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Date: 01 July 2024

Dear Councillor,

### **Planning Committee**

A Meeting of the **Planning Committee** will be held at **Council Chamber**, Civic offices, Civic Way, Swadlincote on **Tuesday, 09 July 2024 at 18:00**. You are requested to attend.

Yours faithfully,

**Monitoring Officer**  
**Executive Director – Law and People**

To:- **Labour Group**  
Councillor G Jones (Chair), Councillor D Shepherd (Vice-Chair)  
Councillors I Hudson, A Jones, G Rhind, K Storey, A Tilley and N Tilley

**Conservative Group**  
Councillors K Haines, A Kirke and D Muller.

**Non-Grouped**  
Councillor A Wheelton

**Liberal Democrats**  
Councillor J Davies

## **AGENDA**

### **Open to Public and Press**

- 1** Apologies and to note any substitutes appointed for the Meeting.
- 2** To note any declarations of interest arising from any items on the Agenda
- 3** To receive any questions by Members of the Council pursuant to Council Procedure Rule No. 11.
- 4** REPORT OF THE CHIEF EXECUTIVE **3 - 44**
- 5** TREE PRESERVATION ORDER 560 - 78 MOIRA ROAD, WOODVILLE **45 - 46**

### **Exclusion of the Public and Press:**

- 6** The Chairman may therefore move:-  
That in accordance with Section 100 (A)(4) of the Local Government Act 1972 (as amended) the press and public be excluded from the remainder of the Meeting as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraph of Part I of the Schedule 12A of the Act indicated in the header to each report on the Agenda.
- 7** To receive any exempt questions by Members of the Council pursuant to Council Procedure Rule No. 11.

# **Report of the Chief Executive**

## **Section 1: Planning Applications**

## **Section 2: Planning Appeals**

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

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## 1. Planning Applications

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

Reference	Item	Place	Ward	Page
<a href="#">DMPA/2024/0361</a>	<a href="#">1.1</a>	Etwall	Etwall	6
<a href="#">DMPA/2024/0509</a>	<a href="#">1.2</a>	Hartshorne	Woodville	22

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

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

## Glossary of terms

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

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

**Item No.** 1.1

**Ref. No.** [DMPA/2024/0361](#)

**Valid date:** 07/03/2024

**Applicant:** N Hollinshead

**Agent:** David Haston

**Proposal:** Construction of a livestock building with associated covered cattle handling area, construction of covered slurry/dirty water store, formation of surface water attenuation swale, landscaping and habitat creation works at Baldfields Farm, Ash Lane, Etwall, Derby, DE65 6HT

**Ward:** Etwall

*This report was deferred at the meeting on 18 June 2024 to allow Members to undertake a site visit.*

Since the application was previously reported to planning committee, the Council has received updates from the Environment Agency and Derbyshire Wildlife Trust.

#### Environment Agency

No objection. Informatives have been provided that relate to the slurry store compliance with the requirements of the Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010 (aka SSAFO). It is also agreed for the Manure Management Condition suggested by the applicant to be included in any planning consent issued.

#### Derbyshire Wildlife Trust

Since the first comments received by the Wildlife Trust in May 2024 a further response has been received by Derbyshire Wildlife Trust following consultation with the agent and the applicant's ecologists. This response has been positively amended from the previously received response. It is considered that the Brown Hare and Hedgehog condition previously proposed is satisfied by the restriction recommended in 7.5 of the Preliminary Ecological Appraisal undertaken by Brindle and Green. The requirements for the submission of hedgerow baseline information within the BNG metric have been removed as it is considered that the 10% requirement is being achieved and there is no hedgerow loss proposed as a result of the development. DWT have suggested amendments to the previously proposed conditions due to this.

The previous report is attached as an appendix.

**The officer recommendation remains to Grant Planning Permission subject to amended conditions as listed below:**

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

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

2. The development hereby permitted shall be carried out in accordance with plans/drawings ref. Proposed Elevations H0273-BF04-A1-PL-05 (07 March 2024)

Proposed Site Plan H0273-BF04-A3-PL-03 (07 March 2024)

Location Plan H0273-BF04-A3-PL-01 (07 March 2024)

Landscape Plan H0273-BF04-A3-LP-01 (07 March 2024)

Existing Site Plan H0273-BF04-A3-PL-02 (07 March 2024)

Proposed General Arrangement Plan H0273-BF04-A1-PL-04 (07 March 2024)

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

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

3. Prior to the installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Guidelines can be found in Guidance Note 08/23 - Bats and Artificial Lighting at Night (BCT and ILP, 2023). Such approved measures will be implemented in full.

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

4. Due to the low risk of herptiles (including Great Crested Newts) being present, a Method Statement for site clearance shall be produced and submitted to the LPA for approval. This shall include reasonable avoidance measures such as seasonal timings, strategic clearance of vegetation and any potential refugia, and a watching brief. It shall also include instructions in the unlikely event that great crested newts are encountered. The approved Method Statement shall be implemented in full, and a short statement of compliance submitted to the LPA upon completion of clearance works.

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

5. All excavations shall be covered overnight or else have an escape ramp to prevent entrapment of badgers, hedgehogs and other wildlife. All pipework greater than 150 mm shall be blanked off at the end of the day and chemicals shall be stored securely. Topsoil mounds shall be checked for badger activity prior to removal or re-use. An ecologist shall be contacted if any evidence of badger activity is found within the application area during development.

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

6. Site clearance shall be undertaken in a manner by which to safeguard hedgehogs and brown hare. All rubble piles, leaf piles, compost heaps, dense vegetation and other general debris that could be used for shelter shall be carefully cleared by hand to a location such as a skip, other container or raised pallets. This shall be undertaken prior to machinery entering site and avoiding the core hibernation period for hedgehogs (November-February). If a hedgehog is discovered during clearance, it shall be moved immediately and carefully with gloved hands to an area of shelter such as beneath adjacent hedgerow/bushes. Brown hare should be directionally guided away from clearance works if discovered. A short statement of compliance shall be submitted to the LPA upon completion of clearance works to discharge this condition.

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

7. A Landscape and Biodiversity Enhancement and Management Plan (LBEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The

aim of the LBEMP is to provide details for the creation, enhancement and management of habitats and species on the site post development, in accordance with the proposals set out in the submitted Biodiversity Metric (Once completed). The LBEMP should combine both the ecology and landscape disciplines and shall be suitable to provide to the management body responsible for the site. It shall include the following:-

- a) Description and location of features to be retained, created, enhanced, and managed, as per the approved biodiversity metric.
- b) Aims and objectives of management, in line with desired habitat conditions detailed in the metric.
- c) Appropriate management methods and practices to achieve aims and objectives.
- d) Prescriptions for management actions.
- e) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
- f) Details of the body or organization responsible for implementation of the plan.
- g) A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 5, 10, 20, 30 years.
- h) Monitoring reports to be sent to the Council at each of the intervals above
- i) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
- j) Detailed habitat enhancements for wildlife, in line with British Standard BS 42021:2022.
- k) Detailed specifications for open water habitats to provide biodiversity benefits.
- l) Requirement for a statement of compliance upon completion of planting and enhancement works.

The LBEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

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

8. No development, including preparatory works, shall commence until space has been provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, and parking and manoeuvring of employees and visitors vehicles, with this space laid out in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. Once implemented, the approved facilities shall be retained free from any impediment to their designated use throughout the construction period.

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

9. Prior to commencement of the development hereby permitted details of a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the construction period. The plan/statement shall include but not be restricted to:

- Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- Advisory routes for construction traffic;
- Any temporary access to the site;
- Locations for loading/unloading and storage of plant, waste and construction materials;
- Method of preventing mud and dust being carried onto the highway;
- Arrangements for turning vehicles;
- Arrangements to receive abnormal loads or unusually large vehicles;
- A condition survey of the length of carriageway along the un-named adopted highway between it's junction with Ash Lane and the driveway entrance to Baldfields Farm is to be undertaken before and after construction so that any damage caused by construction vehicles can be established and repairs charged to the applicant/developer;
- Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

Reason: In the interests of safe operation of the adopted highway in the lead into development during the construction phase of the development.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, as amended, or any order revoking and re-enacting that Order with or without modification, the building shall be used for agricultural purposes in connection with the farming of the agricultural land within the agricultural unit only.

Reason: The use of the building as part of another agricultural enterprise or for other uses could lead to the intensification in the use of a substandard access, contrary to the best interests of highway safety.

11. Within 12 months of the slurry lagoon being brought into use, and unless the local planning authority has previously confirmed that it is not necessary, a written scheme for the containment and storage of manure, including a timetable for implementation, shall be submitted to and approved in writing by the local planning authority. Any such scheme shall be implemented and thereafter maintained in accordance with the approval, unless as may otherwise be agreed in writing with the local planning authority.

Reason: To protect the amenity of the locality and for people living and/or working nearby, in accordance with local plan policy SD1.

### *Informatives*

- a) *The proposed slurry / dirty water store will need to comply with the requirements of the Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010 (aka SSAFO). Guidance on the requirements is available at [Storing silage, slurry and agricultural fuel oil - GOV.UK \(www.gov.uk\)](http://www.gov.uk). The applicant will need to contact the Environment Agency at least 14 days before construction begins. They will need to supply the following information:*
- *a site plan drawing of the structure*
  - *a design drawing confirming the materials that will be used and their design, specification and layout – you may also be asked to confirm that your design meets the requirements of [BS 5502](#)*
  - *if you plan to use prefabricated products, a copy of the manufacturer's specifications and guarantee*
  - *if the structure is constructed from earth, analysis of the soil type, depth and permeability and a*

*description of how it will be engineered*

- *for underground or partially underground silage effluent tanks you'll need a certification from the installer – you must provide this certification to the Environment Agency because the tank is required to perform for at least 20 years without maintenance*

*Please send the required information to Paul Chambers of the Environment Agency, email [paul.chambers@environment-agency.gov.uk](mailto:paul.chambers@environment-agency.gov.uk)*

**Item No.** 1.3

**Ref. No.** [DMPA/2024/0361](#)

**Valid date:** 07/03/2024

**Applicant:** N Hollinshead

**Agent:** David Haston

**Proposal:** Construction of a livestock building with associated covered cattle handling area, construction of covered slurry/dirty water store, formation of surface water attenuation swale, landscaping and habitat creation works at Baldfields Farm, Ash Lane, Etwall, Derby, DE65 6HT

**Ward:** Etwall

### **Reason for committee determination**

This application has been called to committee by Councillor Kirke as local concern has been expressed over a particular issue which members should consider.

### **Executive Summary**

The application is for the construction of a livestock building with associated covered cattle handling area, construction of covered slurry/dirty water store, formation of surface water attenuation swale, landscaping and habitat creation works. There has been objections relating to the over-intensification of the farm, concerns regarding slurry and highway issues from neighbouring residents and the Parish Council. No objections have been received from statutory consultees subject to conditions. Therefore, it is recommended for approval subject to the conditions contained within the report.

### **Site Description**

The application site Baldfields Farm, is located within the Parish of Ash. The farmstead and recently constructed livestock building is located centrally within the farm, approximately 2km to the north of Etwall, and approximately 770 meters north east of Ash Lane. With the proposed livestock building located adjacent to the existing farmstead to the east. The farm extends to approximately 99.7 hectares that has been farmed by the current farmer since September 2022. The proposed site is located within Flood Zone 1 and Agricultural Land Grade 3

### **The proposal**

The proposal involves the construction of a livestock building with associated covered cattle handling area, construction of covered slurry/dirty water store, formation of surface water attenuation swale, landscaping and habitat creation works.

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

#### Planning Application Drawings

Proposed Elevations H0273-BF04-A1-PL-05 (07 March 2024)

Proposed Site Plan H0273-BF04-A3-PL-03 (07 March 2024)

Location Plan H0273-BF04-A3-PL-01 (07 March 2024)

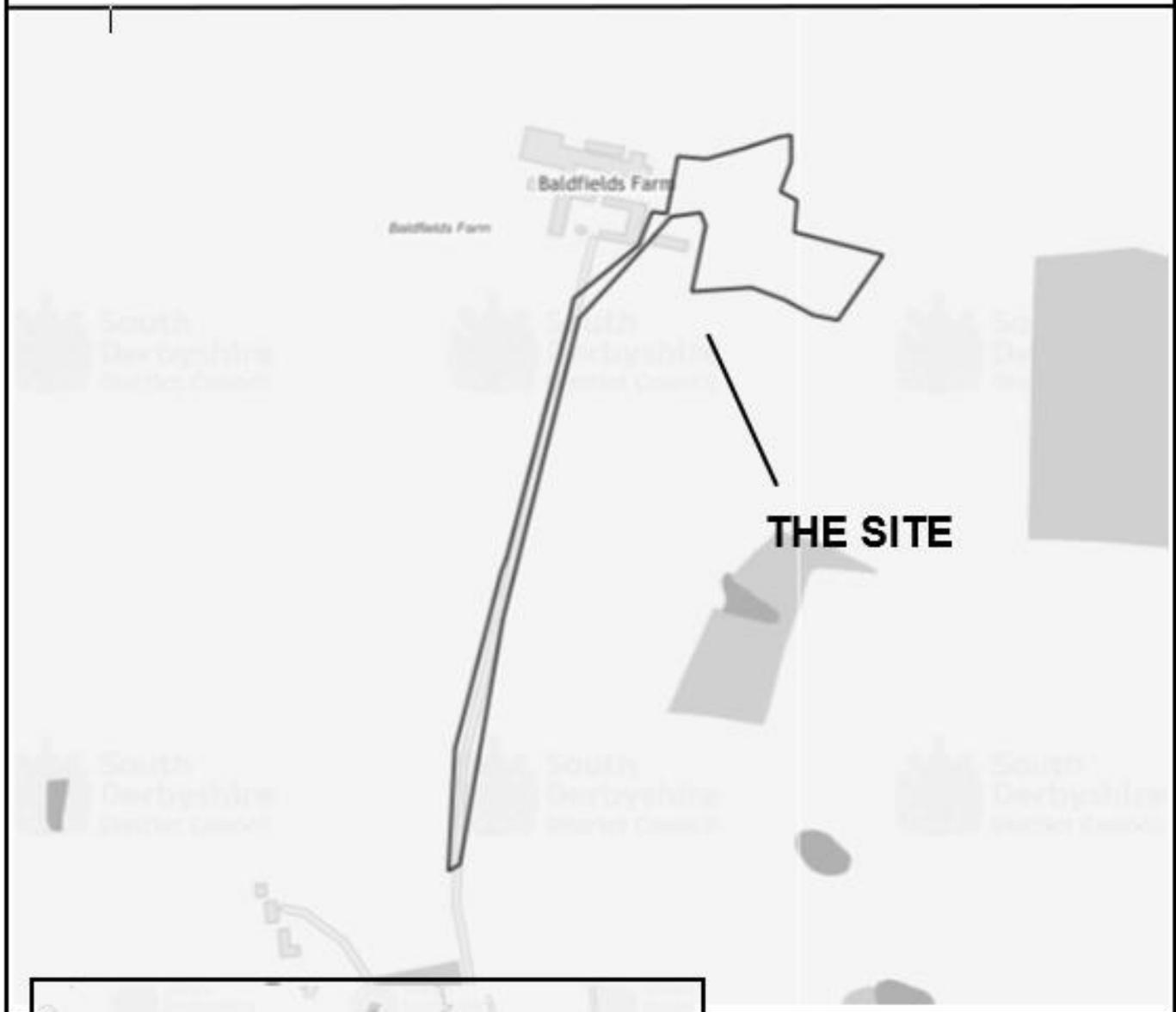
Landscape Plan H0273-BF04-A3-LP-01 (07 March 2024)

Existing Site Plan H0273-BF04-A3-PL-02 (07 March 2024)

Proposed General Arrangement Plan H0273-BF04-A1-PL-04 (07 March 2024)

The Preliminary Surface Water Calculations (aba Consulting 28 January 2024) sets out the details regarding the surface water run off and the opportunities to implement SUDs features throughout the application site.

**DMPA/2024/0361 – Baldfields Farm, Ash Lane, Etwal, DE65 6HT**



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South Derbyshire District Council, LA 100019461.2020

The Preliminary Ecological Appraisal (Brindle & Green February 2024) sets out a Phase 1 Habitat Survey and Protected Species Assessment and looks at the potential ecological constraints covered by the proposed planning application.

Biodiversity Metric 4.0 The Biodiversity Metric detailing the baseline habitat units onsite

The Planning, Design & Access Statement sets out the issues stating why the proposal is considered to be in accordance with the National Planning Policy Framework, in particular the presumption in favour of sustainable development and concluding the proposal would provide a development which would help to support the UK Agricultural Industry and the expansion of Baldfields Farm.

Landscaping Specification - This is to be considered alongside the landscape plan provided and outlines the proposed landscape planting to be undertaken as part of the development including the species, method of planting, protection and aftercare

Ammonia Impact Assessment (Isopleth Ltd. February 2024) - The report has been undertaken to look at the potential ammonia impacts associated with the erection of an additional cattle shed. This looks at the potential ammonia sources and modelling of dispersion has taken place.

Heritage Statement (Avalon Heritage January 2024) - The report has been commissioned to look at the potential impacts on the designated heritage assets within the vicinity of Baldfields Farm. It has identified that there is no designated heritage assets but there is a series of non-designated assets in the form of ridge and furrow within the vicinity of the site. It is concluded that the proposed developments will not result in any substantial or significant impact on the setting of the wider historic landscape.

Application Supplementary Information Note 1 - Construction Traffic Movements (25 April 2024) - A document providing full details regarding the construction traffic movements and instructions for HVG traffic movements for the site for the both the proposed development and also the current silage clamps which are under construction.

Application Supplementary Information Note 2 - Manure Management (03 June 2024) - A document providing full detail in response to the objection submitted by Etwall Parish Council, including how the Cattle will be housed and the store and treatment of slurry / dirty water on the farm.

Application Supplementary Information Note 3 – Highways (04 June 2024) – A document providing a response in relation to objections received relating to Highways issues.

### **Relevant planning history**

DMPN/2023/1426 - Certificate of Lawfulness for proposed installation of silage clamps - Approved 14/02/2024

DMPN/2023/0190 - Prior notification for the erection of a livestock building and associated concrete aprons - Approved 9/03/2023

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

#### Derbyshire County Highway Authority

No objection (May 2024). This is based on the further information regarding the movement of HGVs during the construction period with regard to the applicant's clarification that the construction period is anticipated to be approximately 100 days... a total of 217 HGV deliveries are expected.

First Response (April 2024) - Although there are no highway objections to the planning application in principle further details are required with regards to the movement of HGVs during the construction period. It is noted that the access road from Ash Lane is narrow and does not permit passing of large vehicles. Details are therefore required as to how HGV movements will be managed to ensure that HGVs do not meet on the access road thereby creating issues for neighbouring properties and on Ash

Lane itself. Upon receipt of the requested information further comments will be issued.

### Derbyshire Wildlife Trust

We have reviewed the information submitted, inclusive of the Preliminary Ecological Appraisal and Biodiversity Metric 4.0 (Brindle & Green, February 2024) and Derbyshire Biological Records Centre (DBRC) and have the following comments and recommendations to make.

**Nesting Birds:** No hedgerow removal is currently proposed for the scheme and therefore nesting birds are not thought to be impacted by the development.

**Bats:** The current proposals indicate that the native hedgerow will be retained. Impacts on foraging and commuting bats are therefore considered to be low, however precautionary measures pertaining to a sensitive lighting scheme should be employed to safeguard bats during / post construction

**Great Crested Newt (GCN):** The PEA indicates that a single pond was identified within 250m of the application site. P1 a woodland pond lies approximately 230m south of the application site and was given a HSI score of 'Average', connecting to the application site via hedgerows and modified grassland. The proposals will seek the partial clearance of sub-optimal terrestrial habitat in the form of modified grassland. There is therefore a low risk that the development could adversely affect great crested newt and precautionary measures are advisable.

**Reptiles:** Due to the connectivity to the wider environment, reptiles may utilise the site for commuting purposes episodically. The proposals will seek the partial clearance of sub-optimal terrestrial habitat in the form of modified grassland. There is therefore a low risk that the development could adversely affect great crested newt and precautionary measures are advisable.

**Badger :** The site offered suitable commuting and foraging habitat for badger including modified grassland and a single native hedgerow. Records of badger are also present locally. The proposals will seek the partial clearance of modified grassland. Precautionary measures are therefore advisable to safeguard this species during construction.

**Brown Hare & Hedgehog :** The site offered suitable commuting and foraging habitat for brown hare and hedgehog; records are also present locally. The proposals will seek the partial clearance of modified grassland. Precautionary measures are therefore advisable to safeguard this species during construction

The Biodiversity Metric 4.0 indicates that the scheme can achieve a total net unit change of +10.78% (0.16 units) habitat gain and a no net loss of hedgerow units by enhancing off-site modified grassland with land ownership. The development therefore does provide biodiversity gains as stipulated by the NPPF. The habitat creation and enhancements are deemed proportionate and achievable for the scheme. The proposals will seek the retention of small areas of modified grassland and the implementation of a sustainable urban drainage feature to achieve 'Good' condition via the seeding of meadow mixture for wetlands (Emorsgate EM8) and managed as a traditional meadow.

Off-site implementations include and enhanced area modified grassland from 'Poor' condition to 'Good' condition via re-seeding with a general-purpose meadow mixture and managed as a traditional meadow.

No hedgerow baseline information is currently included within the metric. The current plans indicate that sections of off-site hedgerow (within land ownership) will be enhanced via gap-filling. It is therefore recommended that the on-site hedgerow baseline and off-site enhancements are included within the submitted BNG metric to establish the total hedgerow unit change.

### Environmental Health

No comments or objections.

### Etwall Parish Council

As there is no Parish Council in the area of the proposed development (Ash CP) Etwall Parish Council considered the above application at their meeting on the 13th May 2014 at the request of a nearby resident. As noted in the Derbyshire County Council Highways response, the farm is located on narrow lanes and construction HGV traffic needs management.

We understand that significant building work of a similar nature has already taken place under permitted development with construction traffic having a severe detrimental effect on the lanes.

This is significantly impeding access to local residents homes due to potholes, damaged verges etc. In our opinion, this damage should be made good by the developer.

We cannot find any comment on how the slurry etc after collection in the slurry tank will be disposed of. There appears to be no treatment facility and the land owned by the farm appears to be too small for the volumes anticipated. We are concerned that polluted run-off from the land due to slurry spreading will go into the nearby streams causing pollution.

In view of the above, Etwall Parish Council OBJECT to the proposed development. As noted in the Derbyshire County Council Highways response, the farm is located on narrow lanes and construction HGV traffic needs management.

#### Lead Local Flood Authority

Due to current workload the LLFA are only able to respond to major planning applications.

#### Peak and Northern Footpath Society

No objection. The applicants have very carefully considered the impact on users of the extensive public rights of way network around the application site. The proposed mitigation measures would generally be effective. The advantages of permitting the proposed development would outweigh the potential harmful impact on rights of way users.

Four representations have been received from members of the public, these can be summarised as follows:-

- This is phase two of a plan to turn Baldfields Farm from a small farm of under 100 cattle to a industrial complex with over 350 cattle
- The previous two permissions residents have been unable to express concerns over as they were not notified, therefore they only realised what was happening the HGVs started delivering to the farm with building material
- Within Ash there are no turning or passing places for when the vehicles meet
- The road surface has already become very damaged and degraded
- Signage was only installed after previous road damage
- The entrance to the farm was originally via a cattle grid and adjacent access gate. Now the cattle grid has been filled in and a padlocked gate installed.
- There is a potential solution to all of the issues regarding the highway as an alternative access to Baldfields Farm directly from Ash Lane could be constructed north-west of Ash.
- It is stated that farm workers will reside at the farm. At present the farmhouse is in poor state and there is no alternative accommodation.
- A visit by the Planning Committee is welcomed

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

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications shall be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise.

The relevant policies are:

- 2016 Local Plan Part 1 (LP1) : S1 (Sustainable Growth Strategy) ; S2 (Presumption of Sustainable Development) ; S6 (Sustainable Access) ; H1 (Settlement Hierarchy) ; BNE1 (Design Excellence) and INF2 (Sustainable Transport)
- 2017 Local Plan Part 2 (LP2) : SDT1 (Settlement Boundaries and Development) ; BNE5 (Development in Rural Areas) ; BNE6 (Agricultural Development) and BNE7 (Trees , Woodland and Hedgerows).

National Guidance:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

Local Guidance:

- South Derbyshire Design Guide SPD (Design SPD)

### **Planning considerations**

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

- Principle of Development;
- Design;
- The effect of the proposal on the environment; and
- Highways

### **Planning assessment**

#### Principle of Development

The Planning and Compulsory Purchase Act (2004) sets out in Section 38 (6) that planning applications that accord with an up-to-date development plan should be determined without delay unless material considerations indicate otherwise. The development plan for this area comprises the South Derbyshire Local Plan Part 1 (2016) and the South Derbyshire Local Plan Part 2 (2017). The National Planning Policy Framework is a material consideration in planning decisions as is the requirement that planning decisions must reflect relevant international and statutory requirements.

In accordance with Policy SDT1 the site is located outside of a settlement boundary therefore development is limited to that considered acceptable inter alia by Policy BNE5. This policy allows for development within rural areas to be granted if it is considered essential to a rural based activity and will not unduly impact upon landscape character, quality , biodiversity , BMV land and heritage assets.

Policy BNE6 states that Agricultural Development will be allowed provided that

- i) it is suitable for its intended purpose; and
- ii) it is of an appropriate scale and design; and

- iii) it is sited in proximity to existing agricultural buildings, wherever practicable; and
- iv) appropriate landscape mitigation is included wherever necessary

The development is considered essential for the further development of the farm which involves the rearing and finishing of beef cattle, as the proposed livestock building will accommodate up to an additional 140 cattle at any point. In recent years the application site has had a new livestock building constructed which was approved under Schedule 2, Part 6 Class A of the General Permitted Development Order (DMPN/2023/0190) , this then means that the farm can house up to 270 cattle at the farm.

### Design

The proposed livestock building is of a traditional agricultural form which is to be constructed of concrete panels to the lower walls on the eastern and western elevations with timber cladding to the upper walls. The roof is proposed to be made of grey cement roof sheets with a ventilated light ridge . The proposed slurry store is to be made from walls of concrete panels and then to have a green coloured reinforced PVC tensioned cover roof. The design of the slurry store has been done in accordance with the guidance provided by the Department for Environment , Food & Rural Affairs and The Environment Agency. This is a strict guidance that has to be followed by all farmers. The proposed buildings are considered to be appropriate within the existing farm location and will reflect the existing character of the surrounding agricultural context. Although the application proposals will result in new built form within the rural countryside, the scale and nature of the proposals are considered to be appropriate and will not have a negative impact on the surrounding landscape character.

### The effect of the proposal on the environment

The applicant has provided a Preliminary Ecological Appraisal and a Biodiversity Metric as part of the submission of the application. This detailed information has been reviewed by Derbyshire Wildlife Trust. Conditions have been suggested should the application be approved to ensure as a precautionary measure there is enhanced protection of the following species:

- Foraging and Commuting Bats ,
- Great Crested Newt (GCN) ,
- Reptiles ,
- Badger, and
- Brown Hare & Hedgehog

Through the Biodiversity Impact Assessment and Metric submitted it is noted that the proposals will involve the partial clearance of modified grassland and bare ground to allow for the construction of the livestock building, cattle handling area , water store , swale and landscaping. It has been verified that there will be a net gain of 10.78% and no net loss of hedgerow units, this is to be done by enhancing off-site modified grassland within the applicants land ownership. This grassland is currently assessed as 'Poor' and it is proposed to be made to 'Good' condition via re-seeding and traditional meadow management.

The cattle at the farm is accommodated on a straw-based bedding system therefore the vast majority of manure produced is 'solid' farmyard manure. The cattle that is proposed to be accommodated within the proposed livestock building would also live on the straw based bedding system. This means that there is minimal slurry produced at the farm itself through the livestock living on the farm. The store for slurry / dirty water is still required for the minimal amount of slurry that might be produced, and also for the storage of rainwater that is produced through various methods including:

- run-off from 'dirty' yards

- run-off from farmyard manure temporarily stored on the concrete surfaced areas to the north of the livestock buildings

Despite the contents of the store being very diluted and having a low organic matter content, the dirty water still would fall into the definition of 'slurry' as defined under the **Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations (SSAFO Regulations)**. Therefore in accordance with **The Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018 (known as 'The Farming Rules for Water')** the 'slurry' still needs to be collected, stored and applied to the land at the appropriate time of the year. These rulings are enforced by the Environment Agency who provide inspections to farmyards to ensure that the installations of slurry, silage and fuel storage is in accordance with the regulations. The National Farmers Union (NFU) provides guidance on this and assistance to all farmers to ensure that they are compliant with the regulation. Baldfields Farm is not located within a NVZ (Nitrate Vulnerable Zone), therefore under the regulations state that there must be at least four months slurry storage over a winter period at a farm in this location. There is legal obligations placed upon the farmer to comply with the eight rules - of which five specifically relate to the storage and application of organic manure. This includes that the manure must not be stored or applied within a certain distance to inland freshwater, applied if the soil is water logged or frozen , or if there is a significant risk of causing environmental pollution from soil erosion or run-off. In order to demonstrate compliance with these Regulations to DEFRA, Manure Management and Nutrient Management Plans will in due course need to be prepared. This work is already under way and will be finalised before the new livestock building and slurry/dirty water store are brought into operation.

#### Highway

The proposed development is accessed from Ash Lane which is a narrow quiet country road. Due to the recent development of the farm all taking place within a short space of time there has been concerns raised by neighbours and the Etwall Parish Council regarding the condition of the lane and the amount of HGVs that have been in used Ash Lane as the construction route. Following consultation with the County Highway Authority they requested for further information regarding the movement of HGVs during the construction period as Ash Lane due to being narrow does not permit the passing of large vehicles. Further information was supplied by the agent on the details of the construction traffic movements stating ***The construction period is anticipated to be approximately 100 days... a total of 217 HGV deliveries are expected.*** This detail was then provided to the highway authority on when the peak movements would be expected and how the staff are expected to arrive. Following this information there is no objection to the application from the Highway Authority. It is noted that this is the same access route that is currently in use for the construction of the approved silage clamps.

The objections from neighbours are noted including the request for conditions to be imposed on the development should it be granted permission, these include for no construction until a bypass is created as an alternative access to Baldfields Farm, the imposition of a weight restriction on Ash Lane, and a restriction on the number of cattle to be accommodated on the farm. These are all conditions that would not be considered acceptable as it is not considered that they meet the statutory tests set out in Paragraph 55 of the National Planning Policy Framework for which a condition has to satisfy the following tests:

1. necessary;
2. relevant to planning;
3. relevant to the development to be permitted;
4. enforceable;
5. precise; and
6. reasonable in all other respects.

Given the lack of objection from the Highway Authority, it is not considered that the conditions suggested would be necessary to make the development acceptable.

Should permission be granted a condition would be in place for the approval of a construction management plan which will include details of routes for construction traffic, hours of operation and a proposed temporary traffic management plan this includes the requirement for signage for the delivery

lorries . Further objections regarding the condition of the highway surface are noted, it has been witnessed that there are minor elements of damage to the road surface. However the maintenance of the road something that is a highway matter and not a planning matter. It is considered that the proposal would comply with policy INF2 of the Local Plan.

### Conclusion and Planning Balance

The proposal is considered to be in accordance with Policy BNE5 and BNE6 of the Adopted Local Plan whereby agricultural development is supported. These policies allow for the agricultural based development if it is demonstrated that it is of an appropriate scale and design, sited in proximity to existing agricultural buildings and appropriate landscaping mitigation is included. Additionally, NPPF paragraph 88 encourages planning decisions to enable the development of agricultural business. Concerns have been raised regarding the HGV construction traffic from the recently constructed developments that were approved under a Certificate of Lawfulness and a Prior Notification that was submitted to the Council, and also the potential that this will lead to over intensification of the farm. There are no objections from Derbyshire Highway Authority, therefore it is considered suitable to approve the proposal subject to conditions. Ecological issues are considered to be adequately addressed with the recommended conditions.

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

### **Recommendation**

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

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

2. The development hereby permitted shall be carried out in accordance with plans/drawings ref.  
Proposed Elevations H0273-BF04-A1-PL-05 (07 March 2024)  
Proposed Site Plan H0273-BF04-A3-PL-03 (07 March 2024)  
Location Plan H0273-BF04-A3-PL-01 (07 March 2024)  
Landscape Plan H0273-BF04-A3-LP-01 (07 March 2024)  
Existing Site Plan H0273-BF04-A3-PL-02 (07 March 2024)  
Proposed General Arrangement Plan H0273-BF04-A1-PL-04 (07 March 2024)  
unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. Prior to the installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Guidelines can be found in Guidance Note 08/23 - Bats and Artificial Lighting at Night (BCT and ILP, 2023). Such approved measures will be implemented in full.

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

4. Due to the low risk of herptiles (including Great Crested Newts) being present, a Method Statement for site clearance shall be produced and submitted to the LPA for approval. This shall include reasonable avoidance measures such as seasonal timings, strategic clearance of vegetation and any potential refugia, and a watching brief. It shall also include instructions in the unlikely event that great crested newts are encountered. The approved Method Statement shall

be implemented in full, and a short statement of compliance submitted to the LPA upon completion of clearance works.

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

5. All excavations shall be covered overnight or else have an escape ramp to prevent entrapment of badgers, hedgehogs and other wildlife. All pipework greater than 150 mm shall be blanked off at the end of the day and chemicals shall be stored securely. Topsoil mounds shall be checked for badger activity prior to removal or re-use. An ecologist shall be contacted if any evidence of badger activity is found within the application area during development.

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

6. Site clearance shall be undertaken in a manner by which to safeguard hedgehogs and brown hare. All rubble piles, leaf piles, compost heaps, dense vegetation and other general debris that could be used for shelter shall be carefully cleared by hand to a location such as a skip, other container or raised pallets. This shall be undertaken prior to machinery entering site and avoiding the core hibernation period for hedgehogs (November-February). If a hedgehog is discovered during clearance, it shall be moved immediately and carefully with gloved hands to an area of shelter such as beneath adjacent hedgerow/bushes. Brown hare should be directionally guided away from clearance works if discovered. A short statement of compliance shall be submitted to the LPA upon completion of clearance works to discharge this condition.

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

7. A Landscape and Biodiversity Enhancement and Management Plan (LBEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the LBEMP is to provide details for the creation, enhancement and management of habitats and species on the site post development, in accordance with the proposals set out in the submitted Biodiversity Metric (Once completed). The LBEMP should combine both the ecology and landscape disciplines and shall be suitable to provide to the management body responsible for the site. It shall include the following:-
  - a) Description and location of features to be retained, created, enhanced, and managed, as per the approved biodiversity metric.
  - b) Aims and objectives of management, in line with desired habitat conditions detailed in the metric.
  - c) Appropriate management methods and practices to achieve aims and objectives.
  - d) Prescriptions for management actions.
  - e) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
  - f) Details of the body or organization responsible for implementation of the plan.
  - g) A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 5, 10, 20, 30 years.
  - h) Monitoring reports to be sent to the Council at each of the intervals above
  - i) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
  - j) Detailed habitat enhancements for wildlife, in line with British Standard BS 42021:2022.
  - k) Detailed specifications for open water habitats to provide biodiversity benefits.
  - l) Requirement for a statement of compliance upon completion of planting and enhancement works.

The LBEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

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

8. No development, including preparatory works, shall commence until space has been provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, and parking and manoeuvring of employees and visitors vehicles, with this space laid out in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. Once implemented, the approved facilities shall be retained free from any impediment to their designated use throughout the construction period.

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

9. No development shall take place 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 of plant and materials, site accommodation, loading, unloading of goods' vehicles, parking of site operatives' and visitors' vehicles, routes for construction traffic, hours of operation, method of prevention of debris being carried onto highway and any proposed temporary traffic management.

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

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, as amended, or any order revoking and re-enacting that Order with or without modification, the building shall be used for agricultural purposes in connection with the farming of the agricultural land within the agricultural unit only.

Reason: The use of the building as part of another agricultural enterprise or for other uses could lead to the intensification in the use of a substandard access, contrary to the best interests of highway safety.

11. Within 12 months of the slurry lagoon being brought into use, and unless the local planning authority has previously confirmed that it is not necessary, a written scheme for the containment and storage of manure, including a timetable for implementation, shall be submitted to and approved in writing by the local planning authority. Any such scheme shall be implemented and thereafter maintained in accordance with the approval, unless as may otherwise be agreed in writing with the local planning authority.

Reason: To protect the amenity of the locality and for people living and/or working nearby, in accordance with local plan policy SD1.

**Item No.** 1.2

**Ref. No.** [DMPA/2024/0509](#)

**Valid date:** 15/04/2024

**Applicant:** Jenny Burley

**Agent:** Stephen Greaves

**Proposal:** Removal of existing detached garage/store room and the erection of an extension to community centre to provide additional storage at Goseley Community Centre, Hartshill Road, Hartshorne, Swadlincote, DE11 7HH

**Ward:** Woodville

### Reason for committee determination

This item is presented to the Committee as South Derbyshire District Council owns the land to which the planning application relates.

### Site Description

The application site is located in a residential area on the south-western side of Hartshill Road, Hartshorne. It incorporates the existing single-storey community centre building and car park to the south. There is a detached garage/storeroom located to the north of the building and small patio area bordered by a c. 1m picket fence that is understood to provide a space for outdoor recreation. The remainder of the northern side of the building is enclosed by c. 1.8m timber fence, which incorporates some ornamental vegetation and separates the area from a footpath that runs through the site on the southern and western side of the building and connects Hartshill Road to Brookdale Road. The topography in the area slopes sharply down to the west, although the community centre building and area proposed for extension are broadly level. It is noted that the existing plan shows a timber shed adjacent to the garage/storeroom, however this was not present during the Officer's site visit, although the paved base for the shed remains.

### The proposal

The proposal is to remove the existing garage/store room and to provide an extension in its place on the northern side of the building. The extension would project c. 5.5m from the rear of the building with a width of c. 6.2m. It would have a gable roof design that would have a height of approximately 4.3m to the top of the ridgeline and 2.6m to the eaves. heights to ridge approximately 4.3m and eaves 2.6m. The store would have a single window and door on the western elevation. Hard landscaping would be provided in between the extension and the existing outdoor recreation space (at ground level).

### Applicant's supporting information

- Location and Block Plans (ref. 224-06.04)
- Existing Elevations and Floor Plan (Survey of Existing) (ref. 224-06.01)
- Proposed Elevations (ref. 224-06.03)
- Proposed Floor Plan (ref. 224-06.02)

### Relevant planning history

None.

### Responses to consultations and publicity

#### County Highway Authority

Having reviewed the submitted information it is considered that the proposal would appear to have no material impact on the public highway and therefore the Local Highway Authority has no objections to the application. (07/05/2024)

**DMPA/2024/0509 – Goseley Community Centre, Hartshill Road, Hartshorne, Swadlincote. DE11 7HH**



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South Derbyshire District Council. LA 100019461.2020

### Environmental Health

No objections subject to conditions to control the construction working hours and to prevent the burning of materials during the works. (14/05/2024)

### Public Responses

None received.

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

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- Local Plan Parts 1 and 2: INF6, BNE1, SD1

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

- National Planning Policy Framework (NPPF);
- Planning Practice Guidance (PPG).

### **Planning considerations**

The determining issues are as follows:

1. Principle of the development;
2. Design and Amenity Considerations;
3. Other Matters.

### **Planning assessment**

#### Executive summary

Planning permission is sought for the removal of an existing detached garage/storeroom and the erection of a single storey extension to the northern (rear) elevation of the community centre building. The extension would provide additional storage floorspace. The principle of the extension would be in accordance with the aims of Policy INF6 which seeks to protect community facilities. The extension would replace an existing flat roof concrete garage/storeroom building and would represent an improvement to this. The design would be in keeping with the architectural style of the existing building with gable roof form and matching materials. Neighbouring residential amenity would not be materially affected by the proposal, as the extension would not be within the sector of view of the closest dwelling, and no others are within the recommended distances of the Design Guide SPD. The scheme would result in the removal of ornamental planting (including 2no. unprotected trees), however it is considered that there is sufficient amenity value provided by the hedgerow alongside Hartshill Road and other mature trees within the application site, such that their loss would not be detrimental to the streetscene. Conditions are recommended to be attached to any forthcoming permission to secure details of hard and soft landscaping. No matters were identified that would outweigh the acceptability of the development in principle. The application is recommended for approval.

#### Principle of the Development

Policy INF6 of the Local Plan states that community facilities will be protected, unless it is clear that there is no longer a need to retain the use or where a suitable alternative is made. Community facilities should be accessible to all members of the community and located where there is a choice of travel options. The proposal would result in an increase in floorspace of the building which would support the continued use of an established community facility, which would be in accordance with the aims of policy INF6 and acceptable in principle.

#### Design and Amenity Considerations

Policy BNE1 sets out principles for design excellence, which is supported by the detail within the South Derbyshire Design Guide SPD.

The extension would result in a change in footprint of the building from L-shaped to T-shaped. The front elevation would remain unchanged, as the works would be to the rear, and the extension would be

visible primarily from Hartshill Road as the building is sideways on to this road. The extension would adopt a gable roof form which would be in keeping with the design of the existing building, and the ridgeline would be set down marginally such that it would be subservient, whilst the eaves would be consistent with the existing eaves height to provide continuity. The extension would replace the existing modular flat roof concrete storage building with metal doors fronting Hartshill Road and is considered to represent an improvement. There are 2no. trees and some ornamental planting that it is assumed would need to be cleared to facilitate the proposal. The trees are not protected by Tree Preservation Order and there is sufficient amenity value provided by the hedgerow alongside Hartshill Road and other mature trees within the application site such that their loss would not be detrimental. However, it is recommended that a landscaping scheme with replacement planting be conditioned as part of any forthcoming approval, which could also secure details of the proposed hard landscaping. The plans show that the materials would match the existing building and it recommended that this also be attached by planning condition. The proposal would be appropriate within the context and acceptable under Policy BNE1 of the Local Plan.

Policy BNE1 seeks to protect the privacy and amenity of existing neighbouring occupiers. Policy SD1 states that the Council will support development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments. The Design Guide SPD provides recommendations for separation distances to avoid overbearing impact or loss of light on neighbouring properties. In this case, the nearest property no. 28 Hartshill Road is orientated such that the sector of view from primary windows on the front or rear elevations would not be breached. There are no other properties within proximity that could be significantly adversely affected.

The Council's Environmental Health Officer has requested conditions to restrict construction working hours and prevent burning, which would be reasonable to attach to any forthcoming permission in the context of Policies BNE1 and SD1.

#### Other Matters

A footpath runs through the site. This route does not have a formal footpath number that would ordinarily be associated with a Public Right of Way. As the works would be to the north of the building the route would be unaffected by the proposal, however it is recommended that an informative be added to any forthcoming permission to highlight that the route should remain unobstructed during the works.

#### Conclusion and Planning Balance

The proposal for removal of the existing garage/store and replacement with the extension would be in accordance with the aims of policy INF6 (protecting community facilities) and acceptable in principle. Having reviewed the material considerations related to design and the potential impact on the amenities of the area, the scheme is considered appropriate within its context and would not unduly impact neighbouring residences with conditions in place to limit the construction hours and to prevent burning of materials. Whilst the scheme would result in the removal of 2no. trees and ornamental planting, there is sufficient amenity value provided by the hedgerow alongside Hartshill Road and other mature trees within the application site such that their loss would not be detrimental to the streetscene. However, it is recommended that conditions be attached to any forthcoming permission to secure details of hard and soft landscaping. No matters were identified that would outweigh the acceptability of the development in principle and accordingly the application is recommended for approval.

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

#### **Recommendation**

Approve subject to conditions.

1. The works hereby approved 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. The development hereby permitted shall be carried out in accordance with the following plans/drawings and details: Location and Block Plans (ref. 224-06.04), Existing Elevations and Floor Plan (Survey of Existing) (ref. 224-06.01), Proposed Elevations (ref. 224-06.03), Proposed Floor Plan (ref. 224-06.02), unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason: For the avoidance of and in accordance with Policies BNE1 and SD1 of the Local Plan.

3. Notwithstanding any description/details of external materials in the application documents, the facing materials shall match in colour and texture those of the existing building unless agreed in writing with the Local Planning Authority.

Reason: For the avoidance of doubt and in the visual interest of the building in accordance with Policy BNE1 of the Local Plan.

4. Prior to incorporation within the development, a detailed scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include replacement planting for trees to be removed and should evidence the proposed locations of each tree species, the size of each type of tree (standard, select standard, or heavy standard with girth dimensions), the mix of any proposed grass areas, and the proposed locations and sizes of any ornamental shrubs (in litre pots). The works shall be undertaken in accordance with the agreed details prior to occupation of the development. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the date of this decision; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

Reason: In the visual interest of the building in accordance with Policy BNE1 of the Local Plan.

Informatives:

- a. A footpath crosses the application site to the south of the community centre building. This should remain open and unobstructed during the works. Consideration should be given to the safety of members of the public using the paths during the works.

## 2. Planning and Other Appeals

(References beginning with a DMPA, DMPN, DMOT or 9 are planning appeals and references beginning with an ENF or E are enforcement appeals)

<b>Reference</b>	<b>Place</b>	<b>Ward</b>	<b>Outcome</b>	<b>Decision level</b>
<a href="#">DMPA/2022/1532</a>	Castle Gresley	Linton	Dismissed	Delegated
<a href="#">DMPA/2023/0299</a>	Melbourne	Melbourne	Dismissed	Committee
<a href="#">DMPA/2023/0673</a>	Melbourne	Melbourne	Allowed / No costs awarded.	Committee



## Appeal Decision

Site visit made on 18 June 2024

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25<sup>th</sup> June 2024

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**Appeal Ref: APP/F1040/W/24/3338363**

**Land to the South of 45 Oak Close, Castle Gresley, Derbyshire DE11 9RU**

- 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 Smith against the decision of South Derbyshire District Council.
  - The application Ref DMPA/2022/1532, dated 28 November 2022, was refused by notice dated 2 October 2023.
  - The development proposed is change of use from open space to private domestic garden annexed to 45 Oak Close.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area.

### Reasons

3. The appeal site is located in a residential area located alongside 45 Oak Close. I am led to believe that it formed part of the original public open space upon construction of the residential properties. The land appears to connect with, and is part of a larger area that includes a pond, although I have not been provided with the details of its use, such as attenuation etc.
4. The appeal site appears to be laid to grass, with vegetation on site and is subject to some form of maintenance. The appellant states that no one uses the site, and the topography of the site restricts usage. Also, I have been made aware that footpath within the area is not included in the submission and a public sewer is located on site which would prevent any construction.
5. As the area of land will be subsumed into the garden area of 45 Oak Close, it would be fenced off. The change of use and boundary treatment would enclose and are that positively contributes the openness of the locality and would cause harm to the character and appearance of the locality.
6. Policy INF9 of the South Derbyshire Local Plan Part 1 (2016) (the LP) refers to open space provision and clearly states that the loss of open space would only be permitted where the required level of provision is exceeded, and the loss would be compensated in other forms. The appellant has not demonstrated that the open space is not required other than anecdotal evidence that it is not used, nor has the appellant identified compensation of any form.

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7. On that basis I find that the appeal proposal is contrary to policy INF9 of the LP for the reasons shown above.

**Conclusion**

8. For the reasons given above I conclude that the appeal should be dismissed.

*Paul Cooper*

INSPECTOR



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## Appeal Decision

Site visit made on 4 June 2024

by **Beverley Wilders BA (Hons) PgDip MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 June 2024

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**Appeal Ref: APP/F1040/W/23/3328785**

**125 Penn Lane, Melbourne, Derbyshire DE73 8EP**

- 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 C Collins against the decision of South Derbyshire District Council.
  - The application Ref DMPA/2023/0299, dated 5 March 2023, was refused by notice dated 17 August 2023.
  - The development proposed is create new highway entrance and driveway, including excavation of external land for landscaping. Install an electric car charging point and turning area, removal of T1, T2, T3 and T4 trees. Restoration and conversion of semi derelict barns to useable, habitable rooms, restoration of roof and rainwater goods.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. As stated in the heading above, the proposal includes the felling of four trees on the appeal site (T1 – T4). However, following the Council’s decision and during the course of the appeal, two of the four trees have been felled due to health and safety concerns (T3 and T4). Notwithstanding the description of development used in the heading above, I have therefore considered the appeal on the basis that the two remaining trees are to be removed (T1 and T2).
3. A revised National Planning Policy Framework (the Framework) was published in December 2023. However, given the scale and nature of the proposal and the scope of the changes to the Framework, I do not consider them to be material to my decision. In any event, the parties have had the opportunity to comment on the revised Framework either within statements or final comments.

### Main Issue

4. The main issue is the effect of the loss of the trees on the character and appearance of the area including whether the proposal would preserve or enhance the character or appearance of the Melbourne Conservation Area (CA).

### Reasons

5. The appeal site comprises an existing dwelling, attached outbuildings and surrounding garden area located in a prominent corner position within the CA. The appeal site is historically associated with Chantry House, a grade II listed

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building located to the west of the site. The dwelling and outbuildings are curtilage listed buildings within the setting of Chantry House. Insofar as is relevant to the appeal, the significance and special interest of Chantry House derives from its age and architectural composition.

6. The site is located centrally within the CA which is described within the Council's character appraisal<sup>1</sup> as one of the best preserved historic settlements in Derbyshire. The appraisal states that its distinctive characteristics include a series of distinct enclosed spaces framed by buildings and tight knit, dense development, which contrasts with looser, spacious character and substantial gardens. With regard to Chantry House, reference is made to its enclosed garden being an important open space that contributes to the quality of views and the setting of important historic buildings.
7. The two remaining trees which are to be felled are an Austrian Pine (identified as T1 in the submitted arboricultural assessment<sup>2</sup>) and a Horse Chestnut (identified as T2). The Austrian Pine has been assessed as being category A(i), that is a tree of high quality with an estimated life expectancy of at least 40 years with potential to make a lasting contribution whilst the Horse Chestnut has been assessed as category B(i), a tree of moderate quality with a life expectancy of at least 20 years. The two trees (T3 & T4) which have already been felled, were assessed as category C(i) trees, trees of low quality with a remaining life expectancy of at least 10 years. The remaining trees form part of a Tree Preservation Order (TPO) covering Chantry House and are also protected by virtue of being within the CA.
8. The appellant's own assessment of the retained trees identifies them as being of high and moderate quality with a life expectancy between 20 and 40 years. Whilst they do form part of a much larger group of trees at Chantry House, they are slightly separated from them. They are highly visible from various vantage points within the CA due to their scale and position and make a significant positive contribution to the character or appearance of the CA. In the absence of any clear justification for their removal, their loss would not be adequately mitigated for by the proposed planting of replacement trees.
9. At my site visit I saw that ground levels have been raised within the garden area of the property, around the trees. However, the arboricultural assessment and tree officers at the Council and the County Council consider that the trees appear to have adapted to these raised ground levels and do not appear to be being unduly affected by them. Furthermore, the recent removal of some of the trees on and nearby the site should allow more light onto the site and encourage more vegetation growth in the garden area.
10. Whilst reference has been made by the appellant to the likelihood of the root system of the retained trees being adversely affected by the removal of nearby trees, there is no substantive evidence before me to support this view. Neither is there any compelling evidence to suggest that either of the retained trees have suffered any damage or disease that is likely to imminently and significantly affect their future survival and affect the health and safety of the occupiers of the property and nearby properties. I note that the Council's tree consultant suggests that a climbing inspection ought to be carried out on T1 to further investigate the likely effect of any damage to it.

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<sup>1</sup> Melbourne Conservation Area Character Statement 2011

<sup>2</sup> FPCR Arboricultural Assessment July 2022

11. I acknowledge that there is some disagreement between the respective tree consultants on the contribution made by the retained trees. However, having regard to all of the above, I conclude that the loss of the retained trees would be significantly harmful to the character and appearance of the area, including the character or appearance of the CA. The harm to the CA would be less than substantial. I have attached considerable importance and weight to the desirability of avoiding any such harmful effect on the CA in accordance with Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). Paragraph 208 of the Framework states that where a proposal would lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal.
12. The removal of the trees is required to enable the provision of a vehicular access and parking area at the property. It is said that this is required to facilitate the restoration and conversion of the curtilage listed former outbuilding adjacent to the house. The building has recently been placed on the Council's 'at risk' register and at my site visit I saw that it is in need of repair.
13. Whilst the re-use and repair of the building would be welcomed, I am not convinced, based on the evidence before me, that this would require a new permanent access and parking area to be provided at the site with the consequential loss of trees that would ensue. I note that there is a cart door entrance onto Church Steet and although this is narrow and offers limited visibility with a narrow door opening to pass through within the rear courtyard area wall, the evidence before me does not indicate that the possibility of using this option for machinery and materials has been fully explored. In the absence of this, as the formation of the access and parking and associated loss of trees is not directly linked to the restoration and conversion of the listed outbuilding, I attach limited weight to this public benefit.
14. The provision of parking within the site would relieve pressure on existing on-street parking nearby and would enable the appellant to install an electric vehicle charging point. I attach moderate weight to these benefits.
15. The limited to moderate public benefits associated with the proposed loss of trees would not outweigh the harm to the area and CA identified. Taking the above matters into consideration, I conclude that the proposal would fail to preserve the character or appearance of the CA and would not meet the requirements of section 72(1) of the Act. For the same reasons it would not accord with policies BNE1 and BNE2 of the South Derbyshire Local Plan Part 1 adopted June 2016 and policies BNE7 and BNE10 of the South Derbyshire Local Plan Part 2 adopted November 2017. These policies, amongst other things, require development to be well designed, to conserve and enhance heritage assets including Conservation Areas and to have regard to the effect on trees.

#### **Other Matters**

16. In reaching my decision I note that in refusing the application, the Council raised no concerns regarding the works to the outbuilding or to the physical works to form the vehicular access. However, I note that some concerns are raised regarding the effect of the formation of the access and loss of walling in the Council's appeal statement. I also note that no accompanying application for listed building consent has been submitted for the works and that the application was not accompanied by a heritage statement setting out in detail the effect of the proposed works on the significance of the listed buildings.

17. Given that I am dismissing the appeal based on my findings in relation to the loss of trees and under the circumstances set out above, I have not considered the effect of the physical works to the wall on the area including the CA or the effect of the wider proposal on the setting of nearby listed buildings. This is because it would not alter my decision as I have already found harm resulting from the proposal, including to heritage assets.
18. My attention has been drawn by the appellant to the formation of a similar vehicular access to Chantry House, adjacent to the appeal site and to the conversion and re-use of other outbuildings in the area. I do not have any specific details regarding these other developments and whilst I observed the access at Chantry House at my site visit, I do not have any details regarding its formation. In any event, I have assessed the proposal on its own merits and have found it to be harmful for the reasons stated.

**Conclusion**

19. For the above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed.

*Beverley Wilders*

INSPECTOR



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## Appeal Decision

Site visit made on 18 April 2024

by **I Radcliffe BSc(Hons) MRTPI MCIEH DMS**

an Inspector appointed by the Secretary of State

Decision date: 25 June 2024

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**Appeal Ref: APP/F1040/W/23/3332913**

**Melbourne Community Centre, Church Street, Melbourne, Derbyshire DE73 8EJ**

- 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 Melbourne Hall Estate against the decision of South Derbyshire District Council.
  - The application Ref DMPA/2023/0673, dated 23 May 2023, was refused by notice dated 21 August 2023.
  - The development proposed is the demolition of the existing building and development of five new dwellings with associated amenity space and car parking.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing building and the development of five new dwellings with associated amenity space and car parking, at Melbourne Community Centre, Church Street, Melbourne, Derbyshire DE73 8EJ in accordance with the terms of the application, Ref DMPA/2023/0673, subject to the conditions in the schedule at the end of this decision.

### Procedural matter

2. The revised National Planning Policy Framework ('the Framework') was published on 20 December 2023 after the appeal had been made by the appellant. However, as no changes were made to the conserving and enhancing the historic environment section of the Framework, and the other changes that were made are not material to this decision, the appellant's case has not been prejudiced by not being able to comment on the revised Framework.

### Application for costs

3. An application for costs was made by Melbourne Hall Estate against South Derbyshire District Council. This application will be the subject of a separate decision.

### Main Issue

4. The main issue in this appeal is the effect of the proposed development on the character and appearance of Melbourne Conservation Area.

### Reasons

5. In relation to the development plan, it is common ground between the Council and the appellant that in terms of its location residential development of the site is acceptable in principle. I agree with that position.

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6. Concerns were expressed at application stage regarding the loss of the Senior Citizen's Centre on the site which was a community facility. However, as those groups that previously used the building have found alternative venues within the village, I concur with the assessment that the proposed development would not result in the loss of a community facility that needs to be retained.

#### *Conservation Area*

7. The appeal site is located within Melbourne Conservation Area (CA). In the exercising of planning functions, the statutory test in relation to CAs is that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the CA. Policies BNE1 and BNE2 of the South Derbyshire Local Plan Part 1 and policies BNE7 and BNE10 of the South Derbyshire Local Plan Part 2 require the protection of the character and appearance of a locality, including heritage assets and trees, through high quality design that respects local design features.
8. The Framework is an important material consideration. It identifies that heritage assets are an irreplaceable resource. Paragraph 205 advises that when considering the impact of a proposed development on the significance of a designated heritage asset, such as a CA and listed buildings, great weight should be given to the asset's conservation.
9. In terms of assessing the significance of the CA and the contribution that the appeal site makes to it, I have taken into account the Melbourne Conservation Area Character Statement, the comments of all parties and my observations during the site visit.
10. The CA covers the village centre and its environs that contain well designed older and historic buildings. Brick used for the construction of the external walls of buildings and slate for covering roofs are the most commonly used building materials, followed by stone and clay tiles. Some timber framed buildings are also present. The significance of the CA, which largely date from the 11th through to the 19<sup>th</sup> centuries, is therefore architectural and historical.
11. The appeal site is a spacious plot with off road parking that has been occupied since the 1960s by the now closed and dilapidated Community Centre. Whilst the single storey, flat roofed, wooden building is at odds with surrounding buildings which are typically older, taller and exhibit a finer grain of development, the low key nature of the building and the mature landscaping on the plot has allowed the development to assimilate well with its surroundings. Nevertheless, redevelopment of the site provides the opportunity to better preserve or enhance the CA.
12. Prior to 1940 and its loss due to enemy bombing, The Lodge, which was a three storey Georgian town house with a walled garden, occupied the majority of the appeal site. The Lodge was located in the south eastern corner of the site abutting the neighbouring house, 65 Church Street. Set close to the back edge of the pavement the house occupied approximately a third of the gap separating No 65 from the 'Spirit Vaults' public house on the western side of the appeal site. On the basis of the submitted historical photograph, the gap between the house and the public house was in part enclosed by a tall boundary wall set on the back edge of the pavement with single storey ancillary buildings behind. The central area of the site appears from the photograph and OS maps to have been open.

13. It is not possible to tell from the photograph what was present on the Church Street side of the plot. On the basis of the historic OS map excerpts that have been provided it appears that sporadic buildings were present along with some form of boundary treatment. Either way, owing to the presence of the house it appears likely that views of the Grade I listed Church of St Michael and St Mary to the south would have been limited or not possible from Castle Street.
14. The proposed development would result in a three storey traditional detached house on Church Street located next to the public house, rather than next to No 65. In so doing, together with the proposed front boundary wall which would be set back slightly from the pavement, it would create a similar extent of enclosure to that which existed historically on the street. The boundary wall would be broken by the existing vehicular access which would be retained. However, this is a reasonable concession in order to remove cars from the street. A plaque commemorating those who died in the bombing in 1940 would be moved from its existing position within the site to the front of the site on Church Street.
15. As part of the proposal, a terraced row of four dwellings would be built facing Castle Street. In order to retain existing views of the listed church and provide on-site parking, the terrace would be set further back from Castle Street than many of the other dwellings along this road and rather than arranged parallel to the street it would be angled slightly away from it. This layout is different to other development along this street. However, in preserving the views of the side of Grade I listed Church of St Michael and St Mary from Castle Street, which help better reveal the architectural and historical significance of this heritage asset, as supported by paragraph 212 of the Framework, this difference is justified.
16. Part of the CA's attractive character is the variation in the buildings along its streets. Whilst the houses within the proposed terrace would be identical, the terrace is short and in the wider context of Castle Street viewed as a whole the inclusion of the proposed development would result in a street scene that would remain sufficiently varied. The architectural features of all the proposed dwellings would be in keeping with those seen within the CA.
17. In views from Church Street, on-site parking would partly be screened by the proposed boundary walls on both sides of the access. In views from Castle Street, parking would be located directly behind the existing relatively low sandstone wall. However, as the terrace would be set back from the parking area on a slightly higher part of the site the parked cars would not unduly detract from the appearance of the terrace and its contribution to the street scene.
18. Of the trees on the site that would be removed to facilitate the development the copper beech on Church Street is the most prominent. It is a middle mature tree that lacks the full rounded form of good examples of this species. In my judgement, it is therefore only of moderate amenity value. The other trees that would be removed are located along the western boundary of the site and form part of the backdrop to the Community Centre. Individually and collectively they are of low amenity value. Given that the submitted plans show that the trees which would be removed on the site would be replaced with significant new planting, in time, subject to proper maintenance, the contribution that they would make to the character and appearance of the CA would compensate for the loss that would occur.

19. Taking all these matters into account, I therefore find that whilst the proposed development would result in change, this change would not have an adverse effect on the character or appearance of the CA. As a result, the objective of preservation would be achieved. I recognise that the view of both of the main parties is that the proposed scheme would cause harm to the CA and that this harm would be less than substantial. In accordance with paragraph 208 of the Framework, this would require the harm caused to be weighed against the public benefits of the proposal. However, as the decision maker I am entitled to reach a different view in relation to this matter.
20. For the reasons that I have given, I therefore conclude that the design of the proposed development would complement the character and appearance of the CA. As a result, it would comply with the statutory test and policies BNE1 and BNE2 of the South Derbyshire Local Plan Part 1 and policies BNE7 and BNE10 of the South Derbyshire Local Plan Part 2.

#### **Other matters**

21. There are a significant number of listed buildings within a short distance of the appeal site. The closest listed buildings to the appeal site are the Grade II listed 49, 51, 62 and 65 Church Street. The Grade I listed Church of St Michael and St Mary is also within visual distance of the appeal site. The significance of these buildings is architectural and historical and their setting contributes to their significance.
22. In the exercise of planning functions, the statutory test in relation to a listed building is that special regard shall be had to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.
23. Insofar as is relevant to this appeal the proposed development would lie within the visual and historic setting of the buildings listed. However, as it would be well designed and complement the existing built form whilst retaining open views across the site, it would not harm the setting or significance of these designated heritage assets.

#### **Conditions**

24. In the interests of certainty, I have imposed a condition specifying the relevant plans that the development is to be carried out in accordance with. In order to ensure that the development complements its surroundings, further details of external materials and landscaping are required. To ensure that any planting becomes well established, and contributes to the quality of the development into the future, it needs to be well managed and maintained. Furthermore, the trees which are to be retained need to be protected.
25. To protect the living conditions of future occupiers, assessments in relation to odour and noise from the neighbouring public house are required. To protect the living conditions of nearby occupiers during development from dust and noise, a scheme for dust mitigation is needed and hours of work need to be restricted. To protect the privacy of neighbours, certain windows to some of the houses need to be obscurely glazed.
26. In the interests of highway safety, a plan for managing the construction site, the provision of adequate visibility splays and the provision of on-site parking and turning needs to be provided. For the same reason, adequate drainage, the laying of a hardbound surface close to the highway and the setting back of gates from the highway are also needed.

27. In relation to ecology and biodiversity, a bats survey is required and, if bats are present, a mitigation scheme will be needed. To protect birds, the type of work that can be carried out on site needs to be restricted during the bird nesting season. To protect biodiversity, details of lighting are required. To enhance biodiversity, measures need to be incorporated into the development for the benefit of birds, bats and hedgehogs. To protect any bats on the site, the precautionary approach set out in the submitted Protected Species Survey needs to be followed.
28. To sustainably manage water use in accordance with the development plan, the optional standard regarding daily water use needs to apply to the development.
29. As there is potential for the remains of medieval and post medieval buildings on the site, an archaeological scheme of investigation is necessary. Given the sensitive location of the appeal site within the CA and the carefully balanced design of the scheme, it is necessary to remove permitted development in relation to the dwellings.
30. I have required all these matters by condition, revising the conditions suggested by the Council where necessary to reflect the advice contained within Planning Practice Guidance.

#### **Conclusion**

31. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should therefore be allowed.

*Ian Radcliffe*

Inspector

#### **Schedule**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - Existing Site Plan (received 23 May 2023)
  - Location, Site and Access Plan FINAL REV B-A2L-2209-MHSCC-A-P01 (received 19 July 2023)
  - Plot 5 Floor Plans & Elevations FINAL REV B-A2L-2209-MHSCC-A-P03 (received 19 July 2023)
  - Plots 1-4 Floor Plans & Elevations FINAL REV B-A2L-2209-MHSCC-A-P02 (received 19 July 2023)
  - Site Section & Site Plan FINAL REV B-A2L-2209-MHSCC-A-P05 (received 19 July 2023)
  - Plot 5 Street Scene FINAL REV B-A2L-2209-MHSCC-A-P04 (received 19 July 2023)unless as otherwise required by condition attached to this permission.
- 3) No development shall start until a Highway Construction Management Statement /Plan has been submitted to and approved in writing by the Local Planning Authority. The statement / plan shall include details specifically relating to:

- a) parking for vehicles of site personnel, operatives and visitors
- b) site accommodation
- c) storage of plant and materials
- d) provision of roadside boundary hoarding behind any visibility zones
- e) any proposed temporary traffic management.

The approved details shall be implemented and maintained throughout the construction period.

- 4) Prior to commencement of the development, a noise report following the methodology in BS4142 and BS8233 shall be submitted to the Local Planning Authority, which shall assess the noise from the extraction unit and raised terrace from the neighbouring public house (no. 53 Church Street) on the proposed development. No development shall take place until a written scheme providing full details of controls for noise mitigation identified as being necessary have been agreed in writing with the Local Planning Authority. Prior to first occupation of any of the dwellings hereby permitted, the noise mitigation measures approved as being necessary by the Local Planning Authority shall have been implemented.
- 5) Prior to commencement of the development, an odour survey report that complies with IAQM guidance on the assessment of odour shall be submitted to the Local Planning Authority, which shall assess the potential odour impact from the neighbouring public house on the proposed development. No development shall take place until a written scheme providing full details of controls for odour mitigation identified as being necessary have been agreed in writing with the LPA. Prior to first occupation of any of the dwellings hereby permitted, the odour mitigation measures approved as being necessary by the Local Planning Authority shall have been implemented.
- 6) No development, including demolition, shall take place until a scheme of dust mitigation measures has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented throughout the demolition and construction period.
- 7) 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

No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved in this condition.

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

- 8) No development (including demolition or vegetation clearance) shall commence until an internal building inspection has been undertaken to determine the suitability (Low, moderate or high) for the building to support bats and a Ground Level Tree Assessment (GLTA) shall be undertaken to identify potential roosting features within the trees to be felled. The survey shall be undertaken in accordance with the Bat Surveys for Professional Ecologist - Good Practice Guidelines (Collins, 2016).

Following the inspection and survey, and if required, further emergence surveys undertaken in accordance with the aforementioned guidelines, in the event that roosting bats are evidenced, a scheme of appropriate mitigation that meets Natural England's mitigation licensing requirements shall be submitted to and agreed in writing with the Local Planning Authority. Such approved mitigation shall be implemented in full and retained as such for the lifetime of the development.

- 9) No development, including preparatory works, shall commence until protective fences have been erected around the silver birch trees shown to be retained on the approved plans and as per the Arboricultural Impact Assessment TWC\_399\_R-002A (Tree and Woodland Company) (received 23 May 2023). Such fencing shall conform to best practice as set out in British Standard 5837:2012 (or equivalent document which may update or supersede that Standard) and ensure that no vehicles can access, and no storage of materials or equipment can take place within, the root and canopy protection areas. The fences shall be retained in situ during the course of ground and construction works, with the protected areas kept clear of any building materials, plant, debris and trenching, and with existing ground levels maintained; and there shall be no entry to those areas except for approved arboricultural or landscape works.
- 10) Prior to the first occupation of any dwelling hereby permitted, the existing access to Church Street shall be provided with visibility sightlines of 2.4m x 43m in both directions. The area within the sightlines shall thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level.
- 11) Prior to the first occupation of any dwelling hereby permitted a pedestrian inter-visibility splay of 2m by 2m shall be provided on each side of the access, the depth measured from the back of the footway and the widths outwards from the edges of the access. No fence, wall or other obstruction to visibility between 0.6m and 2m in height above ground level shall thereafter be erected within the area of such splays.
- 12) Prior to the first occupation of each dwelling, space shall be provided for the parking of vehicles associated with that dwelling in accordance with the approved plans and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, such

space shall be maintained throughout the life of the development free of any impediment to its designated use.

- 13) The development hereby permitted shall not be occupied until such time as the access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary (back of footway) and, once provided, shall be so maintained in perpetuity.
- 14) Prior to the construction of any driveways or parking areas, details of surface water drainage provision to those areas (so as to adequately mitigate runoff of surface water on to the highway) shall be submitted to and approved in writing by the Local Planning Authority. The approved drainage details shall be fully implemented prior to first occupation of any of the dwellings hereby approved and thereafter shall be maintained in a fully functional state.
- 15) Any entrance gates shall be set back a minimum of 5m from the highway boundary (back of footway) and maintained at that distance for the life of the development unless otherwise approved in writing by the Local Planning Authority.
- 16) Except in an emergency, no demolition, site clearance, construction, site works or fitting out shall take place other than between 08:00 hours and 18:00 hours Mondays to Fridays, and between 08:00 hours and 13:00 hours on Saturdays. There shall be no such activities whatsoever on Sundays, public holidays and bank holidays.
- 17) Notwithstanding the submitted details, prior to incorporation within the development, a detailed scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The scheme should evidence the proposed locations of each tree species, the size of each type of tree (standard, select standard, or heavy standard with girth dimensions), the mix of any proposed grass areas, and the proposed locations and sizes of any ornamental shrubs (in litre pots). The works shall be undertaken in accordance with the agreed details prior to occupation of the development. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the date of this decision; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.
- 18) Prior to the installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of light spill to any sensitive ecological zones/features. Guidelines can be found in Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP, 2018). Lighting shall be installed and thereafter retained in accordance with the approved details.
- 19) No stripping, demolition works or vegetation clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting

bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.

- 20) The following Biodiversity Enhancement measures shall be incorporated within the scheme, as set out on a plan to be submitted to and agreed in writing by the Local Planning Authority, prior to construction above foundation level:
- 5x Integrated Universal Bird Bricks
  - 5x Integrated Bat Bricks
  - 130mm x 130mm hedgehog gaps to be incorporated within fencing.
- Prior to first occupation of any of the dwellings hereby permitted, the approved measures shall be implemented in full and maintained thereafter.
- 21) Notwithstanding the submitted details, prior to incorporation within the development, samples and detailed specifications of all external facing and hard landscaping materials to be used shall be submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 22) Each dwelling shall be constructed and fitted out so that the estimated consumption of wholesome water by persons occupying each dwelling does not exceed 110 litres per person per day, consistent with the Optional Standard as set out in G2 of Part G of the Building Regulations (2015). No development shall occur above ground level until the building control body for the development has been informed that this optional requirement applies.
- 23) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the dwellings hereby permitted shall not be enlarged, extended or altered, no satellite dishes shall be affixed thereto, and no buildings, gates, walls, fences or other means of enclosure (except as authorised by this permission or allowed by any condition attached thereto) shall be erected on the site without the prior grant of planning permission pursuant to an application made to the local planning authority in that regard.

-----**End of Schedule**-----



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## Costs Decision

Site visit made on 18 April 2024

by **I Radcliffe BSc(Hons) MRTPI MCIEH DMS**

an Inspector appointed by the Secretary of State

Decision date: 25 June 2024

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### Costs application in relation to Appeal Ref: **APP/F1040/W/23/3332913** **Melbourne Community Centre, Church Street, Melbourne, Derbyshire DE73 8EJ**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Melbourne Hall Estate for a full award of costs against South Derbyshire District Council.
  - The appeal was against the refusal of planning permission for the demolition of the existing building and development of five new dwellings with associated amenity space and car parking.
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#### Decision

1. The application for an award of costs is refused.

#### Reasons

2. Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process<sup>1</sup>.
3. There are two claims to assess. Firstly, whether the Council ignored the expert opinion of its own officers and prevented development which should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations. Secondly, whether the Council made an inaccurate assertion about the expected life span of the copper beech that would be felled if the proposed development went ahead.
4. In relation to the first claim, the officer recommendation in relation to the application was to grant permission. However, planning authorities are entitled not to accept an officer recommendation, so long as reasonable planning grounds are given for taking a different decision.
5. In its reasons for refusal the Council explained that the design of the proposed development was poor and that together with the removal of the copper beech stated this would result in harm to the character and appearance of the Melbourne Conservation Area contrary to the development plan. Within the Council's appeal statement the Council expanded upon its reasons for refusal. Although for the reasons given in the appeal decision I did not agree with the Council, such matters are a question of planning judgement. Through the wording of its reasons for refusal and its appeal statement the Council presented evidence that was sufficiently respectable to substantiate its decision to refuse permission. As a result, it did not act unreasonably.

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<sup>1</sup> Paragraph: 028 Reference ID: 16-028-20140306, 'Appeals', 'Why do we have an award of costs?'

6. Turning to the second claim, in its appeal statement the Council stated that the copper beech had a life expectancy of over 40 years. This is the estimate given in the Arboricultural Impact Assessment submitted with the application. The view of the Council's tree officer in the committee report was that due to a structural defect it had a lower life expectancy of 20 years. Estimates of a tree's longevity are not definitive. Judgements made by different professionals may well differ. The Council in making its case supporting the decision of members to refuse the application against officer advice chose the figure most supportive of the committee's position. In doing so, it did not behave unreasonably.
7. Taking all these matters into account, I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated. An award of costs is therefore not justified.

*Ian Radcliffe*

Inspector

<b>REPORT TO:</b>	<b>PLANNING COMMITTEE</b>	<b>AGENDA ITEM: 5</b>
<b>DATE OF MEETING:</b>	<b>09 JULY 2024</b>	<b>CATEGORY: DELEGATED</b>
<b>REPORT FROM:</b>	<b>CHIEF EXECUTIVE</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>CAROLINE BURN</b> <a href="mailto:caroline.burn@southderbyshire.gov.uk">caroline.burn@southderbyshire.gov.uk</a>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>TREE PRESERVATION ORDER 560 - 78 MOIRA ROAD, WOODVILLE</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	<b>WOODVILLE</b>	<b>TERMS OF REFERENCE:</b>

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## **1.0 Recommendations**

1.1 That this tree preservation order should be confirmed.

## **2.0 Purpose of Report**

2.1 To consider confirmation of this Tree Preservation Order.

## **3.0 Detail**

3.1 A Tree Preservation Order (TPO) was made on 16 February 2024 in respect of 8no. trees including 4no. sycamore and 4no. lawson cypress on the land at 78 Moira Road, Woodville, to the northwest of Moira Road and south of Vicarage Road. The tree group is prominent on Moira Road.

3.2 The TPO was made following the Case Officer's site visit for planning application ref. DMPA/2024/0079, which identified trees of amenity value. This was subsequently confirmed by the Tree Officer who visited the site on 1 February 2024. The Tree Officer surveyed the site and attributed TEMPO scores of 16-18 to the 8no. trees. There are other trees within the site, including silver birch and an Atlantic cedar, which the Tree Officer did not recommend protecting, due to the existing conflict of the silver birches with a BT overhead line and the cedar having outgrown the location.

3.3 One letter of objection was received in response to the consultation on the making of the TPO. The objection was prepared by a qualified arboriculturist and included detailed information and photographs submitted on behalf of an interested party. It included a detailed assessment of the condition of the trees proposed to be protected and highlighted:

- T1 (Lawson cypress) is suppressed with minimal room for future growth;
- T2 and 73 (Lawson cypress) have mediocre form;
- T4 (sycamore) observed to be outside the application site boundary for planning ref. DMPA/2024/0079;
- T5 (sycamore) structural condition has been affected by previous management;

- T8 was misidentified by the Council's Tree Officer and comprises a Leyland rather than Lawson cypress that would likely outgrow the location.

3.4 The Council's Tree Officer reviewed the objection and concurred with most of the observations made in the objection. The TEMPO scores for the trees were revised accordingly, except for T4 which is good condition and located adjacent to the site. It was advised that the protection of the 3no. sycamore trees T4, T6 and T7 on the frontage of the site would be sufficient to maintain the amenity of the area.

#### **4.0 Planning Assessment**

4.1 It is expedient in the interests of amenity to make the tree group the subject of a TPO in accordance with advice set out in the PPG and as per recommendations made by SDDC's Tree Officer. It is recommended that Schedule 1 of the Order be revised to reflect that 5no. trees have been removed following the consultation process. The numbering of the remaining 3no. trees should be updated such that T7 is now T1, T6 is now T2 and T4 is now T3.

#### **5.0 Conclusions**

5.1 It is expedient in the interests of amenity to preserve.

#### **6.0 Financial Implications**

6.1 None.

#### **7.0 Corporate Implications**

7.1 Protecting visually important trees contributes towards the Corporate Plan theme of Sustainable Development.

#### **8.0 Community Implications**

8.1 Trees that are protected for their good visual amenity value enhance the environment and character of an area and therefore are of community benefit for existing and future residents helping to achieve the vision for the Vibrant Communities theme of the Sustainable Community Strategy.