloaded local services – particularly the schools and GP services;
- j) it is not on a bus route and well away from the centre of Repton;
- k) it is wrongly assumed that the one bus per hour will have capacity for additional passengers;
- l) with moderate snowfall the bus service may bypass Repton and the road to Willington floods in most winters;
- m) it is naïve to think that people would walk rather than drive to facilities;

#### Highway capacity and safety

- n) the Transport Statement is flawed;
- o) the traffic survey was carried out during school holidays;
- p) there is already too much traffic through the village;
- q) this number of houses would create congestion at The Square and The Cross, and at the junction of Mount Pleasant Road in Milton;
- r) congestion pushes drivers to find alternative routes leading to unsuitable junctions;
- s) occupiers of the permitted development to the north would favour the proposed access over Longlands (especially during school hours);
- t) Mount Pleasant Road is unsuited to the volumes of traffic generated, with it extremely narrow in one direction;
- u) a one way system on the lane to Milton would be preferential;
- v) Increased surface water discharge could increase the frequency of ice during winter;
- w) Pinfold Lane, Brook End and Askew Grove flood most winters where they cross the Repton Brook, such that walking or cycling to reach facilities or public transport is not attractive;
- x) insufficient parking provision for a commuting village population and parked cars, some on the pavements, would make roads hazardous;

#### Drainage

- y) intentions are optimistic as existing drains are frequently incapable of handling current surface water;
- z) the proposed ponds will overflow given the catchment includes the field behind Mount Pleasant Road;
- aa) foul sewer capacity is often at its limit;

#### Landscape and visual impacts

- bb) the southern part of the site should remain as agricultural land due to potential impact on the surrounding countryside;
- cc) it is an encroachment on valuable nature space;
- dd) the proposal takes no account of the principles laid out in the VDS with it transgressing the guidance on skyline developments, the maintenance of the village envelope and the need to maintain a separation between Repton and Milton;
- ee) it would be visually obtrusive being on higher land than the most of Repton;

- ff) this would alter the character and historic setting of the village of Repton;
- gg) the development is out of scale with the existing settlement;
- hh) encroachment on an important space between Repton and Milton;
- ii) blurring of the boundary between the village and the surrounding natural environment;
- jj) the development would encircle an important public footpath which would degrade the footpath and its important role in linking to wider walking routes and
- kk) attracting visitors to the area;
- ll) the levels mean that the development would be visible from some distance, including from Ridgeway Farm and walkers on the footpath bisecting this farm;
- mm) the extension of the pavement would erode a gap between existing dwellings and the footpath at Mill Hill which distinguishes the properties from Repton;

#### Design and character

- nn) there are far too many buildings for the allotted area;
- oo) the suggestion of low buildings on the periphery of the site to lessen the impact is nonsense;
- pp) Mill Hill is a distinct collection of houses with some notable character and history, such as old workers cottages linked to the now destroyed maltings at the Mount Pleasant Inn also associated with the listed buildings of old Ridgeway Farm, and has a quite separate character from the villages nearby which would be lost; and

#### Amenity

- qq) this site sits under the flight path to East Midlands Airport and is subjected to aircraft noise, and double glazing would be ineffective during warm summer nights when windows have to be left open.

### **Development Plan Policies**

The relevant policies are:

- Saved Local Plan 1998: Housing Policies 5, 8 and 11 (H5, H8 and H11); Transport Policy 6 (T6), Environment Policies 1, 9, 11 and 14 (EV1, EV9, EV11, EV11 and EV14), and Community Facilities Policy 1 (C1).

### **Emerging Development Plan Policies**

The relevant policies are:

- Submission Local Plan 2014: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Need), S6 (Sustainable Access), H1 (Settlement Hierarchy), H9 (Land at Longlands, Repton), H19 (Housing Balance), H20 (Affordable Housing), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Delivering Sustainable Water Supply, Drainage and Sewerage), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF7 (Green Infrastructure) and INF9 (Open Space, Sport and Recreation).



## **National Guidance**

- National Planning Policy Framework (NPPF) including (but not exclusively) paragraphs 6, 7, 8, 11, 12, 14, 17, 32, 39, 47, 49, 53, 58, 61, 69, 70, 73, 75, 96, 103, 109, 118, 120, 123, 129, 131, 132, 134, 139, 203, 204, 206, 215 and 216.
- National Planning Policy Guidance (NPPG).

## **Local Guidance and Evidence**

- Housing Design and Layout SPG.
- The Strategic Housing Market Assessment 2013 (SHMA).
- Section 106 Agreements – Guidance for Developers.

## **Environmental Impact Assessment**

A formal Screening Request has not been received prior to the submission of this application. Accordingly the proposal has been screened under Regulation 7 of the Environmental Impact Assessment (EIA) Regulations 2011 for up to 75 residential units. The proposal is considered to fall within paragraph 10b of Schedule 2 to those Regulations, being an infrastructure project. However having taken into account the criteria of Schedule 3 to the Regulations, the proposal is not considered to give rise to significant environmental effects in the context and purpose of EIA. Accordingly the application is not accompanied by an Environmental Statement.

## **Planning Considerations**

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

- Principle of development and weight afforded to policy;
- Local infrastructure capacity and affordable housing;
- Highway safety;
- Biodiversity and ecological impacts;
- Landscape and visual impacts;
- Heritage;
- Drainage;
- Amenity impacts; and
- Design and layout.

## **Planning Assessment**

### Principle of development and weight afforded to policy

The site lies outside the settlement confines for Repton, not catered for by way of saved policy H5 and beyond the scope and intentions of saved policy H8. It therefore conflicts with H8 as well as saved policy EV1. Beginning with H5, it the view that this policy can be afforded little weight as it is no longer playing a part in significantly boosting the supply of housing. The hierarchy in the emerging Plan and the Part 1/Part 2 split of housing can only be given limited weight given further work required to allow it progress. EV1 however is not a housing policy – it instead has an indirect effect of restricting delivery; and notwithstanding the Linton Inspector's interpretation of the policy, a recent

high court ruling suggests the policy can still be relied on, especially when the protection of character and landscape quality is wholly consistent with section 11 of the NPPF.

With this in mind, the decision rests on the sustainability balance when considering the above policies and the merits of the proposal. The desire to significantly boost the supply of housing must be given significant weight, particularly in light of shortfall of the 5-year housing supply. The emerging Local Plan recognises this and seeks to provide this significant boost in a planned manner, with emerging Policy H9 allocating the northern half of this site. Attention is given to the number of dwellings to be delivered by the application – up to 75. When added to the 73 either under construction or consented, some 48 dwellings in addition to the allocation would be provided. This extra total is considered appropriate given the range of services available in Repton, and would help address the continued lack of a 5-year housing supply – even with the emerging allocations. There are also economic benefits arising from the whole proposal – both short and long term, with construction phase employment and subsequent occupation leading to increased revenue to local businesses and services.

With this point in mind attention is given to the impacts of the development and conflict with saved policy EV1. The presumption in favour of development applies but sustainability must be viewed in the round, considering infrastructure, landscape, ecology, heritage, design and so forth. The remaining parts of the report therefore give consideration to whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits outlined so far, noting that conditions or obligations may be used to mitigate or address an otherwise unsustainable impact.

#### Local infrastructure capacity and affordable housing

The site is considered to be reasonably connected by a range of routes and modes of transport although it is not disputed that public transport is not conveniently accessed. Objections as to the existing capacity of the local highway network are noted. It is not disputed that congestion occurs on routes approaching The Cross during peak hours. However the key question is whether this proposal would ‘tip the balance’ such that existing issues would become wholly unacceptable. There are a number of routes to and from the site – some resulting in the need to pass through The Cross, others bypassing this point, all depending on destination or source. The modelling submitted demonstrates the traffic generated by the proposal would likely be in the order of 50 vehicles in or out during morning or afternoon peak hours, and 443 movements per day (circa 6 trips per dwelling). The Highway Authority has considered this information and whilst not endorsing every detail contained therein, seeking amendments is not considered to alter the conclusion reached – which is agreed. That is that there is not considered to be a significant adverse effect on the capacity or safety of the local road network. This is not considered an unreasonable view given the existing number of properties in Repton along with through traffic making up the existing situation (given Repton sits on one of the three Trent crossings the District), and the effect of additional projected movements on this baseline – even when considering cumulative impacts from sites already permitted.

The provision of 75 dwellings would place pressure on existing schools, doctors, open space, sports and built facilities, footpaths and waste and recycling provision. With regard to the consultation responses above, the impact on the primary school can be satisfactorily accommodated within existing and projected capacity whilst the secondary/post-16 school pressures can be addressed by way of contributions towards

an identified project at John Port School. The same is true for the waste and recycling needs of the development with existing facilities already over capacity. These contributions are considered to be compliant with the CIL Regulations and paragraph 204 of the NPPF and can be secured by way of a Section 106 agreement.

The Area Team for NHS England lodged a request for commuted sums, equating to £551 per dwelling. However this request has been subjected to the same CIL and NPPF considerations with the Area Team failing to outline where an existing and relevant capacity issue exists, and also the intended purpose of the sums (i.e. a particular project). Their correspondence in fact points towards an as-yet undetermined strategic solution and efforts to establish specific detail and an evidenced need now have been met with no response. Accordingly the requested contribution should not be imposed – not least that such a resolution would be contrary to both policy and legislation.

A generous amount of open space is to be provided on the site, with a Locally Equipped Area for Play (LEAP) indicatively proposed adjacent to play equipment secured on the adjacent site and the public footpath. No sports or built facilities are to be provided yet the development would lead to additional pressure on existing facilities elsewhere. There is a series of identified projects, many presently unfunded, to which such pressures could be linked to such that requested sums are considered to be CIL/NPPF compliant. The public footpath would be upgraded as part of the development recognising the increased usage likely to arise, and as such the impacts on this route are considered acceptable.

Attention is given to the proportion of affordable housing. Emerging policy sets a starting point of 30% with any reduction to be evidenced by way of viability work, whilst the NPPF advocates a need to provide a range of housing options. The SHMA also evidences such a need. The applicant is not claiming viability issues and outlines an intention to provide 30% of the dwellings for affordable purposes in line with housing needs. This would give rise to a range of dwellings for social/affordable rent and shared ownership purposes, helping to boost affordable housing delivery, and can be adequately secured by way of condition.

#### Highway safety

Mount Pleasant Road narrows in width beyond the last existing dwelling along its frontage, heading towards Mount Pleasant where it bends sharply and narrows further. Data collected demonstrates the road is lightly trafficked and vehicle speeds are considerably below the 60mph limit – not least due to the restricted forward visibility at the bend. The road presently provides for pedestrians, cyclists and horse riders. Following initial concerns from the Highway Authority as to the type of junction proposed, as well as the resulting effect this would have on the character of the road along the entire site frontage; the access has been re-designed so to prioritise traffic in and out of the site and provide a new junction to terminate the eastern half of Mount Pleasant Road. The carriageway would be widened accordingly up to and into the site, with a new footway and lighting allowing for the speed limit to be reduced to 30mph. An alternative footway would cut into the site and bypass this corner for convenience. To the east of this new arrangement it would not be necessary to introduce engineered features with the existing carriageway width and verges remaining unaltered.

In addition a north-south footpath link from the public footpath to the bend of Mount Pleasant Road emerges opposite the public house – facilitating a new connection

between the footpath to the northern edge of the site (connecting Repton to Milton) to existing footpaths which currently terminate around the Mount Pleasant public house. This new north-south link, when viewed in the context of the permitted sites, provides a strategic footpath link between Mount Pleasant and Milton Road – a route which presently has to be done via the public highway. The Highway Authority initially raised concern over the emergence of a new footpath on this bend, given restricted visibility in both directions and potential vehicle speeds. However the new junction arrangement discussed above has the effect of reducing eastbound vehicle speeds to the benefit of visibility requirements, and a combination of correct positioning and hedgerow translocation can achieve an acceptable solution. Accordingly the Highway Authority no longer holds an objection to this part of the proposal.

Objectors comment that the traffic survey was carried out during the school holidays. There were two components to the survey – a traffic count and a speed survey. Evidence provided demonstrates the traffic count was carried out during the school term, and whilst it is acknowledged the speed survey was carried out when Foremarke and St Wystan's were closed; it was carried out from 9am to 12pm at a time where congestion would unlikely occur thus skewing data collected (as per recommendations for speed surveys). It is therefore considered there would be minimal difference in conditions since the schools would likely only generate a negligible amount of traffic at this time of day.

The concerns in respect of icing are noted but the development is not considered to contribute to this existing risk. The level of parking provision is a matter for consideration at the reserved matters stage but indications are that the normal requirements can be comfortably achieved.

#### Biodiversity and ecological impacts

The survey work undertaken and the response from the Wildlife Trust indicates that the impacts arising from the development would be acceptable subject to appropriate conditional control. The favourable conservation status of protected species would not be harmed such that the Council is considered to have discharged its duties under the Habitat Regulations. Long term enhancement can be secured by way of condition and landscaping detail at the reserved matters stage.

Attention is given to the hedgerows affected. A single hedgerow is considered to meet the criteria for importance under the Hedgerow Regulations due to the number of woody species and associated features. Such hedgerows are considered to be priority habitats for conservation. The hedgerow concerned however lies to the south-eastern edge of the site, adjacent to the protected trees. Appropriate protection can be afforded to this and other retained hedgerows which would in the long term form part of the POS. Consideration has also been given to the hedgerow along Mount Pleasant Road, a section of which would need to be removed with the remainder either replanted or translocated. Whilst not meeting the Regulations criteria for importance, it is a well-established hedgerow offering a high level of visual amenity. It is therefore intended to secure the translocation and enhancement of this hedgerow, which would provide an important transition from the open countryside to the built up environment of Repton.

#### Landscape and visual impacts

The site is bordered along its western edge by dwellings forming the existing south-eastern edge of Repton. Farmland lies on subtly rising land to the east of the site, whilst the group of protected trees provide separation to Mount Pleasant. In a wider context Repton is located at the mouth of a narrow valley, which opens out into the wide and expansive Trent floodplain and valley beyond. The core of the settlement passes through the base of the valley. Repton has expanded up the western and eastern valley sides over the decades, with the eastern reaches falling short of a crest or ridge running from Askew Hill towards Foremarke Reservoir. This ridge forms the top of the 'bowl' within which Repton is wholly contained as well as providing a perception of separation from the landscape east of Repton and precluding inter-visibility between Repton and Milton.

The site carries no statutory or local landscape designations and landscape features are mainly limited to the peripheries of the site. This site and its environs lie at the northern edge of the Melbourne Parklands National Character Area (mapped by Natural England), and the Village Farmlands (5b: Wooded Village Farmlands) Regional Landscape Character Area (LCA) (East Midlands Regional Landscape Character Assessment). The latter LCA specifies "the aim should be to manage the growth of larger settlements, ensuring development is appropriate in terms of design and scale, and consider the visual impact of any new development...[and] care should also be taken to prevent coalescence, ensuring separation is maintained between the urban fringe and surrounding settlements". At a County level the site falls within the Melbourne Parklands: Estate Farmlands LCA, noting that there are open views from elevated areas, some long distance, over surrounding lower lying landscapes.

It is considered that the site, although relatively elevated in comparison to much of Repton, has a "contained" nature due to intervening landform and tree cover. Short and long distance views would reveal the development within the context of existing properties at the settlement edge and/or the adjacent permitted development. Askew Hill and woodland to the north preclude views to the site from the Trent valley whilst the ridge to the east separates the site and Repton from open countryside. This latter point is important, especially when considering view from the existing footpath between Milton and Repton. Walkers would only become aware of the development when reaching the crest, effectively when they step into the 'bowl' within which Repton sits. The existing and enhanced green edge to the site would also contain the development further, whilst the protected trees and retained hedgerows to the south-east also provide local containment and separation – even to Mount Pleasant – particularly considering efforts to retain the existing road character east of the proposed junction. Views from footpaths leading out from Mount Pleasant and from the lane linking to Milton have been considered at length, but whilst the development would be seen it is not considered the effects would be so significant to weigh heavily against a grant of permission. The clearest views would be from existing properties on Springfield Road and Mount Pleasant Road bordering the site. Further views from the public footpath on Askew Hill would be possible but the containment provided by landform means that the built form would not appear prominently in these views, which would be distant and in the context of the settlement edge benefiting from maturing vegetation over time. Furthermore in terms of the southern part of the site, whilst the surplus as a whole is 48 dwellings in reality only around 31 dwellings would sit beyond the allocation, lessening the impacts arising beyond that envisaged at the time of allocation. Overall the effect on local landscape and townscape character is considered to be moderate adverse initially but move to minor over time as landscaping matures, whilst at a regional and national scale

the impacts are considered to be minor to negligible. This is consistent with the findings of the LVIA.

Turning to visual impacts arising, the receptors are identified as residential properties adjacent or close to the site, the public footpaths and roads in the vicinity. Where there is an open view to the site from existing dwellings, potential visual effects are likely to be moderate adverse at worst with the same considered to be the case for users of the public footpath through the site. Both of these impacts would however lessen with time as vegetation matures. Elsewhere receptors would experience interrupted views of the development due to intervening hedgerows and trees either adjacent to footpaths or roads, interrupting views across the landscape. Ultimately a moderate degree of harm is considered to arise overall, but it is felt that the impacts arising can be satisfactorily accommodated without causing significant harm to landscape character and the visual amenities of the area. Again this is consistent with the conclusions of the LVIA and this view is not altered when considering cumulative effects of the development alongside that already permitted to the north. Here the aforementioned 'containment' of the site and its counterparts ensures the impacts remain broadly as described. The design of the developments permitted further secures satisfactory landscape and visual impacts, with a reducing density and scale of development to a green edge where considerably elevated.

### Heritage

There are no listed buildings affected, either directly or in terms of setting. The site is at considerable distance from the conservation area such that its appearance would be preserved. Attention solely relates to below ground interests with archaeological survey work indicating a low to medium potential for finds – particularly due to the Roman and Saxon origins of the settlement. With a conditional approach the degree of harm arising is thus considered to be very slight, with the benefits arising clearly outweighing this harm.

### Drainage

It should be noted that Severn Trent Water has confirmed within the Utilities Statement that there is sufficient capacity to receive foul and surface water flows from the development. The conditional approach requested in their consultation response echoes this stance. In this vein the site can be suitably drained, even if surface water infiltration in whole or in part is not possible. The extent of the SuDS basins arises from preliminary work to establish the volumes necessary, and conditions can appropriately secure details of the drainage scheme(s) in due course. The proposal is thus not considered to give rise to enhanced risk of flooding elsewhere, nor is it subject to elevated risk of flooding itself.

### Amenity impacts

The layout of the site has been carefully considered in drawing up the masterplan with officers securing an indicative scheme which as far as is practicable ensures public areas are adjacent to outward facing aspects, with back-to-back garden arrangements to existing dwellings. These existing dwellings would benefit from a good separation to proposed dwellings with no part of the layout giving cause for concern under the SPG. The associated impacts of development on these existing occupiers can also be controlled by way of conditions and it not considered the duration or nature of the

development would give rise to unacceptable levels of disturbance warranting the withholding of permission.

### Design and layout

Detailed design matters would be reserved for consideration under a later application. Nevertheless, through negotiation, the indicative masterplan has been amended during course of this application to achieve certain objectives:

- the regular rhythm and consistent building line of the more densely built up side of the site (the west) reflects that already secured on land to the north;
- the estate road benefits from a strong and contiguous frontage on the entrance to the site from Mount Pleasant Road;
- the density of built form decreases from west to east, as with the site to the north;
- the existing footpath corridor is enhanced by way of offering a 'desire line' across the site with landscaping enhancements and an appropriate built frontage;
- the eastern edge of the site benefits from a 'stand-off' to the existing hedgerow allowing for both extensive landscaping to assist in assimilating the development into its surroundings and to provide the final part of a north-south pedestrian link between Milton Road and Mount Pleasant (bisecting the existing east-west footpath);
- public open space is placed on the highest parts of the site and to the new rural edge, with dwellings adjacent to the highest part of the site to carry low ridge and eaves lines (to reflect that already secured to the north);
- the LEAP is located adjacent to that provided on the site to the north so to offer the opportunity for a different mix of play equipment to complement that already secured, instead of duplication;
- the existing inward facing nature of development on Springfield Road and Mount Pleasant Road is addressed by an outward facing scheme; and
- provision is made for off-road parking to serve the existing sheltered bungalows to the west of the site where on-street parking by residents on Springfield Road is of some concern.

The last point should be recognised as going beyond what is necessary to make the development itself sustainable, and as a community gain. The applicant has embraced this request to accommodate such provision as well as enhancing the footpath as it passes between existing properties to connect to Springfield Road.

Overall the design of the site provides no fundamental concerns as to achieving appropriate parking provision, place making, protecting important views, and providing secure design and natural surveillance. Accordingly the indicative layout suggests a detailed scheme has clear potential to achieve a score of 14 out of 20 under Building for Life.

### Summary

The assessment identifies that highway, infrastructure, ecological, drainage and amenity impacts are all acceptable, subject to conditions or obligations where necessary. A satisfactory detailed design is possible and the applicant has demonstrated commitment to securing this, as well as wider benefits such as off road parking for existing dwellings. These matters all weigh in favour of the proposal. The decision therefore lies on the balance between the significant weight afforded to the

proposal by way of a boost in housing delivery, including affordable housing, and the landscape and visual harm which arises.

Returning to the above policy assessment it is considered there is sufficient evidence, by way of the SHMA and emerging Plan, that this development is unavoidable in terms of EV1. When considering the impact on the character of the countryside and landscape quality, it is felt the harm is modest given the value of this particular site in landscape and visual terms is limited by way of its containment in the landform and limited physical and perceptual access to it. When weighed against the benefits arising, with an extra 48 dwellings towards the 5-year supply not yet accounted for in both the conventional and plan-making sense, the balance falls in favour of a grant of permission.

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:

- A. The completion of a Section 106 Agreement to secure financial contributions towards education provision, waste & recycling facilities, sports and built facilities and the provision of car parking for existing residents; and
- B. The following conditions:
  1. This permission is granted in outline under the provisions of Article 4(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2010, and the further approval of the Local Planning Authority is required (before any development is commenced) with respect to the following reserved matters:
    - (a) appearance;
    - (b) landscaping;
    - (c) layout; and
    - (d) scale.

Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

2. (a) Application for approval of the reserved matters listed at condition 1 shall be made to the Local Planning Authority before the expiration of three years from the date of this permission; and  
(b) The development hereby permitted shall be begun before the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).



3. The reserved matters listed at condition 1 shall broadly be in accordance with the illustrative masterplan (ref: HALQ2011 Rev 07) along with scale, character, building, street hierarchy and landscape parameters (as set out in Section 6 of the Design and Access Statement), and incorporating the following specific detail/requirements:
  - (a) a Landscape & Ecological Management Plan (LEMP or equivalent) for all retained and created habitats including description and evaluation of features to be managed/created including at least 0.5ha of flower rich grassland, areas of marshy grassland, scrub and balancing ponds; ecological trends and constraints on site that might influence management; aims and objectives of management and options for achieving these; preparation of a work schedule (including an annual work plan covering at least 5 years); details of the organisation responsible for implementation of the plan along with legal and funding mechanism(s); and ongoing monitoring and remedial measures;
  - (b) design principles and calculations for the proposed SuDS, including cross-sections, plans and details of headwalls/outfalls/hydrobakes/etc and ensuring that an aquatic bench is installed in full or in part to one of the balancing ponds;
  - (c) details of boundary and surfacing treatments to public and private areas, including surfacing and lighting of the public footpath, and subterranean tree and hedgerow root protection/facilitation measures;
  - (d) drawings and specifications to demonstrate the internal layout of the site accords with the guidance contained in "Manual for Streets";
  - (e) a swept path analysis to demonstrate that emergency and service vehicles can adequately enter, manoeuvre within the site and leave in a forward gear;
  - (f) dwellings, materials, boundary treatments and landscaping to follow the principles approved under permission ref: 9/2014/1158 (land to the north of the site);

Reason: For the avoidance of doubt, in order to secure an appropriate detailed design which harmonises with the development already consented to the north and provides for secured by design principles, in the interest of highway safety, in the interest of biodiversity enhancement and in the interest of proper and efficient planning.

4. No removal of buildings, hedgerows, shrubs or scrub shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period; and details of measures to protect the nesting bird interest on the site have first been submitted to and approved in writing by the Local Planning Authority. The approved protection measures shall then be implemented as approved.

Reason: In the interests of safeguarding against harm to protected species.

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

Reason: In the interests of safety on the public highway.

6. There shall be no gates or other barriers within 5 metres of the nearside highway boundary (proposed highway boundary) at any of the private driveways or vehicular accesses within the site. Any gates beyond 5 metres from the highway boundary (proposed highway boundary) shall open inwards only.

Reason: In the interests of safety on the public highway.

7. The gradient of the access shall not exceed 1:30 for the first 10 metres into the site from the existing highway boundary and 1:20 thereafter.

Reason: In the interests of safety on the public highway.

8. No construction works shall take place on the site and no deliveries shall be taken at or despatched from the site other than between 8:00am to 6:00pm Monday to Friday, and 8:00am to 1:00pm on Saturdays. There shall be no construction works (except for works to address an emergency) or deliveries on Sundays or Bank Holidays.

Reason: In order to protect the amenities of adjoining residential occupiers.

#### Pre-commencement

9. No development or other operations on the site (including demolition, ground works, vegetation clearance) shall commence until a scheme which provides for the protection of all hedgerows and trees identified for retention growing on or adjacent to the site, along with translocation of retained hedgerow adjacent to Mount Pleasant Road, has been submitted to and approved in writing by the Local Planning Authority. The approved protection measures shall then be implemented prior to any development or operations commencing and thereafter retained until a time where vehicles or mechanical equipment cannot interfere with such hedgerow or trees, or completion of the development, whichever occurs first.

Reason: In the interests of maintaining existing habitat provision to the benefit of wildlife and visual amenity.

10. No development or other operations on the site shall commence (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:
  - (a) a risk assessment of potentially damaging construction activities;
  - (b) identification of "biodiversity protection zones" (e.g. buffers to trees and hedges or to protected wildlife habitat).
  - (c) practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (particularly in relation to works within canopy and root protection areas for hedgerows or protected trees);
  - (d) the location and timing of sensitive works to avoid harm to biodiversity features (in relation to breeding birds in particular);
  - (e) the times during construction when specialist ecologists need to be present on site to oversee works (as required);
  - (f) responsible persons and lines of communication; and

(g) the role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person (as necessary).

The approved CEMP (Biodiversity) shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of maintaining existing habitat provision to the benefit of protected species and wildlife legislation, as well as the wider biodiversity sensitivities of the site.

11. (a) No development or other operations shall take place until a Written Scheme of Investigation (WSI) for archaeological work has been submitted to and approved in writing by the Local Planning Authority, and until any pre-start element of the approved WSI has been completed to the written satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and
- (i) the programme and methodology of site investigation and recording;
  - (ii) the programme for post investigation assessment;
  - (iii) provision to be made for analysis of the site investigation and recording;
  - (iv) provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - (v) provision to be made for archive deposition of the analysis and records of the site investigation; and
  - (vi) nomination of a competent person or persons/organization to undertake the works set out within the WSI.
- (b) No development shall take place other than in accordance with the archaeological WSI approved under (a).
- (c) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological WSI approved under (a) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

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

12. Prior to access being made to the site from Mount Pleasant Road a temporary access for construction purposes shall be provided, laid out and constructed 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, be constructed to base level and be provided with 2.4m x 54m visibility sightlines in each direction, the area forward of the sightlines shall be cleared and maintained throughout the period of construction clear of any obstruction exceeding 600mm in height relative to the nearside carriageway edge.

Reason: In the interests of safety on the public highway.

13. (a) No development shall commence until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to and approved in writing by the Local Planning Authority; and until the measures approved in that scheme have been implemented. The scheme shall include all

of the measures (phases I to III) detailed in Box 1 of Section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the Local Planning Authority dispenses with any such requirement specifically and in writing.

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

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

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

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

14. No development shall commence until a dust mitigation strategy has been submitted to and approved in writing by the Local Planning Authority. The strategy shall take into account national practice guidance and highlight details of the likely resultant dust levels from activities during the construction phase at the nearest residential premises as well as those dwellings which may be occupied as part of the development (or adjoining development), and set out measures to reduce the impact of dust on those residential premises. The approved strategy shall then be implemented throughout the course of development.

Reason: To protect the amenities of occupiers of adjoining residential properties.

15. No development shall commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 100 year climate change critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event.

The scheme shall also include:

- details of how the scheme shall be maintained and managed after completion;
- sustainable drainage techniques or SuDS incorporated into the design;
- details to show the outflow from the site is limited to the maximum allowable rate (i.e. greenfield site run-off);
- the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- detailed design details of the proposed balancing pond, including cross-sections and plans;

The surface water drainage system must deal with the surface water run-off from the site up to the critical 1% Annual Probability of Flooding (or 1 in a 100-year flood) event, including an allowance for climate change (i.e. for the lifetime of the development). Drainage calculations must be included to demonstrate this (e.g. MicroDrainage or similar sewer modelling package calculations which include the necessary attenuation volume). The approved scheme shall subsequently be implemented in accordance with the approved details in accordance with a timetable submitted for approval for the Local Planning Authority.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, and ensure future maintenance of the drainage system.

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

Reason: In the interests of safety on the public highway and protection of the amenities of adjoining residential occupiers.

17. No development shall take place until details of the finished floor levels of the dwellings and other buildings hereby approved, and of the ground levels of the site relative to adjoining land levels, along with details of any retaining features necessary have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in accordance with the agreed levels and any approved retaining features.

Reason: To ensure that the visual impact of the development is minimised as far as possible and to ensure acceptable impacts on adjoining residential property.

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

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

19. No development involving the construction of a dwelling, shared private drive or parking courtyard shall commence until details of the location and surfacing for bin collection points on private land off shared private drives and parking courtyards overlooked by dwellings (where applicable) have been submitted to and approved in writing by the Local Planning Authority. The facilities shall be provided prior to the first occupation of the dwellings to which they relate and shall be retained thereafter free from any impediment to its designated use.

Reason: To prevent refuse bins and collection vehicles standing on the new estate street for longer than necessary causing an obstruction or inconvenience

for other road users, and to ensure a good standard of design in the interest of the appearance and character of the area.

20. No development involving the construction of a dwelling shall take place until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the NPPF or any future guidance that replaces it. The scheme shall include/ensure that:
- (i) no less than 30% of housing shall be Affordable of which at least 75% shall be social rented and/or affordable rented and no more than 25% shall be intermediate housing;
  - (ii) no more than 80% of Market Housing units shall be occupied before completion and transfer of the Affordable Housing Units;
  - (iii) the arrangements for the transfer of the Affordable Housing Units to an Affordable Housing Provider;
  - (iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing to those households on the District Housing Waiting List; and
  - (v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing by means of the District Choice Based Lettings allocation scheme or in such other form as may be proposed by the Local Authority and agreed with the Affordable Housing Provider.

Reason: To ensure the provision of affordable housing in order to provide for social inclusion by way of the planning system.

21. Prior to erection and installation of lighting to estate streets, footpaths, shared driveways and parking courtyard, details and location of the proposed such lighting, including column height and lighting intensity and spread, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the lighting shall be installed and maintained in accordance with the approved details.

Reason: In the interests of minimising light spill from the development to the detriment of local wildlife and the character of the surrounding landscape.

#### Pre-occupation

22. Prior to the first occupation of any new dwelling, the road widening and footway works on Mount Pleasant Road from the junction with Springfield Road up to and including the access into the site, and the re-prioritising of the junction whereby Mount Pleasant Road from the north west extends into the development, shall be laid out in accordance with plan ref: F14061/01 Rev E and constructed in accordance with Derbyshire County Council's specifications for adoptable roads. For the avoidance of doubt the developer will be required to enter into a Section 278/38 Agreement under the Highways Act 1980 (as amended) in order to comply with this condition.

Reason: In the interests of safety on the public highway and to ensure suitable access for all users of the development hereby permitted.

23. No dwelling, the subject of the application, shall be occupied until the proposed new estate streets between that respective plot and the existing public highway have been laid out in accordance with the application drawings to conform to the County Council's design guide, constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads.

Reason: In the interests of safety on the public highway and to ensure reasonable access for all users during the course of construction.

24. No dwelling, the subject of the application, shall be first occupied until a Travel Plan comprising immediate, continuing and long-term measures to promote and encourage alternatives to single-occupancy car use has been prepared, submitted to and been approved in writing by the Local Planning Authority. The approved Travel Plan shall then be implemented, monitored and reviewed in accordance with the agreed Travel Plan Targets.

Reason: In the interests of encouraging the use of sustainable methods of transport.

25. Prior to the occupation of the each dwelling, space shall be provided within each plot curtilage for the parking of two vehicles and maintained throughout the life of the development free of any impediment to its designated use. For the avoidance of doubt, where a garage is counted as a parking space the internal dimensions should not be less than 3m by 6m.

Reason: To ensure parking provision for the dwellings provided by the development hereby approved.

#### Other

26. 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 2A and appropriate remediation proposals, and shall be submitted to the Local Planning Authority without delay. The approved remediation scheme shall be implemented to the satisfaction of the Local Planning Authority.

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.

27. 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 first occupation of the dwellings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The publically landscaped areas shall be maintained as such

until these areas are transferred to the Local Authority or nominated maintenance company.

Reason: In the interests of visual amenity and to secure appropriate open space provision for occupiers of the dwellings hereby approved.

Informatives:

- a. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, seeking to resolve planning objections and technical issues, suggesting amendments to improve the quality of the proposal, meetings and negotiations, and promptly 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.
- b. This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990.
- c. The Council's Legal Officer notes that part of the site is owned by the Council with a public footpath and a 15 foot wide right of way for agricultural purposes only over this land. Upgrading of the footpath or the making of improvements to land either side of the footpath would require the applicant to liaise with the Council separately on this matter.
- d. The applicant's attention is drawn to advice provided by the Environment Agency dated 15 December 2014, forwarded to their agent directly on that date, in respect of surface water discharge, the Water Framework Directive, waste management and water efficiency.
- e. For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire – Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from [www.south-derbys.gov.uk/environment/pollution/contaminated\\_land/default.asp](http://www.south-derbys.gov.uk/environment/pollution/contaminated_land/default.asp). Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the Environmental Protection Officer (contaminated land) in the Environmental Health Department: [thomas.gunton@south-derbys.gov.uk](mailto:thomas.gunton@south-derbys.gov.uk).

Further guidance can be obtained from the following:

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



- Guidance for the Safe Development of Housing on Land Affected by Contamination Environment Agency. ISBN 0113101775.
- f. Pursuant to Section 278 of the Highways Act 1980, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Economy, Transport and Environment Department at County Hall, Matlock. The applicant is advised to allow at least 12 weeks in any programme of works to obtain a Section 278 Agreement
  - g. Pursuant to Section 38 of the Highways Act 1980, and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Economy, Transport and Environment Department at County Hall, Matlock.
  - h. The applicant should contact the Traffic and Safety section at Derbyshire County Council's Economy, Transport and Environment Department, County Hall, Matlock (01629 533190) regarding the road markings at the realigned junction, road markings, provision of new signage and relocation of the speed limit signs.
  - i. The application site is affected by a Public Right of Way (Footpath 27, as shown on the Derbyshire Definitive Map). The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further information can be obtained from the Rights of Way Duty Officer in the Economy, Transport and Environment Department at County Hall, Matlock.
    - Please note that the granting of planning permission is not consent to divert or obstruct a public right of way.
    - If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact 08456 058 058 for further information and an application form.
    - If a right of way is required to be permanently diverted then the Council that determines the planning application (The Planning Authority) has the necessary powers to make a diversion order.
    - Any development insofar as it will permanently affect a public right of way must not commence until a diversion order (obtainable from the planning authority) has been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the County Council.
    - To avoid delays, where there is reasonable expectation that planning permission will be forthcoming, the proposals for any permanent stopping up or diversion of a public right of way can be considered concurrently with the application for the proposed development rather than await the granting of permission.
  - j. The Crime Prevention Design Adviser advises that in submitting details under a reserved matters application, that (1) all exposed housing elevations are well

treated to allow a view between interiors and external space; (2) where housing is set in blocks of more than two properties rear garden access originates within the view of associated houses either by using gated undercroft alleyways, through plot access where practical, or by breaking up housing blocks into two or less; (3) that enclosed parking courtyards would be best gated or overlooked; and that (4) the current open aspect of the footpath route and proposed links are not compromised by any landscaping sited between footpath and the development.

- k. New housing should be designed to addresses safety and the needs of vulnerable people. Domestic sprinkler systems are exceptionally effective through their ability to control a fire and help prevent loss of life. As a minimum, new residential development should incorporate a 32mm mains water riser which will enable the installation of domestic sprinkler systems, and ideally should incorporate the sprinkler systems themselves. The cost of installing a 32mm mains water riser is approximately £26 per dwelling and the cost of a domestic sprinkler system is approximately £1500. Derbyshire Fire and Rescue Service can advise further on such provisions.

**Item** 1.4

**Reg. No.** 9/2015/0031/NO

**Applicant:**  
Mr Avtar Lehal  
Fir Croft  
Barleston Road  
Newbold Verdon  
Leicestershire  
LE9 9NF

**Agent:**  
Mr Richard Price  
Niche Architecture Ltd  
First Floor 22B  
Imex Business Centre  
Shobnall Road  
Burton upon Trent  
DE14 2AU

**Proposal:** THE ERECTION OF AN EXTENSION AT THORN TREE  
PUBLIC HOUSE 59 BRETBY ROAD NEWHALL  
SWADLINCOTE

**Ward:** NEWHALL & STANTON

**Valid Date:** 28/01/2015

**Reason for committee determination**

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

**Site Description**

The Thorne Tree public house is located on Bretby Road, Newhall. Thorn Tree Lane runs parallel with the western boundary. Residential properties bound the site to the east, west and north. There is an existing car parking area to the east with a beer garden to the north. There is an access to allotments immediately adjacent to the northern boundary.

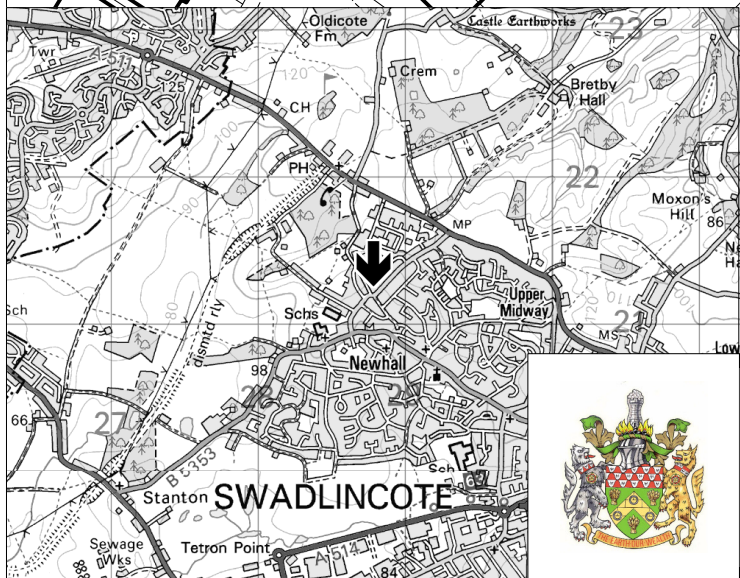
**Proposal**

The proposal includes a single storey extension to the side and rear of the public house, extension of the car parking area together with a small beer garden. The side extension would provide a restaurant with kitchen and the rear extension would provide a games area and larger bar area. A small smoking area and bin store would be located immediately to the rear of the building.

**Applicants' supporting information**

None

**9/2015/0031 - Thorn Tree Public House, 59 Bretby Road, Newhall,  
Swadlincote DE11 0LL**



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## **Planning History**

None

## **Responses to Consultations**

The County Highways Authority states that they have no objection as the proposal includes formalising the parking arrangements and increasing the number of spaces available. A condition requiring the car parking and manoeuvring areas to be provided prior to occupation is recommended.

The Environmental Health Manager confirms that the premises have not had any recent noise complaints (the most recent being in 2005). They have no objection subject to a condition requiring a scheme of noise and odour control prior to installation and an informative regarding the beer garden that may be controlled by the licence.

## **Responses to Publicity**

Four letters of objection have been received and are summarised as follows:-

- a) There is a history of noise complaints which resulted in noise restrictions put on the pub by the Council.
- b) A restaurant would exacerbate noise and traffic at the premises.
- c) Smoking outside the premises causes disturbance to residential properties adjacent.
- d) Odour from the premises is a concern as their son's bedroom is adjacent.
- e) Noise from extractor fans and customers is a concern.
- f) There would be an increase in on street parking which already occurs in front of the shop reducing visibility from Thorn Tree Lane.
- g) Overlooking of No.57 Bretby Road.
- h) The extensions are not in keeping with the surrounding properties.
- i) Lack of sufficient parking.
- j) A noise condition is suggested in relation to external air handling and other plant.
- k) Would the smoking area be enclosed to reduce noise?
- l) Would the windows overlook Thorn Tree Lane?

## **Development Plan Policies**

The relevant policies are:

Local Plan: T6

The emerging policies are:

Local Plan Part 1 (Submission Version): SD1

## **National Guidance**

- National Planning Policy Framework (NPPF) paragraphs 17, 32, 56, 70, 123, 196
- National Planning Practice Guidance (NPPG) 26, 30

## **Planning Considerations**

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

- Visual and residential amenity
- Noise
- Highway safety

## **Planning Assessment**

The proposal involves provision of a restaurant and larger bar area for an established public house located close to the centre of Newhall. The single storey extension to the west would provide a seating area and kitchen and would be adjacent to the boundary with Thorn Tree Lane. Windows are proposed in the western elevation which would be over the road from the blank gable of No.57 Bretby Road. These do not represent a significant overlooking concern due to the screening on the adjacent property's boundary. The design and scale of the extension is considered to be in keeping with the existing building and copies many of its features. The single storey extension to the rear would extend to the east and would not be highly visible from Bretby Road as it would be set in slightly from the existing building. Two large fire escape doors are proposed on the eastern elevation but due to the distance do not pose an overlooking concern to properties to the east.

The existing beer garden covers all the area adjacent to the northern boundary at present. This proposal would reduce the beer garden by 30% as the new car parking area is proposed adjacent to the rear of No.2A Thorn Tree Lane and the smaller beer garden would be located in the north western corner adjacent to Thorn Tree Lane. The hedging on the western boundary would be retained adjacent to where the beer garden is proposed. A small smoking area is proposed to the rear of the premises, 39 metres from the boundary with the property to the north and 25m from the eastern boundary. This would be a timber structure with details controlled by condition.

In relation to noise, Environmental Health records do not indicate a significant noise issue that exists at the premises. The beer garden would be significantly reduced as part of the proposal and the smoking area is proposed further away from properties than exists at present. Noise issues arising from customers could be dealt with through a review of the premises licence should complaints be received.

Noise from air conditioning units and odours from the kitchen can be mitigated by the use of a condition requiring a scheme to be submitted for approval by Environmental Health prior to their installation. This is the method suggested by the NPPF (paragraph 123).

In respect of Highway safety, the car park is currently small and not formally marked out. The proposal involves an increase to the area to provide parking for 15 cars. An increase in parking should reduce on street parking in the area and as the proposal is located within an established urban area is within walking distance of a large number of residential properties. On this basis, there are no highway objections to the proposal.

To conclude, the proposal involves the improvement of facilities at an established urban public house in a sustainable location, close to the centre of Newhall. The provision of a restaurant and larger bar area would improve its long term viability which is encouraged by the NPPF paragraph 70 which states:-

...."planning decisions ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community";

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 occupation of the extensions hereby permitted, space shall be provided within the application site in accordance with the submitted application drawing number TTT-02 for the parking and manoeuvring of staff/ customers/ service and delivery vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.  
Reason: In the interests of highway safety.
3. Prior to installation of the kitchen extractor fan a scheme of noise and odour control shall be submitted and approved in writing by the Local Planning Authority and the installed in accordance with the approved details.  
Reason: To protect the amenities of adjoining properties and the locality generally.
4. Prior to the occupation of the extensions hereby approved details of the smoking shelter shall be submitted and approved in writing by the Local Planning Authority and implemented in accordance with the approved details.  
Reason: In the interests of visual and residential amenity.

### **Informatives:**

In relation to condition 3 the applicant is advised to take into consideration "Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems" issued by DEFRA.

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

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered

during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. Further information is also available on The Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority). Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com).



**Item**            1.5

**Reg. No.**        9/2014/0980/FX

**Applicant:**  
**Mr Dave Ward**  
**Winvic Construction Ltd**

**Agent:**  
**Mr Mark Collins**  
**Welland Design And Build Ltd**  
**Grosvenor House**  
**George Street**  
**Corby**  
**NN17 1QB**

**Proposal:**        **RESIDENTIAL DEVELOPMENT OF 9 DWELLINGS AND  
CONSTRUCTION OF A VEHICULAR ACCESS ON LAND  
ADJACENT TO 84 DERBY ROAD HILTON DERBY**

**Ward:**            **HILTON**

**Valid Date:**     **27/10/2014**

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

The application site lies outside the village confine as defined in the adopted Local Plan and the proposal is thus contrary to the development plan.

#### **Site Description**

The site is a flat field of about 0.4 ha in area, occupying a location at the junction of Derby Road with The Mease. It is enclosed to the south west and east by hedges. There are dwellings and gardens to the west and south. The majority of the site borders the two highways. A tree on the site (Alder), and one adjacent (Birch), are protected by Tree Preservation Order No 394.

#### **Proposal**

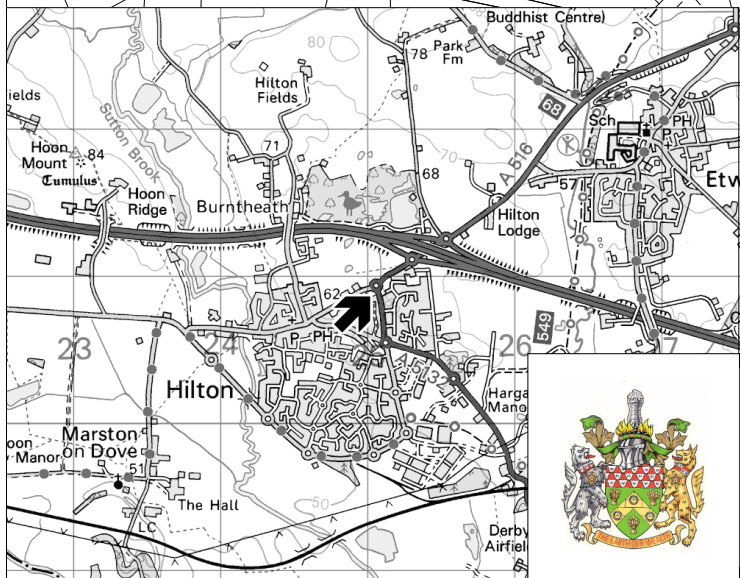
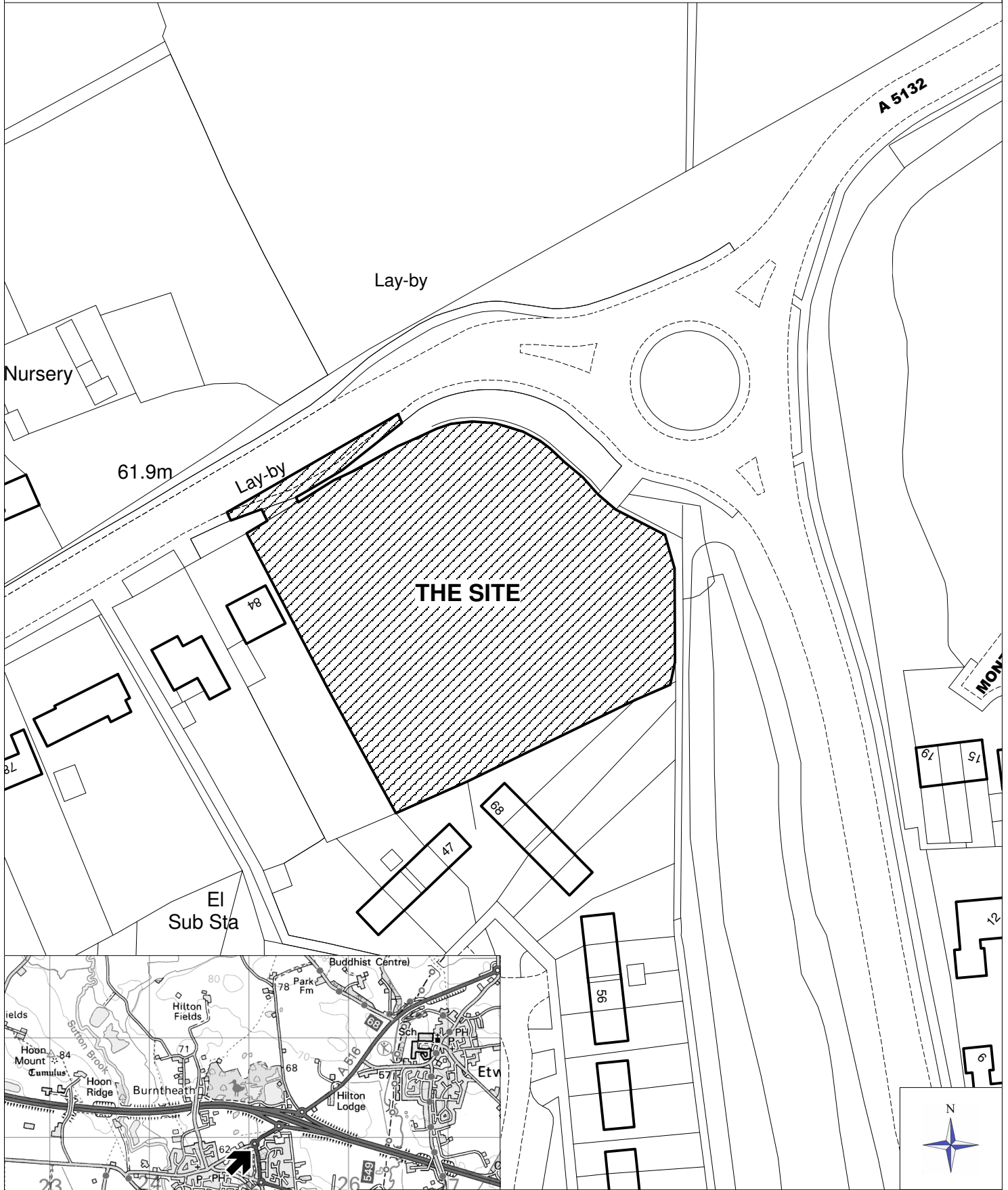
The application proposes nine detached houses served by a new access located alongside the garden to No 84 Derby Road. The layout shows front elevations of five dwellings facing Derby Road/The Mease, with the remaining four plots assuming less prominent locations.

The gross floor space of the dwellings would amount to some 1465 sq m.

#### **Applicants' supporting information**

The applicant has submitted a Sustainability Appraisal and Energy Strategy explaining how building design, drainage, waste and ecological measures would be incorporated.

9/2014/0980 - Land adjacent to 84 Derby Road, Hilton, Derby DE65 5FP



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The applicant also points to the extant permission and the level of contributions payable pursuant to it.

## **Planning History**

Outline permission 9/2013/0111 was granted for nine houses in December 2013. The permission included details of the access and layout of the development and remains extant.

The permission is subject to payment of planning contributions for primary education (£11,399) and off site open space (£714 per dwelling).

The previous application highlighted local concern about a drainage ditch running along the site boundary, following which the applicant confirmed that there was sufficient controlled land so as to be able to implement a surface water drainage scheme without harm, and potentially with betterment, to neighbouring dwellings.

## **Responses to Consultations**

The Highway Authority and Derbyshire Wildlife Trust have no objection in principle and reiterate the conditions recommended in response to the extant permission.

The Environmental Health Manager recommends conditions to control noise and dust during the construction phase.

Derbyshire County Council seeks £11,399 towards the provision of one primary school place, via the adaptation of a classroom at Hilton Primary School.

The Crime Prevention Design Adviser considers that the indicated boundary treatment for Plots 4 & 5 is weak and recommends an alternative approach, either higher fencing or more visually exposure by removal of vegetation.

Severn Trent Water Ltd has no comment.

## **Responses to Publicity**

Hilton Parish Council objects on the grounds of access being too close to a busy roundabout and 40 mph speed limit.

Two objections have been received as follows:

- a) The development would exacerbate existing inadequacies in surface water drains.
- b) The site is a valuable open space and developing it would be detrimental to the character of the village.
- c) There would be loss of privacy to neighbours.
- d) The bus stop would be relocated.
- e) There would be highway safety issues due to proximity of the roundabout.

## **Development Plan Policies**

The relevant policies are:

Local Plan Saved Housing Policies 5 & 8, Environment Policies 1 & 9 and Transport Policies 6 & 7.

Emerging Local Plan: S2, S4, S6, H1, SD1, BNE1, INF1, INF2, INF7, INF 8

## **National Guidance**

National Planning Policy Framework (NPPF), in particular:

Paras 6-10 (Achieving sustainable development)

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

Para 17 (Core principles)

Chapter 4 (Promoting sustainable transport)

Chapter 6 (Housing)

Chapter 7 (Requiring good design)

Chapter 8 (Healthy Communities)

Chapter 10 (Flood risk and climate change)

Chapter 11 (Conserving and enhancing the natural environment)

Paras 186 & 187 (Decision-taking)

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

Para 196 & 197 (Determining applications)

Paras 203-206 (Planning conditions and obligations)

Annex 1 (Implementation)

National Planning Practice Guidance (NPPG) 8, 21, 23b, 26, 30, 36 and 37.

## **Local Guidance**

Housing Design and Layout SPG, Better Design for South Derbyshire.

## **Planning Considerations**

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

- The principle of development and general sustainability
- Landscape impacts & design
- Residential amenity
- Planning contributions
- Other matters

## **Planning Assessment**

### The principle of development and general sustainability

In addition to the policy considerations set out below, the extant outline planning permission is a substantial material consideration in establishing the acceptability of the proposal.

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

In terms of the current adopted local plan, Saved Housing Policy 5 defines a village confine within which none of the site lies. As such residential development is not supported by the development plan. This policy is complemented by Saved Environment Policy 1 and Housing Policy 8, both of which apply restrictive policies to general development outside established settlements.

Nevertheless the National Planning Policy Framework indicates that Local Plans should meet the full objective need for market and affordable housing in the housing market area. Paragraph 49 of the NPPF 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 housing sites". The suggested allocations within the emerging Local Plan will provide a 5 year supply but due to the Plan not having yet been declared sound the relevant policies continue carry limited weight.

Because of the aforementioned housing supply issues the proposal must be considered in the context of the presumption in favour of sustainable development (NPPF Para 14).

By providing housing the development would promote social sustainability. There is no evidence that the proposal would generate unacceptable levels of traffic and there would be opportunities to travel by means other than the private car. Furthermore the village has a good range of services and facilities. It is therefore not the case that the occupiers of the new dwellings would be wholly reliant on the private car. Paragraph 29 of the NPPF recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas. In the context of a vibrant village, acknowledged in the emerging local plan as a key service settlement, the location has good location based sustainability credentials.

### Landscape Impacts & Design

Although the site provides an open space between the old and more recent parts of the village its context is nonetheless urban in character as a result of its location between blocks of housing, alongside the substantial junction of Derby Road and The Mease. Furthermore the principle of developing the land is already established. The layout would be generally as already approved. The proposed design and scale of the houses would be in keeping with the general character of this part of Hilton, thus satisfying the design requirements of Chapter 7 of the NPPF.

Proposed screen planting would further mitigate impact on landscape character, in accordance with Saved Environment Policy 9.

### Residential Amenity

The dwellings would be orientated and at such distance from existing properties so as to meet the guidelines in the supplementary planning guidance for new housing. The

development itself would be provided with adequate amenity space and reasonable living conditions for its occupiers, all in accordance with Saved Housing Policy 11.

### Planning Contributions

Although the NPPG sets a threshold of more than 10 dwellings for planning contributions to be valid it also states that development with fewer houses, but with gross floor space of more than 1000 sq m, may be subject to tariff style obligations. As the gross floor area would be around 1465 sq m it is legitimate to seek contributions using the same formulae as with the extant permission. This would be £11,399 towards the provision of a primary school place via the adaptation of a classroom at Hilton Primary School.

As this is a full application the total number of bedrooms is now known and the contribution for off-site open space would be  $33 \times £714 = £23,562$ .

### Other Matters

The biodiversity mitigation and enhancement measures recommended by Derbyshire Wildlife Trust could be achieved by condition, in conformity with Chapter 11 of the NPPF. Similarly new amenity landscaping could be required by condition, along with protection of retained trees, to accord with Local Plan Saved Environment Policy 9.

The Crime Prevention Design Adviser has some concerns about security to Plots 4 & 5 in respect of boundary treatment. In order to achieve a safe environment, in accordance with Chapter 8 of the NPPF, appropriate landscaping and/or fencing could be secured by condition.

Access is as previously approved and the Highway Authority raises no objection. The layout provides appropriate levels of parking for each plot and the site would be accessible by all people. As such the development complies with Saved Transport Policies 6 & 7.

The recommended condition to facilitate control over surface water drainage would adequately safeguard existing dwellings from increased risk of flood, in accordance with Chapter 10 of the NPPF.

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**

Subject to the receipt of a signed unilateral undertaking for the provision of education facilities and public open space, as detailed in the relevant section of the report above, **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. 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.

3. Prior to any other works commencing, the bus stop shall be relocated and a bus shelter provided in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority in consultation with the County Highway Authority (Public Transport Unit).

Reason: The relocation of the bus stop is necessary to facilitate the development and as such details of the new bus stop are required to ensure appropriate replacement facility is available prior to the development of the site being commenced.

4. Prior to any other works commencing (excluding condition 3 above), the street lighting column fronting the site shall be relocated in accordance with a scheme first submitted to and approved in writing by the local Planning Authority in consultation with the County Highway Authority (Street Lighting section).

Reason: The relocation of the lamppost is necessary to facilitate the development and as such details of the new position of the lamppost are required to ensure appropriate replacement facility is available prior to the development of the site being generally commenced.

5. Prior to any other works commencing (excluding conditions 3 & 4 above), the bus layby shall be reinstated as highway comprising a 2m wide footway adjacent to the Derby Road carriageway and a grass verge to the rear, all laid out and constructed to Derbyshire County Council's standards for adoptable roads in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority in consultation with the County Highway Authority.

Reason: In order to ensure that the bus layby is restored as a part of the highway in the interests of highway safety.

6. Before any other operations are commenced, excluding Conditions 3 & 4 above, space shall be provided within the site curtilage for site accommodation, storage of plant and materials, parking and manoeuvring for site operatives' and visitor's vehicles, loading and unloading of goods vehicles, all in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

7. Throughout the period of construction, wheel washing facilities shall be provided within the site and used so as to prevent the deposition of mud and other extraneous material on the public highway.

Reason: In the interests of highway safety.

8. Before any works commence within the site curtilage (excluding condition 6 above) the new estate street junction shall be formed to Derby Road, located, laid out and constructed in accordance with the application drawing, having a minimum width of 4.8m, provided with 2 x 2m footways and 6m radii. Notwithstanding the submitted drawings, the access shall be provided with visibility splays extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the access, for a distance of 103 metres to the west and 59m to the east, measured along the nearside carriageway edge. The area in advance of the sightlines shall unless otherwise agreed in writing by the Local Planning Authority be level, form part of the new street, constructed as footway and verge and not form part of any plot or other sub-division of the site.

Reason: In the interests of highway safety.

9. The premises, the subject of the application, shall not be occupied until the proposed new estate street between each respective plot and the existing public highway has been laid out in accordance with the application drawings to conform to the County design guide and specifications for adoptable roads, constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads.

Reason: In the interests of highway safety.

10. The premises, the subject of the application, shall not be occupied until space has been provided within the application for the parking and manoeuvring of residents', visitors', service and delivery vehicles (including any secure covered cycle parking), laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: To ensure that adequate parking/garaging and vehicle manoeuvring provision is available.

11. Before development begins details of the means of disposal of highway surface water shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the first occupation of the development unless as may otherwise be agreed in writing with the local planning authority.

Reason: In the interests of highway safety.

12. Bin stores shall be provided within private land at the entrance to shared private accesses, in accordance with a scheme to be submitted and approved in writing by the Local Planning Authority, adequate to prevent refuse bins and collection vehicles standing on the new estate street for longer than necessary causing an obstruction or inconvenience for other road users. The facilities shall be provided prior to the first occupation of the dwellings to which they relate and shall be retained thereafter free from any impediment to their designated use.

Reason: In order to ensure that space is available clear of the highway for bin storage in the interests of maintaining the highway free from obstruction.



13. Before the development is first occupied the existing field access to the traffic island shall be permanently closed in accordance with a scheme which shall have previously been submitted to and approved in writing by the local planning authority.  
Reason: In the interests of highway safety.
14. No gates shall be erected within 5m. of the highway boundary and any gates elsewhere shall open inwards only.  
Reason: In the interests of highway safety.
15. The development shall be constructed in accordance with the finished floor levels shown on the submitted Site Layout drawing no WIN 001 SIL 1 Rev C, unless as may otherwise be agreed in writing with the local planning authority.  
Reason: To protect the amenities of adjoining properties and the locality generally.
16. 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 details shall include measures to provide adequate security to Plots 4 & 5. 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 and crime prevention.
17. The information required pursuant to Condition 16 above shall include details of foundation design and method statement for any works to be undertaken within the root protection areas of all trees to be retained (in particular those subject to Tree Preservation Order No 394), and the development shall be implemented strictly in accordance with the approved details.  
Reason: To ensure that these features are adequately safeguarded, in the interests of visual amenity.
18. Soffits, fascias, gutters and downpipes shall have a black finish.  
Reason: In the interests of the appearance of the buildings, and the character of the area.
19. No removal of hedgerows, trees or brambles shall take place between 1st March and 31st August inclusive unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the local planning authority and then implemented as approved.  
Reason: in the interests of ensuring that breeding the works to implement the planning permission does not disturb breeding birds.
20. The roofs shall have wet verges and there shall be no cloak verge tiles used.  
Reason: In the interests of the appearance of the area.
21. Notwithstanding the submitted drawing no. WIN 001 LAL1 Rev B, 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. The scheme shall also include measures to compensate for any loss of habitat arising from the development and measures to achieve a net gain to bio-diversity on the site.

Reason: In the interests of the appearance of the area and bio-diversity.

22. The details required pursuant to Condition 22 shall include details demonstrating how the scheme will be implemented so as to ensure that the proposed development does not result in a net loss of priority habitat.

Reason: In the interest of bio-diversity.

23. 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 unless otherwise required by the details approved pursuant to Condition 19; 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 and bio-diversity.

24. No site clearance works or development shall take place until there has been submitted to the Local Planning Authority for their written approval a scheme showing the type, height and position of protective fencing to be erected around each tree (in particular those subject to Tree Preservation Order No 394) or hedgerow to be retained. The scheme shall comply with BS 5837:2012

The area surrounding each tree or hedgerow within the protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

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

Reason: To ensure that these features are protected throughout the development period in the interests of visual amenity.

25. This permission shall relate to the drawings submitted with the application unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

Reason: For the avoidance of doubt.

26. 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.

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

Reason: In the interests of flood protection.

Informatives:

The County Highway Authority advises as follows:

a) Pursuant to Section 184 of the Highways Act 1980, and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months' prior notification should be given to the Environmental Services Department at County Hall, Matlock (Tel: 01629 538589) before any works commence on the vehicular access within highway limits.

b) The Highway Authority recommends that the first 5m of any proposed access driveway should not be surfaced with a loose material (ie 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 individual householder.

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

d) Pursuant to Section 278 of the Highways Act 1980, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Environmental Services Department at County Hall, Matlock. The applicant is advised to allow at least 12 weeks in any programme of works to obtain a Section 278 Agreement.

e) Pursuant to Section 38, and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Department of Environmental Services at County Hall, Matlock.

f) Approval with regard to the relocation of the bus stop and the provision of a bus shelter will be required from Derbyshire County Council's Public Transport Unit, the applicant should contact the Public Transport section on 01629 580000.

g) With regard to the relocation of the street lighting column, the applicant should contact Derbyshire County Council's Street Lighting section on 01629 580000.

h) Traffic management measures may be necessary during the works on Derby Road. All traffic management detail shall be submitted and approved in writing by Derbyshire County Council's Traffic section (01629 538592) prior to implementation.

i) The applicant is advised to ensure that the future maintenance responsibilities of the shared accesses/driveways are clearly defined within the deeds of the individual properties.

j) The site is affected by a Building Line prescribed under the Road Improvement Act 1925. The Line will need to be rescinded before any development can take place. The applicant should contact Derbyshire County Council's Highway Records section (01629 538697) and be aware that there is a fee for this service to cover legal and administration costs (currently £100.00).

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.

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

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

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

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 seeking to resolve planning issues.

As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

**Item** 1.6

**Reg. No.** 9/2014/1206/FH

**Applicant:**  
**Mr Shane Hughes**  
**61 Swarkestone Road**  
**Barrow On Trent**  
**Derby**  
**DE73 7HF**

**Agent:**  
**Mr Andrew Bennett**  
**South Derbyshire District Council**  
**Civic Offices**  
**Civic Way**  
**Swadlincote**

**Proposal:** **PROPOSED EXTENSION AT 61 SWARKESTONE ROAD  
BARROW ON TRENT DERBY**

**Ward:** **ASTON**

**Valid Date:** **24/12/2014**

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

Councillor Peter Watson (ward member) has requested that the Committee determine this application as local concern has been expressed about a particular issue.

#### **Site Description**

The property in question is a semi-detached, two storey dwelling. This and the neighbouring houses are located slightly outside of main 'core' of Barrow village, set back from the busy A5132 Swarkestone Road. House types in the immediate are either similar to the form of No61 (the majority) or bungalows.

No61 has been extended before (to the rear) adding some two storey mass and a conservatory.

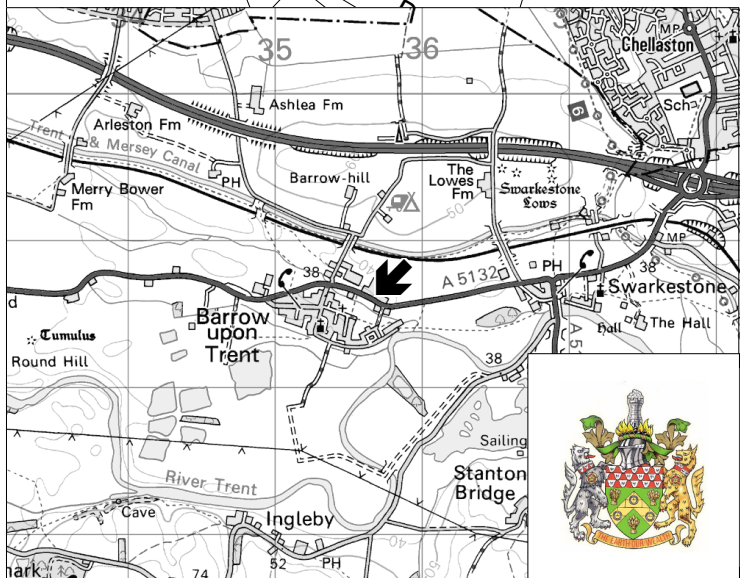
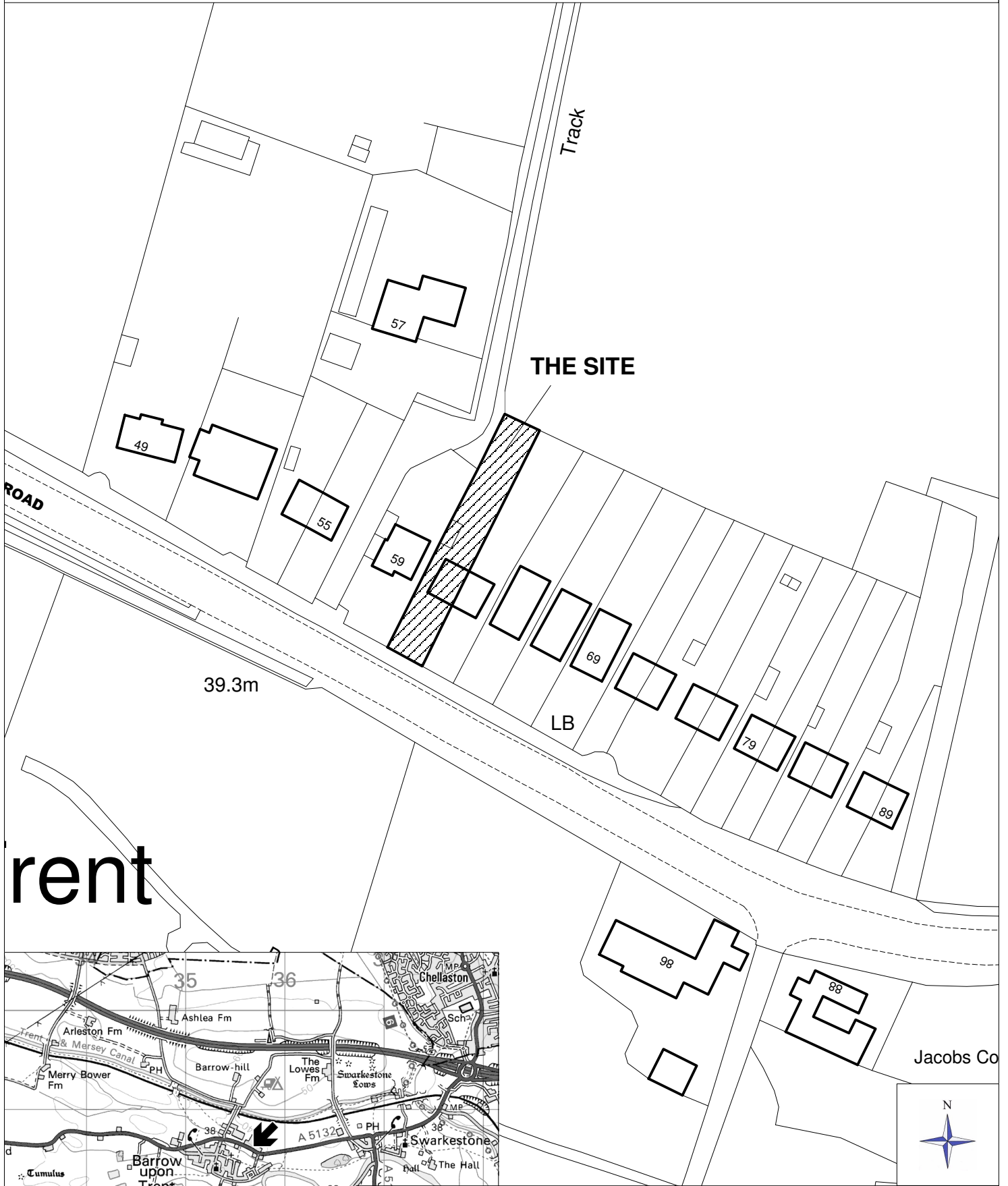
#### **Proposal**

The proposal is a single storey extension, to the rear and would be built off the previously extended part of the house. The existing conservatory however would be removed to make way. It would project 7.6m into the garden with eaves at 2.5m (rising to 2.8 given a modest change in levels) and a ridge height of between 3.5m and 3.875m.

#### **Applicants' supporting information**

The applicant is severely physically disabled (following a road traffic accident) and is a full time wheelchair user, cared for at home. At present, due to access difficulties he is confined in the main, to the upstairs of the house. The downstairs space proposed here

9/2014/1206 - 61 Swarkestone Road, Barrow on Trent, Derby DE73 7HF



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**South Derbyshire District Council. LA 100019461. 2014**

would allow that home care to be continued but would more importantly allow the applicant improved access to everyday family life.

The proposed space would accommodate all necessary specialist equipment. These include a roof mounted tracking hoist, two wheelchairs (one manual, one powered), a large rotunda stand, a shower chair, a large perching stool as well as a slide board and emergency mattress tilter.

The space would meet all of the applicant's health and social needs and would most dramatically improve his quality of life and well-being especially on the psychological, emotional and behavioural aspects of his disabilities.

## **Planning History**

2004/0497 – two storey rear extension;  
2007/1220 – conservatory.

## **Responses to Publicity**

Both immediate neighbours have raised concerns. Their comments are summarised as:

From No 59's perspective:

- This house has been extended before (twice) doubling the size of the original. This new mass will further overshadow the kitchen space and garden;
- This extension will take No61 way outside of the building line;
- To extend here to accommodate the applicants requirements is a short term strategy. Money could be better spent;
- This house has a lift which could be mended or replaced. This would appear to be more logical solution and cause less upset for neighbours;
- Extension will cause loss of privacy;
- This enlargement will exacerbate a current parking problem, caused by the visitors to the house parking on the roadside. This has a knock-on effect;
- The extension will push the existing drainage system too far;

From No 63's perspective:

- This extension compounds an existing overshadowing issue caused by the previous two storey extension;
- The collective mass (from this and the previous extension) is disproportionate and not typical of what you would expect to find in such a residential situation;
- The extension would extend along the boundary for almost half the garden length. It would make a large proportion of the garden unusable;
- The development would be out of keeping with the area;

## **Development Plan Policies**

Local Plan Housing Policy13, Supplementary Planning Guidance (SPG): Extending Your Home.

## **National Guidance**

National Planning Policy Framework: Paragraph 17.



## **Planning Considerations**

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

- The impact on the character of the area;
- The impact on neighbours assessed against the Council's adopted standards.

## **Planning Assessment**

The proposal here is to extend to the rear, a 'private' area not easily (if at all) seen from the public realm.

In regards the impact on primary space at No 59, the proposal has been designed to gradually 'step away', thus the main bulk behind is usefully screened/softened by the more modest side flank of the proposed reception area. There is a side window proposed looking towards the garden area at No 59 but the existing 1.8m high fence should adequately screen that outdoor space maintaining an acceptable level of privacy.

In terms of impact on the primary space at No 63, the assessment is not as clear cut. As already mentioned, the host has been extended before. Whilst that two storey addition would breach current standards in regards overbearance (seen to overshadow the dining room space at No63), it was seen to be acceptable at the time, following officer assessment. As such it would be unreasonable to dismiss this application out of hand because of that fact; especially given this latest part would be undoubtedly single storey.

SPG suggests that single storey extensions would not usually unduly overbear on neighbouring dwellings but any should be assessed against the merits of the situation. In this case, given the length of the proposed extension, it is necessary to assess its impact.

This latest extension is set in from the boundary, and although this is only by 0.5m, the favourable roof slope would reduce its impact. Additionally this new part is undoubtedly single storey thus it should appear subservient. Whilst the built up nature of the boundary is acknowledged, the proposed extension would only have minimal impact on how the owner of No 63 enjoys that rear space given the length of the garden space. Similarly the reduced vista from the kitchen and dining space at No63 is part compensated by a generally open north eastern aspect which also takes in the rear garden space over No 65 (a bungalow). In conclusion it would appear more inclined to 'channel' the view rather than cause a feeling of overbearance.

In regards parking concerns, the situation is not ideal here in regards parking for visitors. The site however affords an above average level of provision for day to day use sufficient to enable permission to be granted without undue detriment to highway safety.

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. All external materials used in the development to which this permission relates shall offer a similar visual appearance to those used in the existing building in colour, coursing and texture.

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

3. Before the first occupation of the extension hereby permitted the windows in the south-eastern wall of the building (both lights to the ground floor dining and ground floor bedroom) shall be fixed (non-opening) and fitted with obscured glazing and shall be permanently retained in that condition thereafter.

Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.

Informatives:

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussion, suggesting amendments to improve the quality of the proposal and 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)

<b>Reference</b>	<b>Place</b>	<b>Ward</b>	<b>Result</b>	<b>Cttee/Delegated</b>
9/2014/0385	Coton Park	Linton	Dismissed	Delegated

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# Appeal Decision

Site visit made on 4 February 2015

**by D J Barnes MBA BSc(Hons) DipTP MRTPI**

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

**Decision date: 26 February 2015**

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**Appeal Ref: APP/F1040/A/14/2221821**

**Littleholm Kennels, Coton Park, Linton, Swadlincote DE12 6RG**

- 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 and Mrs D Snell against the decision of South Derbyshire District Council.
  - The application Ref 9/2014/0385, dated 12 April 2014, was refused by notice dated 27 June 2014.
  - The development proposed is the demolition of kennel facilities and erection of 4 new dwellings.
- 

## Decision

1. The appeal is dismissed.

## Main Issue

2. It is considered that the main issue is the effect of the proposed development on the character and appearance of the surrounding area.

## Reasons

3. The appeal site includes a range of single storey buildings which were previously used as kennels and are proposed to be demolished to be replaced by the erection of four 2-storey dwellings. The National Planning Policy Framework's (the Framework) definition of previously developed land excludes land that is or has been occupied by agriculture and forestry but there is no specific exclusion of buildings used as kennels. However, the Framework also notes that it should not be assumed that the whole curtilage of any previously developed land should be developed.
  4. By reason of its location outside the confines of a settlement defined by Housing Policy 5 of the South Derbyshire Local Plan (LP), the site is situated within the open countryside where LP Housing Policy H8 seeks to restrict the erection of dwellings except in certain specific circumstances. The proposed development does not accord with any of these circumstances.
  5. The Council acknowledges that it cannot demonstrate a 5-year supply of deliverable housing sites. The Framework is clear that where there is a shortfall the relevant Local Plan housing policies should not be considered to be
-

- up-to-date and that due weight should be given to the relevant policies according to their degree of consistency with the Framework's policies.
6. Because of the date the Local Plan was adopted, LP Housing Policies H5 and H8 are not entirely consistent with the Framework's presumption in favour of sustainable development and I am mindful that paragraph 55 of the Framework refers to new isolated homes being avoided in the countryside unless there are special circumstances. In this case, by reason of the site's relationship to a group of residential and commercial buildings, I agree with the appellant's claims that the appeal scheme would not amount to isolated dwellings in the countryside and would, therefore, accord with the up-to-date policy of the Framework to which I give greater weight than LP Housing Policies H5 and H8 in the determination of this appeal.
  7. This judgement reflects the approach adopted by my colleagues when determining the appeals at The Field and Hatton Lodge concerning whether, in principle, these proposals would amount to the erection of isolated dwellings elsewhere within South Derbyshire District (Refs APP/F1040/A/13/2202043 and APP/F1040/A/13/2202043). The other 2 cases referred to by the appellant concern schemes within other districts and, for this reason, little weight has been attached to them in the determination of this appeal (Refs APP/K2420/A/12/2168670 and APP/P3040/A/14/2211781).
  8. Although they are in a poor condition, because of their height the existing kennels are not particularly prominent features within with open and verdant countryside which surrounds this group of commercial and residential buildings. This assessment also applies when the site is viewed from both the adjacent road and public footpath. However, the proposed 2-storey dwellings, detached garages and surfaced areas would increase the amount of built development across the site. The ridge heights of the proposed dwellings would be materially higher than the existing kennels. By reason of the intensification of the built development on the appeal site, the proposed development would substantially erode the existing open and verdant character and appearance of the surrounding area.
  9. This adverse harm would be accentuated by the suburban design of the proposed dwellings and the associated detached garages which would be sited adjacent to the road. The need for parts of the frontage hedges to be removed to provide access to the proposed dwellings and, potentially, the passing place would also have a detrimental effect on the generally rural character of the road.
  10. I acknowledge that the proposed development would be capable of supporting the social and economic dimensions of sustainable development as identified in the Framework. These matters include the re-use of previously developed land, the creation of construction jobs, income from Council tax and the provision of new homes which would also assist in addressing the shortfall in the supply of deliverable housing land. Further, although not located within or adjacent to a settlement, there are some local facilities which could be accessed by means other than a private car, including at Linton, and there are bus stops within walking distance of the site. These facilities could be capable of meeting the day-to-day needs of the future occupiers. Although it is not by

itself a reason for this appeal to fail, the future occupiers would need to travel to higher order facilities and employment if they did not work at home.

11. However, for the reasons given, the proposed development would fail to satisfy the environmental dimension of sustainable development. There would be a conflict with LP Environment Policy 1 concerning development in the countryside being designed and located to create as little impact as practicable on the countryside. There would also be a conflict with the Framework which refers to the recognition of the intrinsic character and beauty of the countryside.
12. The adverse harm which has been identified would substantially and demonstrably outweigh the potential social and economic benefits of the appeal scheme. This judgement is not altered by the personal circumstances which have been identified by the appellant. It is therefore concluded that the proposed development would cause adverse harm to the character and appearance of the surrounding area and, as such, it would conflict with LP Environment Policy 1 and the Framework. Accordingly, and taking into account all other matters including the Framework's presumption in favour of sustainable development, it is concluded that this appeal should fail.

*D J Barnes*

INSPECTOR