

# **REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES**

## **SECTION 1: Planning Applications**

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

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## **1. PLANNING APPLICATIONS**

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

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
9/2014/0886	1.1	Newhall	Newhall	1
9/2014/0887	1.2	Newhall	Newhall	26
9/2014/0888	1.3	Newhall	Newhall	50
9/2014/1137	1.4	Willington	Willington & Findern	77
9/2014/1215	1.5	Melbourne	Melbourne	88
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When moving that a site visit be held, Members will be expected to consider and propose one or more of the following reasons:

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

**Item** 1.1

**Reg. No.** 9/2014/0886/OS

**Applicant:**  
Mr Stuart Ashton  
Harworth Estates  
AMP Technology Centre  
Brunel Way  
Waverley  
S60 5WG

**Agent:**  
Mr Steve Lewis-Roberts  
Pegasus Planning Group  
4 The Courtyard  
Church Street  
Lockington  
DE74 2SL

**Proposal:** **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT FOR UP TO 60 DWELLINGS TOGETHER WITH ASSOCIATED HIGHWAY WORKS, PUBLIC OPEN SPACE, LANDSCAPING, ASSOCIATED DRAINAGE INFRASTRUCTURE AND CREATION OF PEDESTRIAN AND CYCLE WAYS ON LAND AT SK2720 7907 (SITE A) PARK ROAD CADLEY PARK SWADLINCOTE**

**Ward:** **NEWHALL & STANTON**

**Valid Date:** **01/10/2014**

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

This major application is brought before the Committee as it is a major application, contrary to the Development Plan, where more than two objections have been received.

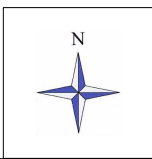
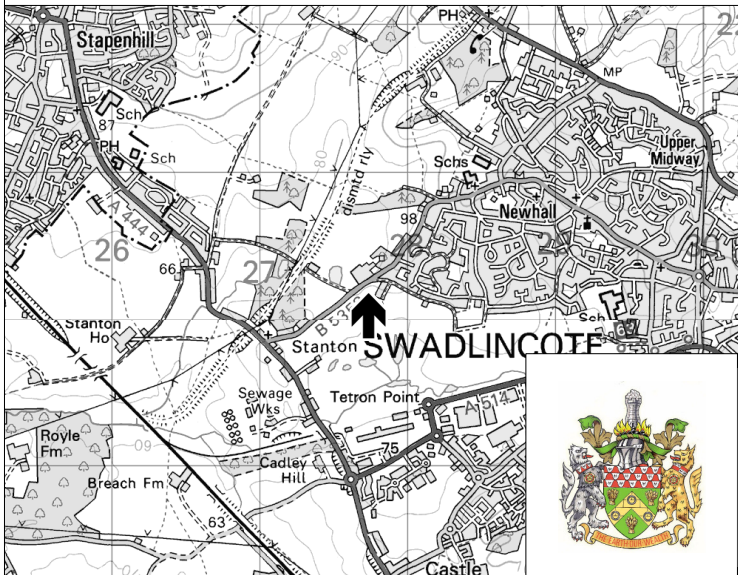
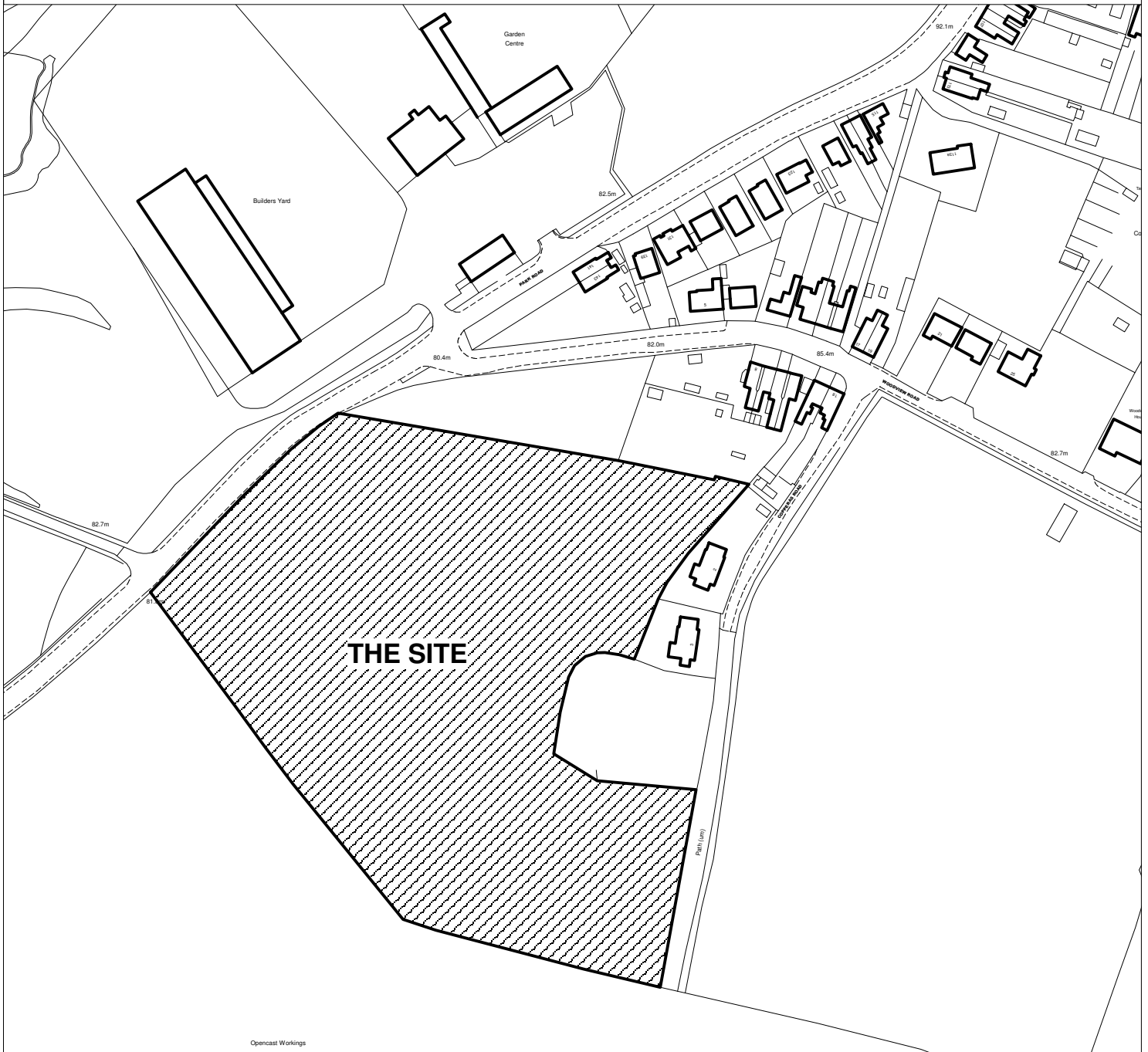
#### **Site Description**

This 2.35 hectare site is located to the south of Woodview Road, Newhall, bounded by Copperas Road to the east and Park Road to the West. Build Base is opposite the site on Park Road. The proposed golf course under construction is to the south and south east. The site is currently agricultural grazing land and from the highest point of the site in the north-eastern corner adjacent to existing properties the land levels reduce by 9 metres to the southern edge of the site over a distance of 210m. There are 1-2m high hedgerows along the boundaries with Park Road to the west and Woodview Road to the north.

#### **Proposal**

Outline planning permission is sought including access for residential development of up to 60 dwellings. The application is part of an overall masterplan which includes two

9/2014/0886 - Land at SK2720 7907 (Site A) Park Road, Cadley Hill, Swadlincote (DE11 0UH)



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

other parcels of land adjacent to the golf course to the south and south west (application refs 9/2014/0887 & 0888). The indicative masterplan shows access off Park Road approximately 25m from the south western boundary. A 20m landscaping buffer is proposed along Park Road, with a 5m wide buffer adjacent to existing properties on Woodview Road and Copperas Road and a 5-11m wide buffer on the southern boundary.

The access would link to a central feature square, enclosed by landmark buildings and two internal roads to serve the northern and southern parts of the development. Dwellings are proposed adjacent to the boundaries with existing properties. A triangular LEAP is proposed in the south western part of the site with a 20m wide buffer to proposed dwellings. A proposed footpath link is shown to the south west which would link with the existing footpath running along the western boundary on Copperas Road. A potential cycle route is indicated along the Park Road frontage and a new pedestrian refuge is shown 20m from the site boundary on this road.

### **Applicants' supporting information**

The Planning Statement states that the application should be considered in the context of the site wide masterplan that provides the framework for the wider development proposals at Cadley Park. Policy H2 of the South Derbyshire Pre-Submission Local Plan allocates three housing parcels on land at Cadley Park for residential development of around 600 dwellings. It describes the site and the proposals and summarises the relevant national and local planning policy. The document states that the scale of the development proposals and their location is entirely consistent with Draft Policy H2 as the application makes provision for up to 570 new homes, in three development parcels. The Masterplan which accompanies all three planning applications demonstrates that the sites have been considered holistically with other development and open space enhancement opportunities. A mix of house types will be provided across the three development sites, which complement each other. New pedestrian and cycle links are proposed within the site which will connect to existing networks. The proposals incorporate more than 22.31 hectares of new public open space and National Forest Planting, across the Cadley Park development area, and a LEAP is located within the application site. This green infrastructure significantly exceeds the National Forest requirements. Summaries of the conclusions of all supporting documents is included. It concludes that the development accords with the South Derbyshire Local Plan where it is consistent with the NPPF. The proposal constitutes sustainable development and delivers a wide range of economic, social and environmental benefits. The proposal also complies with the site specific requirements in emerging Local Plan Core Strategy Part 1 - Policy H2 and will help meet the Council's current housing land supply shortfall.

Design and Access Statement describes the proposal within the context of the masterplan, the history of the site and assesses the site in terms of landscape context, visual impact, character of surrounding areas. The character assessment areas identified were Swadlincote town centre, the A444 corridor, Newhall and the new housing at Castle Gresley. An assessment of services has been undertaken and routes of movement and assessment of the planning policy context. The public consultation exercise is summarised and the evaluation of the design and layout is outlined in a series of diagrams with descriptions. The street hierarchy, pedestrian and cycle routes and open space are discussed together with the scale of buildings and keynote buildings. Landscaping buffers are proposed adjacent to existing dwellings, the road frontage and the golf course to the south. The scheme is assessed against the Building

for Life criteria and the majority of criteria scored green with oranges where the information is not available due to the application being outline.

Consultation Statement outlines the methods used to consult the public on the proposal. A website was set up which included the indicative masterplan, information leaflet and comments form. The public exhibition was held on 7th July 2014 from 4:00pm until 8.00pm at The Old Post Centre, High Street, Newhall. 3,000 leaflets were delivered to homes and businesses in Swadlincote in the week commencing 23<sup>rd</sup> June 2014 to advertise this event, together with posters in the vicinity and an article in the Burton Mail. 151 responses were received from local residents and they related to lack of capacity of local facilities such as schools and doctor's surgeries, traffic implications, loss of green space, lack of adequate landscaping buffers adjacent to existing properties and subsidence and drainage concerns.

Tree Survey Arboricultural Assessment surveyed a total of one individual tree, five groups of trees and one hedgerow. The Oak tree is categorised as B moderate quality / value and the groups as C low quality / value due to their lack of maturity. To facilitate the new access into this parcel of development, a section of hedgerow would require removal. The hedgerow is categorised as of low arboricultural value (category C). A group of trees in the south eastern corner would require removal together with a hedgerow and trees on the boundary with the retained field on Copperas Road. The Oak tree would be retained as would the existing hedgerow on part of the north eastern boundary.

Flood Risk Assessment and Drainage Strategy states the site is within Flood Zone 1 with an annual probability of flooding from fluvial sources being less than 1 in 1000 years (ie < 0.1%). There is a public combined sewer, 900mm in diameter, flowing in a westerly direction across the southern area of the site. Surface water runoff will be managed in a sustainable manner to ensure that flood risk is not increased downstream of the site. The golf course already includes a number of surface water drainage features including ditches/swales, ponds and a lake, all of which ultimately discharge to Darklands Brook. It is proposed that the existing surface water features within the golf course are utilised for surface water attenuation from the proposed development, rather than provide a separate system within the site boundary.

Site Investigation Study and Coal Mining Risk Assessment concludes that based on the desk study research undertaken the site does not pose a significant risk to the environment and it is considered suitable for both its current and the proposed development uses. There are, however, a number of low and moderate potential pollution linkages and geotechnical risks that require further investigation and consideration prior to the redevelopment of the site. A detailed physical site investigation, comprising soil/water sampling, chemical testing and gas monitoring, so as to identify and mitigate contamination that may exist is required. This shall include assessment of the shallow mine situation beneath the site.

A Phase 1 Habitat Survey and Ecological Assessment has been undertaken for the overall development proposals.

Landscape and Visual Assessment sets the site in context with the surrounding landscape. Nationally the site is defined; as National Character Area 71: Leicestershire and South Derbyshire Coalfield5, regionally as Settled Coalfield Farmlands RLCT and locally as Coalfield Village Farmlands Landscape Character Type (LCT). Viewpoints are

assessed and the report concludes that the scale and form of proposed development is likely to result in only limited harm at a localised level and potential landscape and visual effects are not likely to be significant. Furthermore the extensive proposals for green infrastructure and landscaping will deliver a number of enhancements in terms of the physical landscape and landscape character. As such the proposed development is acceptable in landscape and visual terms.

Archaeological Desk Based Assessment states that Abandonment Plans obtained from the Coal Authority demonstrated that the site was excavated during opencast mining in the late 20th Century. No archaeological remains will survive in this region.

Noise Report concludes that mitigation measures such as orientation of dwellings and thermal double glazing would ensure noise levels are within acceptable levels. This should be detailed at reserved matters stage.

Transport Assessment states that development would be within walking distance of many employment destinations and local facilities in Newhall. The town centre would be within walking distance via the new footpaths that would be provided through the masterplan area. The National Cycle Network route 63 provides an excellent route to the north to Burton upon Trent and the gap in that route as it passes through Swadlincote would be plugged by the cycle infrastructure proposed by the development. A crossing would be provided on Park Road where the existing part of route 63 ends to link it to the proposed part that runs through the masterplan area. Additional cycle routes would be provided through the masterplan area to provide mostly off road journeys to the town centre and the many nearby employment destinations. The development would create a demand for an additional 4 pedestrian journeys and 1 cycle journeys during an average peak hour. The existing infrastructure, enhanced by the proposed provisions would adequately accommodate the increase in demand created by the proposed development. Bus service number 4 runs past the site on Park Road and provides two buses an hour in each direction, connecting the town centre to destinations beyond Swadlincote, notably Burton upon Trent. The proposed development would generate a demand for three additional bus journeys during an average peak hour. The development is therefore in a sustainable location that is accessible by all modes of transport. The proposed development would be accessed from the B5353 Park Road via a simple T-junction and the junction design would be to standard with visibility splays that accord with the results of a speed survey. A capacity analysis of the access junction shows that it would operate with plenty of spare capacity and could therefore safely and adequately accommodate the development traffic. Beyond the access junction, traffic increases would not be material.

Air Quality Assessment states that a construction phase assessment has been undertaken to determine the risk and significance of dust effects from earthworks, construction and trackout from the proposed development. The report concludes that dust and road traffic emissions can be adequately controlled through mitigation measures and at operation impacts would not be significant.

Geophysical Survey Report concludes that the underlying geology across the area provided a reasonable magnetic contrast for the detection of infilled features. No evidence for significant archaeological features was present. The majority of anomalies detected could be attributed to a modern or recent origin.

Bat Activity Survey Report confirmed that bats forage in specific locations on site associated with hedgerows and woodland edge habitats and also that no evidence was found of roosting bats. Recommendations to minimise the potential disturbance of bats and ensure landscape connectivity would be to retain and or incorporate hedgerows into the proposed scheme. Additionally, a sensitive lighting strategy should be implemented to reduce potential impacts on bat foraging behaviour.

## **Planning History**

None

## **Responses to Consultations**

The Highway Authority considers that available evidence suggests the development would not have a significant adverse effect on capacity or safety of the road network. Therefore subject to conditions there is no objection in principle. The site contains part of a proposed greenway and improvements and enhancement to sustainable transport routes would be welcomed. However it is acknowledged that consideration will need to be given to the balancing of contributions in the context of need arising from development and viability assessment.

Severn Trent Water has no objection subject to a drainage scheme condition and an informative in relation to the public sewer that crosses the site.

The Council's Contaminated Land Officer confirms the site has been subject and influenced by significant historic industrial uses, predominately associated with Cadley Hill Colliery and the subsequent landfilling operations. These historic features have the potential to present risks to site workers, end users and ecological receptors and thus a phased contamination condition is recommended.

The Council's Environmental Health Officer has no objection provided a dust control condition is attached to any permission together with an informative.

Natural England has no objection as the site is unlikely to affect any statutory protected sites or landscapes.

The Environment Agency has no objection subject to a sustainable drainage scheme and contamination condition.

The Coal Authority states that their records indicate that the site is in the likely zone of influence from 6 seams at 33m to 251m depth, last worked in 1962 and is in an area of likely historic unrecorded underground coal mine workings at shallow depth. The site is also within the boundary of a site from which coal has been removed by surface mining methods. The Authority has no objection provided a condition requiring intrusive site investigation works be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. In the event that the site investigations confirm the need for remedial works to ensure the safety and stability of the proposed development, this should also be conditioned to ensure that any remedial works identified by the site investigation are undertaken prior to commencement of the development.



The County Archaeologist has reviewed the geophysics results that show a small number of possible archaeological features, all linear in character. In order to characterise and understand the significance of these features some further work is necessary. Therefore an archaeological works conditions should be placed on any permission. This work will comprise a small number of trial trenches (with provision for further mitigation should significant remains be identified).

Derbyshire County Council's Developer Contributions Officer states that the following contributions are required across all three sites:-

- £16,307.70 (£28.61 per dwelling x 570 dwellings) towards additional waste management capacity (£1596.60 for Site A);
- Access to high speed broadband services for future residents (in conjunction with service providers);
- £1,128,511.99 towards the provision of 99 primary school places as follows:
  - £136,788.12 towards the provision of 12 primary school places at Stanton Primary School for Application 9/2014/0886
  - £250,788.22 towards the provision of 22 primary school places at Stanton Primary School for Application 9/2014/0887
  - £364,768.32 towards the provision of 32 infant school places at Newhall Infant and Nursery School for Application 9/2014/0888
  - £376,167.33 towards the provision of 33 junior school places at Newhall Community Junior School for Application 9/2014/0888
- £429,404.25 towards the provision of 25 secondary school places as follows:
  - £154,585.53 towards the provision of 9 secondary school places at The William Allitt School for Application 9/2014/0886
  - £274,818.72 towards the provision of 16 secondary school places at The William Allitt School for Application 9/2014/0887; and
- New homes designed to Lifetime Homes standards.
- Newhall (Bretby) HWRC is over capacity, having exceeded its environmental permit, and the site is unable to expand further. The proposed development of 570 dwellings will result in additional user demand and exacerbate this problem. The County Council requests a financial contribution towards the provision of a new HWRC to accommodate additional demand from new development.

The County Flood Risk Team has reviewed the Derbyshire County Council (DCC) surface water model outputs which indicate that the proposed site is likely to be subject surface water flooding during the critical storm duration in the 1 in 100 year return period event in its current land use. There is a small area of surface water inundation shown on the northern boundary of the proposed site and a larger area covering approximately 10% of the proposed site in the south. It is recommended that

Sustainable Drainage Systems (SUDS) be incorporated within the design of a drainage strategy for any proposed development.

The County Rights of Way Section has no objection to the application as there are no recorded public rights of way crossing or abutting the site.

The Police Crime Prevention Design Advisor has general comments that should be considered prior to a reserved matters application being submitted which relate to natural surveillance of open space, parking areas and security of routes and private garden areas.

Peak and Northern Footpaths state that considerable thought has been given to walking and cycling routes throughout the whole site and this is welcomed. All new footpath links should be dedicated as public rights of way by means of formal legal agreements, with the widths, surfaces and path furniture agreed with the highway authority. All new cycle links should also be formally legally dedicated, and must be sufficiently wide to allow for segregation of walkers and cyclists. There should be sufficient links from the housing sites to the new and old public rights of way to enable residents to reach and use these paths safely and conveniently.

The Council's Tree Officer considers the Arboricultural Assessment to be acceptable and recommends a condition in relation to new tree planting.

## **Responses to Publicity**

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

- a) The Swadlincote Rifle and Pistol Club are based on a site opposite and are concerned that any new residents may complain about noise and put an end to their club which has 560 members.
- b) There is concern with regard the access onto Park Road as it is near a hidden dip in the road, the speed limit is regularly ignored and the large amount of vehicles associated with the dwellings is likely to cause accidents.
- c) There are concerns relating to no provision for schooling in the area, where local schools are already at capacity.
- d) There have been recent road accidents where the access is proposed and planning permission has been denied due to the dangerous nature of the road.
- e) The sewerage system is at capacity as in heavy rain Park Road properties have been flooded with raw sewerage.
- f) Lack of capacity at local doctors surgeries which will be exacerbated with these houses.
- g) Lack of privacy and security of their rear private garden.
- h) There is concern regarding where would the services come from and whether existing residents' services would be affected.
- i) Loss of wildlife as adders and Kingfishers have been spotted in the field.
- j) There are mine shafts in the area and natural springs that have been redirected and have started to fill up the old mining tunnels which should make building unsafe.
- k) Requires guarantees that there would be no subsidence to their property as a result of building work.
- l) The golf course construction work has produced smells and dust and prevented use of their garden.

- m) There is a lack of facilities for children.
- n) The existing access to Woodview Road is dangerous with minimal visibility in both directions, how can a new access onto Park Road be acceptable?
- o) Planning applications on Woodview Road have been refused on traffic safety grounds and they were not in keeping with the look of the area and green belt issues.
- p) The land is on top of previous mine workings and is a flood zone.
- q) The location of the park so close to existing residents would cause noise and nuisance.
- r) A tree screen was promised, however, trees too close to properties may cause damage and loss of light.
- s) New residents on Woodview Road would be directly overlooked, would lose their privacy and view of the fields and golf course.

One letter of support has been received which supports the redevelopment of the former colliery and the provision of green space within the development, but is unsure whether the site is considered brownfield or greenfield.

### **Development Plan Policies**

The relevant policies are:

Local Plan Saved Housing Policies 4 and 11, Environment Policies 7, 9,10, 11 & 14  
 Transport Policies 6, 7 & 8, Recreation and Tourism Policy 4 and Community Facilities Policy 1

Emerging Local Plan

Policy S2 : Presumption in Favour of Sustainable Development

Policy S4 : Housing Need

Policy S6: Sustainable Access

Policy H1 : Settlement Hierarchy

Policy H2 : Land North of William Nadin Way, Swadlincote

Policy SD1: Amenity and Environmental Quality

Policy SD2: Flood Risk

Policy SD3 : Delivering Sustainable Water Supply, Drainage and Sewerage

Policy SD4 : Contaminated Land and Mining Legacy issues

Policy BNE1: Design Excellence

Policy BNE3: Biodiversity

Policy BNE4: Landscape Character and Local Distinctiveness

Policy INF1: Infrastructure and Developer Contributions

Policy INF8: The National Forest

Policy INF9: Open Space, Sport and Recreation

### **National Guidance**

National Planning Policy Framework (NPPF), in particular:

Paras 6-10 (Achieving sustainable development)

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

Para 17 (Core principles)

Chapter 1 (Economy)

Chapter 4 (Promoting sustainable transport)

Chapter 6 (Housing)

Chapter 7 (Requiring good design)  
Chapter 10 (Meeting the challenge of climate change, flooding etc.)  
Chapter 11 (Conserving and enhancing the natural environment)  
Chapter 12 (Heritage)  
Paras 186 & 187 (Decision-taking)  
Para 193 (Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question.)  
Para 196 & 197 (Determining applications)  
Paras 203-206 (Planning conditions and obligations)  
Annex 1 (Implementation)

National Planning Practice Guidance (NPPG) 2a, 3, 8, 10, 23b, 26, 33, 37, 42, 45

## **Local Guidance**

Housing Design and Layout, Trees on Development Sites, Developer Contributions, Better Design for South Derbyshire.

## **Planning Considerations**

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

- Principle of Development
- Residential Amenity
- Design and Building for Life
- Highways and Transport
- Viability and S106
- Affordable Housing
- Other Matters

## **Planning Assessment**

### Principle of Development

The proposal for 60 dwellings on this site is part of a framework for the wider development proposals at Cadley Park. Policy H2 of the South Derbyshire Pre-Submission Local Plan allocates three housing parcels on land at Cadley Park for residential development of around 600 dwellings. The adopted Local Plan allocates the site as open land in Swadlincote under Environment Policy 7. This policy states that *'open land which makes a valuable contribution to the character and environmental quality of Swadlincote will be safeguarded from development'*. This parcel of land in the north western corner of the masterplan area is relatively small in comparison with the land retained for the golf course. To the north it adjoins the existing urban area of Newhall and open land would be retained to the south and east towards Swadlincote centre.

At the national level, Paragraph 47 of the NPPF seeks to boost significantly the supply of housing providing a considerable emphasis on bringing forward high levels of housing provision as soon as possible. Paragraph 49 states that *'housing applications should be considered in the context of the presumption in favour of sustainable development'*. The site is within the main urban area of Swadlincote and is thus a highly sustainable location for further residential development.

The site is within walking distance of local services, facilities and employment, therefore the site would be considered to be a sustainable location for development whereby there would not be a reliance on the car. Pedestrian and cycle routes would be improved as part of the masterplan area. The development is close to a principal road network and the access would be directly off Park Road.

The site specific policy in the Pre-Submission Local Plan H2 policy states that:-

*A Residential development on Land north of William Nadin Way, Swadlincote for around 600 dwellings.*

*B The Council will require the below listed site specifics and accordance with other Local Plan policies:*

- 1. Consider the site holistically with other development and open space enhancement opportunities;*
- 2. A mix of dwelling types shall be provided across the three parcels of land which complement each other;*
- 3. The provision of recreational and community facilities;*
- 4. The presence of Coal Mining Legacy and resulting potential for unstable land will require the submission of a Coal Mining Risk Assessment in support of planning applications;*
- 5. An appropriate buffer in agreement with the Council to be placed around the Breach Ley Farm Meadow County Wildlife Site;*
- 6. An appropriate easement along the watercourses on the site free of built development*
- 7. Provide high quality cycle and pedestrian links both within the development and connecting to existing and proposed networks, including NCN63 Burton to Leicester route.*

Although this application falls to be considered on its own merits regard has been paid to the other two sites shown on the overall masterplan, as there are new pedestrian and cycle routes proposed between them. The open space provision both includes an area within the site together with links to the golf course and the larger site to the east (Site C) which proposes an urban park, improvements to existing sports pitches and retention of a local wildlife site. The mix of dwellings would be agreed at reserved matters stage, however, the affordable housing element would be part of the Section 106 agreement.

Policy E7 of the local plan does not represent a constraint to development as the site's contribution to the character and environmental quality of Swadlincote is limited. The NPPF has a strong presumption in favour of sustainable development and an emphasis of bringing forward high levels of housing quickly. This site qualifies as a sustainable location which could rapidly contribute to the 5 year supply.

In principle, therefore, the development represents sustainable development.

### Residential Amenity

In terms of residential amenity, the impact on the existing properties on Woodview Road and Copperas Road requires assessment. The indicative layout shows dwellings adjacent to the boundary with existing properties with a 5m landscaping buffer. A

minimum of 21 metres is required between existing and proposed properties in line with the Council's space standards. The layout indicates sufficient separation distances can be achieved together with an appropriate landscaping buffer to reduce the impact on the amenity of existing properties. Detailed assessment of impacts in terms of heights, designs and finished floor levels would be carried out at reserved matters stage. As such the development is capable of providing for reasonable amenities in terms of light, air and privacy for both existing and new dwellings; safe, functional and convenient layouts; private amenity space, and space for landscaping in accordance with Local Plan Saved Housing Policy 11.

### Design and Building for Life

As this is an outline application it is not possible to apply a definitive Building for Life score in accordance with 'Better Design for South Derbyshire'. However, because of its proximity to the town's facilities it is clear that the site scores well in terms of connections, facilities and services, public transport and meeting local housing requirements. The Design and Access Statement (DAS) indicates that a development of locally distinctive character could be achieved, with well-defined streets and spaces.

The applicant controls open land adjacent to the site and the proposed development would provide substantial open space and recreation opportunities which could contribute to the health and well-being of communities. The DAS indicates that a safe and accessible environment could be created, along with legible pedestrian routes, all in accordance with the healthy communities aspirations of Chapter 8 of the NPPF and the requirements of Local Plan Saved Transport Policy 7 and Recreation and Tourism Policy 4. Further analysis of the open space provision for this particular site is set out below.

At this outline stage the scheme scores well on certain criteria and this is due to the feature square with public realm trees, legible layout, connections to multiple adjacent paths and layout with the key streets, spaces and connections being overlooked by frontages. The scheme shows potential for achieving a score of 14.

For the foregoing reasons the proposal is capable of delivering a well-designed development in accordance with 'Better Design for South Derbyshire' and Chapter 7 of the NPPF.

### Highways and Transport

The Highway Authority has affirmed that it does not consider there is an evidence base to suggest that the conclusion that the development would not have a significant adverse effect on capacity or safety of the local road network is incorrect. It considers that there is no data that would support a reason for refusal of planning permission on the basis that the development would result in severe harm on the highway network, with reference to Paragraph 32 of the National Planning Policy Framework. Adequate parking and internal road layouts would be secured through the reserved matters application(s). As such the development would be in conformity with Local Plan Saved Transport Policy 6.

This site is one of three for which separate applications have been submitted by the same applicant. The sites are not directly connected, or have contiguous boundaries, but adjacent land, forming a golf course, is within the same applicant's control and

therefore potentially provides opportunities for sustainable transport links between the sites and beyond. Links are shown indicatively on the submitted Masterplan, along with a cycle path on Park Road. Further discussions would be required regarding mechanisms for securing provision of these links. It would appear, in principle, that this infrastructure could be achieved either by a combination of conditions or S106 obligation, requiring schemes to be submitted for the design and implementation, including phasing, of the sustainable transport links, together with proposals for subsequent management and maintenance.

### Viability and Section 106

NHS England has not made any request for S106 contributions for services in relation to this application.

The starting point for negotiation is 30% affordable housing split between rent 68.1% and shared ownership 31.9%. The breakdown of dwellings required would be for rent and shared ownership would be higher numbers of 2-3 bed properties. Affordable housing should be 'pepper-potted' across the whole site. This shall be secured through the Section 106.

The proposed development falls within, and directly relates to, the normal areas of Stanton Primary School and The William Allitt School. Application 9/2014/0886 for 60 dwellings would generate the need to provide for an additional 12 primary and 9 secondary pupils. Current number on roll and projections show that the normal area primary and secondary schools would not have sufficient capacity to accommodate the additional pupils arising from the proposed developments. The financial contributions would secure the adaptation / creation of a classroom at Stanton Primary school and adaptation of a classroom The William Allitt School, as follows:

- £136,788.12 towards the provision of 12 primary school places at Stanton Primary School.
- £154,585.53 towards the provision of 9 secondary school places at The William Allitt School.

The calculation of the amount of open space provision on site has been made based on the Council's guidelines and 3,810m<sup>2</sup> would normally be required for 60 dwellings. The indicative layout shows 1,075 m<sup>2</sup> which includes a LEAP of 400m<sup>2</sup>. However, over all three sites 36,195 m<sup>2</sup> would be required and the proposed provision would be 138,800m<sup>2</sup> which amounts to a 73% over provision. Based on normal requirements, and in isolation from the other two applications, contributions including land cost would amount to £36,900 for recreation Open Space, £33,000 for recreation Outdoor Facilities and £18,300 for Recreation Built Facilities with a total of £88,200.

The County Council has made non-specific request for contributions to greenways and rights of way. In the absence of specific, justified and/or costed proposals any such provision, as indicated on the masterplan, would need to be accommodated within the site or other land in the applicant's control. Otherwise such requests would not meet the relevant tests of para 204 of the NPPF.

There is ongoing discussion to establish the residual value of the development and thus the amount available for planning contributions. A verbal update will be provided to members at Committee.

Mining legacy issues have been addressed in the submitted Coal Mining Risk Assessment and conditions requiring site investigation would secure any necessary remediation in accordance with paragraph 121 of the NPPF.

Ecological interests would be adequately safeguarded by condition, as recommended by Derbyshire Wildlife Trust and habitat enhancement secured, in accordance with paragraph 118 of the NPPF and Local Plan Saved Environment Policy 1.

The site is within Flood Zone 1 with an annual probability of flooding from fluvial sources being less than 1 in 1000 years (i.e. < 0.1%). The application provides sufficient evidence to demonstrate that the site is capable of being adequately drained and this would be secured through the recommended conditions of the Environment Agency in accordance with NPPF Chapter 10.

Heritage interests would be safeguarded in accordance with Local Plan Saved Environment Policy 14 and NPPF Chapter 12, by way of condition as recommended by the Development Control Archaeologist.

### Conclusion

This application is one of the three sites that make up the strategic development in the locality in relation to Policy H2 of the Emerging Local Plan, which cumulatively could accommodate around 570 homes. Given the scale of the development it is likely that it could contribute to the early delivery of homes, helping the Council meet its requirement of a five year supply of deliverable housing. By reference to the NPPF's (Para 7) three sustainability dimensions (economic, social, environmental,):

- The provision of new housing would support economic growth, ensuring an attractive place to live for South Derbyshire's economically active population as well as helping to supporting the vitality and viability of Swadlincote. The development would also potentially provide a financial contribution to capacity at local primary schools. This is supported by the site's accessibility to Swadlincote and the surrounding areas, served by public transport. The sites proximity to the existing retail centres of Swadlincote and Newhall all help to further reduce people's need to travel by car. Measures secured by condition and Section 106 Agreement would ensure that local road infrastructure has the capacity to accommodate the scheme.
- The proposed scheme would have a significant positive impact on local communities by providing new homes (market and up to 30% affordable) for approximately 1,311 residents. In terms of healthy communities the illustrative masterplan includes extensive green infrastructure and open space in the form of an urban park and attractive routes along Darklands Brook. Pedestrian/cycle links would help to support active lifestyles and encourage alternatives to the car for accessing local facilities and employment opportunities. Developer contributions would also be made towards education.



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

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

## Recommendation

A. That delegated authority be granted to the Planning Services Manager to negotiate the details of the provisions of the Section 106 agreement referred to in the planning assessment of the report (subject to viability testing by the District Valuer);

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

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

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

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

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

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

3. No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 100 year plus 30% (for climate change) critical rain storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme shall include:

Surface water drainage system/s to be designed in accordance with either the National SUDs Standards, or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken.

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

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

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

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

Reason: To prevent the increased risk of flooding, both on and off site.

4. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.
- B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- D) If required by the conceptual site model no development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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

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

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

6. No development shall take place including any works of demolition 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:

parking of vehicles of site operatives and visitors

routes for construction traffic

hours of operation

pedestrian and cyclist protection

proposed temporary traffic restrictions

arrangements for turning vehicles

Reason: In the interests of highway safety.

7. No other development shall be commenced until a temporary access for construction purposes has been provided in accordance with a detailed design first submitted to and approved in writing by the Local Planning Authority. The access shall be retained in accordance with the approved scheme throughout the construction period, or such other period of time as may be agreed in writing by the Local Planning Authority, free from any impediment to its designated use.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

9. The reserved matters application shall include design of the internal layout of the site in accordance with the guidance contained in the "Manual for Streets" document issued by the Departments for Transport and Communities and Local Government.

Reason: In the interests of highway safety.

10. Prior to the first occupation of any dwelling on the site a new street junction shall be constructed and footway/cycleway and pedestrian refuge implemented on Park Road generally in accordance with Drawing No. ADC1041/001G but more specifically in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt the developer will be required to enter into a 1980 Highways Act S278 Agreement with the Highway Authority in order to comply with the requirements of this condition.

Reason: In the interests of highway safety.

11. Prior to the occupation of each dwelling, the proposed new estate streets between that dwelling and the existing public highway shall be laid out in accordance with the scheme approved in accordance with Condition 9 above, or as subsequently revised and approved in writing by the Local Planning Authority,

constructed to base level, drained and lighted in accordance with the County Council's specification for new housing development roads.

Reason: In the interests of highway safety.

12. No dwelling shall be occupied until space has been provided within the site for the parking and manoeuvring of residents and visitors vehicles associated with that dwelling, laid out in accordance with the scheme approved in accordance with Condition 9 above, or as subsequently revised and approved in writing by the Local Planning Authority. The facilities shall be retained throughout the life of the development free from any impediment to their designated use.

Reason: In the interests of highway safety.

13. The scheme to be submitted to and approved in writing by the Local Planning Authority pursuant to Condition 9 above shall provide for bin stores within private land at the highway end of private accesses, to prevent refuse bins and collection vehicles standing on the new estate street for longer than necessary causing an obstruction or inconvenience for other road users. The facilities shall be provided prior to the first occupation of the dwellings to which they relate and shall be retained free of any impediment to their designated use thereafter.

Reason: In the interests of highway safety.

14. Private driveways/parking spaces to the proposed access road, the subject of Condition 12 above, shall not be taken into use until pedestrian intervisibility splays, details of which shall be included in the reserved matters application(s), have been provided on either side of the accesses at the back of the footway/margin, the splay area being retained throughout the life of the development clear of any object greater than 0.6m in height relative to footway level.

Reason: In the interests of highway safety.

15. Unless as may otherwise be approved pursuant to the reserved matters, prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate, in the case of dwellings of four or more bedrooms 3 cars, in the case of dwellings of two or three bedrooms 2 cars, and in in any other case 1.5 cars within the curtilage of each dwelling, or in any alternative location acceptable to the Local Planning Authority or as may otherwise be agreed in writing by the Local Planning Authority in accordance with its published standards. Thereafter 3 parking spaces (in the case of dwellings with four or more bedrooms) or 2 parking spaces (in the case of dwellings of two or three bedrooms) or 1.5 parking spaces (in any other case), each space measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of each dwelling unless as may otherwise be approved in writing by the Local Planning Authority.

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

16. Unless as otherwise agreed in writing with the Local Planning Authority the proposed access driveways/parking spaces to the public highway shall be no steeper than 1 in 14 for the first 5.0m from the nearside highway boundary and 1 in 10 thereafter.

Reason: In the interests of highway safety.

17. Unless the local planning authority has previously agreed to an alternative timetable no development shall commence until a scheme for the disposal of highway surface water has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and retained accordingly thereafter.  
Reason: In the interests of highway safety.
18. No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a private management and maintenance company has been established.  
Reason: In the interests of highway safety.
19. The landscaping details required pursuant to Condition 2 above shall accord with the Landscape Strategy set out in section 5 of the Design and Access Statement.  
Reason: In the interests of the appearance of the area.
20. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.  
Reason: In the interests of the appearance of the area.
21. No development shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority that specifies the provision to be made for dust mitigation measures and the control of noise emanating from the site during the period of construction of development. The approved measures shall be implemented throughout the construction period.  
Reason: To protect the amenities of nearby residents.
22. No site clearance works or development shall take place until there has been submitted to the Local Planning Authority for its written approval a scheme showing the type, height and position of protective fencing to be erected around each tree or hedgerow to be retained. The scheme shall comply with BS 5837:2012. No site clearance works or development shall be commenced in the vicinity of the protected tree or hedgerow until such a scheme is approved in writing by the Local Planning Authority and thereafter the development hereby permitted shall only be carried out in accordance with the approved scheme. The area surrounding each tree or hedgerow within the protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:
  - (i) There shall be no changes in ground levels;
  - (ii) No material or plant shall be stored;
  - (iii) No buildings or temporary buildings shall be erected or stationed;

(iv) No materials or waste shall be burnt within 20 metres of any retained tree or hedgerow; and

(v) No drain runs or other trenches shall be dug or otherwise created; without the prior written consent of the Local Planning Authority.

Reason: To ensure the protection of these features In the interests of the appearance of the area and biodiversity.

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

Reason: In the interests of pollution control.

24. The development shall be implemented in accordance with the recommendations of the submitted Coal Mining Risk Assessment, in particular with regard to intrusive site investigation works (which shall be undertaken prior to the commencement of any other development) and any resultant remedial works identified by the site investigation shall be undertaken prior to development of the affected part(s) of the site.

Reason: To ensure the stability and safety of the development, having regard to the Coal Mining Risk Assessment undertaken.

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

1. The programme and methodology of site investigation and recording.

2. The programme for post investigation assessment.

3. Provision to be made for analysis of the site investigation and recording.

4. Provision to be made for publication and dissemination of the analysis and records of the site investigation.

5. Provision to be made for archive deposition of the analysis and records of the site investigation.

6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

B. No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under 'A' above.

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

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

26. Notwithstanding any details submitted or the provisions of the Town and Country

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

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

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

Reason: In the interests of the appearance of the area and to enhance legibility of the street layout.

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

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

29. Before development begins a landscape and ecological management plan (LEMP) for all retained and created habitats shall be submitted to, and be approved in writing by, the local planning authority as part of any reserved matters application. The content of the LEMP shall include the following.
- a) Description and evaluation of features to be managed / created.
  - b) Ecological trends and constraints on site that might influence management.
  - c) Aims and objectives of management.
  - d) Appropriate management options for achieving aims and objectives.
  - e) Prescriptions for management actions.
  - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
  - g) Details of the body or organization responsible for implementation of the plan.
  - h) Ongoing monitoring and remedial measures.

The LEMP 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 plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved plan will be implemented in accordance with the approved details.

Reason: To ensure that ecological interests are protected and enhanced in accordance with paragraph 118 of the National Planning Policy Framework.

Informatives:

- a) The Highway Authority recommends that the first 5m of the proposed access driveways should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner.
- b) Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway/new estate street, measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
- c) Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Environmental Services Department at County Hall, Matlock.
- d) Car parking provision should be made on the basis of 1.5no., 2no. or 3no. parking spaces per 1, 2/3 or 4/4+ bedroom dwelling respectively. Each parking bay should measure 2.4m x 4.8m (larger in the case of spaces for use by disabled drivers) with adequate space behind each space for manoeuvring.
- e) Under the provisions of the New Roads and Street Works Act 1991 and the Traffic Management Act 2004, all works that involve breaking up, resurfacing and/or reducing the width of the carriageway require a notice to be submitted to Derbyshire County Council for Highway, Developer and Street Works. Works that involve road closures and/or are for duration of more than 11 days require a three months notice. Developer's Works will generally require a three months notice. Developers and Utilities (for associated services) should prepare programmes for all works that are required for the development by all parties such that these can be approved through the coordination, noticing and licensing processes. This will require utilities and developers to work to agreed programmes and booked slots for each part of the works. Developers considering all scales of development are advised to enter into dialogue with Derbyshire County Council's Highway Noticing Section at the earliest stage possible and this includes prior to final planning consents.
- f) Pursuant to Section 278 of the Highways Act 1980, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Department of Economy Transport and Environment at County Hall, Matlock DE4 3AG. The applicant is advised to allow at least 12 weeks in any programme of works to obtain a Section 278 Agreement.



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

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from the Coal Authority's website at: [www.coal.gov.uk/services/permissions/index.cfm](http://www.coal.gov.uk/services/permissions/index.cfm). The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from [http://www.south-derbys.gov.uk/business/pollution/contaminated\\_land/default.asp](http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp) Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: [pollution.control@south-derbys.gov.uk](mailto:pollution.control@south-derbys.gov.uk).

The application has been screened in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and the Authority is satisfied that the development will not give rise to significant environmental effects.

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

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

A potential developer will need to satisfy the local authority that unacceptable risk from

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

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

Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development. The water body adjacent to the proposed development is not meeting "Good" Water Framework Directive (WFD) status. The development should not lead to any further deterioration in the WFD status of this water body.

All precaution must be taken to avoid discharges and spills to ground both during and after construction. There should be no polluting emissions to air, land or water resulting from actions by the developer or by its sub-contractors. Pollution prevention guidance is available on our website:

<https://www.gov.uk/government/collections/pollution-prevention-guidance-pp>.

During the period of construction, oil and fuel storage will be subject to the Control of Pollution (Oil Storage) (England) Regulations 2001. The Regulations apply to the storage of oil or fuel of any kind in any kind of container which is being used and stored above ground, including drums and mobile bowsters, situated outside a building and with a storage capacity which exceeds 200 litres. A person with custody or control of any oil or fuel breaching the Regulations will be guilty of a criminal offence. The penalties are a maximum fine of £5000 in Magistrates' Court or an unlimited fine in Crown Court. Further details of the Regulations are available from the Environment Agency.

Surface water run-off should be controlled as near to its source as possible through a sustainable drainage approach to surface water management (SuDS). SuDS are an approach to managing surface water run-off which seeks to mimic natural drainage systems and retain water on or near the site as opposed to traditional drainage approaches which involve piping water off site as quickly as possible. SuDS involve a range of techniques including soakaways, infiltration trenches, permeable pavements, grassed swales, green roofs, ponds and wetlands. SuDS offer significant advantages over conventional piped drainage systems in reducing flood risk by attenuating the rate and quantity of surface water run-off from a site, promoting groundwater recharge

absorbing diffuse pollutants and improving water quality. Ponds, reed beds and seasonally flooded grasslands can be particularly attractive features within public open spaces. We encourage the use of above ground SuDS as these provide greater water quality benefits.

The variety of SuDS techniques available means that virtually any development should be able to include a scheme based around these principles and provide multiple benefits, reducing costs and maintenance needs.

It is recommended that the installation of fittings that will minimise water usage such as low, or dual, flush WC's, spray taps and economical shower-heads in the bathroom are installed. Power showers are not recommended as they can consume more water than an average bath. Water efficient versions of appliances such as washing machines and dishwashers are also recommended. For outdoors consider installing a water butt, or even a rainwater harvesting system, to provide a natural supply of water for gardens. Simple treatment systems exist that allow rainwater to be used to supply WC's within the home. Following the above recommendations will significantly reduce water consumption and associated costs when compared to traditional installations. Rainwater harvesting utilises a free supply of fresh water and reduces the cost to the environment and the householder.

Further to Condition 21 you are advised to consider the document 'Guidance on the assessment of dust from demolition and construction' from the Institute of Air Quality Management for advice on how such an assessment should be performed.

Further to Condition 25 advice on the production of the WSI can be obtained from the County Council's Development Control Archaeologist Steve.Baker@derbyshire.gov.uk Tel 01629 539773

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

The site is located on carboniferous coal measures strata which are designated a 'Secondary (A) Aquifer' by the Environment Agency. Tributaries of Stanton Brook are located 110 metres to the south east and 130 metres to the north west of the site.

The information submitted identifies that the site has not been subject to any previous significant development and consequently we have no requirement for any further investigation into the presence of contamination.

It should be noted that in accordance with Government Policy detailed in the National Planning Policy Framework (paragraph 120), 'where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner'. Therefore, should any significant contamination, not assessed by virtue of this report/project, subsequently become apparent responsibility remains with these parties.

Given the industrial activities (mining and land filling) which have historically taken place

in the surrounding area we recommend Condition 5 to ensure that any unsuspected contamination encountered during development is dealt with appropriately (i.e. such that any risk to 'controlled waters' receptors are addressed).

The reserved matters application should be based on the indicative layout in respect of the design concepts, linkages, buffers and public open space as they have been negotiated with a view to achieving a sufficient Building for Life Score.

**Item** 1.2

**Reg. No.** 9/2014/0887/OS

**Applicant:**  
Mr Stuart Ashton  
Harworth Estates  
AMP Technology Centre  
Brunel Way  
Waverley  
S60 5WG

**Agent:**  
Mr Steve Lewis-Roberts  
Pegasus Planning Group  
4 The Courtyard  
Church Street  
Lockington  
DE74 2SL

**Proposal:** **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS TO BE RESERVED) FOR UP TO 110 DWELLINGS, TOGETHER WITH ASSOCIATED HIGHWAY WORKS, PUBLIC OPEN SPACE, LANDSCAPING, ASSOCIATED DRAINAGE INFRASTRUCTURE AND CREATION OF PEDESTRIAN AND CYCLE WAYS ON LAND AT SK2719 2370 (SITE B) WOODLAND ROAD STANTON SWADLINCOTE**

**Ward:** **NEWHALL & STANTON**

**Valid Date:** **01/10/2014**

**Reason for committee determination**

This major application is brought before the Committee as it is a major application, contrary to the Development Plan, where more than two objections have been received.

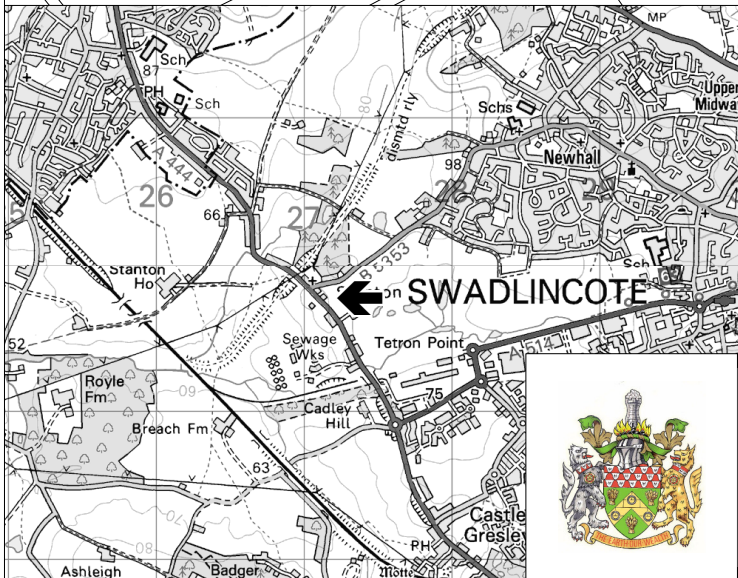
**Site Description**

This 3.34 hectare site is rectangular in shape and has frontages onto both Park Road and Woodland Road. The land is in agricultural use and Hall Fields Farm and associated agricultural buildings are located on the south eastern part of the site. To the south and north of the site residential areas form linear or ribbon development along the A444 and Park Road. The Gate Public House bounds the site to the south east and the golf course development is to the east.

**Proposal**

Outline planning permission is sought including access for residential development of up to 110 dwellings. The application is part of an overall masterplan which includes two other parcels of land adjacent to the golf course to the north east and east (application refs 9/2014/0886 & 0888). The indicative masterplan shows access off Burton Road (A444) approximately 105m from the south eastern boundary with the Gate Inn, utilising

9/2014/0887 - Land at SK2719 2370 (Site B) Woodland Road, Stanton, Swadlincote (DE15 9TH)



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

the existing farm access. Existing hedging would be retained on the A444 with properties set 8-10m from the road frontage. A 5m wide landscaping buffer is proposed to the rear of existing properties on Burton Road and along the Park Road frontage, with a 10m wide buffer adjacent to the golf course to the east. Proposed dwellings would be 8-10m from the Park Road frontage and approximately 25m from the existing dwellings opposite.

The access would be tree lined and would link to a central feature square, enclosed by landmark buildings and with a small estate road to the south east and larger estate road to the north west to serve the largest part of the development. Dwellings are proposed adjacent to the boundaries with existing properties. A rectangular LEAP is proposed in the north western part of the site which would be 20m from the boundary with the cattery on Burton Road. A cycle link through this part of the site from the A444 around the edge of the golf course and along Park Road to link with the Sustrans route further up Park Road near Site A is proposed. Dwellings would face the internal access roads and feature squares and landmark buildings are proposed to improve legibility.

### **Applicants' supporting information**

The Planning Statement states that the application should be considered in the context of the site wide masterplan that provides the framework for the wider development proposals at Cadley Park. Policy H2 of the South Derbyshire Pre-Submission Local Plan allocates three housing parcels on land at Cadley Park for residential development of around 600 dwellings. It describes the site and the proposals and summarises the relevant national and local planning policy. The document states that the scale of the development proposals and their location is entirely consistent with Draft Policy H2 as the application makes provision for up to 570 new homes, in three development parcels. The Masterplan which accompanies all three planning applications demonstrates that the sites have been considered holistically with other development and open space enhancement opportunities. A mix of house types will be provided across the three development sites, which complement each other. New pedestrian and cycle links are proposed within the site which will connect to existing networks. The proposals incorporate more than 22.31 hectares of new public open space and National Forest Planting, across the Cadley Park development area, and a LEAP is located within the application site. This green infrastructure significantly exceeds the National Forest requirements. Summaries of the conclusions of all supporting documents are included. It concludes that the development accords with the South Derbyshire Local Plan where it is consistent with the NPPF. The proposal constitutes sustainable development and delivers a wide range of economic, social and environmental benefits. The proposal also complies with the site specific requirements in emerging Local Plan Core Strategy Part 1 - Policy H2 and will help meet the Council's current housing land supply shortfall.

Design and Access Statement describes the proposal within the context of the masterplan, the history of the site and assesses the site in terms of landscape context, visual impact, and character of surrounding areas. The character assessment areas identified were Swadlincote town centre, the A444 corridor, Newhall and the new housing at Castle Gresley. An assessment of services has been undertaken and routes of movement and assessment of the planning policy context. The public consultation exercise is summarised and the evaluation of the design and layout is outlined in a series of diagrams with descriptions. The street hierarchy, pedestrian and cycle routes and open space are discussed together with the scale of buildings and keynote buildings. Landscaping buffers are proposed adjacent to existing dwellings, the road

frontages and the golf course to the east. The scheme is assessed against the Building for Life criteria and the majority of criteria scored green with oranges where the information is not available due to the application being outline.

Consultation Statement outlines the methods used to consult the public on the proposal. A website was set up which included the indicative masterplan, information leaflet and comments form. The public exhibition was held on 7th July 2014 from 4:00pm until 8.00pm at The Old Post Centre, High Street, Newhall. 3,000 leaflets were delivered to homes and businesses in Swadlincote in the week commencing 23<sup>rd</sup> June 2014 to advertise this event, together with posters in the vicinity and an article in the Burton Mail. 151 responses were received from local residents and they related to lack of capacity of local facilities such as schools and doctor's surgeries, traffic implications, loss of green space, lack of adequate landscaping buffers adjacent to existing properties and subsidence and drainage concerns.

The Arboricultural Report states the positions of the trees on site were generally restricted to the field boundaries with the exception of the eastern portion where many self-set groups had formed within the outgrown boundaries. A total of eleven individual trees, thirteen groups of trees and one hedgerow were surveyed as part of the arboricultural assessment. To facilitate the proposals, several groups of trees and hedgerows will require removal, all of which were considered to be category C, of low arboricultural and landscape value. The removal of these trees would not remove or drastically reduce the overall amenity value which they currently provide. Suitable mitigation could be secured within the proposals for their replacement.

The Flood Risk Assessment states the site is located entirely within Flood Zone 1. The annual probability of flooding from fluvial sources is, therefore, less than 1 in 1000 years (i.e. < 0.1%). Surface water runoff will be managed in a sustainable manner to ensure that flood risk is not increased downstream of the site. The wider site drainage system within the golf course to the east of the site will be utilised under the proposals. Attenuation will be provided in existing surface water features such as the existing pond and watercourse to the east of the site, within the golf course area.

Site Investigation Study and Coal Mining Risk Assessment concludes that the risk of significant contamination, pollution or other environmental issues affecting the site, or the site affecting the surrounding area, is considered to be low to moderate.

From examination of geological and hydrogeological data, the risks to groundwater and surface water are considered to be low to moderate. The report gives recommendations for what should be included in the detailed physical site investigation.

Phase 1 Habitat Survey and Ecological Assessment specifies the site as semi-improved grassland. Surveys have been undertaken in relation to breeding birds, winter birds, badgers, bats and reptiles.

Landscape and Visual Assessment sets the site in context with the surrounding landscape. Nationally the site is defined; as National Character Area 71: Leicestershire and South Derbyshire Coalfield<sup>5</sup>, regionally as Settled Coalfield Farmlands RLCT and locally as Coalfield Village Farmlands Landscape Character Type (LCT). Viewpoints are assessed and the report concludes that the scale and form of proposed development is likely to result in only limited harm at a localised level and potential landscape and visual effects are not likely to be significant. Furthermore the extensive proposals for



green infrastructure and landscaping will deliver a number of enhancements in terms of the physical landscape and landscape character. As such the proposed development is acceptable in landscape and visual terms.

Archaeological Desk Based Assessment states that Abandonment Plans obtained from the Coal Authority demonstrated that the site was excavated during opencast mining in the late 20th Century. No archaeological remains will survive in this region.

Noise Report concludes that mitigation measures such as orientation of dwellings and thermal double glazing would ensure noise levels are within acceptable levels. This should be detailed at reserved matters stage.

Transport Assessment states that development would be within walking distance of many employment destinations and local facilities in Newhall. The town centre would be within walking distance via the new footpaths that would be provided through the masterplan area. The National Cycle Network route 63 provides an excellent route to the north to Burton upon Trent and the gap in that route as it passes through Swadlincote would be plugged by the cycle infrastructure proposed by the development. The development would create a demand for an additional 7 pedestrian journeys and 2 cycle journeys during an average peak hour. The existing infrastructure, enhanced by the proposed provisions, would adequately accommodate the increase in demand created by the proposed development.

Two bus services are within easy walking distance, with stops on Woodland Road and Park Road and existing bus services would adequately cater for the proposed development without alteration. The proposed development would be accessed from the A444 Woodland Road at the same location as the existing Hallfields Road access. The junction would be a ghost island T-junction, designed to standard. To the south of the proposed site access, development traffic will route through the A444 Burton Road/Cadley Hill Road roundabout. The assessment concludes that the local highway network is able to accommodate the proposed development without adverse impact and without the need for improvements. Nevertheless, a Travel Plan accompanies the planning application, and its measures are aimed at reducing single occupancy car travel, which will provide a benefit to the local highway network and mitigate the small increases in traffic arising from the development proposal.

Air Quality Assessment states that a construction phase assessment has been undertaken to determine the risk and significance of dust effects from earthworks, construction and trackout from the proposed development. The report concludes that dust and road traffic emissions can be adequately controlled through mitigation measures and at operation impacts would not be significant.

Geophysical Survey Report concludes that the underlying geology across the area provided a reasonable magnetic contrast for the detection of infilled features. The majority of anomalies detected could be attributed to a modern or recent origin. The only potential features of archaeological significance were the discoveries of possible ridge and furrow ploughing and a single possible ditch.

Bat Activity Survey Report confirmed that bats forage in specific locations on site associated with hedgerows and woodland edge habitats and also that no evidence was found of roosting bats. Recommendations to minimise the potential disturbance of bats and ensure landscape connectivity would be to retain and or incorporate hedgerows into

the proposed scheme. Additionally, a sensitive lighting strategy should be implemented to reduce potential impacts on bat foraging behaviour.

## **Planning History**

None

## **Responses to Consultations**

Natural England has no objection as the proposal is unlikely to affect any statutorily protected sites or landscapes.

The County Archaeologist states that the geophysics results for site have indicated the potential for a small number of possible archaeological features and thus recommends a condition requiring a written scheme of investigation for archaeological work.

The County Rights of Way advise that Swadlincote Footpath No 46 crosses the site and includes advice to the applicant in terms of the footpath remaining open and available for public use.

The Coal Authority has no objection subject to a site investigation condition which would identify mine entries and shallow mine workings.

The County Council Flood Risk Team promotes Sustainable Urban Drainage Systems (SuDS) to be incorporated within the design of a drainage strategy for any proposed development.

The Police Crime Prevention Design Advisor has general comments that should be considered prior to a reserved matters application being submitted which relate to natural surveillance of open space, parking areas and security of routes and private garden areas.

The County Highways Authority have reviewed the Travel Plan and made comments in terms of Rights of Way and public transport linkages and make recommendations for further surveys and monitoring.

Derbyshire County Council's Developer Contributions Officer states that the following contributions are required:-

- £16,307.70 (£28.61 per dwelling x 570 dwellings) towards additional waste management capacity (£3147.1 for Site B);
- Access to high speed broadband services for future residents (in conjunction with service providers);
  - £250,788.22 towards the provision of 22 primary school places at Stanton Primary School for Application 9/2014/0887
  - £274,818.72 towards the provision of 16 secondary school places at The William Allitt School for Application 9/2014/0887; and

- New homes designed to Lifetime Homes standards.

The Environmental Health Officer has no objection subject to controls on noise and dust by condition.

Derbyshire Wildlife Trust considers the ecological assessment to be of a sufficient standard and the proposal would result in the loss of semi-improved neutral grassland of low nature conservation value and loss of some breeding habitat for birds. The proposal should incorporate hedgerows and some scrub land to provide habitat and a Landscape and Ecology Management Plan should be submitted a reserved matters stage.

The Peaks and Northern Footpath Association state that the proposed cycle links should be provided to a width of at least 3 metres and dedicated as public rights of way (or adopted). The route of Footpath 46 through the site must run through a wide landscaped strip segregated from vehicular traffic.

The Environment Agency has no objection subject to conditions relating to a Surface Water Drainage system and contaminated land.

Severn Trent Water has no objection subject to a drainage condition and an informative regarding a public sewer within the application site.

The Council's Contaminated Land Officer recommends a phased contamination condition.

The National Forest Company states that the open space typology plan submitted shows how 10ha of National Forest planting will be incorporated in Site C to address the National Forest Planting requirement for the three applications. Conditions are requested that require the reserved matters submissions to be in accordance with the Landscape Strategy Plans within the Design and Access Statements. These show suitable amounts of tree planting for the open space to be considered as National Forest planting. In particular the design of the Urban Park in Site C will need to be designed around a woodland concept. They consider that significant amounts of feature tree planting should be incorporated within the built form to replicate the strong emphasis on tree planting within the adjoining residential development.

The Council's Tree Officer has assessed the Arboricultural Assessment and considered it acceptable and recommends a condition regarding new tree planting.

## **Responses to Publicity**

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

- a) The site has very poor access.
- b) The site has drainage problems in winter.
- c) The tenants of Hallfield Farm have been there for 14 years and oppose the scheme as they need the land for grazing.
- d) The site is honeycombed with mineshafts and Harworth Estates and UK Coal are aware of this.
- e) The owners of the cattery adjacent to the north western boundary are concerned regarding the impact on their business due to construction noise and noise from

- future occupiers and if approved would require assurances that there would be buffer planting and dwellings kept as far from the premises as possible
- f) The bungalow to the rear of 10 Park Road made an agreement with the County Council for a visibility splay that requires protection.

## **Development Plan Policies**

The relevant policies are:

Local Plan: The relevant policies are:

Local Plan Saved Housing Policies 4 and 11, Environment Policies 7, 9, 10, 11 & 14  
Transport Policies 6, 7 & 8, Recreation and Tourism Policy 4 and Community Facilities Policy 1

Emerging Local Plan

Policy S2 : Presumption in Favour of Sustainable Development

Policy S4 : Housing Need

Policy S6: Sustainable Access

Policy H1 : Settlement Hierarchy

Policy H2 : Land North of William Nadin Way, Swadlincote

Policy SD1: Amenity and Environmental Quality

Policy SD2: Flood Risk

Policy SD3 : Delivering Sustainable Water Supply, Drainage and Sewerage

Policy SD4 : Contaminated Land and Mining Legacy issues

Policy BNE1: Design Excellence

Policy BNE3: Biodiversity

Policy BNE4: Landscape Character and Local Distinctiveness

Policy INF1: Infrastructure and Developer Contributions

Policy INF8: The National Forest

Policy INF9: Open Space, Sport and Recreation

## **National Guidance**

National Planning Policy Framework (NPPF), in particular:

Paras 6-10 (Achieving sustainable development)

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

Para 17 (Core principles)

Chapter 1 (Economy)

Chapter 4 (Promoting sustainable transport)

Chapter 6 (Housing)

Chapter 7 (Requiring good design)

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

Chapter 11 (Conserving and enhancing the natural environment)

Chapter 12 (Heritage)

Paras 186 & 187 (Decision-taking)

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

Para 196 & 197 (Determining applications)

Paras 203-206 (Planning conditions and obligations)

Annex 1 (Implementation)

National Planning Practice Guidance (NPPG) 2a, 3, 8, 10, 23b, 26, 33, 37, 42, 45

## Local Guidance

Housing Design and Layout, Trees on Development Sites, Developer Contributions, Better Design for South Derbyshire.

## Planning Considerations

- The main issues central to the determination of this application are:
- Principle of Development
- Residential Amenity
- Design and Building for Life
- Highways and Transport
- Viability and S106
- Other Matters

## Planning Assessment

### Principle of Development

The proposal for 110 dwellings on this site is part of a framework for the wider development proposals at Cadley Park. Policy H2 of the South Derbyshire Pre-Submission Local Plan allocates three housing parcels on land at Cadley Park for residential development of around 600 dwellings. The adopted Local Plan allocates the site as open land in Swadlincote under Environment Policy 7. This policy states that *'open land which makes a valuable contribution to the character and environmental quality of Swadlincote will be safeguarded from development'*. This parcel of land in the western corner of the masterplan area is relatively small in comparison with the land retained for the golf course. To the west it adjoins the existing ribbon development of dwellings along the A444 and to the north on Park Road with the golf course land adjoining the site to the east.

At the national level, Paragraph 47 of the NPPF seeks to boost significantly the supply of housing providing a considerable emphasis on bringing forward high levels of housing provision as soon as possible. Paragraph 49 states that *'housing applications should be considered in the context of the presumption in favour of sustainable development'*. The site is within the main urban area of Swadlincote and is thus a highly sustainable location for further residential development.

The site is within walking distance of local services, facilities and employment, therefore the site would be considered to be a sustainable location for development whereby there would not be a reliance on the car. Pedestrian and cycle routes would be improved as part of the masterplan area. The development is close to a principal road network and the access would be directly off Burton Road (A444) utilising the existing farm access.

The site specific policy in the Pre-Submission Local Plan H2 policy states that:-

*A Residential development on Land north of William Nadin Way, Swadlincote for around 600 dwellings.*

*B The Council will require the below listed site specifics and accordance with other Local Plan policies:*

- 1. Consider the site holistically with other development and open space enhancement opportunities;*
- 2. A mix of dwelling types shall be provided across the three parcels of land which complement each other;*
- 3. The provision of recreational and community facilities;*
- 4. The presence of Coal Mining Legacy and resulting potential for unstable land will require the submission of a Coal Mining Risk Assessment in support of planning applications;*
- 5. An appropriate buffer in agreement with the Council to be placed around the Breach Ley Farm Meadow County Wildlife Site;*
- 6. An appropriate easement along the watercourses on the site free of built development*
- 7. Provide high quality cycle and pedestrian links both within the development and connecting to existing and proposed networks, including NCN63 Burton to Leicester route.*

Although this application falls to be considered on its own merits regard has been paid to the other two sites shown on the overall masterplan, as there are new pedestrian and cycle routes proposed between them. The open space provision both includes an area within the site together with links to the golf course and the larger site to the east (Site C) which proposes an urban park, improvements to existing sports pitches and retention of a local wildlife site. The mix of dwellings would be agreed at reserved matters stage, however, the affordable housing element would be part of the Section 106 agreement.

Policy E7 of the local plan does not represent a constraint to development as the site's contribution to the character and environmental quality of Swadlincote is limited. The NPPF has a strong presumption in favour of sustainable development and an emphasis of bringing forward high levels of housing quickly. This site qualifies as a sustainable location which could rapidly contribute to the 5 year supply.

In principle, therefore, the development represents sustainable development.

### Residential Amenity

The nearest existing residential properties are in the north western corner of the site on Burton Road and to the north over Park Road. The proposal is capable of meeting or exceeding the minimum separation distances set out in supplementary planning guidance. Dwellings would be set 10m back from the road frontages behind 5m wide buffer planting on Park Road and existing hedging on Burton Road. In relation to the cattery on the north western boundary an estate road would separate proposed dwellings from the boundary where the cats are housed. The nearest dwelling to the residential part of the cattery would likely be some 35m.

As such the development is capable of providing for reasonable amenities in terms of light, air and privacy for both existing and new dwellings; safe, functional and convenient layouts; private amenity space, and space for landscaping in accordance with Local Plan Saved Housing Policy 11 and NPPF paragraph 17.

### Design and Building for Life

As this is an outline application it is not possible to apply a definitive Building for Life score in accordance with 'Better Design for South Derbyshire'. However, because of its proximity to the town's facilities it is clear that the site scores well in terms of connections, facilities and services, public transport and meeting local housing requirements. The Design and Access Statement (DAS) indicates that a development of locally distinctive character could be achieved, with well-defined streets and spaces.

The applicant controls open land adjacent to the site and the proposed development would provide substantial open space and recreation opportunities which could contribute to the health and well-being of communities. The DAS indicates that a safe and accessible environment could be created, along with legible pedestrian routes, all in accordance with the healthy communities aspirations of Chapter 8 of the NPPF and the requirements of Local Plan Saved Transport Policy 7 and Recreation and Tourism Policy 4. Further analysis of the open space provision for this particular site is set out below.

An avenue of street trees is proposed at the site entrance which leads to a large feature square of landmark buildings and smaller squares and a large central area of open space help to address legibility of the site. The importance of the view from the north east on Park Road is acknowledged by an angled landmark building. Linkages between the site and the surrounding area have been addressed through the provision of two new cycle routes which would link to Site A and the wider area. Bus stops have been indicated to identify how the site can be accessed by other means of transport.

At outline stage the scheme scores well on certain criteria and this is due to the series of feature squares and public realm trees, legible layout, connections to multiple adjacent paths and roads and a layout with the key streets, spaces and connections being overlooked by frontages. The scheme shows potential for achieving a score of 14.

For the foregoing reasons the proposal is capable of delivering a well-designed development in accordance with 'Better Design for South Derbyshire' and Chapter 7 of the NPPF.

### Highways and Transport

The Highway Authority has affirmed that it does not consider there is an evidence base to suggest that the development would have a significant adverse effect on capacity or safety of the local road network. It considers that there is no data that would support a reason for refusal of planning permission on the basis that the development would result in severe harm on the highway network, with reference to Paragraph 32 of the National Planning Policy Framework. Adequate parking and internal road layouts would be secured through the reserved matters application(s). As such the development would be in conformity with Local Plan Saved Transport Policy 6.

This site is one of three for which separate applications have been submitted by the same applicant. The sites are not directly connected, or have contiguous boundaries, but adjacent land, forming a golf course, is within the same applicant's control and therefore potentially provides opportunities for sustainable transport links between the sites and beyond. Links are shown indicatively on the submitted Masterplan, along with a cycle path on Park Road. Further discussions would be required regarding mechanisms for securing provision of these links. It would appear, in principle, that this

infrastructure could be achieved either by a combination of conditions or S106 obligation, requiring schemes to be submitted for the design and implementation, including phasing, of the sustainable transport links, together with proposals for subsequent management and maintenance.

### Viability and S106

For this application 9/2014/0887 the County Council requests a financial contribution of £250,778.22 towards the provision of 22 primary school places to be delivered via the adaptation of a classroom, or if taken together with Application 9/2014/0886, via the creation of a new classroom (classroom Project A at Stanton Primary School); and a financial contribution of £274,818.72 towards the provision of 16 secondary school places via the adaptation of a classroom (classroom Project A at The William Allitt School).

The starting point for negotiation is 30% affordable housing split between rent 68.1% and shared ownership 31.9%. The breakdown of dwellings required would be for rent and shared ownership would be higher numbers of 2-3 bed properties. Affordable housing should be 'pepper-potted' across the whole site.

The calculation of the amount of open space provision on site has been made based on the Council's guidelines and 6,985m<sup>2</sup> would normally be required for 110 dwellings. The indicative layout shows 2,025 m<sup>2</sup> which includes a LEAP of 400m<sup>2</sup>. Therefore there is a deficient of 4960m<sup>2</sup>. However, over all three sites 36,195 m<sup>2</sup> would be required and the proposed provision would be 138,800m<sup>2</sup> which amounts to a 73% over provision. Based on normal requirements, and in isolation from the other sites, contributions including land cost would amount to £67,650 for Recreation Open Space, £60,500 for Recreation Outdoor Facilities and £33,550 for Recreation Built Facilities.

The County Council has made non-specific request for contributions to greenways and rights of way. In the absence of specific and/or costed proposals any such provisions, as indicated on the masterplan, would need to be accommodated within the site or other land in the applicant's control. Otherwise such requests would not meet the relevant tests of paras the NPPF.

There is ongoing discussion to establish the residual value of the development and thus the amount available for planning contributions. A verbal update will be provided to members at Committee.

### Other Issues

Mining legacy issues have been addressed in the submitted Coal Mining Risk Assessment and conditions requiring site investigation would secure any necessary remediation in accordance with paragraph 121 of the NPPF.

Ecological interests would be adequately safeguarded by condition, as recommended by Derbyshire Wildlife Trust and habitat enhancement secured, in accordance with paragraph 118 of the NPPF and Local Plan Saved Environment Policy 1.

The site is within Flood Zone 1 with an annual probability of flooding from fluvial sources being less than 1 in 1000 years (i.e. < 0.1%). The application provides sufficient evidence to demonstrate that the site is capable of being adequately drained and this



would be secured through the recommended conditions the Environment Agency in accordance with NPPF Chapter 10.

Heritage interests would be safeguarded in accordance with Local Plan Saved Environment Policy 14 and NPPF Chapter 12, by way of condition as recommended by the Development Control Archaeologist.

### Conclusion

This application is one of the three sites that make up the strategic development in the locality in relation to Policy H2 of the Emerging Local Plan, which cumulatively could accommodate around 570 homes. Given the scale of the development it is likely that it could contribute to the early delivery of homes, helping the Council meet its requirement of a five year supply of deliverable housing. By reference to the NPPF's (Para 7) three sustainability dimensions (economic, social, environmental,):

- The provision of new housing would support economic growth, ensuring an attractive place to live for South Derbyshire's economically active population as well as helping to supporting the vitality and viability of Swadlincote. The development would also potentially provide a financial contribution to capacity at local primary schools. This is supported by the site's accessibility to Swadlincote and the surrounding areas, served by public transport. The site's proximity to the existing retail centres of Swadlincote and Newhall all help to further reduce people's need to travel by car. Measures secured by condition and Section 106 Agreement would ensure that local road infrastructure has the capacity to accommodate the scheme.
- The proposed scheme would have a significant positive impact on local communities by providing new homes (market and up to 30% affordable) for approximately 1,311 residents. In terms of healthy communities the illustrative masterplan includes extensive green infrastructure and open space in the form of an urban park and attractive routes along Darklands Brook. Pedestrian/cycle links would help to support active lifestyles and encourage alternatives to the car for accessing local facilities and employment opportunities. Developer contributions would also potentially be made towards education.
- The application explains how a range of environmental factors have been taken into account to ensure sustainable development (including landscape, ecology, air and noise pollution, archaeology, and water). Mitigation has been included within the scheme to ensure the conservation and enhancement of key features. The scheme also helps to mitigate future climate change through reducing CO2 emissions by building new homes in a highly accessible location and reducing the need to travel by car. In terms of resilience to climate change impacts, the scheme has been designed to take this into account, namely through provision of a sustainable drainage strategy and extensive network of green infrastructure.

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

### **Recommendation**

A. That delegated authority be granted to the Planning Services Manager to negotiate the details of the provisions of the Section 106 agreement referred to in the planning assessment of the report (subject to viability testing by the District Valuer);

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

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

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

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

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

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

3. No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 100 critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme shall include:

Surface water drainage system/s to be designed in accordance with either the National SUDs Standards, or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken.

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

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

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

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

Reason: To prevent the increased risk of flooding, both on and off site.

4. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.
- B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- D) If required by the conceptual site model no development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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

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

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

6. No development shall take place including any works of demolition 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:

parking of vehicles of site operatives and visitors

routes for construction traffic

hours of operation

pedestrian and cyclist protection  
proposed temporary traffic restrictions  
arrangements for turning vehicles

Reason: In the interests of highway safety.

7. No other development shall be commenced until a temporary access for construction purposes has been provided in accordance with a detailed design first submitted to and approved in writing by the Local Planning Authority. The access shall be retained in accordance with the approved scheme throughout the construction period, or such other period of time as may be agreed in writing by the Local Planning Authority, free from any impediment to its designated use.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

9. The reserved matters application shall include design of the internal layout of the site in accordance with the guidance contained in the "Manual for Streets" document issued by the Departments for Transport and Communities and Local Government.

Reason: In the interests of highway safety.

10. Prior to the first occupation of any dwelling on the site a new street junction and associated works shall be implemented on Woodlands Road generally in accordance with Drawing No. ADC1041/002E but more specifically in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt the developer will be required to enter into a 1980 Highways Act S278 Agreement with the Highway Authority in order to comply with the requirements of this condition.

Reason: In the interests of highway safety.

11. Prior to the occupation of each dwelling, the proposed new estate streets between that dwelling and the existing public highway shall be laid out in accordance with the scheme approved in accordance with Condition 9 above, or as subsequently revised and approved in writing by the Local Planning Authority, constructed to base level, drained and lighted in accordance with the County Council's specification for new housing development roads.

Reason: In the interests of highway safety.

12. No dwelling shall be occupied until space has been provided within the site for the parking and manoeuvring of residents and visitors vehicles associated with that dwelling, laid out in accordance with the scheme approved in accordance with Condition 9 above, or as subsequently revised and approved in writing by the Local Planning Authority. The facilities shall be retained throughout the life of the development free from any impediment to their designated use.

Reason: In the interests of highway safety.

13. The scheme to be submitted to and approved in writing by the Local Planning Authority pursuant to Condition 9 above shall provide for bin stores within private

land at the highway end of private accesses, to prevent refuse bins and collection vehicles standing on the new estate street for longer than necessary causing an obstruction or inconvenience for other road users. The facilities shall be provided prior to the first occupation of the dwellings to which they relate and shall be retained free of any impediment to their designated use thereafter.

Reason: In the interests of highway safety.

14. Private driveways/parking spaces to the proposed access road, the subject of Condition 12 above, shall not be taken into use until pedestrian intervisibility splays, details of which shall be included in the reserved matters application(s), have been provided on either side of the accesses at the back of the footway/margin, the splay area being retained throughout the life of the development clear of any object greater than 0.6m in height relative to footway level.

Reason: In the interests of highway safety.

15. Unless as may otherwise be approved pursuant to the reserved matters, prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate, in the case of dwellings of four or more bedrooms three cars, in any other case two cars within the curtilage of each dwelling, or in any alternative location acceptable to the Local Planning Authority or as may otherwise be agreed in writing by the Local Planning Authority in accordance with its published standards. Thereafter three parking spaces (in the case of dwellings with four or more bedrooms) or two parking spaces (in any other case), each space measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of each dwelling unless as may otherwise be approved in writing by the Local Planning Authority.

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

16. Unless as otherwise agreed in writing with the Local Planning Authority the proposed access driveways/parking spaces to the public highway shall be no steeper than 1 in 14 for the first 5.0m from the nearside highway boundary and 1 in 10 thereafter.

Reason: In the interests of highway safety.

17. Unless the local planning authority has previously agreed to an alternative timetable no development shall commence until a scheme for the disposal of highway surface water has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and retained accordingly thereafter.

Reason: In the interests of highway safety.

18. No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a private management and maintenance company has been established.

Reason: In the interests of highway safety.

19. The landscaping details required pursuant to Condition 2 above shall accord with the Landscape Strategy set out in section 5 of the Design and Access Statement.  
Reason: In the interests of the appearance of the area.
20. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.  
Reason: In the interests of the appearance of the area.
21. No development shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority that specifies the provision to be made for dust mitigation measures and the control of noise emanating from the site during the period of construction of the development. The approved measures shall be implemented throughout the construction period.  
Reason: To protect the amenities of nearby residents.
22. No site clearance works or development shall take place until there has been submitted to the Local Planning Authority for its written approval a scheme showing the type, height and position of protective fencing to be erected around each tree or hedgerow to be retained. The scheme shall comply with BS 5837:2012. No site clearance works or development shall be commenced in the vicinity of the protected tree or hedgerow until such a scheme is approved in writing by the Local Planning Authority and thereafter the development hereby permitted shall only be carried out in accordance with the approved scheme. The area surrounding each tree or hedgerow within the protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:
- (i) There shall be no changes in ground levels;
  - (ii) No material or plant shall be stored;
  - (iii) No buildings or temporary buildings shall be erected or stationed;
  - (iv) No materials or waste shall be burnt within 20 metres of any retained tree or hedgerow; and
  - (v) No drain runs or other trenches shall be dug or otherwise created;
- without the prior written consent of the Local Planning Authority.  
Reason: To ensure the protection of these features In the interests of the appearance of the area and biodiversity.
23. No work shall take place on the site until details of a scheme for the disposal of foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.  
Reason: In the interests of pollution control.
24. The development shall be implemented in accordance with the recommendations of the submitted Coal Mining Risk Assessment, in particular with regard to

intrusive site investigation works (which shall be undertaken prior to the commencement of any other development) and any resultant remedial works identified by the site investigation shall be undertaken prior to development of the affected part(s) of the site.

Reason: To ensure the stability and safety of the development, having regard to the Coal Mining Risk Assessment undertaken.

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

1. The programme and methodology of site investigation and recording.
2. The programme for post investigation assessment.
3. Provision to be made for analysis of the site investigation and recording.
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
5. Provision to be made for archive deposition of the analysis and records of the site investigation.
6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

B. No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under 'A' above.

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

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

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

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

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

Reason: In the interests of the appearance of the area and to enhance legibility of the street layout.

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

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

29. Before development begins a landscape and ecological management plan (LEMP) for all retained and created habitats shall be submitted to, and be approved in writing by, the local planning authority as part of any reserved matters application. The content of the LEMP shall include the following.
- a) Description and evaluation of features to be managed / created.
  - b) Ecological trends and constraints on site that might influence management.
  - c) Aims and objectives of management.
  - d) Appropriate management options for achieving aims and objectives.
  - e) Prescriptions for management actions.
  - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
  - g) Details of the body or organization responsible for implementation of the plan.
  - h) Ongoing monitoring and remedial measures.

The LEMP 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 plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved plan will be implemented in accordance with the approved details.

Reason: To ensure that ecological interests are protected and enhanced in accordance with paragraph 118 of the National Planning Policy Framework.

30. The Approved Travel Plan shall be implemented in accordance with the timescales specified therein, to include those parts identified as being implemented prior to occupation and following occupation, unless alternative timescales are agreed in writing with the Local Planning Authority. The Approved Travel Plan shall be monitored and reviewed in accordance with the agreed Travel Plan targets. (Notwithstanding the submitted document it should be noted that [Paragraph 3.24] residents should be directed to <https://derbyshire.liftshare.com/> and [Paragraph 5.8] responsibility for production of the Travel Packs rests with the Travel Plan co-ordinator.)

Reason: To promote sustainable transport.



## Informatives:

The Highway Authority recommends that:

- a) the first 5m of the proposed access driveways should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner.
- b) Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway/new estate street, measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
- c) Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Environmental Services Department at County Hall, Matlock.
- d) Car parking provision should be made on the basis of 1.5no., 2no. or 3no. parking spaces per 1, 2/3 or 4/4+ bedroom dwelling respectively. Each parking bay should measure 2.4m x 4.8m (larger in the case of spaces for use by disabled drivers) with adequate space behind each space for manoeuvring.
- e) Under the provisions of the New Roads and Street Works Act 1991 and the Traffic Management Act 2004, all works that involve breaking up, resurfacing and/or reducing the width of the carriageway require a notice to be submitted to Derbyshire County Council for Highway, Developer and Street Works. Works that involve road closures and/or are for duration of more than 11 days require a three months notice. Developer's Works will generally require a three months notice. Developers and Utilities (for associated services) should prepare programmes for all works that are required for the development by all parties such that these can be approved through the coordination, noticing and licensing processes. This will require utilities and developers to work to agreed programmes and booked slots for each part of the works. Developers considering all scales of development are advised to enter into dialogue with Derbyshire County Council's Highway Noticing Section at the earliest stage possible and this includes prior to final planning consents.
- f) Pursuant to Section 278 of the Highways Act 1980, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Department of Economy Transport and Environment at County Hall, Matlock DE4 3AG. The applicant is advised to allow at least 12 weeks in any programme of works to obtain a Section 278 Agreement.
- g) The application site is affected by a Public Right of Way (Footpath No. 46 on the Derbyshire Definitive Map). The route must remain unobstructed on the legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 01629 533190 and asking for the Rights of Way Duty Officer.
- o Please note that the granting of planning permission is not consent to divert or obstruct a public right of way.
- o If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact

01629 533190 for further information and an application form.

- o If a right of way is required to be permanently diverted then the Council that determines the planning application (The Planning Authority) has the necessary powers to make a diversion order.
- o Any development insofar as it will permanently affect a public right of way must not commence until a diversion order (obtainable from the planning authority) has been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the County Council.
- o To avoid delays, where there is reasonable expectation that planning permission will be forthcoming, the proposals for any permanent stopping up or diversion of a public right of way can be considered concurrently with the application for the proposed development rather than await the granting of permission.

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

Where development is proposed over areas of coal and past coal workings at shallow depth, The Coal Authority is of the opinion that applicants should consider wherever possible removing the remnant shallow coal. This will enable the land to be stabilised and treated by a more sustainable method; rather than by attempting to grout fill any voids and consequently unnecessarily sterilising the nation's asset. Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from the Coal Authority's website at: [www.coal.gov.uk/services/permissions/index.cfm](http://www.coal.gov.uk/services/permissions/index.cfm).

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

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from [http://www.south-derbys.gov.uk/business/pollution/contaminated\\_land/default.asp](http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp) Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: [pollution.control@south-derbys.gov.uk](mailto:pollution.control@south-derbys.gov.uk).

The application has been screened in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and the Authority is satisfied that the development will not give rise to significant environmental effects.

Where development is proposed, the developer is responsible for ensuring that development is safe and suitable for use for the purpose for which it is intended. The developer is thus responsible for determining whether land is suitable for a particular

development or can be made so by remedial action. In particular, the developer should carry out an adequate investigation to inform a risk assessment to determine:

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

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

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

Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development. The water body adjacent to the proposed development is not meeting "Good" Water Framework Directive (WFD) status. The development should not lead to any further deterioration in the WFD status of this water body.

All precaution must be taken to avoid discharges and spills to ground both during and after construction. There should be no polluting emissions to air, land or water resulting from actions by the developer or by its sub-contractors. Pollution prevention guidance is available on our website:

<https://www.gov.uk/government/collections/pollution-prevention-guidance-pp>.

During the period of construction, oil and fuel storage will be subject to the Control of Pollution (Oil Storage) (England) Regulations 2001. The Regulations apply to the storage of oil or fuel of any kind in any kind of container which is being used and stored above ground, including drums and mobile bowsers, situated outside a building and with a storage capacity which exceeds 200 litres. A person with custody or control of any oil

or fuel breaching the Regulations will be guilty of a criminal offence. The penalties are a maximum fine of £5000 in Magistrates' Court or an unlimited fine in Crown Court. Further details of the Regulations are available from the Environment Agency.

Surface water run-off should be controlled as near to its source as possible through a sustainable drainage approach to surface water management (SuDS). SuDS are an approach to managing surface water run-off which seeks to mimic natural drainage systems and retain water on or near the site as opposed to traditional drainage approaches which involve piping water off site as quickly as possible. SuDS involve a range of techniques including soakaways, infiltration trenches, permeable pavements, grassed swales, green roofs, ponds and wetlands. SuDS offer significant advantages over conventional piped drainage systems in reducing flood risk by attenuating the rate and quantity of surface water run-off from a site, promoting groundwater recharge absorbing diffuse pollutants and improving water quality. Ponds, reed beds and seasonally flooded grasslands can be particularly attractive features within public open spaces. We encourage the use of above ground SuDS as these provide greater water quality benefits.

The variety of SuDS techniques available means that virtually any development should be able to include a scheme based around these principles and provide multiple benefits, reducing costs and maintenance needs.

It is recommended that the installation of fittings that will minimise water usage such as low, or dual, flush WC's, spray taps and economical shower-heads in the bathroom are installed. Power showers are not recommended as they can consume more water than an average bath. Water efficient versions of appliances such as washing machines and dishwashers are also recommended. For outdoors consider installing a water butt, or even a rainwater harvesting system, to provide a natural supply of water for gardens. Simple treatment systems exist that allow rainwater to be used to supply WC's within the home. Following the above recommendations will significantly reduce water consumption and associated costs when compared to traditional installations. Rainwater harvesting utilises a free supply of fresh water and reduces the cost to the environment and the householder.

Further to Condition 21 you are advised to consider the document 'Guidance on the assessment of dust from demolition and construction' from the Institute of Air Quality Management for advice on how such an assessment should be performed. Further to Condition 25 advice on the production of the WSI can be obtained from the County Council's Development Control Archaeologist Steve.Baker@derbyshire.gov.uk Tel 01629 539773

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

The site is located on Triassic Sherwood Sandstone and Carboniferous Coal Measures strata which are designated as 'Principal' and 'Secondary (A) Aquifers' respectively by the Environment Agency. A tributary of Stanton Brook is located 75 metres to the south east of the site.

The information submitted identifies that the site has been used by a farm. No site walkover has been undertaken to determine the presence of any potential contamination, for example associated with slurry or septic tanks and / or bulk fuel or chemical storage. Furthermore areas of localised tipping have been identified. Consequently there is potential for contamination to have occurred which may currently be impacting 'controlled waters' receptors of the groundwater in the underlying Principal and Secondary Aquifers and the tributary of Stanton Brook. Furthermore there is potential for re-mobilisation of any contaminants during site development.

Government Policy, as detailed in the National Planning Policy Framework (paragraph 120), states that 'where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner'. Therefore we recommend that the following planning conditions be attached to any planning permission granted to require the applicant to investigate the presence of contamination. The work undertaken to fulfil these (or any similar planning conditions that may be used) should focus on the potential impact on 'controlled waters' receptors.

The reserved matters application should be based on the indicative layout in respect of the design concepts, linkages, buffers and public open space as they have been negotiated with a view to achieving a sufficient Building for Life Score.

**Item** 1.3

**Reg. No.** 9/2014/0888/OM

**Applicant:**  
Mr Stuart Ashton  
Harworth Estates  
AMP Technology Centre  
Brunel Way  
Waverley  
S60 5WG

**Agent:**  
Mr Steve Lewis-Roberts  
Pegasus Planning Group  
4 The Courtyard  
Church Street  
Lockington  
DE74 2SL

**Proposal:** **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS TO BE RESERVED) FOR UP TO 400 DWELLINGS, TOGETHER WITH ASSOCIATED HIGHWAYS WORKS, PUBLIC OPEN SPACE TO INCLUDE CHILDREN'S PLAY SPACE, SPORTS PITCHES AND CHANGING FACILITIES, NEW URBAN PARK, LANDSCAPING, ASSOCIATED DRAINAGE INFRASTRUCTURE (INCLUDING SUDS), AND CREATION OF PEDESTRIAN AND CYCLE WAYS ON LAND AT SK2819 1873 (SITE C) WILLIAM NADIN WAY SWADLINCOTE**

**Ward:** **NEWHALL & STANTON**

**Valid Date:** **01/10/2014**

**Reason for committee determination**

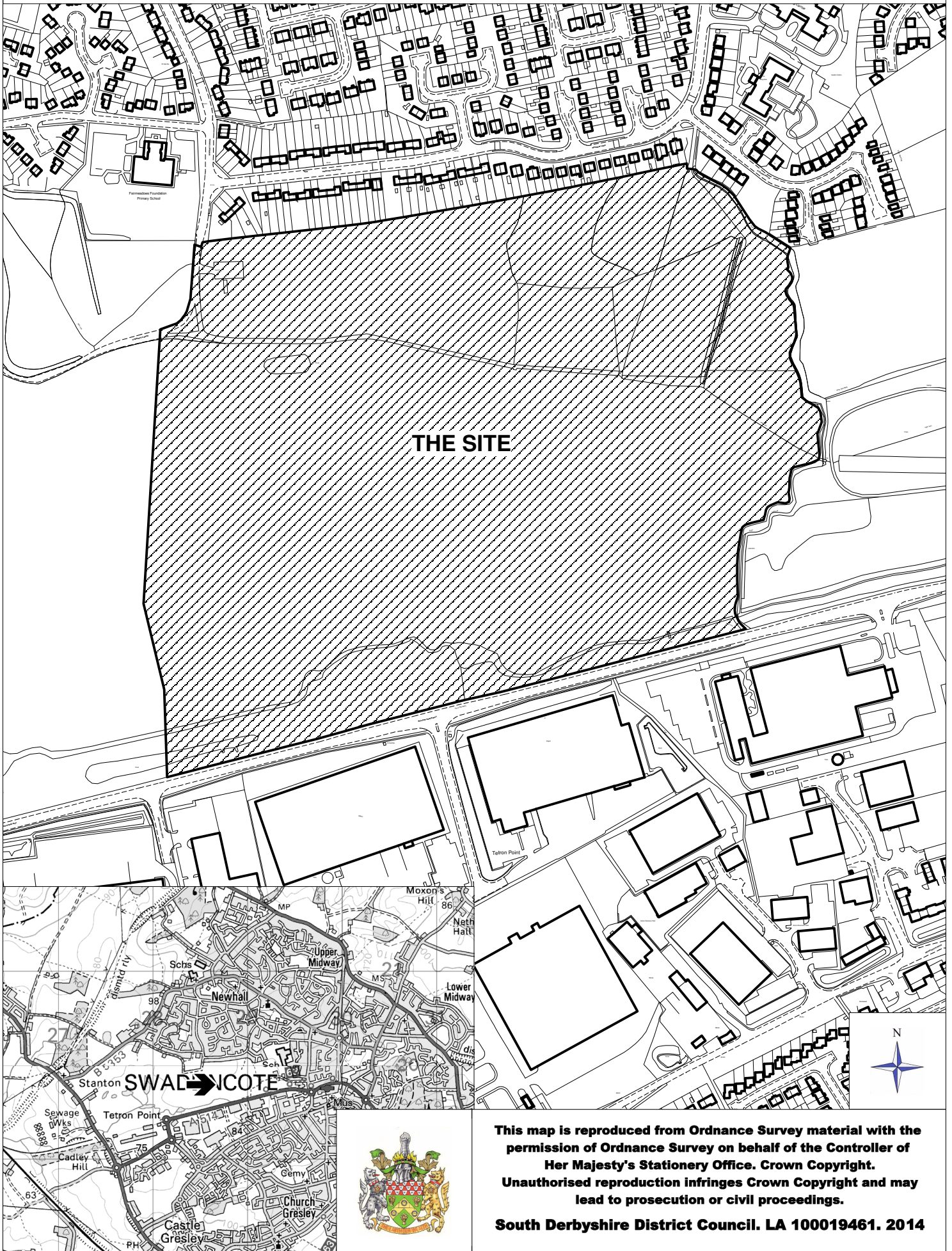
This is a major development contrary to the development plan where more than two letters of objection have been received. Also, the Council has an ownership interest in the site and the application is therefore Regulation 4 development.

**Site Description**

This 27 hectares site is located on the northern side of William Nadin Way and includes the Council owned sports pitches off Oversetts Road in the north western corner and the Local Wildlife Site in the north eastern part. The site is rectangular in shape and adjoined by Oversetts Playing Fields to the north west, existing residential development to the north, by the housing development which will be built by Morris Homes to the east, and by the golf course currently being developed to the west. Opposite the site, across William Nadin Way are large industrial and warehouse buildings. Swadlincote town centre is located approximately 400 metres to the east.

**Proposal**

9/2014/0888 - Land at SK2819 1873 (Site C) William Nadin Way, Swadlincote (DE11 0BB)



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South Derbyshire District Council. LA 100019461. 2014

Outline planning permission is sought including access for residential development of up to 400 dwellings. The application is part of an overall masterplan which includes two other parcels of land adjacent to the golf course to the north west and south west. The indicative masterplan shows access off William Nadin Way approximately 15m from the eastern boundary. The proposed residential site area is approximately 13 hectares. A wide area of open space is proposed adjacent to William Nadin Way with dwellings approximately 32-46 metres from the road frontage. Proposed cycleways and pedestrian routes would run through this area adjacent to Darklands Brook. A 5 m wide landscaping buffer is proposed adjacent to existing properties to the north on Meadow View Road and Meadow Road.

A new roundabout is proposed at the access point on William Nadin Way which would link to a circular estate road punctuated by 7 feature squares, enclosed by landmark buildings. Smaller estates would link to the feature squares and lead to cull-de-sacs. A smaller area of housing is proposed in the northern part of the site adjacent to the existing sports pitches and County wildlife site. In this section dwellings are proposed adjacent to the boundaries with existing properties. A LEAP is proposed in the centre of the site which has an area of informal public open space to the south and links to new segregated pedestrian and cycle links. An urban park is proposed adjacent to the golf course to the west which indicates a circular cycle route. Swales would run parallel with cycle/pedestrian routes and link to existing water bodies. A large pond in the northern part of the site would have a natural play space adjacent and existing trees would be retained. The two areas of housing would be separated by the existing hedgerow.

### **Applicants' supporting information**

The Planning Statement states that the application should be considered in the context of the site wide masterplan that provides the framework for the wider development proposals at Cadley Park. Policy H2 of the South Derbyshire Pre-Submission Local Plan allocates three housing parcels on land at Cadley Park for residential development of around 600 dwellings. It describes the site and the proposals and summarises the relevant national and local planning policy. The document states that the scale of the development proposals and their location is entirely consistent with Draft Policy H2 as the application makes provision for up to 570 new homes, in three development parcels. The Masterplan which accompanies all three planning applications demonstrates that the sites have been considered holistically with other development and open space enhancement opportunities. A mix of house types will be provided across the three development sites, which complement each other. New pedestrian and cycle links are proposed within the site which will connect to existing networks. The proposals incorporate more than 22.31 hectares of new public open space and National Forest Planting, across the Cadley Park development area, and a LEAP is located within the application site. This green infrastructure significantly exceeds the National Forest requirements. Summaries of the conclusions of all supporting documents is included. It concludes that the development accords with the South Derbyshire Local Plan where it is consistent with the NPPF. The proposal constitutes sustainable development and delivers a wide range of economic, social and environmental benefits. The proposal also complies with the site specific requirements in emerging Local Plan Core Strategy Part 1 - Policy H2 and will help meet the Council's current housing land supply shortfall.

The Design and Access Statement describes the proposal within the context of the masterplan, the history of the site and assesses the site in terms of landscape context,



visual impact, and character of surrounding areas. The character assessment areas identified were Swadlincote town centre, the A444 corridor, Newhall and the new housing at Castle Gresley. An assessment of services has been undertaken and routes of movement and assessment of the planning policy context. The public consultation exercise is summarised and the evaluation of the design and layout is outlined in a series of diagrams with descriptions. The street hierarchy, pedestrian and cycle routes and open space are discussed together with the scale of buildings and keynote buildings. Landscaping buffers are proposed adjacent to existing dwellings, the road frontages and the golf course to the east. The scheme is assessed against the Building for Life criteria and the majority of criteria scored green with oranges where the information is not available due to the application being outline.

The Consultation Statement outlines the methods used to consult the public on the proposal. A website was set up which included the indicative masterplan, information leaflet and comments form. The public exhibition was held on 7th July 2014 from 4:00pm until 8.00pm at The Old Post Centre, High Street, Newhall. 3,000 leaflets were delivered to homes and businesses in Swadlincote in the week commencing 23<sup>rd</sup> June 2014 to advertise this event, together with posters in the vicinity and an article in the Burton Mail. 151 responses were received from local residents and they related to lack of capacity of local facilities such as schools and doctor's surgeries, traffic implications, loss of green space, lack of adequate landscaping buffers adjacent to existing properties and subsidence and drainage concerns.

Tree Survey Arboricultural Assessment includes assessment of 7 individual trees, seventeen groups of trees and four hedgerows. Five trees and one group were considered to be of moderate quality (B) and the remainder of the trees were categorised as low quality (C). The proposal would involve removal of groups of trees: adjacent to the hedgerow that divides the two parts of the site, where the access is proposed on William Nadin Way and in the north eastern corner but not within the Wildlife Site. Individual trees adjacent to the largest pond would be retained together with a group and the large groups adjacent to Darklands Brook on the southern boundary and south eastern boundary would be retained.

The Flood Risk Assessment and Drainage Strategy states the site is primarily within Flood Zone 1. The annual probability of flooding from fluvial sources is, therefore, less than 1 in 1000 years (ie < 0.1%). The southern and eastern areas of the site are located within Flood Zone 2 and 3, associated with the Darklands Brook. A culvert of the brook is proposed directly above the roadway. The residential development has been restricted to Flood Zone 1. The risk of flooding from fluvial sources, groundwater and overland flow is considered to be low. SUDS features are proposed to provide water management at source and conveyance routes together with water quality and biodiversity benefits. Two addendums to the FRA have been submitted to address the Environment Agency's concerns. The first addendum included relocating the access road so it would cross a straight section of watercourse, details of the culvert and raising finished floor levels above the 1 in 100 year plus 20% climate change flood event level. Hydraulic modelling of the pre- and post-development scenarios has been carried and concluded that there is no adverse impact on flood risk as a result of the proposed culvert and watercourse diversion.

The Site Investigation Study and Coal Mining Risk Assessment concludes the site does not pose a significant risk to the environment and is considered suitable for its proposed use, however, there are a number of low to moderate potential pollution linkages that

require further investigation and consideration prior to development. Due to the previous use of the site there are sources of potential ground instability from abandoned shallow mine workings, abandoned coal mine entry and combustion of colliery spoil materials. These are typical of land in former coalfield areas and can be successfully mitigated. Further site investigation comprising of soil/water sampling, chemical testing and gas monitoring would inform any mitigation.

The Assessment of relevant impacts from Nadins Closed Landfill concludes a low risk to residential development.

Phase 1 Habitat Survey and Ecological Assessment summarises the findings of all the reports detailed below. It states that the habitats within the development site were not of a high ecology quality and ponds are designated UK BAP Priority Habitat and as a result should be retained.

Bat Activity Survey Report revealed bats foraging in specific locations associated with hedgerows and woodland edge habitats, whilst smaller numbers of were recorded foraging and commuting high above the eastern portion of the site. The surveys also confirmed the absence of roosting bats on the site itself. Recommendations are to retain existing hedgerow, provision of a lighting strategy and the use of bat bricks.

The Breeding Bird Report states a total of 53 species were recorded on the wider site. Bird species diversity was considered to be moderately high due to the wetland, scrubland, hedgerows and grassland areas contained within the William Nadin Way area (east), of the site. Recommendations are that the hedgerows and woodlands are managed together with the Wildlife site and nest boxes are erected within the development.

The Great Crested Newt report concluded that a small population of GCN were recorded as present in the wider site, GCN were not recorded as present in the proposed development area. The proposed development area had limited opportunities for amphibian species.

The reptile survey did not find any reptiles within in the site but they were found in the wider area and as such the report recommends be mitigation secured by condition.

The Water Vole survey states that there were no suitable habitat types that would support water vole found in the proposed development site.

The Landscape and Visual Assessment sets the site in context with the surrounding landscape. Nationally the site is defined; as National Character Area 71: Leicestershire and South Derbyshire Coalfield<sup>5</sup>, regionally as Settled Coalfield Farmlands RLCT and locally as Coalfield Village Farmlands Landscape Character Type (LCT). Viewpoints are assessed and the report concludes that the scale and form of proposed development is likely to result in only limited harm at a localised level and potential landscape and visual effects are not likely to be significant. Furthermore the extensive proposals for green infrastructure and landscaping will deliver a number of enhancements in terms of the physical landscape and landscape character. As such the proposed development is acceptable in landscape and visual terms.

The Archaeological Desk Based Assessment has established that there are no designated heritage assets within the study site. Development within the site will have no direct or indirect impacts on any designated assets within 1km of the study site.

The Noise Report concludes that mitigation measures such as orientation of dwellings and thermal double glazing would ensure noise levels are within acceptable levels. Acoustic ventilation may be required in rooms within close proximity to William Nadin Way and any night-time noise from Brunel Healthcare can be mitigated through double glazing and ventilation. This should be detailed at reserved matters stage. An addendum report included assessment in relation to the existing sports pitches on site and recommended mitigation of nearest properties having 1.8m high fencing.

The Transport Assessment and Travel Plan conclude the development would create a demand for an additional 27 pedestrian journeys and 6 cycle journeys during an average peak hour. The existing infrastructure, enhanced by the proposed provisions would adequately accommodate the increase in demand created by the proposed development. The gap in the National Cycle Network route 63 would be plugged by the cycle infrastructure proposed. The development would generate a demand for an additional 20 bus trips in an average peak hour. There are five or six buses an hour in each direction along William Nadin Way and a further two buses an hour in each direction on Meadow Lane. Hence, the existing services would have to accommodate less than two additional passengers per bus which would not justify a change to the existing services. The proposed residential development will be accessed from a new 40m diameter roundabout on William Nadin Way which would adequately accommodate the development traffic. It would also act to calm traffic on the long straight William Nadin Way, which has a 50mph speed limit. Assessments of the impact on the capacity of existing roundabouts in the vicinity concluded that the increase could be accommodated, however, the Clock Island roundabout is already over-capacity. Overall, the site is located in a sustainable location which is accessible by a choice means of transport. A Travel Plan accompanies the planning application, and its measures are aimed at reducing single occupancy car travel, which will provide a benefit to the local highway network and mitigate the increases in traffic arising from the development proposal.

The Air Quality Assessment states the risk of dust soiling effects is considered to be high for earthworks and construction, and low for trackout. The risk of human health effects is classed as low for earthworks, construction and trackout. Site specific mitigation measures will therefore need to be implemented at the site. The air quality assessment indicates that the proposed development generated traffic will have a negligible impact at all five existing sensitive receptor locations in 2019.

Geophysical Survey Report concludes that the underlying geology across the area provided a reasonable magnetic contrast for the detection of infilled features. The majority of anomalies detected could be attributed to a modern or recent origin.

## **Planning History**

None

## **Responses to Consultations**

The County Highways Authority has no objections to the application and accepts the findings of the Transport Assessment. However in view of the associated traffic generation, mitigation of the impact on the highway network is required. This is likely to provide a signalised pedestrian crossing on William Nadin Way, mitigation at the Sainsbury's and Clock Island in the form of S106 contributions. Conditions in respect of submission of a construction management plan, temporary access, wheel washing, the access, parking and manoeuvring areas, bin stores, pedestrian visibility splays, restriction of garage use, maintenance of streets, travel plan and informatives.

Severn Trent Water has no objection subject to a drainage scheme condition and an informative in relation to the public sewer that crosses the site.

The Council's Contaminated Land Officer recommends a phased contamination condition.

The Council's Environmental Health Officer recommends conditions to control noise and dust, which will be reported verbally.

Natural England does not consider the proposal to pose a significant risk to features of the natural environment and thus has no comments to make.

The Environment Agency initially responded with objections relating to the details of access and culvert design, re-modelling on the basis of the access, finished floor levels and further information regarding the impacts on Darklands Brook. Their latest response confirms that the FRA and watercourse crossing proposal are acceptable. A full detailed response shall be reported verbally at committee.

The Coal Authority has no objection subject to a site investigation condition which would identify mine entries and shallow mine workings.

The County Archaeologist states that the geophysics results for site have indicated there is no potential archaeology and therefore no archaeological condition is necessary.

Derbyshire County Council's Developer Contributions Officer states that the following contributions are required:-

- £16,307.70 (£28.61 per dwelling x 570 dwellings) towards additional waste management capacity (£1596.60 for Site A);
- Access to high speed broadband services for future residents (in conjunction with service providers);
- £1,128,511.99 towards the provision of 99 primary school places as follows:
  - £136,788.12 towards the provision of 12 primary school places at Stanton Primary School for Application 9/2014/0886
  - £250,788.22 towards the provision of 22 primary school places at Stanton Primary School for Application 9/2014/0887
  - £364,768.32 towards the provision of 32 infant school places at Newhall Infant and Nursery School for Application 9/2014/0888

- £376,167.33 towards the provision of 33 junior school places at Newhall Community Junior School for Application 9/2014/0888
- £429,404.25 towards the provision of 25 secondary school places as follows:
  - £154,585.53 towards the provision of 9 secondary school places at The William Allitt School for Application 9/2014/0886
  - £274,818.72 towards the provision of 16 secondary school places at The William Allitt School for Application 9/2014/0887; and
- New homes designed to Lifetime Homes standards.

NHS England considers the proposal would trigger the need to provide Section 106 contributions of £551 per dwelling based on 2.3 person occupancy. This would be invested in enhancing capacity / infrastructure with existing local practices.

The County Council Flood Risk Team promotes Sustainable Urban Drainage Systems (SuDS) to be incorporated within the design of a drainage strategy for any proposed development.

The County Rights of Way Section has confirmed that Footpath No's 46, 45, 47 and 106 cross the site. Diversions orders under Section 257 of the Town and Country Planning Act 1990 are required if the legal alignment of the paths are to be changed.

The Police Crime Prevention Design Advisor has general comments that should be considered prior to a reserved matters application being submitted which relate to natural surveillance of open space, parking areas and security of routes and private garden areas.

Peak and Northern Footpaths welcomes the proposed walking and cycling routes and considers the footpath links should be dedicated public rights of way with formal legal agreements.

The National Forest Company states that the open space typology plan submitted shows how 10ha of National Forest planting will be incorporated in Site C to address the National Forest Planting requirement for the three applications. Conditions are requested that require the reserved matters submissions to be in accordance with the Landscape Strategy Plans within the Design and Access Statements. These show suitable amounts of tree planting for the open space to be considered as National Forest planting. In particular the design of the Urban Park in Site C will need to be designed around a woodland concept. They consider that significant amounts of feature tree planting should be incorporated within the built form to replicate the strong emphasis on tree planting within the adjoining residential development.

The Council's Tree Officer has assessed the Arboricultural Assessment and considers it acceptable. However, considers it expedient to protect by TPO 6 individual trees in the northern part of the site to the north west of the largest pond due to proximity to the road shown on the indicative layout and potential future liveability issues.

Derbyshire Wildlife Trust has no objection the proposed mitigation measures outlined in the submitted reports and recommends a condition to secure an ecology and landscape management plan.

## **Responses to Publicity**

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

- a. Concern is raised regarding the capacity of local schools.
- b. Would the A444 be improved as part of the proposal?
- c. Loss of outlook of property
- d. Loss of green space within Swadlincote
- e. How can you build on a wildlife site that has survived mining?
- f. William Nadin Way is dangerous to pedestrian due to the speed of vehicles.
- g. The capacity of the watercourse may not take the increase in surface water run-off.
- h. The golf course should be left as open space with cycle routes.
- i. Is the land suitable for building in terms of subsidence and the effect on the water table.
- j. The noise from the factories would deter future buyers.
- k. Housing association homes for local people are required.
- l. The new residents would not work in Swadlincote but in Derby or Burton.
- m. There is no need for housing between the football pitches and wildlife site.
- n. There are not enough local services in the area.
- o. Lack of capacity for doctors surgeries.
- p. Loss of privacy of rear windows.
- q. 400 dwellings is over-development which would put a strain on the local infrastructure particularly the access onto William Nadin Way.
- r. The development would join Newhall with Swadlincote.
- s. Overshadowing of property on Meadow Lane.
- t. What is proposed to preserve wildlife in this area.
- u. What would happen to the pipes which prevent the build-up of gases from the old mine works.
- v. The William Nadin Way speed limit should be reduced.

One letter of support has been received, which is summarised below.

- aa) Newhall Junior Football Club welcomes the improvements to the footpath pitches and would like to own and operate their own club house adjacent to these pitches.

## **Development Plan Policies**

The relevant policies are:

Local Plan Saved:

Housing Policies 4 and 11, Environment Policies 7, 9,10, 11 & 14 Transport Policies 6, 7 & 8, Recreation and Tourism Policy 4 and Community Facilities Policy 1

Emerging Local Plan

Policy S2 : Presumption in Favour of Sustainable Development

Policy S4 : Housing Need

Policy S6: Sustainable Access

Policy H1 : Settlement Hierarchy  
Policy H2 : Land North of William Nadin Way, Swadlincote  
Policy SD1: Amenity and Environmental Quality  
Policy SD2: Flood Risk  
Policy SD3 : Delivering Sustainable Water Supply, Drainage and Sewerage  
Policy SD4 : Contaminated Land and Mining Legacy issues  
Policy BNE1: Design Excellence  
Policy BNE3: Biodiversity  
Policy BNE4: Landscape Character and Local Distinctiveness  
Policy INF1: Infrastructure and Developer Contributions  
Policy INF8: The National Forest  
Policy INF9: Open Space, Sport and Recreation

## **National Guidance**

National Planning Policy Framework (NPPF), in particular:

Paras 6-10 (Achieving sustainable development)  
Paras 11-14 (The presumption in favour of sustainable development)  
Para 17 (Core principles)  
Chapter 1 (Economy)  
Chapter 4 (Promoting sustainable transport)  
Chapter 6 (Housing)  
Chapter 7 (Requiring good design)  
Chapter 10 (Meeting the challenge of climate change, flooding etc.)  
Chapter 11 (Conserving and enhancing the natural environment)  
Chapter 12 (Heritage)  
Paras 186 & 187 (Decision-taking)  
Para 193 (Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question.)  
Para 196 & 197 (Determining applications)  
Paras 203-206 (Planning conditions and obligations)  
Annex 1 (Implementation)

National Planning Practice Guidance (NPPG) 2a, 3, 8, 10, 23b, 26, 33, 37, 42, 45

## **Local Guidance**

Housing Design and Layout, Trees on Development Sites, Developer Contributions, Better Design for South Derbyshire.

## **Planning Considerations**

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

- Principle of Development
- Residential Amenity
- Design and Building for Life
- Highways and Transport
- Viability and S106
- Other Matters
- Conclusion

## Planning Assessment

### Principle of Development

The proposal for 400 dwellings on this site is part of a framework for the wider development proposals at Cadley Park. Policy H2 of the South Derbyshire Pre-Submission Local Plan allocates three housing parcels on land at Cadley Park for residential development of around 600 dwellings. The adopted Local Plan allocates the site as open land in Swadlincote under Environment Policy 7. This policy states that *'open land which makes a valuable contribution to the character and environmental quality of Swadlincote will be safeguarded from development'*. This area of land to the east of the golf course includes an over-provision of open space and would manage/improve the existing sports pitches and wildlife site, together with improvements to the Darklands Brook environment.

At the national level, Paragraph 47 of the NPPF seeks to boost significantly the supply of housing providing a considerable emphasis on bringing forward high levels of housing provision as soon as possible. Paragraph 49 states that *'housing applications should be considered in the context of the presumption in favour of sustainable development'*. The site is within the main urban area of Swadlincote and is thus a highly sustainable location for further residential development.

The site is within walking distance of local services, facilities and employment, therefore the site would be considered to be a sustainable location for development whereby there would not be a reliance on the car. Pedestrian and cycle routes would be improved as part of the masterplan area. The development is close to a principal road network and the access would include a new roundabout on William Nadin Way.

The site specific policy in the Pre-Submission Local Plan H2 policy states that:-

*A Residential development on Land north of William Nadin Way, Swadlincote for around 600 dwellings.*

*B The Council will require the below listed site specifics and accordance with other Local Plan policies:*

- 1. Consider the site holistically with other development and open space enhancement opportunities;*
- 2. A mix of dwelling types shall be provided across the three parcels of land which complement each other;*
- 3. The provision of recreational and community facilities;*
- 4. The presence of Coal Mining Legacy and resulting potential for unstable land will require the submission of a Coal Mining Risk Assessment in support of planning applications;*
- 5. An appropriate buffer in agreement with the Council to be placed around the Breach Ley Farm Meadow County Wildlife Site;*
- 6. An appropriate easement along the watercourses on the site free of built development*
- 7. Provide high quality cycle and pedestrian links both within the development and connecting to existing and proposed networks, including NCN63 Burton to Leicester route.*



Although this application falls to be considered on its own merits regard has been paid to the other two sites shown on the overall masterplan, as there are new pedestrian and cycle routes proposed between them. The open space provision proposes an urban park, improvements to existing sports pitches and retention of a local wildlife site. The buffer proposed around the wildlife site is considered appropriate as open space is proposed adjacent to the west, hedgerows are retained to the south and proposed properties would be 20-25m from its boundary. The mix of dwellings would be agreed at reserved matters stage, however, the affordable housing element would be part of the Section 106 agreement. A coal mining risk assessment has been submitted and conditions requiring site investigation shall be placed on any permission.

Policy E7 of the local plan does not represent a constraint to development as the site's contribution to the character and environmental quality of Swadlincote is limited. The NPPF has a strong presumption in favour of sustainable development and an emphasis of bringing forward high levels of housing quickly. This site qualifies as a sustainable location which could rapidly contribute to the 5 year supply.

In principle, therefore, the development represents sustainable development.

### Residential Amenity

The nearest existing residential properties are in the north of the site on Meadow View Road and Meadow Lane. A minimum distance of 21 metres between dwellings shall be achieved in this location. A 5m landscaping buffer is indicated between existing and proposed dwellings. Specific distances between windows shall be assessed at reserved matters stage. The proposed indicative layout is considered to accord with the Council's space standards. As such the development is capable of providing for reasonable amenities in terms of light, air and privacy for both existing and new dwellings; safe, functional and convenient layouts; private amenity space, and space for landscaping in accordance with Local Plan Saved Housing Policy 11 and NPPF paragraph 17.

### Design and Building for Life

As this is an outline application it is not possible to apply a definitive Building for Life score in accordance with 'Better Design for South Derbyshire'. However, because of its proximity to the town's facilities it is clear that the site scores well in terms of connections, facilities and services, public transport and meeting local housing requirements. The Design and Access Statement (DAS) indicates that a development of locally distinctive character could be achieved, with well-defined streets and spaces.

The applicant controls open land adjacent to the site and the proposed development would provide substantial open space and recreation opportunities which could contribute to the health and well-being of communities. The DAS indicates that a safe and accessible environment could be created, along with legible pedestrian routes, all in accordance with the healthy communities aspirations of Chapter 8 of the NPPF and the requirements of Local Plan Saved Transport Policy 7 and Recreation and Tourism Policy 4. Further analysis of the open space provision for this particular site is set out below.

The application is outline with all matters of design reserved for subsequent approval, however, concepts have been included in the indicative layout that enable some

indication of its Building for Life score. The proposed site entrance is a roundabout which leads to a feature square of landmark buildings and a circular access road with a central LEAP surrounded by segregated footpaths. Feature squares with street trees and landmark buildings would aid the legibility of the site. The site would have two distinct sections divided by an existing hedgerow. To the north the majority of the site is taken up by the existing sports pitches and wildlife site and the development proposed responds positively to these two features through sufficient buffers. The existing pond would be a significant feature with adjacent trees retained and a natural area of play adjoining it.

The southern part of the site would have very good pedestrian and cycle routes through it that are segregated, attractive and adjacent to swales. A large area to the west is allocated as an urban park with a circular cycle route and links to the development and wider area.

Linkages between the site and the surrounding area have been addressed through the provision of two new cycle routes which would link to Site A and Site B via the golf course and the wider area. Bus stops on William Nadin Way have been indicated to identify how the site can be accessed by other means of transport.

Overall, the indicative layout scores well and this is due to the series of feature squares, connections to multiple adjacent paths and roads. Street trees along the main street (loop) would increase the score substantially and these shall be secured at reserved matters stage. The scheme shows potential for achieving a score of 14. For the foregoing reasons the proposal is capable of delivering a well-designed development in accordance with 'Better Design for South Derbyshire' and Chapter 7 of the NPPF.

### Highways and Transport

The Highway Authority has affirmed that it does not consider there is an evidence base to suggest that the conclusion that the development would not have a significant adverse effect on capacity or safety of the local road network is incorrect. It considers that there is no data that would support a reason for refusal of planning permission on the basis that the development would result in severe harm on the highway network, with reference to Paragraph 32 of the National Planning Policy Framework. Adequate parking and internal road layouts would be secured through the reserved matters application(s). As such the development would be in conformity with Local Plan Saved Transport Policy 6.

This site is one of three for which separate applications have been submitted by the same applicant. The sites are not directly connected, or have contiguous boundaries, but adjacent land, forming a golf course, is within the same applicant's control and therefore potentially provides opportunities for sustainable transport links between the sites and beyond. Links are shown indicatively on the submitted Masterplan, along with a cycle path on Park Road. Further discussions would be required regarding mechanisms for securing provision of these links. It would appear, in principle, that this infrastructure could be achieved either by a combination of conditions or S106 obligation, requiring schemes to be submitted for the design and implementation, including phasing, of the sustainable transport links, together with proposals for subsequent management and maintenance.

It is considered due to the associated traffic generation in relation to this site it is considered that mitigation would be required in the form of a signalised pedestrian crossing on William Nadin Way, mitigation at the “Sainsbury” roundabout and mitigation at The Clock roundabout. Further discussion in relation to the S106 regarding the level of contribution and the potential monitoring of impact on a defined area of highway network is required.

### Other Matters

Derbyshire Wildlife Trust has confirmed that the proposed mitigation is considered acceptable which would involve larger areas of open grassland and habitat creation for ground nesting birds within the golf course. This mitigation can be secured through a planning condition and in respect of proposed habitat within the golf course through the Section 106 agreement. The section 106 agreement would also secure habitat if it transpired that it could not be accommodated on site then an off-site contribution could be levied. Therefore appropriate mitigation measures shall be secured which would minimise impacts on biodiversity and provide net gains in biodiversity, in accordance with paragraph 109 of the NPPF.

The site is primarily within Flood Zone 1. The southern and eastern areas of the site are located within Flood Zone 2 and 3, associated with the Darklands Brook. A culvert of the brook is proposed directly above the roadway. The residential development has been restricted to Flood Zone 1. The risk of flooding from fluvial sources, groundwater and overland flow is considered to be low. SUDS features are proposed to provide water management at source and conveyance routes together with water quality and biodiversity benefits.

The relocation the access road to cross a straight section of watercourse, details of the culvert and raising finished floor levels above the 1 in 100 year plus 20% climate change flood event level are considered acceptable. Hydraulic modelling of the pre- and post-development scenarios has been carried out and concluded that there is no adverse impact on flood risk as a result of the proposed culvert and watercourse diversion.

The ponds within the site are intended to be connected by swales and would provide attenuation for the 1 in 100 year +CC event and it is likely that they would all have inflows from the site, and would effectively work as a cascading feature. However, the discharge point would be Darklands Brook. This strategy is all subject to detailed design. The overall drainage strategy is considered appropriate by the Environment Agency. Improvements to the Brook shall be secured through the Section 106 agreement.

The potential for noise from nearby industrial premises has been considered by the Environmental Health Manager and appropriate conditions could be imposed to ensure that no significant adverse impacts on health and quality of life would arise from this issue. As a corollary there would be no need to put unreasonable restrictions on existing businesses as a result of the new land use, in accord with para 123 of the NPPF.

### Viability and S106

The proposed development falls within, and directly relates to, the normal areas of Newhall Infant and Nursery School, Newhall Community Junior School and The Pingle School. The proposed development of 400 dwellings would generate the need to provide for an additional 80 primary (34 infant and 46 junior), 60 secondary, and 24 post-16 pupils.

The County Council requests a financial contribution of £364,768.32 towards the provision of 32 primary school places via the creation of a classroom (classroom Project A at Newhall Infant and Nursery School) and a financial contribution of £376,167.33 towards the provision of 33 primary school places via the creation of a classroom (classroom Project A at Newhall Community Junior School). Current number on roll and projections show that The Pingle School would be able to accommodate all of the anticipated secondary and post-16 pupils.

NHS England has requested Section 106 contributions of £551 per dwelling based on 2.3 person occupancy. This would be invested in enhancing capacity / infrastructure with existing local practices. All requests for commuted sums must meet the tests set out in the 2010 Community Infrastructure Levy (CIL) Regulations and paragraph 204 of the National Planning Policy Framework (NPPF). This request does not meet the tests as no evidence of need has been supplied and also in light of the recent pooling legislation and as such cannot be included in S106 negotiations.

The starting point for negotiation is 30% affordable housing split between rent 68.1% and shared ownership 31.9%. The breakdown of dwellings required would be for rent and shared ownership would be higher numbers of 2-3 bed properties. Affordable housing should be 'pepper-potted' across the whole site. This shall be secured through the Section 106.

The calculation of the amount of open space provision on site has been made based on the Council's guidelines and 25,400 m<sup>2</sup> would normally be required for 400 dwellings. The indicative layout shows 138,800m<sup>2</sup> which includes 2 LEAPs of 400m<sup>2</sup>. However, over all three sites 36,195 m<sup>2</sup> would be required and the proposed provision would be 138,800m<sup>2</sup> which amounts to a 73% over provision.

Based on normal requirements, contributions including land cost would amount to £246,000 for recreation Open Space, £220,000 for recreation Outdoor Facilities and £122,000 for Recreation Built Facilities with a total of £588,000.

Improvements to Darklands Brook and mitigation for ground nesting birds shall be secured through the S106 as discussed above.

Highway requirements in the form of a signalised pedestrian crossing on William Nadin Way, mitigation at the "Sainsbury" roundabout and mitigation at The Clock roundabout would be included within a S106.

The County Council has made non-specific request for contributions to greenways and rights of way. In the absence of specific and/or costed proposals any such provisions, as indicated on the masterplan, would need to be accommodated within the site or other land in the applicant's control. Otherwise such requests would not meet the relevant tests of para 204 of the NPPF.

There is ongoing discussion to establish the residual value of the development and thus the amount available for planning contributions. A verbal update will be provided to members at Committee.

### Conclusion

This application is one of the three sites that make up the strategic development in the locality in relation to Policy H2 of the Emerging Local Plan, which cumulatively could accommodate around 570 homes. Given the scale of the development it is likely that it could contribute to the early delivery of homes, helping the Council meet its requirement of a five year supply of deliverable housing. By reference to the NPPF's (Para 7) three sustainability dimensions (economic, social, environmental,):

- The provision of new housing would support economic growth, ensuring an attractive place to live for South Derbyshire's economically active population as well as helping to supporting the vitality and viability of Swadlincote. The development would also potentially provide a financial contribution to capacity at local primary schools. This is supported by the site's accessibility to Swadlincote and the surrounding areas, served by public transport. The sites proximity to the existing retail centres of Swadlincote and Newhall all help to further reduce people's need to travel by car. Measures secured by condition and Section 106 Agreement would ensure that local road infrastructure has the capacity to accommodate the scheme.
- The proposed scheme would have a significant positive impact on local communities by providing new homes (market and up to 30% affordable) for approximately 1,311 residents. In terms of healthy communities the illustrative masterplan includes extensive green infrastructure and open space in the form of an urban park and attractive routes along Darklands Brook. Pedestrian/cycle links would help to support active lifestyles and encourage alternatives to the car for accessing local facilities and employment opportunities. Developer contributions would also be made towards education.
- The Environmental Statement explains how a range of environmental factors have been taken into account to ensure sustainable development (including landscape, ecology, air and noise pollution, archaeology, and water). Mitigation has been included within the scheme to ensure the conservation and enhancement of key features. The scheme also helps to mitigate future climate change through reducing CO2 emissions by building new homes in a highly accessible location and reducing the need to travel by car. In terms of resilience to climate change impacts, the scheme has been designed to take this into account, namely through provision of a sustainable drainage strategy and extensive network of green infrastructure.

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

### **Recommendation**

- A. That delegated authority be granted to the Planning Services Manager to negotiate the details of the provisions of the Section 106 agreement referred to in the planning assessment of the report (subject to viability testing by the District Valuer);
- B. Subject to A., **GRANT** permission under Regulation 4 subject to the following conditions:

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

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

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

- 2. Approval of the details of the layout, scale, appearance and the landscaping shall be obtained from the Local Planning Authority in writing before any development is commenced.

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

- 3. No development shall commence until a scheme for phasing of the development has been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.

Reason: To ensure that the development proceeds in an orderly manner.

- 4. No development of any phase shall take place until a surface water drainage scheme for the relevant phase, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 100 year plus 30% (for climate change) critical rain storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the relevant phase is completed.

The scheme shall include:

Surface water drainage system/s to be designed in accordance with either the National SUDs Standards, or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken.

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

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

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

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

Reason: To prevent the increased risk of flooding, both on and off site.

5. A) No development of any phase shall be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters for the relevant phase has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.
- B) Prior to occupation of each relevant phase of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- D) If required by the conceptual site model no development of any phase shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed for the relevant phase in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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

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

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

7. No development of any phase shall take place including any works of demolition 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 of the relevant phase. The statement shall provide for:

parking of vehicles of site operatives and visitors

routes for construction traffic  
hours of operation  
pedestrian and cyclist protection  
proposed temporary traffic restrictions  
arrangements for turning vehicles

Reason: In the interests of highway safety.

8. No other development shall be commenced until a temporary access for construction purposes has been provided in accordance with a detailed design first submitted to and approved in writing by the Local Planning Authority. The access shall be retained in accordance with the approved scheme throughout the construction period, or such other period of time as may be agreed in writing by the Local Planning Authority, free from any impediment to its designated use.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

10. The reserved matters application(s) shall include design of the internal layout of the site in accordance with the guidance contained in the "Manual for Streets" document issued by the Departments for Transport and Communities and Local Government.

Reason: In the interests of highway safety.

11. Prior to the first occupation of any dwelling on the site a new street junction and associated works shall be implemented on William Nadin Way generally in accordance with Drawing No. ADC1041/003F but more specifically in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, the developer will be required to enter into a 1980 Highways Act S278 Agreement with the Highway Authority in order to comply with the requirements of this condition.

Reason: In the interests of highway safety.

12. Prior to the occupation of each dwelling, the proposed new estate streets between that dwelling and the existing public highway shall be laid out in accordance with the scheme approved in accordance with Condition 10 above, or as subsequently revised and approved in writing by the Local Planning Authority, constructed to base level, drained and lighted in accordance with the County Council's specification for new housing development roads.

Reason: In the interests of highway safety.

13. No dwelling shall be occupied until space has been provided within the site for the parking and manoeuvring of residents and visitors vehicles associated with that dwelling, laid out in accordance with the scheme approved in accordance with Condition 10 above, or as subsequently revised and approved in writing by the Local Planning Authority. The facilities shall be retained throughout the life of the development free from any impediment to their designated use.



Reason: In the interests of highway safety.

14. The scheme to be submitted to and approved in writing by the Local Planning Authority pursuant to Condition 10 above shall provide for bin stores within private land at the highway end of private accesses, to prevent refuse bins and collection vehicles standing on the new estate street for longer than necessary causing an obstruction or inconvenience for other road users. The facilities shall be provided prior to the first occupation of the dwellings to which they relate and shall be retained free of any impediment to their designated use thereafter.

Reason: In the interests of highway safety.

15. Private driveways/parking spaces to the proposed access road, the subject of Condition 13 above, shall not be taken into use until pedestrian intervisibility splays, details of which shall be included in the reserved matters application(s), have been provided on either side of the accesses at the back of the footway/margin, the splay area being retained throughout the life of the development clear of any object greater than 0.6m in height relative to footway level.

Reason: In the interests of highway safety.

16. Unless as may otherwise be approved pursuant to the reserved matters, prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate, in the case of dwellings of four or more bedrooms 3 cars, in the case of dwellings of two or three bedrooms 2 cars and any other case 1.5 cars within the curtilage of each dwelling, or in any alternative location acceptable to the Local Planning Authority or as may otherwise be agreed in writing by the Local Planning Authority in accordance with its published standards. Thereafter 3 parking spaces (in the case of dwellings with four or more bedrooms) or 2 parking spaces (in the case of dwellings with two or three bedrooms) or 1.5 parking spaces (in any other case), each space measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of each dwelling unless as may otherwise be approved in writing by the Local Planning Authority.

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

17. Unless as otherwise agreed in writing with the Local Planning Authority the proposed access driveways/parking spaces to the public highway shall be no steeper than 1 in 14 for the first 5.0m from the nearside highway boundary and 1 in 10 thereafter.

Reason: In the interests of highway safety.

18. Unless the local planning authority has previously agreed to an alternative timetable no development of any phase shall commence until a scheme for the disposal of highway surface water has been submitted to and approved in writing by the Local Planning Authority for the relevant phase. The scheme shall be implemented in accordance with the approved details and retained accordingly thereafter.

Reason: In the interests of highway safety.

19. No development of any phase shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the Local Planning Authority. The streets in each relevant phase shall thereafter be

maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a private management and maintenance company has been established.

Reason: In the interests of highway safety.

20. The landscaping details required pursuant to Condition 2 above shall accord with the Landscape Strategy set out in section 5 of the Design and Access Statement.

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

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

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

22. No development of any phase shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority that specifies the provision to be made for dust mitigation measures and the control of noise emanating from the site during the period of construction of the relevant phase of development. The approved measures shall be implemented throughout the construction period.

Reason: To protect the amenities of nearby residents.

23. No site clearance works or development shall take place until there has been submitted to the Local Planning Authority for its written approval a scheme showing the type, height and position of protective fencing to be erected around each tree or hedgerow to be retained. The scheme shall comply with BS 5837:2012. No site clearance works or development shall be commenced in the vicinity of the protected tree or hedgerow until such a scheme is approved in writing by the Local Planning Authority and thereafter the development hereby permitted shall only be carried out in accordance with the approved scheme. The area surrounding each tree or hedgerow within the protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

(i) There shall be no changes in ground levels;

(ii) No material or plant shall be stored;

(iii) No buildings or temporary buildings shall be erected or stationed;

(iv) No materials or waste shall be burnt within 20 metres of any retained tree or hedgerow; and

(v) No drain runs or other trenches shall be dug or otherwise created;

without the prior written consent of the Local Planning Authority.

Reason: To ensure the protection of these features In the interests of the appearance of the area and biodiversity.

24. No work shall take place on any phase the site until details of a scheme for the disposal of foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the first dwelling in the relevant phase of the development is occupied.

Reason: In the interests of pollution control.

25. The development shall be implemented in accordance with the recommendations of the submitted Coal Mining Risk Assessment, in particular with regard to intrusive site investigation works (which shall be undertaken prior to the commencement of any other development) and any resultant remedial works identified by the site investigation shall be undertaken prior to development of the affected part(s) of the site.

Reason: To ensure the stability and safety of the development, having regard to the Coal Mining Risk Assessment undertaken.

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

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

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

Reason: In the interests of the appearance of the area and to enhance legibility of the street layout..

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

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

29. No development of any phase shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP: Biodiversity shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".

- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period of the relevant phase strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that ecological interests are protected in accordance with paragraph 118 of the National Planning Policy Framework.

30. Before development of any phase begins a landscape and ecological management plan (LEMP) for all retained and created habitats shall be submitted to, and be approved in writing by, the local planning authority. The content of the LEMP shall include the following.

- a) Description and evaluation of features to be managed / created.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP 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 plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved plan will be implemented in accordance with the approved details for each relevant phase.

Reason: To ensure that ecological interests are protected and enhanced in accordance with paragraph 118 of the National Planning Policy Framework.

31. The Approved Travel Plan shall be implemented in accordance with the timescales specified therein, to include those parts identified as being implemented prior to occupation and following occupation, unless alternative

timescales are agreed in writing with the Local Planning Authority. The Approved Travel Plan shall be monitored and reviewed in accordance with the agreed Travel Plan targets. (Notwithstanding the submitted document it should be noted that [Paragraph 6.4] the first monitoring report should be compiled once the first 100 dwellings are occupied and responses collated, or within six months of first residential occupation, whichever is the sooner.)

Reason: To promote sustainable transport alternatives.

32. A landscape management plan for each relevant phase, including phasing and implementation strategy, long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved by the Local Planning Authority before the development of any phase. The landscape management plan shall be implemented for the relevant phase as approved.

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

Informatives:

- a) The Highway Authority recommends that the first 5m of the proposed access driveways should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner.
- b) Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway/new estate street, measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
- c) Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Environmental Services Department at County Hall, Matlock.
- d) Car parking provision should be made on the basis of 1.5no., 2no. or 3no. parking spaces per 1, 2/3 or 4/4+ bedroom dwelling respectively. Each parking bay should measure 2.4m x 4.8m (larger in the case of spaces for use by disabled drivers) with adequate space behind each space for manoeuvring.
- e) Under the provisions of the New Roads and Street Works Act 1991 and the Traffic Management Act 2004, all works that involve breaking up, resurfacing and/or reducing the width of the carriageway require a notice to be submitted to Derbyshire County Council for Highway, Developer and Street Works. Works that involve road closures and/or are for duration of more than 11 days require a three months notice. Developer's Works will generally require a three months notice. Developers and Utilities (for associated services) should prepare programmes for all works that are required for the development by all parties such that these can be approved through the coordination, noticing and licensing processes. This will require utilities and developers to work to agreed programmes and booked slots for each part of the works. Developers considering all scales of development are advised to enter into dialogue with Derbyshire County Council's Highway Noticing Section at the earliest stage possible and this includes prior to final planning consents.

f) Pursuant to Section 278 of the Highways Act 1980, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Department of Economy Transport and Environment at County Hall, Matlock DE4 3AG. The applicant is advised to allow at least 12 weeks in any programme of works to obtain a Section 278 Agreement.

g) The application site is affected by Public Rights of Way (Footpaths No. 45, 46 and 106 on the Derbyshire Definitive Map). The routes must remain unobstructed on the legal alignment at all times and the safety of the public using them must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 01629 533190 and asking for the Rights of Way Duty Officer.

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

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

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

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

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

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

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from the Coal Authority's website at: [www.coal.gov.uk/services/permissions/index.cfm](http://www.coal.gov.uk/services/permissions/index.cfm).

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

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from [http://www.south-derbys.gov.uk/business/pollution/contaminated\\_land/default.asp](http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp) Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: [pollution.control@south-derbys.gov.uk](mailto:pollution.control@south-derbys.gov.uk).

The application has been screened in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and the Authority is satisfied that the development will not give rise to significant environmental effects.

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

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

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

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

Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a

public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development. The water body adjacent to the proposed development is not meeting "Good" Water Framework Directive (WFD) status. The development should not lead to any further deterioration in the WFD status of this water body.

All precaution must be taken to avoid discharges and spills to ground both during and after construction. There should be no polluting emissions to air, land or water resulting from actions by the developer or by its sub-contractors. Pollution prevention guidance is available on our website:

<https://www.gov.uk/government/collections/pollution-prevention-guidance-pp>.

During the period of construction, oil and fuel storage will be subject to the Control of Pollution (Oil Storage) (England) Regulations 2001. The Regulations apply to the storage of oil or fuel of any kind in any kind of container which is being used and stored above ground, including drums and mobile bowsers, situated outside a building and with a storage capacity which exceeds 200 litres. A person with custody or control of any oil or fuel breaching the Regulations will be guilty of a criminal offence. The penalties are a maximum fine of £5000 in Magistrates' Court or an unlimited fine in Crown Court. Further details of the Regulations are available from the Environment Agency.

Surface water run-off should be controlled as near to its source as possible through a sustainable drainage approach to surface water management (SuDS). SuDS are an approach to managing surface water run-off which seeks to mimic natural drainage systems and retain water on or near the site as opposed to traditional drainage approaches which involve piping water off site as quickly as possible. SuDS involve a range of techniques including soakaways, infiltration trenches, permeable pavements, grassed swales, green roofs, ponds and wetlands. SuDS offer significant advantages over conventional piped drainage systems in reducing flood risk by attenuating the rate and quantity of surface water run-off from a site, promoting groundwater recharge absorbing diffuse pollutants and improving water quality. Ponds, reed beds and seasonally flooded grasslands can be particularly attractive features within public open spaces. We encourage the use of above ground SuDS as these provide greater water quality benefits.

The variety of SuDS techniques available means that virtually any development should be able to include a scheme based around these principles and provide multiple benefits, reducing costs and maintenance needs.

It is recommended that the installation of fittings that will minimise water usage such as low, or dual, flush WC's, spray taps and economical shower-heads in the bathroom are installed. Power showers are not recommended as they can consume more water than an average bath. Water efficient versions of appliances such as washing machines and dishwashers are also recommended. For outdoors consider installing a water butt, or even a rainwater harvesting system, to provide a natural supply of water for gardens. Simple treatment systems exist that allow rainwater to be used to supply WC's within the home. Following the above recommendations will significantly reduce water consumption and associated costs when compared to traditional installations. Rainwater harvesting utilises a free supply of fresh water and reduces the cost to the environment and the householder.



Further to Condition 21 you are advised to consider the document 'Guidance on the assessment of dust from demolition and construction' from the Institute of Air Quality Management for advice on how such an assessment should be performed.

Further to Condition 25 advice on the production of the WSI can be obtained from the County Council's Development Control Archaeologist Steve.Baker@derbyshire.gov.uk  
Tel 01629 539773

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

The reserved matters application should be based on the indicative layout in respect of the design concepts, linkages, buffers and public open space as they have been negotiated with a view to achieving a sufficient Building for Life Score.

**Item**            1.4

**Reg. No.**        9/2014/1137/BSM

**Applicant:**  
**Madecorn Leisure LLP**  
**C/O Agent**

**Agent:**  
**Mr Michael Orr**  
**CSJ Planning**  
**1 Host Street**  
**Bristol**  
**BS1 5BU**

**Proposal:**        **THE VARIATION OF CONDITION 11 OF PLANNING PERMISSION 9/2013/0733 TO FACILITATE THE USE OF 80 FURTHER EXISTING LEISURE MOORINGS FOR UNRESTRICTED RESIDENTIAL OCCUPATION (TOTTALLING 260 MOORINGS) AT MERCIA MARINA FINDERN LANE WILLINGTON DERBY**

**Ward:**            **WILLINGTON & FINDERN**

**Valid Date:**     **03/12/2014**

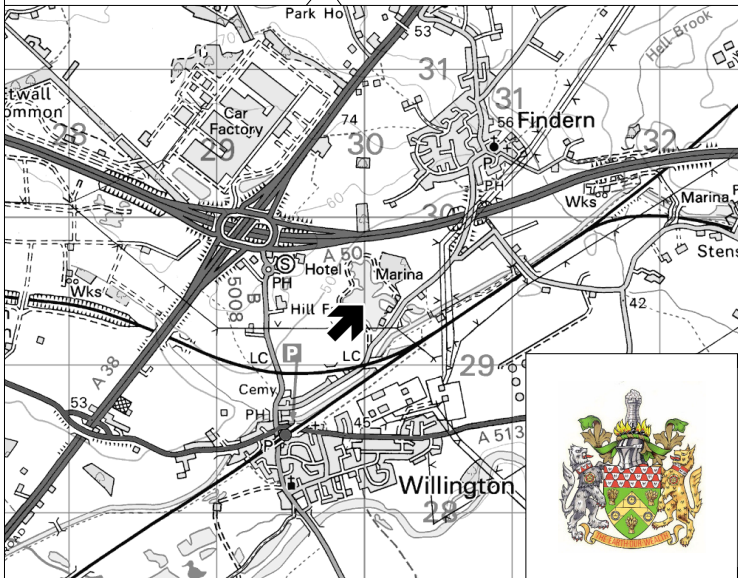
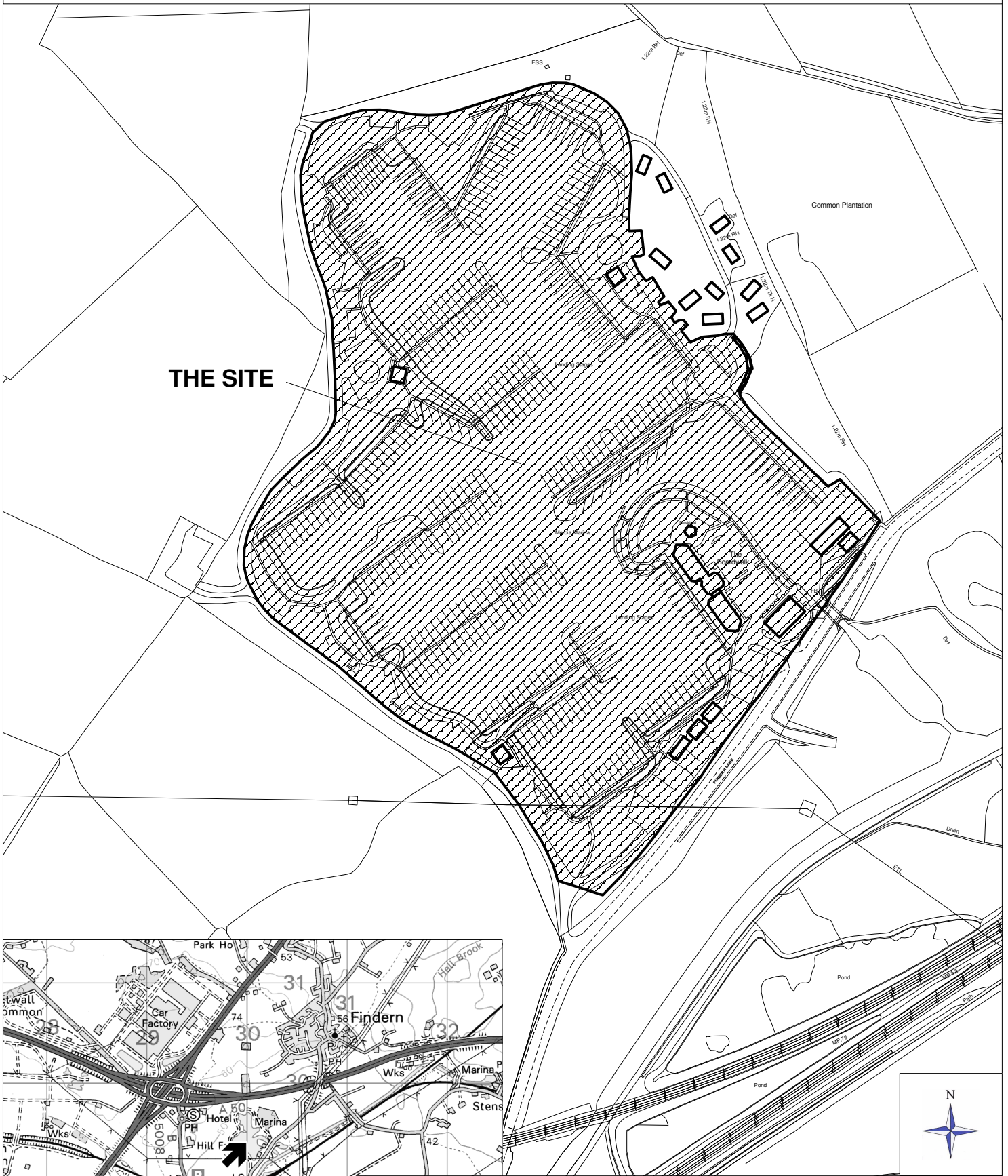
**Reason for committee determination**

The development is not in accordance with the Development Plan.

**Site Description**

The marina lies to the south of the A50, north-east of Willington and south-west of Findern. It is beyond any defined settlement boundary. It is served by Findern Lane and a connection under the highway for boats from the Trent and Mersey Canal. The Derby to Birmingham and Derby to Crewe railway lines are nearby. A protected woodland lies on land to east, with open fields to the north and west. The land rises gradually and relatively uniformly. To the south of Findern Lane, which forms the southern edge to the active marina, is a nature reserve in the ownership of the applicant. A footpath crosses this and provides a connection to the canal towpath (via a pedestrian bridge over the canal). The site currently has a public car park containing 159 spaces at the front of the marina, and a further 229 private car parking spaces spread throughout the remainder of the site. There are also around 75 cycle parking spaces available for use by customers, as well as a chandlery and some shops and facilities. More recently the Boardwalk development has been completed providing for a mix of retail and business uses on the peninsula projecting into the marina.

**Proposal**



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It is proposed to allocate a further 80 moorings for use as full time residential moorings, adding to the 180 already permitted. Of the 587 existing moorings this would equate to approximately 44% of them being permitted for use as primary residences with the rest of the moorings primarily for leisure purposes with a handful of flexible leisure/commercial moorings. This would require the variation of conditions attached to the existing permission, recently varied in 2014. No physical changes to the site are proposed.

### **Applicants' supporting information**

A Planning Statement considers the planning case relating to the applicant's proposals for development of the site after taking into account the Development Plan and all other relevant material considerations. It is stated the Marina is developing into a tourist hub and, in many respects, a self-sufficient settlement in its own right. The complex provides employment opportunities, convenience goods, food and drink services, as well as leisure facilities and various types of residential accommodation. These functions will remain and will not be disturbed by the proposals. There are also a number of services, amenities and transport links in close proximity, where the same logic and conclusion applies. The Statement highlights that there is a demonstrable need for additional residential moorings at the site, both from local boaters on the marina waiting list and the District wide need to increase housing supply. The applicant urges consideration of the existing permission for 180 residential moorings; the emerging settlement hierarchy; the sustainability credentials of the Marina (including on and off site facilities); the current lack of a 5 year housing supply and the contribution the proposal would make to this; and that ultimately, nothing has changed that would invalidate previous conclusions. As such it is considered there is no reason that residential development would be unsuitable on sustainability grounds.

A Transport Statement and Addendum accompanies the application and demonstrates that the forecast traffic generated by residential berths would not be significant when compared to the existing use, and there would be no change to the level of parking on-site. As such it is considered that the proposed change of use would not have an impact on the operation or safety of the local highway network, particularly when movements are arguably part of the wider movements generated and envisaged by existing permissions.

The Travel Plan identifies that the site is already reasonably well served by bus, even at weekends, and provides (along with footpath/footway links) connections to Willington and rail services which pass through the village. Beyond this a range of initiatives, measures and marketing plans are proposed to encourage pedestrian, cycle and public transport travel, whilst reducing car trips through car sharing schemes for instance. The projected targets for residential moorings see a 10% reduction in the use of private cars, whilst increasing walking, cycling and public transport take up; as well as increasing awareness of the travel plan to three-quarters of the relevant population.

### **Relevant Planning History**

9/2014/0409: Installation of pontoon extension for two commercial moorings along with change of use of existing residential/leisure moorings to allow up to four further commercial moorings – Approved June 2014.

9/2014/0353: Proposed event stand with roof – Approved June 2014.

- 9/2014/0316: The variation of condition 4 of planning permission 9/2013/0597 to enable unit 2 to be occupied as a beauty salon and revert to A1 should the beauty salon use cease – Approved June 2014.
- 9/2013/0733: The variation of condition 40 and removal of condition 38 to facilitate the use of 30% (180) of existing residential/leisure moorings for unrestricted residential occupation – Approved January 2014.
- 9/2013/0729: The erection of nine log cabins – Approved November 2013.
- 9/2013/0597: The variation of condition 4 of planning permission 9/2013/0290 – Approved September 2013.
- 9/2013/0290: The erection of a building for mixed use (A1, A3 and B1(a)) – Approved July 2013.
- 9/2012/0989: Amended scheme to 9/2012/0560 for the erection of a public house and retail/commercial buildings comprising A1 (shop), A4 (drinking establishment), B1 (business and D1 (training use) to allow for the combining of units 1 and 2 in the piazza building and the mixed use of unit 7 for A1 (shop)/A3 (restaurants & cafes) – Approved January 2013.
- 9/2012/0560: The erection of a public house and retail/commercial buildings for mixed use (A1, A4, B1 (offices) and D1 (training) use) – Approved August 2012.
- 9/2012/0095: The erection of a gastro pub/retail complex and associated car parking (revised scheme for previously approved application 9/2010/0445) – Approved May 2012.
- 9/2011/0564: The erection of retail building including modifications to the approved peninsula parking scheme and extension and alteration to the main car parking – Approved September 2011.
- 9/2010/0759: The construction of 28 storage cabins built in 5 separate blocks and associated landscaping – Approved October 2010.
- 9/2010/0445: The erection of a building to accommodate gastro pub with guest accommodation, fitness pool, gymnasium, spa and beauty salon – Approved October 2010.
- 9/2010/0045: The erection of 18 log cabins – Approved April 2010.
- 9/2008/0824: New chandlery building and associated works – October 2008.
- 9/2007/0470: The creation of a 585 berth marina including a boatyard, chandlery and manager's office, tearooms, toilet blocks, boat hire and brokerage facilities and double dry dock. The erection of 18 log cabins to provide family group overnight tourist accommodation and the erection of a public house – October 2007.

## **Responses to Consultations**

The County Highway Authority, following receipt of amended data underpinning the Transport Statement, considers that the proposal is unlikely to have any material impact on existing highway conditions. As such they raise no objection subject to ensuring existing parking is retained.

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

- £2,288.80 (£28.61 per mooring) towards additional waste management capacity;
- £182,384.16 towards the provision of 16 primary school places at Willington Primary School;
- £206,114.04 towards the provision of 12 secondary school places and £93,139.50 towards the provision of 5 post-16 places, both towards the emerging secondary strategy.

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

### **Responses to Publicity**

None received.

### **Development Plan Policies**

The relevant policies are:

- Saved Local Plan 1998: Housing Policy 12 (H12), Transport Policy 6 (T6) and Environment Policy 1 (EV1).

### **Emerging Development Plan Policies**

The relevant policies are:

- Submission Local Plan 2014: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Need), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions) and INF2 (Sustainable Transport).

### **National Guidance**

- National Planning Policy Framework (NPPF), particularly paragraphs 6, 7, 8, 14, 17, 19, 28, 32, 42, 47, 49, 50, 55, 61, 70, 173, 203, 204, 206, 215 and 216.
- Circular 11/95.

### **Local Guidance and Evidence**

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

## Planning Considerations

As the proposal relates to change of tenure of existing moorings from leisure moorings to full residential moorings, the proposal is not considered to affect the existing status quo as to biodiversity impacts, heritage impacts or amenity – even now with full time residential occupation of some 30% of the existing moorings.

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

- The Principle of Development;
- Sustainability;
- Impact on local services and facilities; and
- Highway impacts.

## Planning Assessment

### The Principle of Development

The site lies outside of the settlement boundaries for Willington, and consequently in open countryside. Saved policy H12 allows for boats as places of residence provided that there is a requirement for a dwelling to sustain an acknowledged rural based activity outside a settlement (amongst other criteria). EV1 further limits residential development in the countryside and drives development to more suitable locations, such that it is necessary to establish whether the proposal is essential to a rural based activity or it is unavoidable in the countryside. Neither is the case here. The proposal is therefore not in accordance with the Development Plan.

Notwithstanding the above the NPPF requires proper consideration of the weight which may be afforded to housing policies stating that in the absence of a 5-year supply of deliverable housing sites relevant policies for the supply of housing should not be considered up-to-date. Whilst H12 is a policy for the supply of housing and arguably is not-up-to-date, EV1 however is not a housing policy – it instead has an indirect effect of restraining delivery. Notwithstanding this, the policy accepts that some development in the countryside is unavoidable and indeed it could be argued that this could be the case here given the current shortage in the supply of housing. However the policy goes on to consider safeguarding its character and this part at least could be argued to be consistent with section 11 of the NPPF.

The proposal attracts significant weight in its favour if it can provide towards the 5-year supply. Whilst the SHMA does not provide an assessed need for residential moorings and, although some would be used as ‘second homes’, they would be nevertheless providing permanent dwellings contributing towards housing demand. Furthermore the nature of the moorings would provide for a means of affordable housing. It is therefore considered that a proportion of the 80 moorings proposed can be counted towards the 5-year housing supply.

The applicant advances that the 80 moorings have remained unlet since their creation for leisure purposes. The ultimate question is therefore what harm arises given the marina and moorings already exist and by allowing a different residential use, especially when providing residential accommodation here might alleviate some pressure elsewhere within the District. The focus therefore is whether the change of tenure would

create unacceptable pressures on existing services, facilities and infrastructure which could not be mitigated for; and whether the wider environment would suffer as a result.

### Sustainability

The NPPF sets out that sustainable development has three dimensions: economic, social and environmental, whilst highlighting that these dimensions should be sought jointly and simultaneously. Willington is classed as a key service village in the emerging Plan's settlement hierarchy – one of the more suitable locations for housing allocations in principle. Even when combined with extant and implemented permissions for housing in Willington, and the 180 residential moorings previously permitted, the proposal is not considered to be unsustainable by way of extent alone. Willington benefits from a regular bus service which passes immediately past the site and connects to a frequent rail service to/from Derby or Burton. The village also lies on a junction of key A and B roads through the District, which in turn connect to the A38 and A50 as well as other villages and towns. The site is also served by a footway which connects back to the village centre and facilities within. As to facilities there is a post office, a convenience store and other shops, a recently expanded doctors surgery, a pharmacy, a primary school, a village hall, a sports ground and a number of public houses. In brief the economic and social aspects of sustainable development are largely satisfied.

Turning to environmental impacts, whilst there may be a slightly greater reliance on private vehicle compared to a conventional housing expansion to the village; such effects are not considered to significantly exacerbate any existing congestion issues within the village during peak hours. Supporting information with the application demonstrates the existing residential moorings have had a minimal impact on vehicle movements to and from the marina. Visual, landscape, pollution and amenity impacts arising from the proposal are considered to be unaltered from the existing status quo of leisure moorings.

Consideration is given to the potential sequential impacts of allowing further residential moorings at this time. The marina is still relatively young and following a stall in development of the site created by the economic downturn, in turn delaying delivery of supporting 'honey pot' facilities such as the Boardwalk; it almost seems premature to allow further residences on the site without first allowing the existing permissions to either be implemented or their effects properly become established. Ultimately Members will recall that permission for the marina was justified on the basis of tourism and resulting economic benefits for the District.

Under the previous application it was advanced that income over the winter months was insufficient to sustain employment at the site and that a residential proportion would provide an acceptable stream of income, as well as reflecting the mix of moorings available at competitor marinas and the resulting contribution towards the 5-year housing supply. The application was supported on a balance of these matters against concerns that such development was premature and undermined the very tourism credentials which allowed the original permission as an exception to prevailing countryside policy – being instead tantamount to housing development in the countryside. This application takes the residential proportion even further. The applicant confirms that the existing permission for 180 residential moorings has been fully taken up, yet at the same time some 90 leisure moorings still remain vacant. There is also a waiting list for residential moorings which contains 99 names, of which some 79 are persons presently living elsewhere and wishing to come to the marina on a residential



basis, although this is not an objectively assessed need. It is also advanced that the proposal would secure a core income in order to facilitate onward investment into the site (e.g. the rest of the peninsula development), although the applicant has not advanced viability evidence to substantiate an existing financial shortcoming.

On balance it does hold merit to make use of the existing moorings rather than they sit empty until taken up by leisure demand – if this would now indeed occur. Consideration has also been given to whether a temporary permission is given so to protect the leisure aims of the marina. However such an approach would limit the ability to count any moorings towards a 5-year housing supply as they would be deducted at the end of the temporary period. Ultimately it is the degree of harm to which a decision rests, and it is considered the benefits overall outweigh the harm. Notwithstanding this the applicant is well aware of concerns regarding successive applications in a piecemeal fashion and the opportunity has been taken to make it clear how future applications made in this manner might be received.

### Impact on local services and facilities

Paragraph 23 of the NPPF recognises that residential development can play an important role in ensuring the vitality of centres, whilst paragraph 28 lends weight to proposals which assist in sustaining rural enterprise. However consideration must also turn to whether existing infrastructure and services are sufficient to cope with the additional population.

A key concern relates to schooling provision in the village and wider area. Willington Primary is stated to be at capacity. As for secondary school places it is reported that John Port Academy too has no potential capacity, especially with projected provision committed to other sites coming forward in the sub-Derby area. However the County considers these issues can be addressed through contributions towards the provision of school places and highlights they are working towards a strategy to provide additional capacity, with expansion of John Port School and the delivery of a new secondary school in the Derby sub-area understood to be possible options.

The applicant has expressed serious concern at the scale of the initial requests, questioning their compliance with the CIL tests and the NPPF. This is centred on the basis that narrowboats are unlikely to be suitable for full time residential use by families with children – especially older children. This is not an unreasonable claim, but a recent appeal decision at Sawley Marina demonstrated that the Inspector considered there is a residual opportunity that could conceivably be taken up by families with children. The applicant has thus provided data which demonstrates a 4.8% “take up” of moorings by families with children. This is considered to provide a reasonable representation of the most likely situation which would arise. The County raises no objection to this “tapering” of education contributions and other sums requested are considered to be compliant with the tests.

The development will inevitably create refuse and waste which will need to be handled through a HWRC. The existing HWRC at Newhall (Bretby) is already over capacity, having exceeded its tonnage last year, and unable to expand. Additional housing, of which the occupants have a right to use the existing HWRC, will compound this problem. Consequently the County advice of a need for commuted sums towards the provision of a new HWRC for South Derbyshire. Whilst the marina already offers its own waste collection service, this is a chargeable service. With this in mind and the fact that

occupants would have a right to use the HWRC regardless of what other provisions they may benefit from, this is considered to be justified and meet the NPPF tests.

Consideration has been given to whether the development would bring about pressures on existing open space, sport and built facilities provision. However existing open space provision on the site, and on the adjacent nature reserve under the applicant's control is adequate. In addition sports and built facilities can already be utilised by leisure moorers such that it is not considered possible to demonstrate a greater impact arising from the proposed change to residential moorings.

### Highway impacts

It is well established that there are existing traffic congestion problems in Willington around peak hours but it is a test of whether further traffic generated by the proposal would lead a "tipping point" being reached. The Transport Statement and Addendum looks at this matter concluding that 14 additional two-way vehicle trips per day are projected with most of this traffic likely to migrate towards Willington, the A50 and the A38, across the level crossing. This is considered to be a negligible increase in wider context of vehicle movements around the centre of Willington and the Highway Authority raises no objection. Existing parking provision is already protected by way of other conditions.

### Conclusion

The scene for the marina complex as a whole is material here. The marina is a developing tourist hub and, in many respects, self-sufficient in its own right. The complex is capable of providing employment opportunities, convenience goods, food and drink, as well as leisure facilities and accommodation. The reliance on outward services and facilities is already reduced and is likely to remain that way with the proposal now presented. Any potential for pressure on existing services can be alleviated through commuted sums, and those sums are agreeable to and viable for the applicant. The benefits of adding a proportion of the 80 'units' to the 5-year housing supply whilst facilitating economic benefits for the marina count in favour of the proposals. The physical and visual outward impacts are negligible or maintain the existing status quo such that it is the view that the proposal is sustainable, or can be made sustainable through planning obligations and conditions. Future developments will be considered on their merits with the applicant fully appreciating the concerns this application brings about. It is therefore not considered there are any adverse impacts arising which would significantly and demonstrably outweigh the benefits.

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

### **Recommendation**

- A. Grant delegated authority to the Planning Services Manager to complete a Section 106 Agreement to secure financial contributions towards education provision and waste & recycling as set out in the planning assessment above;
- B. Subject to A, **GRANT** permission subject to the following conditions:

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

Reason: In the interests of pollution control.

2. The areas shown on the approved plan under planning permission ref: 9/2007/0470 for the parking and manoeuvring of vehicles shall remain unobstructed for their designated use (unless otherwise permitted by an express planning permission granted upon application to the Local Planning Authority).

Reason: To ensure that all the activities associated with the development are contained within the curtilage of the site, so as to avoid parking and manoeuvring on the highway to the detriment of highway safety.

3. A landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be carried out as approved under condition attached to planning permission ref: 9/2007/0470.

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

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

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

5. The accesses to Findern Lane be maintained in accordance with the following criteria:-

- (i) Minimum width of 5.5m and radii of 10m.
- (ii) Visibility sightlines extending from a point 4.5m back from the carriageway edge, measured along the centreline of the access, for a distance of 160m in each direction measured along the nearside carriageway edge. The land in advance of the sightlines shall be free of all obstructions exceeding 600mm in height above ground level.
- (iii) Surfaced with a solid bound material for a minimum distance of 20m from the proposed highway boundary.
- (iv) Unless otherwise agreed in writing by the Local Planning Authority there shall be no gates within 20m of the proposed highway boundary.

Reason: In the interests of highway safety.

6. The access at the south-western end of the Findern Lane frontage shall cater for emergency vehicles only and maintained accordingly.

Reason: In the interests of highway safety.

7. Associated vehicle parking, manoeuvring space, vehicular access routes and secure cycle storage facilities shall be maintained free of any impediment to their designated use.

Reason: In the interests of highway safety.

8. No external lighting shall be installed on the site without the express planning permission granted upon application to the Local Planning Authority.

Reason: In the interests of visual amenity and dark skies in this rural location.

9. The workshops shall be used solely for the maintenance and repair of canal craft.

Reason: General industrial use of the site in this location would not normally comply with the provisions of the development plan.

10. All footpaths for public use as shown on the landscaping plans approved under condition 11 of planning permission ref: 9/2007/0470 shall be available for public use in perpetuity.

Reason: To ensure that public access is available to walkers.

11. With the exception of 260 residential moorings, no mooring hereby permitted shall be occupied by any vessel that is a principal private residence.

Reason: Wholesale permanent residential development in this location would be contrary to the development plan and the objectives of sustainable development.

12. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) and Article 3 and Part 3 of the Town and Country Planning (General Permitted Development) Order 1995, the use of the buildings on the marina shall remain as described in application ref: 9/2007/0470 and for no other purpose (unless otherwise permitted by an express planning permission granted upon application to the Local Planning Authority).

Reason: In order that the Local Planning Authority may retain control over the future use of the premises and in the interests of the amenity of the area.

13. The footpath link from the proposed path on the south site to the canal footpath network to the south shall be retained in perpetuity.

Reason: To ensure that public access is available to walkers.

14. The owner/operator shall maintain a register of occupiers who contract for a continuous mooring period of 6 months or more for both residential and leisure moorings at the marina for each calendar year, which shall be made available for inspection by the Local Planning Authority at any time and a copy of the register shall be supplied to the Local Planning Authority at the end of each calendar year. This register shall include:

- i. a plan of all moorings at the marina, with each assigned a reference number;
- ii. the names of the occupier(s) of each mooring;
- iii. the date first occupied;
- iv. the date last occupied;

v. whether occupation is for residential or leisure purposes, and in the case of the latter the occupants' primary address of residence.

Where the same mooring number is used by multiple persons throughout the calendar year, the register should contain multiple entries to this effect.

Reason: To ensure that the Local Planning Authority is able to monitor the use of moorings at the marina to ensure that the requirements of condition 11 are not breached.

**Informatives:**

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

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

**Item** 1.5

**Reg. No.** 9/2014/1215/FM

**Applicant:**  
Mr Alan Dunnicliff  
Lambert House  
Ashby Road  
Melbourne  
Derby  
DE73 8ES

**Agent:**  
Mr Bryan Wolsey  
Bryan Wolsey (Planning) Ltd  
29 Chapel Street  
Ticknall  
Derby  
DE73 7JY

**Proposal:** THE ERECTION OF ONE DWELLING ON LAND AT  
SK3824 3395 WEST OF LAMBERT HOUSE ASHBY  
ROAD MELBOURNE DERBY

**Ward:** MELBOURNE

**Valid Date:** 26/01/2015

**Reason for committee determination**

The application site is outside of the village confine (as defined by Housing Policy 5 of the Local Plan) and represents development in the countryside not in accordance with Local Plan Housing Policy 8.

**Site Description**

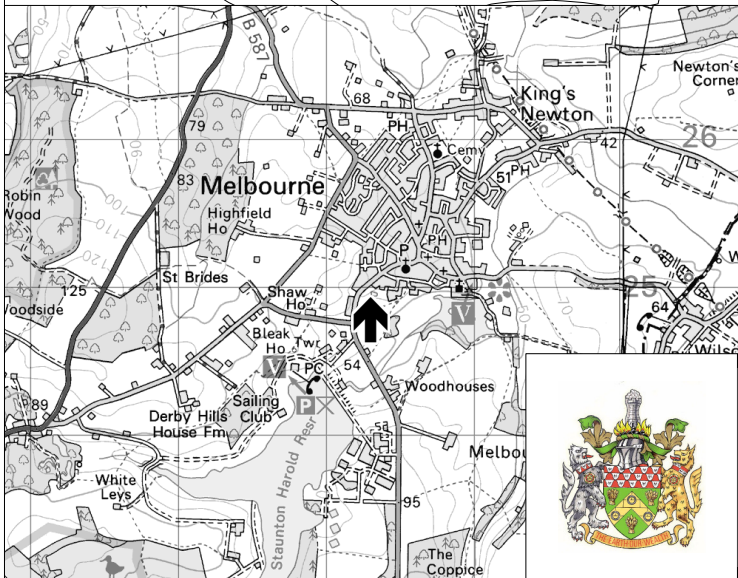
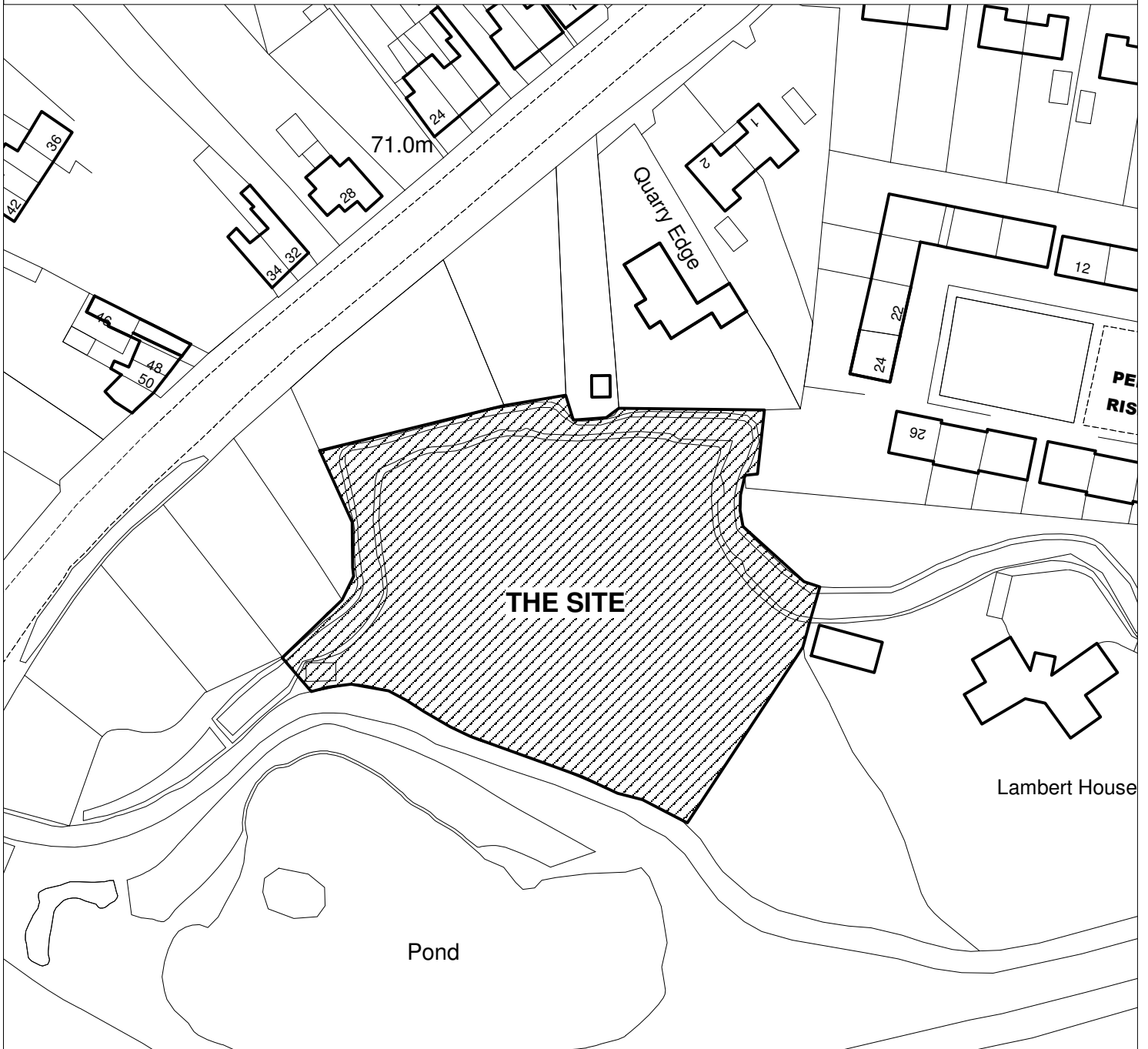
The application site relates to a former sand quarry which now forms part of a woodland setting which is a mix of purpose planted and self-seeded trees which form part of a group Tree Preservation Order (TPO) on the site. A two storey mock arts and crafts dwelling sits in the centre of the site and is open to views beyond within the neighbouring parkland associated with Melbourne Hall.

The application site is located outside of the village confine/boundary to the south western fringe of Melbourne (Housing Policy 5). The site relates to a large plot situated between the residential properties of Brook Street and Lambert House and Ashby Road. The land is previously developed land which is categorised as a brownfield site which has formed a woodland setting since the closure of the quarry.

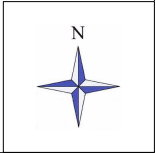
**Proposal**

The application proposes the erection of an 'L' shaped detached dwelling which is a mixed 1-2 storey property to the western end of the site, and adopts an arts and crafts design to reflect the existing development on the site. Materials will reflect those

9/2014/1215 - Land at SK3824 3395 West of Lambert House, Ashby Road, Melbourne, Derby DE73 8ES



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commonly used in this locality including Red Brick to follow a more traditional approach in the development of the site.

The application also proposal the removal/felling of a number of Goats Willow which make up the centre of the centre.

### **Applicants' supporting information**

The Design and Access Statement sets the scene for the proposal by describing the site and the local context. The statement addresses the relevant policies and makes judgement as to how they apply to the merits of the proposal. The statement concludes by reflecting on the history of the site with particular reference made to the appeal decision made by the inspectorate. The applicant's agent addresses the concerns raised by the inspector and highlights how the revised proposal has overcome the reasons for refusal.

The ecology report highlights that there are a number of buildings and environments which would be ideal for roosting bats. The woodland setting would also provide potential nesting for birds. The nearby flooded quarry pit which forms part of the site also provides potential for Great Crested Newts, however the survey deemed that the pond showed no evidence of Newts and therefore it is unlikely to be used as a breeding pond for Great Crested Newts. The report concludes that the proposed works within the site are unlikely to have any significant effect on the local bat population, given the abundance of high quality foraging habitat within the wider area. The rock faces should be protected from disturbance during proposed works due to nesting of birds. No presence of Badgers.

The Tree Survey identifies all the trees protected under the Tree Preservation Order and assesses their current health, categorising each tree or group of trees as Good, Fair or Poor and outlines any work or mitigation required in addition to calculating the root protection area to establish the potential impact of development. The report describes the disused quarry and the ground conditions whilst outlining the method of the survey. The survey found five species of trees including, Sycamore, Silver Birch, Grey Poplar, Goat Willow and Willow. The main body of trees are the Goats willow, a large percentage of which are young and are a result of natural regeneration. The quality trees are located around the edge of the quarry and provide the main tree cover of the site; they also screen the site and provide a local amenity value. These trees are to be retained however the Goat willow which is of a low amenity value in the centre of the site is proposed to be felled to enhance the wellbeing of the mature and more valuable species. The report lists some dead trees (low in number) which can be removed, however the dead sycamore is proposed to be utilised in the site as a potential nesting/roosting site for birds and bats.

### **Planning History**

Existing house granted permission in 1980s as an exception to village confine.

9/2014/0216 – Erection of dwelling on land east of Lambert House was refused and dismissed at appeal due to harm to the Conservation Area and setting of the historic park and gardens associated with Melbourne Hall.

### **Responses to Consultations**



County Highways raise no objection but request that the applicant revise the access layout indicating a minimum width of 4.5 metres for the first 5 metres into the site from the highway boundary.

Melbourne Civic Society is concerned at the principle of development although raised no objection to the previous application in 2014. The application is not open to the same visual impact objection as the previous application but it is still contrary to the original planning intention for this site which was for only a single dwelling.

No comment received from Melbourne Parish Council.

### **Responses to Publicity**

No comments have been received from neighbouring properties in response to publicity.

### **Development Plan Policies**

South Derbyshire Saved Local Plan Policies include: Housing Policies 5, 8 and 11, Environment Policies 1, 9 and 12 and Transport Policy 6.

Emerging Local Plan Part 1 2014:

S1 – Strategic Growth Strategy

S2 - Presumption in Favour of Sustainable Development

S4 – Housing Need

S6 - Sustainable Access

H1 - Settlement Hierarchy

SD1 – Amenity and Environmental Quality

BNE1- Design Excellence

BNE2 - Heritage Assets

BNE3 – Biodiversity

BNE4 - Landscape Character and Local Distinctiveness

INF2 - Sustainable Transport

### **Local Guidance**

Housing Design and layout SPG

Melbourne Conservation Area Character Statement

### **National Guidance**

National Planning Policy Framework (NPPF), relevant paragraphs include:

Paras 6-10 (Achieving sustainable development)

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

Para 17 (Core principles)

Chapter 6 (Delivering a wide choice of quality homes)

Chapter 7 (Requiring good design)

Chapter 12 (Historic Environments)

Para 196 & 197 (Determining applications)

NPPG ID26 (Design), 21a (Conditions), 23b (Obligations), 18a (Historic environment)

ID3 (Housing land availability)

## **Planning Considerations**

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

- the principle of development
- the visual impact of the development on the Conservation Area and the adjacent historic park and garden
- the impact on neighbours
- highway safety

## **Planning Assessment**

### The principle of development

Local Plan Housing Policy 5 defines Melbourne as a village settlement, a key service village under the emerging Local Plan Part 1, where residential development would be permitted if it is appropriate to the scale and character of the settlement and is within the village confines. The site is not within village confine/boundary (as indicated in the current Local Plan Proposals Map) and is therefore in principle not acceptable.

However, the justification for the policy does note that in some circumstance there is the possibility of development within the 'wider physical confines' of the village. It states that there may be circumstances where small extensions beyond the existing built framework but within its wider physical confines are acceptable. In such cases housing development is permitted provided that it is in keeping with the scale and character of the village. In this instance as a brownfield site which is historically linked to the village and surrounded on three sides by development the principle of constructing a dwelling on the site is considered acceptable.

This is further supported by the NPPF in promoting sustainable development in light of the LPAs lack of a five year land supply.

The proposal fails to comply with all the criteria outlined in Housing policy 8 for housing in the countryside, as it is not necessary to the operation of a rural based activity and is not a replacement dwelling. However, the site is well related to existing dwellings due to its edge of village location.

It is accepted that the general location of this development is in a "sustainable location" in terms of its proximity to services, transport, amenities etc.

Paragraph 49 of the NPPF states that 'housing applications should be considered in the context of the presumption in favour of sustainable development' and that 'relevant policies for the supply of housing should not be considered up to date if the Local Planning Authority cannot demonstrate a five year land supply of deliverable housing'. Para 14 of the NPPF states that 'where the development plan is absent, silent or the relevant policies are out of date' the local authority should grant permission unless there are any adverse impacts in doing so that would 'significantly or demonstrably outweigh the benefits of the scheme'.

One of the difficulties in assessing the principle of development in this location is the current level of uncertainty surrounding local policies in light of the NPPF, however it must be clear that this does not automatically mean that any and every application will

be permitted, each scheme must still be tested against the prevailing policies and if harm is found, it remains the case that, on balance, applications can be refused.

Until such time when the council can demonstrate a 5 year supply of deliverable housing land, paragraph 14 and 49 of the NPPF are applicable whereby there is a presumption in favour of sustainable development. Therefore in light of the NPPF the relevant local plan policies cannot be considered up-to-date. The implication of this position is that applications such as this one should primarily be considered against the policies in the NPPF with less weight being given to local policies.

It is of importance that there is pressure to provide new housing in the district in line with the Government's agenda. This is a small site which would only provide a very limited amount of housing compared to the overall need. However unless the development would cause significant harm, it would be difficult to resist a modest development in this locality.

It should be noted that para 14 specifically states that the presumption in favour of sustainable development applies unless there are material considerations that indicate otherwise.

#### Impact on the Conservation Area and Historic Park and Garden

The application proposes the erection of an 'L' shaped detached dwelling which is a mixed 1-2 storey property to the western end of the site, and adopts an arts and crafts design to reflect the existing development on the site. The development is reflective of the character and scale of existing development in this locality which is a requirement of Housing Policy 5 and Environment Policy 11.

An application was previously refused and dismissed at appeal for a new dwelling located on the eastern boundary of the site, the inspector concluded that the council could not demonstrate a 5 year land supply however the proposal would be contrary to para.14 in providing sustainable development as the modern property which was in an elevated and semi open position would have a detrimental impact on the setting of the Conservation Area and Historic Parkland bordering the site. The Inspector concluded that although the harm was less than substantial it did not comply with the aims of the NPPF in forming sustainable development.

The agent has revised the scheme to make a more secluded development within the former quarry pit which is sunken down from the access drive and existing property and is adjacent to a number of sheds and outbuildings which border the northern wall of the quarry. The trees which dominate this locality and form part of the wider setting of the historic park and gardens of Melbourne Hall play an important role in defining the site. The trees engulf the proposed site of the dwelling which appears as a green cocoon softening the harsh faces of the quarry that had previously scarred the landscape.

The site is densely populated with trees which are a mix of species and age. The central area identified as G4 is a group of goat willow which range from young to mature. This group sits within a confine of mature trees which dominate the skyline and form the core of the woodland setting. The goat willows are proposed to be felled to accommodate the dwelling. Approx. 60% of the goat willows are young and under 75mm in diameter, therefore they could be removed without the prior consent of the LPA.

The goat willows are dense within the core of the site and are competing against the more mature willows and sycamores that form the parameter. Environment Policy 9 states that development will not be permitted which leads to the loss of areas of woodland or specimen trees of value to their landscape setting. The group of goat willows form part of the woodland setting but given their unbalanced appearance and that they are not identifiable from outside of the site, their removal is not considered to unbalance the value of the group TPO which covers the site. The development would provide the opportunity to create a tree enhancement strategy which involves new planting and maintenance of existing trees, some of which are being put under pressure by extensive Ivy grow. This can be considered as a benefit in providing the opportunity to enhance the value of visual amenity and longevity of the site which plays a role in the setting of the neighbouring Conservation Area. A condition could be attached as per the requirements of policy EV9 to secure tree planting.

Overall the development would not have the same visual harm as the previous development. It would be screened all year round and would not be readily visible from outside of the tree lined site; in addition the scale and use of materials would also allow the dwelling to fade into the backdrop of the quarry. As a result the proposed development would have a neutral impact on the character and appearance of the site as well as the wider setting, thus preserving the character and appearance of the Conservation Area and the historic park and garden of Melbourne Hall in accordance with Local Plan Policy H5, EV 12 and EV15.

#### Impact on neighbours

The proposed dwelling would be located beyond the 21 metre minimum distance between windows as detailed in the LPA Housing design and layout SPG. The dwelling is set down from the ground level of dwellings along Ashby Road therefore there are not considered to be any issues of overlooking or loss of privacy. The amenity space provided would predominantly be formed by the woodland which would ensure adequate maintenance of the trees in terms of safety and wellbeing. There would be some overshadowing as a result of the woodland but it is characteristic of the site and is not considered to cause a dark environment that would be of detriment to the amenity of future occupiers. As such the development can be considered to be in accordance with the requirements of Local Plan Policy H11 and EV9.

#### Highway safety

Locally no concerns have been raised regarding highway safety and the County Highway Authority also has no undue concerns which cannot be addressed by condition.

#### Conclusion

Overall the development has overcome the reasons for refusal and the inspectors comments by significantly altering the proposal in terms of, siting, design, scale and landscaping which would create a development that would nestle into the contours of the site, utilising the natural woodland to preserve the character and appearance of the application site and the surrounding natural and built environment which ultimately preserves the natural distinctiveness of Melbourne Conservation Area and the Historic Park and Garden associated with Melbourne Hall.

## Recommendation

**GRANT** permission subject to the following conditions:

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

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

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

Reason: To ensure the stability and safety of the development, having regard to the Coal Mining Risk Assessment undertaken.

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

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

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

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

5. Notwithstanding the particulars of the application, revised details of access layout indicating a minimum width of 4.5 metres for at least the first 5 metres to the site from the highway boundary shall be submitted for approval in writing by the Local Planning Authority prior to commencement of building operations.

Reason: The submitted details are considered unsatisfactory.

6. The development hereby permitted shall be carried out in accordance with plan/drawing no's 1, 2, 3, 4 and 5 received on 23rd March 2015; plan/drawing no's 6, 7 and 8 received 26th March 2015; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

Reason: For the avoidance of doubt.

7. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, the dwelling hereby permitted shall not be enlarged or extended without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.

Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the site area and effect upon neighbouring properties and/or the street scene.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, no buildings and no gates, walls, fences or other means of enclosure shall be erected on the application site without the prior written approval of the Local Planning Authority.

Reason: To ensure that any such structures are appropriate to the character and appearance of the building.

9. No development shall take place until full details, including surface materials, of a vehicular turning area within the site have been submitted to and approved in writing by the Local Planning Authority. The turning area shall be provided as approved prior to the first occupation of the development and shall thereafter be retained for that purpose.

Reason: In the interests of highway safety.

10. Notwithstanding the submitted details, prior to the commencement of building operations on adjoining areas, the boundary with the area of the protected trees shall be fenced with steel mesh fencing to 2.3m high supported by steel scaffold poles staked at 3 metre centres. The fencing shall be retained in position until all building works on adjoining areas have been completed unless otherwise agreed in writing with the local planning authority.

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

11. A replacement tree of a species and in a position to be first agreed with the Local Planning Authority shall be planted in the same or immediately following planting season (November to March).

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

## **Informatives**

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

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

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

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

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

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

3. A) No development shall take place until a suitable scheme for the prevention of ground gas ingress has been submitted to and approved in writing by the Local Planning Authority (LPA). Alternatively, the site shall be monitored for the presence of ground gas and a subsequent risk assessment completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Upon completion of either, verification of the correct installation of gas prevention measures (if any) shall be submitted to and approved in writing by the LPA prior to the occupation of the development hereby permitted.

If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part 2A, and appropriate remediation proposals, and shall be submitted to the LPA without delay. The approved remediation scheme shall be implemented in accordance with the approved methodology.

Reason: To ensure the stability and safety of the development, having regard to the Coal Mining Risk Assessment undertaken.

4. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local

Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

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

5. Notwithstanding the particulars of the application, revised details of access layout indicating a minimum width of 4.5 metres for at least the first 5 metres to the site from the highway boundary shall be submitted for approval in writing by the Local Planning Authority prior to commencement of building operations. The access shall then be constructed in accordance with the approved drawings.

Reason: The submitted details are considered unsatisfactory.

6. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, the dwelling hereby permitted shall not be enlarged or extended without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.

Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the site area and effect upon neighbouring properties and/or the street scene.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, no buildings and no gates, walls, fences or other means of enclosure shall be erected on the application site without the prior written approval of the Local Planning Authority.

Reason: To ensure that any such structures are appropriate to the character and appearance of the building.

8. No development shall take place until full details, including surface materials, of a vehicular turning area within the site have been submitted to and approved in writing by the Local Planning Authority. The turning area shall be provided as approved prior to the first occupation of the development and shall thereafter be retained for that purpose.

Reason: In the interests of highway safety.

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

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

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

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



11. Notwithstanding the submitted details, prior to the commencement of building operations on adjoining areas, the boundary with the [area of protected trees / .. proposed landscape area / ..wildlife site] shall be fenced with steel mesh fencing to 2.3m high supported by steel scaffold poles staked at 3 metre centres. The fencing shall be retained in position until all building works on adjoining areas have been completed unless otherwise agreed in writing with the local planning authority.

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

12. There shall be no tipping or deposition of materials within the area fenced under condition 9 above without the prior written authorisation of the local planning authority.

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

13. The development hereby permitted shall be carried out in accordance with plan/drawing no's 1, 2, 3, 4 and 5 received on 23rd March 2015; plan/drawing no's 6, 7 and 8 received 26th March 2015; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

Reason: For the avoidance of doubt.

#### Informatives:

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

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

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

**Item** 1.6

**Reg. No.** 9/2015/0176/FH

**Applicant:**  
Mr Michael Stanton  
Lady Acre House  
Ingleby Lane  
Ticknall  
DE73 7JQ

**Agent:**  
Mr Tim Foster  
2 Broomfield Cottages  
Morley  
Ilkeston  
DE7 6DN

**Proposal:** THE ERECTION OF AN EXTENSION AT KNOWLE HILL  
BUNGALOW KNOWLE HILL FARM INGLEBY LANE  
TICKNALL DERBY

**Ward:** REPTON

**Valid Date:** 26/02/2015

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

The applicant is a member of the Council and so the application must be determined by the Committee.

#### **Site Description**

The application property is a detached agricultural workers dwelling in a rural location with the usual condition restricting its occupation to those currently or last employed in agriculture. A public bridleway is located approximately 200m to the west of the application property as well as Ingleby Lane being located about the same distance to the east, thus resulting in the property having very limited views from the public realm.

#### **Proposal**

The proposal is to extend the dwelling by way of a two storey extension to the rear. The extension would create a ground floor lounge and a first floor third bedroom.

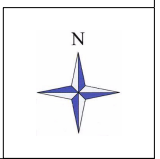
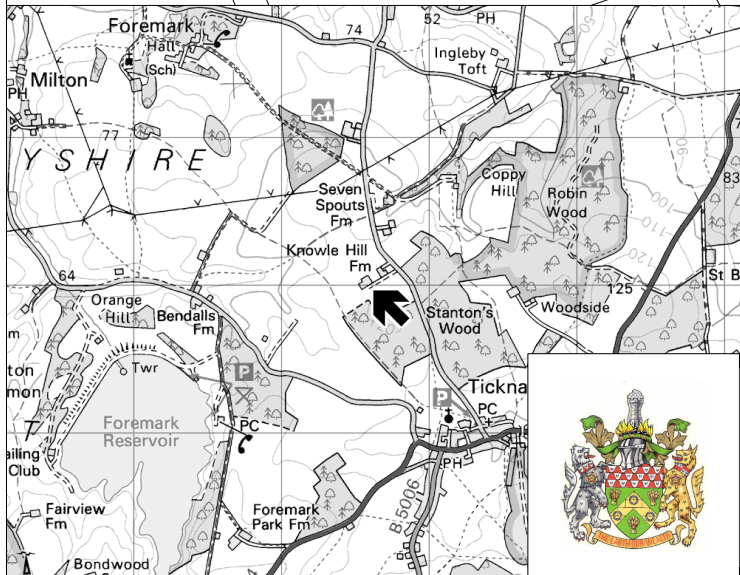
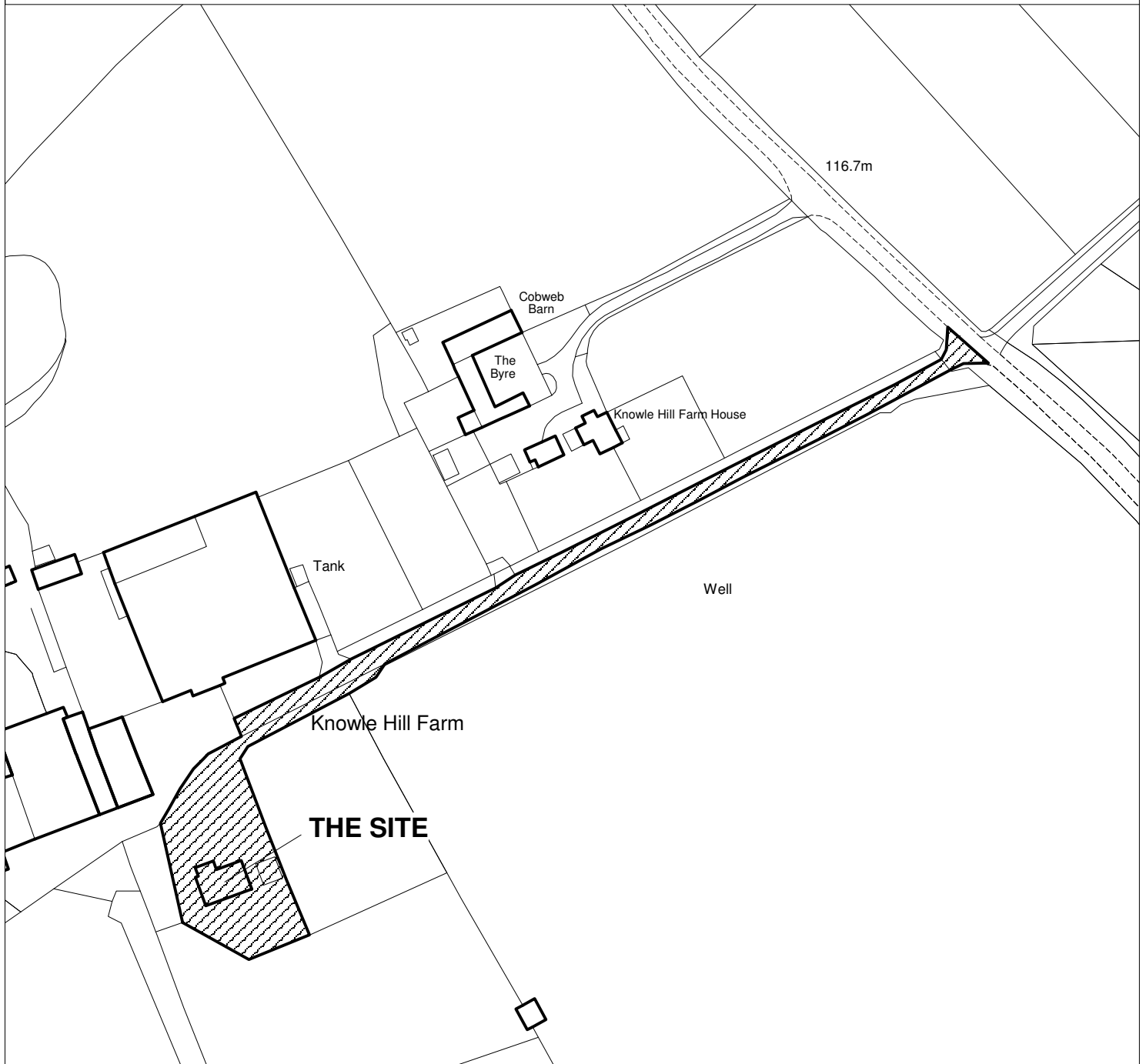
#### **Planning History**

The application property was permitted as an agricultural workers dwelling under cover of planning application 9/1992/0770.

#### **Responses to Consultations**

Any responses received will be reported at the meeting.

9/2015/0176 - Knowle Hill Bungalow, Knowle Hill Farm, Ingleby Lane, Ticknall, Derby DE73 7JQ



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

## **Responses to Publicity**

Any responses received will be reported at the meeting.

## **Development Plan Policies**

The relevant policies are:

Local Plan: Housing Policy 13  
Housing Policy 8

## **National Guidance**

N/A

## **Planning Considerations**

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

- The scale and character of the proposal.
- The impact on neighbours.
- The dwelling is of a size commensurate with the functional requirement of an agricultural workers dwelling.

## **Planning Assessment**

The design of the proposal is acceptable in terms of its appearance in relation to both the host property and the wider context. There are no residential neighbours affected. The additional living space created would not take the property out of the realm of what can reasonably be considered affordable for an agricultural workers dwelling. As such the proposal is considered acceptable.

## **Recommendation**

**GRANT** permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless otherwise agreed in writing by the Local Planning Authority.  
Reason: To safeguard the appearance of the existing building and the locality generally.

Informatives:

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

**Item** 2.1

**Reg. No.** 9/2014/1140/OS

**Applicant:**  
Property Bond Ltd  
C/O Agent

**Agent:**  
Mrs Kay Davies  
Fisher German  
St Helens Court  
North Street  
Ashby De La Zouch  
LE65 1HS

**Proposal:** **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT (CLASS C3), PUBLIC OPEN SPACE, GREEN INFRASTRUCTURE, SCHOOL CAR PARK AND ASSOCIATED WORKS ON LAND AT SK3221 6215 TICKNALL ROAD HARTSHORNE SWADLINCOTE**

**Ward:** WOODVILLE

**Valid Date:** 01/12/2014

**Reason for committee determination**

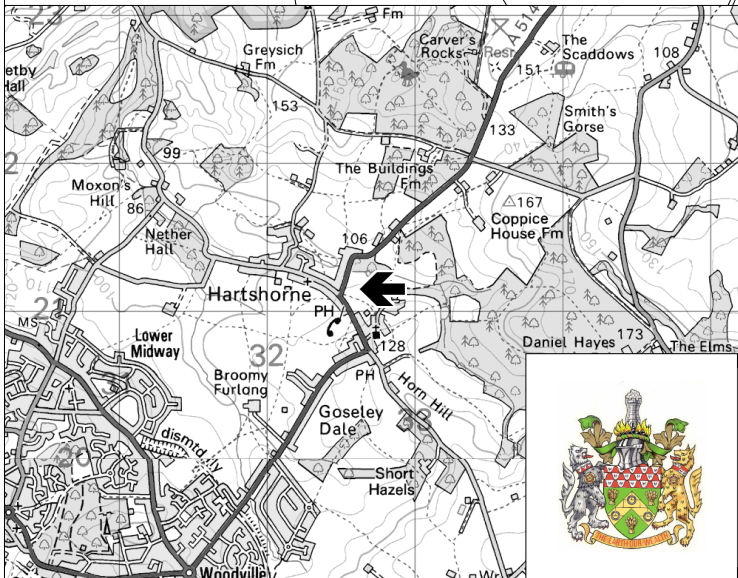
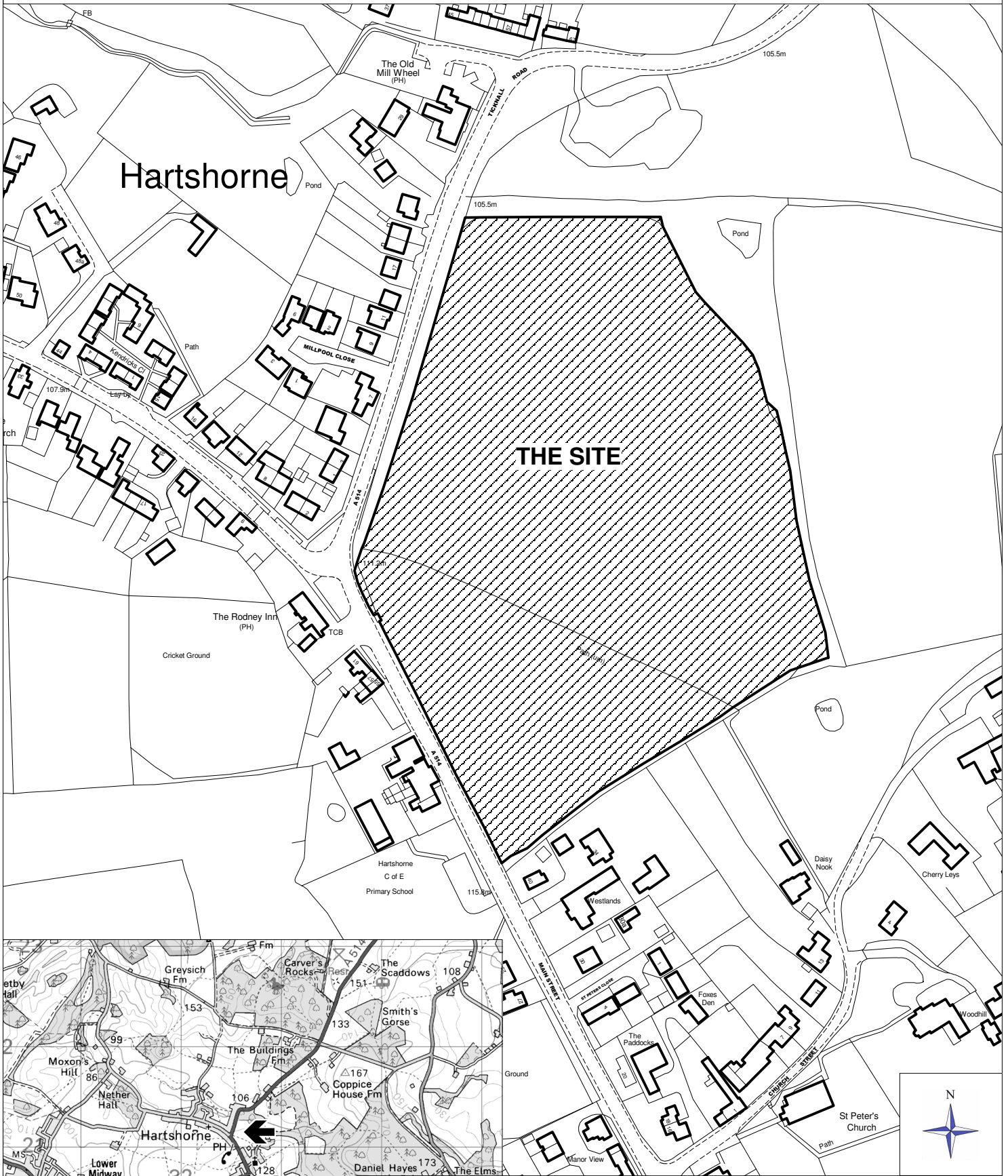
The item is presented to Committee at the discretion of the Planning Services Manager.

**Site Description**

The site is situated in the centre of Hartshorne between the two 'halves' of the settlement. It falls within the National Forest but outside the settlement confines. The land concerned sits to the east of Ticknall Road and Main Street (the A514) and comprises some 5 hectares of semi improved grassland presently used for sheep grazing. Along its western edges it is bounded by hedgerows with further grassland and gardens to existing dwellings adjoining the southern boundary. Beyond the eastern boundary further pasture exists along with woodland which wraps around to the northern boundary, where a watercourse is also present (the Repton Brook). The site has a gentle rise from east to west and north to south. Further afield the landscape rises to the north and east to form elevated wooded ridges, with rising landform to the south creating 'Upper Hartshorne' where the historic core exists around St Peter's Church. A Public Right of Way (PRoW) bisects the site from the junction of Repton Road towards Manor Farmhouse to the south-east with multiple PRoWs beyond the site offering clear aspects into it.

The village presently comprises a generally linear and dispersed character of settlement following the lines of Woodville Road, Main Street, Ticknall Road and Repton Road.

9/2014/1140 - Land at SK3221 6215 Ticknall Lane, Hartshorne, Swadlincote (DE11 7ES)



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

Other than the historic core, there is little development 'in depth' with short cul-de-sacs off these main limbs at best. The village is generally characterised by residential development of varying character, styles and ages. On plan the village could read as two separate settlements with Upper Hartshorne elevated on a ridge around the church, whilst the part to the north is lower lying comprising mostly of post war housing ('Lower Hartshorne'). The only built form between these two 'halves' is a fragmented ribbon comprising a public house (the Admiral Rodney), a short row of terraced cottages and Hartshorne Primary School. Open space and a cricket ground sit either end of this ribbon. There are a number of notable buildings including the Grade II listed church which sits elevated over both halves of the village and the Grade II listed Manor Farmhouse to the south-east of the site and Mill House on Ticknall Road. There is no Conservation Area for the village.

Main Street and Ticknall Road are subject to a 30mph limit along the entire site frontage with bus stops on both limbs to both sides of the highway. A footway runs adjacent to the site boundary from the junction of Repton south towards Woodville Road.

## **Proposal**

The application is in outline with access to be considered in detail and all other matters to be reserved. It seeks to secure the principle of the erection of up to 68 dwellings (in a range of 2 to 5-bed units and a mix of types and tenures) with supporting infrastructure such as roads, sustainable urban drainage systems (SuDS) drainage and public open space (POS). The layout would provide for a new access onto Ticknall Road, as well as a further access to Main Street solely serving a parking area to serve the POS, containing a 'community green' and a Locally Equipped Area for Play (LEAP), and facilitate a drop-off/pick-up zone for Hartshorne School. The PRow would be retained and potentially improved along its existing line. Built form would be primarily focussed north of this footpath in outward facing parcels, set back from the Ticknall Road frontage and the northern and eastern boundaries where open space would wrap around, including the SuDS and woodland planting to National Forest requirements. Further open space provides the balance of land to the south of the PRow where the community green and LEAP would lie.

An average net residential density of 30 dwellings per hectare is proposed with this built form split into three characters – a community green and PRow character along the south-western edge, a woodland and rural character around the eastern and northern sides, and a development core. The proposed height and massing of the development is predominantly 2 storeys with occasional use of 2.5 storey dwellings at key locations such as street junctions and ends of vistas. New dwellings would use a palette of materials which are prevalent to the village vernacular including red and orange blended brickwork, reconstituted stone, brown and grey plain roof tiles and limited use of light coloured render. Architectural detailing would include brick plinths, a range of casement and sash window styles, all with vertical proportions, double and single height bay windows, brick dentil coursing and arches, exposed rafter feet and chimneys.

## **Applicants' supporting information**

The Design & Access Statement (DAS) provides an assessment of the site in the context of adopted and emerging planning policy. It is considered the site is logical for the creation of a new, high quality and landscape led residential development in a sustainable location, within walking distance of services and facilities and public



transport connections. It is considered the development could positively address site constraints and would successfully integrate with the urban, historic and landscape surroundings, creating housing choice and a range of amenity spaces for both existing and new occupiers whilst retaining public access across the site. It is considered the proposals could be delivered without having an adverse effect on the existing highway network and could deliver new pedestrian routes linking to new streets, public open spaces, woodland areas, wildlife corridors and areas of play. Through the provision of a new community green, openness would be maintained at the interface to the two parts of village and would draw and encourage new activity to the heart of the village and support existing local facilities and services. It is considered that the street and green infrastructure network ensures the development retains and incorporates views to and from the church and the farmhouse, with the significance of these listed buildings not materially affected by the proposed development. The development would not dominate or threaten their prominence within the landscape or challenge perceptions of the buildings' significance through effects within their settings. It is noted the site is not within a landscape or visual designation and the proposed development would only be visible from a localised area since views from the west and north are heavily screened by existing built form and vegetation whilst views from the south are generally screened by landform, vegetation and built form in the area around the church. It is highlighted the masterplan proposes to integrate the PRoW whilst of public and informal routes provide a range of opportunities for access and recreation in the wider landscape around Hartshorne, with visual aspects of the development partially screened by existing tree and woodland planting which would be further enhanced. It is also considered the masterplan is founded best practice in urban design, community integration and sustainable development, proposing links to the wider area which respond to contemporary design requirements, whilst reflecting the local vernacular. The overall aim is to achieve a high quality development with a strong identity, activity and a 'sense of place'.

The Planning Statement considers the development would deliver a range of benefits for the local and wider community including the provision of high quality market and affordable housing. A significant quantity of open space and green infrastructure would also be provided. The Statement considers the Development Plan to be materially out of date in respect of housing supply, and little weight can be given to the emerging Plan. It is therefore considered, in the absence of a 5-year housing supply, that the application must be considered in the context of the presumption in favour of sustainable development; with it advanced the proposed development would deliver a high quality residential development fulfilling the 3 dimensions of sustainable development detailing in the NPPF, providing social, economic and environmental benefits. It is also considered that the benefits of granting permission are considerable and there are no adverse impacts that would significantly or demonstrably outweigh these benefits.

An Affordable Housing Statement confirms the proposed development would make provision for affordable housing, although the exact nature of the affordable housing contribution would be discussed in further detail during the determination of the application. However it is anticipated that the proportion of affordable housing, suggested at 30% following pre-application discussions and of a mix of tenures and types, would be met through either provision on site by an appropriate rural housing association or an offsite financial contribution.

An Economic Benefits Statement evaluates the potential economic impacts of 68 dwellings using an illustrative accommodation schedule, incorporating a mix of units

sized at 2 beds, 3 beds, 4 beds and 5 beds. It is considered there would be direct construction-related employment, supporting approximately 66 full-time equivalents over two years, of which 49 would be sourced locally and across the East Midlands. Indirect benefits are also considered to arise, providing a further 25 full-time jobs within the supply chain, related businesses and onward expenditure within the District and across the East Midlands throughout the construction period. It is also considered the construction phase would generate a significant increase economic productivity with the capital expenditure potentially delivering £3.4 million to the East Midlands economy each year, of which circa £2 million per year would contribute to the growth of the South Derbyshire economy. It is also considered an increased population of circa 156 people, of which circa 78 would be economically active, would generate a gross household income of approximately £1.8 million annually. These residents are considered to bolster local labour supply, with circa 41% projected to be employed in higher skilled and professional occupations, and there would be the potential to capture circa £800,000 of household retail (convenience and comparison) expenditure and £450,000 of leisure (goods and services) expenditure each year within the South Derbyshire economy. It is considered this would help to boost the vitality and viability of local shops, businesses and sustain essential local services.

The Flood Risk Assessment (FRA) identifies that the proposed development lies almost entirely within Flood Zone 1 with an annual probability of flooding of 0.1% or less. All development would be kept out of EA flood zones and elevated well above the watercourse. The risk of flooding from fluvial sources is thus considered to be negligible. The FRA also concludes that the site is not at significant risk from pluvial or ground water sources. Consideration is given to the impact the development may have on third parties, particularly with regard to surface water run-off. To ensure the development would not increase off-site flood risk, the rate of surface water discharge from would be limited to the 'greenfield' rates for storm events up to and including the 1% annual probability (1 in 100 year) event with an allowance given for climate change. The provision of onsite attenuation combined with infiltration techniques (if viable) would be implemented and discharge would be made into the brook. Two levels of SuDS treatment are recommended before disposal, provided in the form of swales and an attenuation/infiltration pond – both designed to enhance amenity value and improve biodiversity. The exact nature and composition of the SuDS techniques would be confirmed during the detailed design phase and if infiltration techniques are viable then it is likely that the size of attenuation would significantly reduce. With regard to foul drainage, Severn Trent Water has confirmed that there are two foul public sewers in close proximity to the site although there may be some capacity issues within their existing network and additional sewer modelling would be required to secure their use, at the expense of the developer.

An Extended Phase 1 Habitat Survey notes just one Site of Special Scientific Interest (SSSI) within 2km along with 14 Local Wildlife Sites and 8 potential Local Wildlife Sites, the closest being around 470 metres to the south-east. No impacts to designated sites are therefore anticipated. The main habitat within the site comprises semi-improved grassland used as grazing pastures, considered to be of low ecological value. Hedgerows form the boundaries of the field, along with a small section of woodland and a pond, where a higher ecological value is recognised. The site is well used by birds and provides good nesting opportunities. There is also potential for foraging and roosting bats, amphibians, badgers, riparian mammals and white-clawed crayfish. The desk study data reveals records of water vole, bat and common lizard in proximity to the site. The proposals are not considered to affect the

pond and associated woodland with the removal of any hedgerows and trees minimised and compensated for. Standard tree protection measures should be followed, as should pollution prevention guidelines for works near water. To minimise any potential impact or disturbance to protected breeding birds it is recommended any vegetation clearance should be undertaken outside the bird breeding season, whilst habitats suitable for nesting and foraging birds should be incorporated into the site design. It is also recommended that if any of the trees are to be removed a detailed bat inspection should be undertaken, whilst impacts to foraging bats are therefore considered unlikely. However sensitive lighting in proximity to these habitats must be considered. No habitat on site is considered suitable for reptiles, whilst protective measures for badgers during construction might be necessary. Features having potential for terrestrial amphibians should be removed carefully by hand and any common amphibians found should be removed to a place of safety, whilst ponds on and off site have been subject to a great crested newt survey – the results of which are summarised below. A watercourse approximately 400 metres to the south-east has anecdotal evidence of containing white clawed crayfish, but as watercourse should remain unaffected and an appropriate buffer zone and pollution prevention measures could be implemented, there should be no impacts to this species.

A Great Crested Newt (GCN) Survey is provided, in light of the findings of the Habitat Survey, in order to confirm the likely presence/absence of newt species, in particular GCN. A total of 10 ponds within 500m of the site were considered along with the watercourse, although as this was found to have a moderate flow and therefore considered to represent a significant barrier to the dispersal of GCN, any ponds further east were not considered further. The ponds were surveyed in line with best practice recommendations with GCN confirmed in just one pond. This pond is located approximately 65 metres west of the proposed site behind the school, where a small breeding population was found. Terrestrial optimal habitat for GCN is small in extent on the western side of Main Street whilst habitats to the east of the road are not considered to be particularly better. Given inherent difficulties for GCN in crossing the road, associated risks and the suboptimal nature of on-site habitats; the presence of GCN within the proposed site is considered unlikely although occasional individuals within the surrounding hedgerows and woodland cannot be ruled out. For this reason, and given some hedgerow removal is proposed for access, some mitigation and compensation is recommended by way of a Method Statement.

The Transport Statement considers capacity assessments of the proposed junctions demonstrate they would operate well within capacity, that the Repton Road junction peak hour capacity assessment demonstrate that it would operate within capacity in all scenarios. It is considered the indicative masterplan includes proposals to provide gateway features and public realm improvements on Ticknall Road and Main Street in conjunction with the proposed 'community green', and as part of the proposals (although not required for capacity purposes) it was proposed to upgrade the existing Repton Road junction to a mini-roundabout junction, with capacity analysis indicating it would operate well within capacity. It is observed that there have been no recorded accidents across the local highway network in the latest five year period such that there is considered to be no specific issues with highway safety that would require remediation, although the proposed mini-roundabout and public realm improvements should further enhance highway safety in the vicinity of the site. A Construction and Environmental Management Plan would be implemented so as to minimise inconvenience and disturbance to existing residents and traffic, whilst sustainable travel initiatives would be implemented within the development, including upgrades to provide

modern bus shelters and offering annual travel pass vouchers for the first occupants of dwellings. The assessment work undertaken is considered to demonstrate that the residual cumulative impact of the proposal is generally low and that, in transport terms, the proposal is suitable for planning approval. An Addendum is also provided in response to an initial consultation reply from the County Highway Authority raising concern over the justification/need for the proposed mini-roundabout, the proposed parking area within the open space given it discourages sustainable modes of transport to the school, and the technical justification for the proposed zebra crossing on Main Street. The mini-roundabout has been removed from the proposals given it is not required to ensure an acceptable impact on the public highway; whilst it is clarified that the car park is primarily for use in association with the community green and school run use would be merely consequential, and that the zebra crossing can only be beneficial in terms of pedestrian access and safety.

A Heritage Statement examines the impact of the proposed development on listed buildings in the village, although it considers due to the nature of the topography the majority would not be visible from site. All, however, have been assessed for the contribution their setting makes to their significance and the impact of development on their setting. The assessment considers the heritage significance of the listed buildings is largely architectural with no associated designed landscapes or designed views, with these buildings are not part of panoramas which have been considered noteworthy in the past or present and their settings vary from village core to roadside. It is considered that the significance of the listed buildings would not be materially affected by the proposed development with the development not dominating or threatening their prominence within the landscape, nor challenging perceptions of the buildings' significance through effects within their settings. Consequently it is considered the effects of the development would result in a slight change to existing conditions and constitute no harm for the purposes of the NPPF.

A Landscape & Visual Impact Assessment identifies the key constraints and opportunities present in the site and surrounding landscape, and also the nature of the likely impacts that may arise from the proposed development. It is noted the site is not covered by landscape or visual designations. Planning policy and guidance and published landscape character studies are considered, as well as documents pertaining to National Forest objectives. The visual envelope for the site is considered to be restricted to the north, south and west by the combined influence of landform, vegetation and existing built form. To the east (and north-east) the visual envelope is more open with a network of PRoW providing access to the wider landscape. Identification of likely landscape and visual impacts has been used to develop the design of the proposed development and to form a comprehensive landscape strategy. There are a number of physical landscape impacts that would give rise to perceived changes in landscape character. The landscape mitigation strategy would make provision for the retention of landscape features and elements, including a comprehensive approach to green infrastructure through the site. Other permanent changes to the landscape would include alterations to the landform at a site specific level and the permanent change in land use. The existing PRoW would be retained and opportunities for access across the site would be provided by the network of green infrastructure and open space. A range of representative visual receptors have been used to inform the LVIA. Overall it is considered the analysis demonstrates that the proposed development would be visible from a localised area only, with longer views screened by existing built form and/or vegetation. Views are also occasionally seen in the context of the existing built form of Hartshorne. Over time it is considered the proposed

landscaping would mature and integrate the proposed development with Hartshorne and its landscape setting. Overall the scale and form of development is considered to only result in limited change at a localised level and, on balance, potential landscape and visual effects are not likely to be significant. Furthermore the proposals for green infrastructure and landscaping would deliver a number of enhancements in terms of the physical landscape and landscape character such that the proposed development is considered to be acceptable in landscape and visual terms.

The Tree Assessment concludes the majority of the trees are to be found adjacent to the brook and within the mixed woodland, ranging from semi-mature to mature and are important in an amenity and ecological sense. Other trees to the southern boundary are within residential properties. Field boundaries consist of established hedgerows and areas of scrub typical of the rural setting. It is considered that there are no major tree constraints and in arboricultural terms the site is deemed suitable for development, providing the better trees within the site and hedgerows (as far as possible) are retained and protected during development. It is also considered essential that any trees and hedgerows beyond the site are not compromised by site activity.

An Archaeological Survey establishes the potential for impact upon as-yet undiscovered archaeological remains within the site and addresses national and local planning policy. It is noted there are no designated archaeological assets on the site and although the site is in pasture it has been previously ploughed. No archaeological features or finds were revealed as a result of a site visit. With only limited modern development within the wider search area, there is little previous archaeological investigation. On the basis of the evidence available the site is considered to have a low/negligible potential for significant remains of all periods. However the location of the site and the lack of information from the wider area resulted in the need for a pre-determination geophysical survey of the site which revealed at least 20 distinct anomalies, although 17 of these could be attributed to a modern origin and 2 to a possible natural origin. The overall archaeological potential of the site is thus considered to be low. The one remaining feature was potentially significant, although its unusual nature made interpretation difficult.

A Geo-Environmental Phase 1 Site Appraisal identifies the current and former use of the land (agriculture) result in a low risk of significant contamination being present. The Appraisal considers the site is suitable for the proposed development, assuming a further ground investigation is undertaken and any remedial recommendations are followed.

The Services Report considers that the provision of statutory services to the site is satisfactory with no concerns raised by statutory undertakers contacted. The site is identified to be free from services other than power lines along the very edge of the southern boundary and broadband/phone services, again bordering the site to the south and crossing this area to the east.

A Statement of Community Involvement (SCI) recognises the importance of engaging with the local community as part of the planning process, as highlighted by the Localism Act. The SCI outlines the approach to public consultation undertaken in October 2014 and that the applicant has also engaged with the District and County Councils, Ward and County Councillors, the Parish Council, Hartshorne Primary School, local businesses, the National Forest Company and the OPUN Design Review Panel in the preparation of the planning application. The intention of the public consultation was to

inform the local community about the proposals, discuss any concerns, answer questions, and provide an opportunity for local residents to comment and understand the development. A date, time and venue was chosen to allow for attendance by both working and non-working persons, to avoid times where people might be away, to give enough time to incorporate any feedback into the development of the proposal, and to allow as many members of the public as possible to visit the exhibition. Leaflets were delivered to around 450 dwellings inviting residents to the exhibition with the details also added to a dedicated website. A total of 127 members of the public attended the event, all of whom were residents of Hartshorne or the surrounding area. A total of 64 comments were received at the event and 7 comments were received via e-mail afterwards. Of these comments, 8 were considered to generally support the proposed development, 10 were unsure, 45 did not support it and 8 did not disclose an opinion. The key concerns arising related to access and traffic; a lack of services and facilities to support the development; the proposed open space being secured in terms of size for the detailed design stage; a loss of village identity; the cumulative impact with the Broomy Farm proposals and the loss of high quality agricultural land. Following this a further leaflet was delivered to residents providing a summary of the comments received, a response to these and details of the amendments made as a result of local residents feedback. These matters are considered to have been satisfactorily addressed in the application and its supporting documentation.

## **Planning History**

9/1994/0940: The formation of a vehicular access – Granted April 1994.

## **Responses to Consultations**

The Environment Agency (EA) considers the proposed development would be acceptable if a planning condition is included requiring a surface water drainage scheme for the site. This would need to be based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, as well as include details of how the scheme shall be maintained and managed after completion. They also seek a condition for foul water disposal provisions to be established prior to any development. This is because sewer modelling would be required to confirm whether or not the sewerage system (including Brook End sewage pumping station at Repton and receiving sewage treatment works at Milton) has capacity to take the extra flows, and without capacity there is a risk of pollution to the Repton Brook from sewer flooding and increased discharges from combined sewer overflows. The EA also asks for a condition to ensure storage of oils and fuels on impervious, bunded bases since Hartshorne is not served by a gas supply and an alternative to gas-heating would be needed of which oil is one. Without such control there is a risk of pollution to the nearby Repton Brook. A condition to ensure the reporting and remediation of any unsuspected contamination is also required. Informatives draw attention to records of an historical landfill site adjacent to the northern boundary with deposits taking place prior to 1970 and including small drums of sodium cyanide buried at various depths of up to 9 feet deep; and the desire for water saving fixtures and fittings to be installed in the dwellings.

The County Flood Risk Management Team advises that any alteration to the impermeable surface area of the site may exacerbate surface water flood risk. Accordingly they strongly promote SuDS to be incorporated, ensuring that discharge from the developed site is as close to greenfield runoff rate as is reasonably practicable.

The Repton Brook passes just to the north of the site with associated EA flood risk zones, but they hold no records of historical flooding within the site with the nearest reported incident relating to a culvert some 100m downstream. The proposed development (subject to SuDS and appropriate discharge rates) is considered unlikely to exacerbate this risk. Further advice on watercourses and drainage features, groundwater flooding and infiltration is offered. Finally they comment that no activities or works, including the proposed development, should deteriorate the ecological status of any nearby watercourse with the implementation of a SuDS scheme with an appropriate number of treatment stages appropriate in safeguarding against this.

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

Derbyshire Wildlife Trust raises no objection noting that surveys have been carried out to an acceptable standard by suitably experienced and qualified ecologists working to best practice standards. The surveys are considered to provide an accurate assessment of the nature conservation value of the site. It is noted great crested newts were present in a pond to the rear of Hartshorne School but as Main Street divides the pond from the site there is considered to be a barrier to their movement onto the site. The Trust is satisfied with the mitigation approach put forward in relation to great crested newt which should be secured by condition. The illustrative layout also provides a suitable buffer to woodland and the watercourse to ensure potential impacts on badger and white clawed crayfish are acceptable, with the proposed mitigation measures recommended as a condition of any consent. To ensure that breeding birds are protected from harm they recommend a further condition. It is commented that the surveys correctly recognise the hedgerows on the site as being priority habitat and, as such, advise that the hedgerows together with the area of broadleaved woodland and pond to the north represent the most ecologically important habitats on the site. It is noted that these most important habitat areas would be retained within suitable undeveloped buffers as part of open space. Whilst accepting some sections of the western hedgerow would require removal to facilitate access, sufficient new hedgerow planting secured by condition should ensure the proposal would not result in a net loss of hedgerow priority habitat. It is also recommended that all trees and hedgerows to be retained be protected from damage during construction and that all retained and created habitats outside the curtilage of domestic properties should be subject to a Landscape and Ecological Management Plan (LEMP).

The County Highway Authority, following amendments, raises no objection subject to conditions. The amendments firstly omitted a mini-roundabout at the junction of Repton Road given there are no capacity issues at the junction or an accident pattern or cluster that would dictate a change of junction type or design. Whilst they state they are not averse to merited changes in infrastructure, it is considered that where such changes relate to alterations to a principal road and introduce somewhat unorthodox layouts, a detailed design and Road Safety Audit should be provided. Secondly, as a matter of principle, the Highway Authority is resistant to providing dedicated facilities for drop-off

and pick-up of children as this can tend to discourage the use of non-car modes of travel on the school run. However such concerns have been addressed following clarification that the proposed parking area is being promoted in association with the wider community facilities of the development and use of the car park in association with the school is regarded as a consequential consideration. Issues were also initially raised regarding the provision of a zebra crossing on the A514 and the proximity thereof to a relatively narrow section of footway on the frontage of the school, although these concerns are now satisfied – particularly when the design of the crossing and associated works would be subject to an Agreement under Section 278 of the 1980 Highways Act. In terms of the Transport Statement, whilst they do not “agree” the content or, inevitably, concur with every detail contained therein; as the conclusions are considered sound it is not reasonable or warranted to amend detail which would not alter the conclusion. In this case the Highway Authority does not consider that there is evidence that would demonstrate that the development would result in severe harm on the highway network. It is however noted that some generated traffic would pass through the “The Clock” island and in the event that contributions might be sought to mitigate this impact, the Highway Authority would wish to be involved in further discussions.

The Development Control Archaeologist notes the site is likely to have been an area of medieval occupation, though it is not clear whether medieval village activity extended as far as the proposed site. The 1766 enclosure map suggests that this is an ‘anciently enclosed’ area contiguous with the southern village core but there are no earthworks on the site to confirm this. A late medieval and post-medieval corn mill and furnace/screw mill site lies immediately north of the site with historic mapping suggesting this was the location of the mill pond, with the focus of industrial activity located west of Ticknall Road. On the basis of these observations the site is considered to have moderate potential for medieval settlement archaeology, alongside a lower background potential for previously undiscovered remains of prehistoric/Romano-British date. As a first step in evaluating this potential it is noted the applicant has provided a geophysical survey, the results of which do not suggest the site is associated with dense or complex archaeological remains. A few features however are potentially archaeological in character and should be investigated/recorded further with this best achieved through a conditioned scheme of archaeological investigation.

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

- £28.61 per dwelling towards additional waste management capacity;
- £159,586.14 towards 14 places at Hartshorne Primary School;

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

NHS England (Derbyshire & Nottinghamshire Area Team) considers the proposal would trigger the need to provide health related Section 106 funding of £551 per dwelling. They comment it is unlikely that the Area Team would support a single handed GP development as the solution to meeting the needs of the housing development and that the health contribution would ideally be invested in enhancing capacity/infrastructure



with existing local practices, but they would wish to explore further what options are available to ensure value for money for all parties.

The Strategic Housing Manager seeks that 30% of the total number of dwellings be provided as affordable housing, in a tenure split of which no less than 68% are for social/affordable rent and no more than 32% are for shared ownership. Based on 68 dwellings and needs in the local area, this would result in 14 one to four-bed dwellings for rent, and 6 two and three-bed dwellings for shared-ownership purposes. It is advised that affordable housing shall be 'pepper-potted' across the whole site in clusters comprising of no more than 10 affordable homes, with a cluster including no more than 6 flats; and that a condition is used to secure the overall requirements.

The County Rights of Way Officer raises no objection noting that Hartshorne Public Footpath 22 crosses the northern section of the site, subject to an informative.

Peak & Northern Footpaths comments that the developers have given a commendable amount of thought to safeguarding and improving public pedestrian access through the site and the provision of new pedestrian routes is welcome. They ask that the applicant be aware of the legal line of the PRoW and all the proposed green links should be constructed to a high standard of width and in all-weather surfaces, and either legally adopted or dedicated as public rights of way, and that as use of PRoWs near the site would increase greatly as a result of the development, the developers should make a contribution to the physical improvement of these paths.

The National Forest Company (NFC) notes that the northern boundary of the site is formed by mature woodland and the proposed woodland belt and outward facing properties onto this is welcomed. It is considered this would minimise the impact of the development on the mature woodland and ensure that it contributes to the character of the development. Notwithstanding this the NFC requests that a condition is imposed to ensure the existing woodland is adequately protected during construction. With the site extending to just over 5 hectares and the NFC's Planting Guidelines and emerging policy setting out an expectation of 20% woodland planting and landscaping on site, this would equate to 1 hectare being required. It is noted that 1.13 hectares is proposed and the NFC welcomes this commitment, requesting a condition to secure this appropriately. The proposed green infrastructure also advances a further 1.45 hectares of POS and the NFC considers that this should contain significant amounts of specimen tree planting to create a parkland landscape in order to further the National Forest character of the proposals and tie the development to the woodlands which surround the site. Tree planting within highway verges along proposed streets are welcomed along with the avenue of tree planting along adjacent to the PRoW. The set back from Ticknall Road with retained hedgerow and further tree planting is also welcome, although a natural and more irregularly placed mix of species should be used. The NFC also considers that the proposed equipped children's play area should follow a natural play approach.

The Environmental Protection Officer advises there are no significant concerns with respect to contaminated land, although there are historical features adjacent to the site which do have the potential to present risks to site workers, end users and ecological receptors. Specifically of concern is the potential disused landfill operation located adjacent to the northern boundary and investigations to date do not properly consider this feature. In view of these issues and due to the scale and nature of the proposed

development, conditions are recommended to identify and remediate any potential land contamination on the site.

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

The Crime Prevention Design Adviser considers there are no reasons why residential development should not be acceptable in principle from a community safety perspective. It is noted there appears to be enclosed courtyards proposed within the housing parcels which are often unpopular and lead to unplanned front of plot parking. Accordingly it is advised that in curtilage parking would be preferable. In addition the choice of species for new hedging between housing frontages and footpaths/public open space should be low growing to keep sight lines open from active building elevations and that the new parking provision off Main Street should be provided with a lighting scheme for safety and security. It is also requested that all outward looking building elevations facing public space or movement routes are treated as primary, and that all secondary elevations facing private parking space are provided with a view of that space.

### **Responses to Publicity**

Hartshorne Parish Council objects on the following grounds:

- i) it is a large development within a small unsustainable village which has no shops or other amenities other than 3 local public houses;
- ii) the development falls outside the village envelope and a similar request for 5 dwellings on Repton Road was refused because it fell outside the envelope;
- iii) recent guidelines from government have indicated safeguarding the countryside and Green Belt areas;
- iv) the primary school is at full capacity and there is little room for any extensions;
- v) the area has not been identified within the Local Plan for development of dwellings and there is already an area within the Parish that has been identified for 400 dwellings raising again the problem of unsustainability;
- vi) the impact on traffic along Main Street, particularly from the proposed school car park meaning parents and children would have to cross to get to the school;
- vii) part of the area to be developed falls within the flood plain and there is a record of flooding in this area in recent years;
- viii) there would be a major impact on the views from the Gravel Pit picnic area which forms part of the National Forest;
- ix) the impact on the views of the residents of Ticknall Road and Main Street;
- x) the entrance onto the estate from Ticknall Road (A514); and
- xi) the strength of feeling of the opposition from residents of the village, with it understood that 187 residents have signed letters of objection.

MP Heather Wheeler made representations on behalf of two constituents from the village, raising concerns that the proposal is outside of the village envelope; it would impact on village life for future generations; and recent ministerial advice in respect of the protection of green spaces should be considered.

The Hartshorne Village Residents Association also raises objection noting that Hartshorne is one of the few villages in the District which has such a central open space and is worth saving from development, with the majority of the residents of the village

considering that the present size and shape of the village is the optimum and should not be substantially changed. They also note they intend to seek conservation status for the village as contained within the envelope defined by the Council.

19 individually prepared objections have been received from 18 separate addresses, many identified to be adjoining or in the vicinity of the site, raising the following concerns. 169 'round robin' letters signed by 187 residents at addresses throughout Upper and Lower Hartshorne have also been received repeating points (a), (d), (f), (h), (n), (o), (u), (qq), (rr), (vv) and (eee) below:

#### Principle of development

- a) local policy over the last 30 years has been to resist building outside the village framework, and the village has benefitted from small scale infill development within the settlement instead;
- b) the proposal would be outside the built up area and settlement confines;
- c) there should be a preference to use brownfield sites first which are close to public transport, employment and services;
- d) it is contrary to saved policies EV1 and H8, the NPPF and the emerging settlement hierarchy;
- e) the emerging plan should be given weight as it follows an exhaustive and properly balanced process;
- f) ministerial guidance points towards safeguarding the countryside;
- g) the proposals are not compatible with a rural environment;
- h) with 400 homes already planned at Broomy Farm, partly within Hartshorne Parish, there should be no requirement to extend the village beyond its present framework;
- i) the land is greenfield and agricultural/grazing land would be lost;
- j) the houses would not bring about benefits for the community, instead add strain to it;
- k) Hartshorne would soon lose its status as a village and become an extension of Woodville;
- l) whilst there may be a housing shortage there are far more suitable locations;
- m) the proposal lies on open green space which should not be built on unless shown to be surplus to requirements; with the site in the past used for horse riding events and a village fete;

#### Services and facilities

- n) the proposal would swamp the village primary school with it already at capacity;
- o) local doctors patient lists are full and the nearest surgery is 1.7 miles away;
- p) there is no village shop or post office, with the 'supermarket' facilities referenced to by the applicant a small convenience store 1 mile from the centre of the village;
- q) EU policy research suggests shops and amenities need to be within 300m to be considered as local services;
- r) it is only the church which makes Hartshorne a village over being a hamlet;
- s) Hartshorne does not have a gas supply;
- t) residents are unlikely to use public transport given there is only an hourly bus service;

### Highway capacity and safety

- u) extra traffic in addition to existing traffic in the middle of village, and more congestion as a result of traffic backing up to the Repton Road junction;
- v) the junction at Repton Road is already causing problems without more traffic trying to negotiate it;
- w) the access is opposite an existing cul-de-sac (Millpool Close) posing a danger to pedestrians from cyclists, motorcyclists and divers undercutting traffic waiting to turn into the site;
- x) measured speeds were not taken at the position of the proposed access, with the equipment placed in a braking/acceleration zone after the access which would result in lower readings;
- y) speeding and overtaking in the area of the proposed access is common and there have been at least 4 accidents near the Old Mill Wheel;
- z) access would be blocked when refuse, oil delivery wagons and other HGVs are backing into Millpool Close;
- aa) greater risk to safety and delay when entering/leaving existing driveways;
- bb) relocate the access to the proposed Repton Road roundabout [note: omitted in the amended proposals];
- cc) consideration should be given to two access points and traffic calming on the A514;
- dd) pedestrian crossings should also be added to Ticknall Road and Repton Road;
- ee) existing parking around the school serves to slow traffic and ensures children can step directly onto the footway and into the school;
- ff) the proposed 20mph zone would need to be policed;
- gg) the proposal would preclude any future potential realignment of the A514 for safety benefits and reduced travel time;
- hh) it would exacerbate the already serious peak-time congestion at the Clock Island, and neither Manchester Lane nor Repton Road are suitable for an increase in traffic;
  - ii) the use of the proposed parking area as school drop off/collection is only now claimed as a 'secondary benefit' following highway authority objection, with the original indicative masterplan specifying 'school car parking';

### Drainage

- jj) there have been issues with sewerage since the construction of the abattoir;
- kk) Severn Trent Water are aware of known flooding issues downstream of the site;
- ll) the existing foul sewer runs through gardens at the rear of Ticknall Road and collapsed about 8 years ago causing discharge into these properties, and the existing sewer should be surveyed and/or upgraded in full to prevent this reoccurring elsewhere along its run;
- mm) run-off from the site regularly floods the highway and existing properties on Ticknall Road;
- nn) an existing property on Ticknall Road has an established well in the rear garden and there is concern that the proposal could raise the water table and lead to flooding;

### Landscape and visual impacts

- oo) it would impact on long range views in/out of the village;

- pp) Rodney Meadow is the last open meadow in the village facilitating views towards Pistern Hill, Gravel Hill and surrounding hills, and is what makes Hartshorne the attractive place it is;
- qq) building in any form would destroy the whole landscape and ethos of the village;
- rr) the proposal would be a major intrusion into the countryside;
- ss) the area is a crucial route for locals and regular walkers or joggers and the proposal would discourage its use;
- tt) the area is established as National Forest and the proposal would contradict this aim;
- uu) the sheer number of properties would be visually “too much”;
- vv) the proposals do not account for a core principle of the NPPF which is to take into account the intrinsic beauty and character of the countryside;
- ww) what safeguards would be put in place to prevent further extension into the National Forest;
- xx) there would be noticeable light emission from the site at night, at odds with the existing limited pattern following main roads;
- yy) on the approach from Repton or Ticknall there is a classic view across the field of the upper village nestled around the church, with the field sitting in a natural bowl and rising land to 3 sides;
- zz) such a central green area is a rarity in most villages;

#### Heritage, character and design

- aaa) it would impact on the setting of several nearby listed buildings and long standing cottages;
- bbb) the land is mentioned in the Domesday Book;
- ccc) the village has pre-roman roots evidenced by a stone quern and coins;
- ddd) Hartshorne is an historic village based around two manors (an upper and a downer), and this characteristic likely dates back to anglo-saxon times;
- eee) the proposal would invariably change the shape, size and character of the village for the worse;
- fff) the village has organically grown, focussed on arterial roads;
- ggg) the density of development exceeds the predominant density within the village, and higher density development in the Parish has been kept away from the village centre in the past (e.g. Gosley Dale);
- hhh) the proposal does not appear to be designed accounting for current and future needs, and appears to only constitute speculative development;
- iii) the site should be designated as a Conservation Area leaving it as an open space for recreational activities as has occurred in the past;

#### Biodiversity

- jjj) the site is important for local wildlife, including owls;
- kkk) additional lighting would affect wildlife, including migratory birds;
- lll) a full survey of the old Mill pond and watercourse should be undertaken to properly establish the presence or not of Great Crested Newts;

#### Amenity

- mmm) properties on Ticknall Road would be overlooked and overshadowed by the proposed dwellings as the site is on a higher level;

- nnn) headlights of vehicles exiting the site would affect existing properties;
- ooo) any build-up of traffic around the access would increase noise and air pollution;
- ppp) noise from the construction phase;
- qqq) dust from the construction phase;
- rrr) any school car park must be accessible to parents without intruding on new residents;

### Other

- sss) a site off Ticknall Road adjacent to the site was involved in a cyanide spill many years ago;
- ttt) the economic argument brings no tangible benefits to the village other than perhaps the public houses;
- uuu) the community benefits are trivial in relation to that already available, with no present lack of community space or playground facilities;
- vvv) the Council and developer have an obligation to contribute towards carbon reduction targets, yet the proposal does not assist with this aim given the reliance of private vehicles;
- www) there is no mention of methods to reduce energy consumption in the dwellings;
- xxx) the community has not properly been put first in shaping the proposals; and
- yyy) it would set a precedent for others to follow.

### **Development Plan Policies**

The relevant policies are:

- Saved Local Plan 1998: Housing Policies 5, 8, 9 and 11 (H5, H8, H9 and H11); Transport Policies 6 and 7 (T6 and T7), Environment Policies 1, 8, 9, 11, 13 and 14 (EV1, EV8, EV9, EV11, EV11, EV13 and EV14), and Community Facilities Policy 1 (C1).

### **Emerging Development Plan Policies**

The relevant policies are:

- Submission Local Plan 2014: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S4 (Housing Need), S6 (Sustainable Access), H1 (Settlement Hierarchy), H19 (Housing Balance), H20 (Affordable Housing), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Delivering Sustainable Water Supply, Drainage and Sewerage), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF7 (Green Infrastructure), INF8 (The National Forest) and INF9 (Open Space, Sport and Recreation).

### **National Guidance**

- National Planning Policy Framework (NPPF), including paragraphs 6, 7, 8, 14, 17, 32, 35, 39, 47, 49, 58, 61, 69, 70, 73, 74, 75, 77, 96, 103, 109, 112, 118, 120, 121, 123, 129, 131, 132, 133, 134, 139, 203, 204, 206, 215 and 216.
- National Planning Policy Guidance (NPPG).

### **Local Guidance and Evidence**

- Housing Design and Layout SPG.
- The Strategic Housing Market Assessment 2013 (SHMA).
- Section 106 Agreements – Guidance for Developers.
- Core Strategy Topic Paper – Settlement Hierarchy (July 2014)

### **Environmental Impact Assessment**

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

### **Planning Considerations**

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

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

### **Planning Assessment**

#### Principle of development and weight afforded to policy

The site lies outside the settlement confines for Hartshorne, not catered for by way of saved policy H5 and beyond the scope and intentions of saved policy H8. It therefore conflicts with H5, H8 as well as saved policy EV1. In respect of H5 it the view that this policy has to be afforded reduced weight as it would tend to restrict the supply of housing, although the emerging hierarchy does indicate that, as a Local Service Village, exception sites of up to 15 houses would be supported in principle – recognising the opening part of paragraph 55 of the NPPF where H5 does not. This hierarchy and the Part 1/Part 2 split of housing however can only be given limited weight at the present time given further work required to allow it progress. H8 remains consistent with the

latter parts of paragraph 55 of the NPPF (exceptions for rural worker dwellings). EV1 however is not a housing policy – it instead has an indirect effect of restraining delivery. Notwithstanding this, the policy accepts that some development in the countryside is unavoidable and indeed it could be argued that this could be the case here given the current shortage in the supply of housing. However the policy goes on to consider safeguarding its character and this part at least could be argued to be consistent with section 11 of the NPPF.

With this in mind, the decision rests on the sustainability balance when considering the above (and other) policies and the merits of the proposal, at all times bearing in mind the primacy the NPPF gives to the Development Plan. The desire to significantly boost the supply of housing must be given significant weight, particularly in light of shortfall of a 5-year housing supply. The emerging Local Plan recognises this and seeks to provide this significant boost in a strategic and sustainable manner. Whilst the emerging Plan does not allocate this site, and it is of a scale not envisaged by the emerging hierarchy; attention is given to the number of dwellings to be delivered by the application – up to 68. This would contribute towards meeting the 5-year supply deficit.

The sustainability of the settlement is important however, with it important to strike the right balance between housing delivery and ensuring the social and economic needs of occupants can be readily met. Hartshorne lacks in basic facilities with there being no shop or post office, doctors or dentist, and limited employment opportunities of over 1,000m<sup>2</sup> within a reasonable distance. It does benefit from public houses, the church and community facilities and primary school, along with an hourly bus service however providing connection to wider services in Swadlincote. Notwithstanding this, the type of facilities and services available means that basic day to day needs (other than primary education) would have to be met via the use of public transport or (most likely) private vehicle. It is partly for this reason the emerging hierarchy seeks to appropriately limit housing development for this settlement, and also why it is not considered that the proposal would enhance or maintain the vitality of the existing community any more than it presently manages to do so (paragraph 5 of the NPPF). The proposal would not provide for these existing shortcomings, instead only ensuring impacts on existing services and facilities are mitigated and reliance on private vehicle is reduced as much as possible through the use of a Travel Plan. However it is not considered a refusal could presently turn on this point alone given the outstanding matters relating to the emerging Plan.

There would be economic benefits – both short and long term, with construction phase employment and subsequent occupation leading to increased revenue to businesses and services in the District. The Economic Benefits Statement outlines this in detail, but it is not considered to feature heavily in outweighing the above concerns – especially when the claimed local benefits are tapered given that convenience & comparison and some goods & services expenditure would have to be spent outside of the village.

With this point in mind attention is given to the impacts of the development and conflict with saved policy EV1 so far. The presumption in favour of development applies but sustainability must be viewed in the round, considering infrastructure, landscape, ecology, heritage, design and so forth. The remaining parts of the report therefore give consideration to whether any other adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposals (NPPF paragraph 14), noting that conditions or obligations may be used to mitigate or address an otherwise unsustainable impact.



## Local infrastructure capacity and affordable housing

The site is considered to be reasonably connected by a range of routes and modes of transport. A frequent bus service passes the site – a service which in terms of rural provision is good. Objections as to the existing capacity of the highway network in the village are noted. It is not disputed that congestion occurs around the school during peak hours as well as further afield at the Clock Island. However the key question is whether this proposal would ‘tip the balance’ such that existing issues would become wholly unacceptable. The Transport Statement models 75 dwellings and determines 56 to 61 vehicle movements are created in each peak hour at the main access, with it assumed that the proposed car park access would experience an ‘all in, all out’ scenario of the 30 spaces in its respective peak hours. From the site access drivers would have a north/south choice, with further choices at the junctions of Repton Road and Manchester Lane. The overall conclusion by the Highway Authority is that the destination split across the day would result in the impacts on the local network being satisfactorily absorbed. The Highway Authority therefore, does not consider there to be a significant adverse effect on the capacity or safety of the local road network. This is not felt to be an unreasonable conclusion given the nature of the A514 providing a strategic north/south route between Swadlincote and Derby and the overall traffic volumes upon it.

The provision of 68 dwellings would place pressure on existing schools, healthcare, open space, sports and built facilities, footpaths and waste and recycling provision. With regard to the consultation responses above, the impact on secondary/post-16 school provision can be satisfactorily accommodated within existing and projected capacity, whilst primary school pressures can be addressed by way of contributions towards an identified project at Hartshorne Primary School. The same is true for the waste and recycling needs of the development with existing facilities already over capacity. These contributions are considered to be compliant with the CIL Regulations and paragraph 204 of the NPPF and can be secured by way of a Section 106 agreement.

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

A generous amount of open space would be provided on the site, with a LEAP to be secured adjacent to the proposed community green and PRow. No sports or built facilities would be provided yet the development would lead to additional pressure on existing facilities elsewhere. There is a series of identified projects, many presently unfunded, to which such pressures could be linked to such that requested sums are considered to be CIL/NPPF compliant. The public footpath would be retained within POS as part of the development and improvements to the surface of this route, along with similar surfacing requirements for new footpaths around the site, could be secured as part of landscaping details under any reserved matters application. As such the impacts on the existing PRows are considered acceptable.

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

### Highway safety

Main Street and Ticknall Road are subject to a 30mph speed limit, although it is clear from survey data that vehicle speeds are higher overall. This survey data was carried out in accordance with accepted guidelines. Nevertheless the proposed accesses are placed in locations where suitable emerging and forward visibility can be achieved which recognise these higher speeds. The removal of on-street parking around the school is not considered to materially alter these observed speeds, especially considering the provision of a zebra crossing opposite the school. This crossing would provide safe crossing facilities between the proposed car park and the school. The existing footways to the eastern side of the public highway would be extended and/or brought into the site at these accesses. A further footway extension to the eastern bus stop of Ticknall Road and footway crossing would be secured. The Highway Authority raises no concern in respect of these elements of the proposal.

The omission of the originally proposed roundabout at Repton Road arises from the Highway Authority identifying the need to carry out further safety audit work and the risk that such a feature might fail to bring about the envisaged benefits, resulting in a return to current circumstances at public expense at a later date. There is no planning reason as to why this roundabout is necessary – it does not need to be provided to make the development acceptable, and could actually discourage pedestrians from crossing at this bend to access the PRoW. Furthermore the suggestions by residents that the site is accessed at this point off such a roundabout causes conflict with the PRoW in so much as it would likely lead to a need to formally divert the route. The applicant does not wish to pursue such a solution and in the absence of a planning need to do so, there is no objection in this respect.

It is noted that as a matter of principle the Highway Authority is resistant to providing dedicated facilities for drop-off and pick-up of children as this can tend to discourage the use of non-car modes of travel on the school run. The applicant has clarified that the parking area is being promoted in association with the community green area within the development and any use of the car park in association with the school would be regarded as secondary or consequential. Whilst this is at odds with supporting documentation originally supplied, the Highway Authority thus no longer raises concern in this respect. The level of parking provision for dwellings is a matter for consideration at the reserved matters stage but indications are that the normal requirements can be comfortably achieved.

### Biodiversity and ecological impacts

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

Attention is given to the hedgerows affected. Short sections of the existing hedgerow would need to be removed to facilitate access. Whilst considered to be priority habitat these limited losses are not considered to bring about an adverse impact and suitable compensatory planting and enhancement can lead to an overall enhancement, whilst counts in favour. The importance of the hedgerow from a heritage point of view is considered below. Appropriate protection can be afforded to remaining hedgerow and trees adjacent to the site which would in the long term form part of the POS or sit adjacent to it. Overall there is not considered to be a substantive harm to species nor loss of habitat important to the overall favourable conservation status of such species.

### Drainage and land contamination

The proposal is presented with SuDS to address increased risk of flooding on or off-site from a change to existing surface water drainage conditions. Both the EA and the County Flood Team consider the supporting evidence adequate to enable detail to be secured by way of condition. The Repton Brook is also not considered to influence the proposals by way of elevated flood risk zones. Resident's comments claiming existing surface water flooding on the site or Ticknall Road are noted but the County do not hold such records. In any case the key is to ensure the development does not exacerbate existing issues – not that it should resolve them. The conditional approach is thus considered acceptable.

The local concerns over foul water drainage are also noted along with requests for a CCTV survey to be undertaken. The EA notes that sewer modelling would be required to confirm whether or not the sewerage system (including a pumping station and treatment works) have capacity, yet Severn Trent Water raises no objection to the principle of receiving flows from the site, subject to condition. Such a condition would have to be a condition precedent, preventing any development until a technical solution is found, and this is for the developer to address this – including any survey work, logistics or financial implications in pursuing this. As such there is considered to be adequate control in this approach, along with other legislation, to ensure impacts are acceptable.

The site overall is considered to be suitable for development in principle from a stability and land contamination point of view. The one exception relates to the former landfill to the north of the site with the potential for cyanide contamination affecting proposed dwellings. However the concern is residual and both the Contaminated Land officer and the EA consider a conditional approach to be in line with provisions of the NPPF. Furthermore the risk of contamination arising from heating oil supplies (as appear to be necessary in the absence of a gas supply to the village) can be mitigated by way of appropriate storage.

### Heritage

There are three listed buildings close to the site – St Peter’s Church, Manor Farmhouse and Mill House. In light of the Barnwell Manor ruling proper consideration of the impact of the development on the setting of these assets is required in order for the Council to discharge its statutory duties. The Conservation Officer has considered this matter at some length and considers that the setting of Mill House is not affected or harmed, even though the former mill and arguably the millpond are part of its extended setting. Consequently focus therefore turns to the church and the farmhouse.

The Heritage Statement has been considered but it is considered it falls significantly short in its analysis of the significance of the church and the farmhouse and the assessment of their setting – particularly in respect of their wider village and landscape setting, a matter returned to below. The buildings concerned are landmark buildings as opposed to simply being listed for their character or fabric. The conclusions reached – that there is no harm to the setting of either building and that the development does not threaten their prominence within the landscape – is difficult to reconcile with the facts, so much so that the Statement cannot be relied upon. The applicant has not provided a counter opinion to this view.

Taking each building in turn, the farmhouse dates to the late 17<sup>th</sup> Century with the (now) principal elevation added in the 18<sup>th</sup> Century. One of the principal aspects of the significance of the house is its position on the ridge, with its commanding views over the landscape. The design of the house to a large extent takes account of this view, with evidence of attempts to increase its prominence in the landscape through this design. The setting extends beyond its immediate curtilage to the way it is experienced from the public footpaths and roads in the immediate vicinity, although it is not limited to this. Its setting also extends to how it is experienced from a wider area as it is a prominent local landmark and was designed to be noticed. Whilst the farmhouse is visible from Ticknall Road, Main Street and Repton Road, and can be glimpsed from a number of other vantage points; the significance of its setting is primarily how it is experienced looking outwards (i.e. its importance as an historic farmhouse and its ability to have a view over the wide landscape) and secondarily how it is viewed from further afield.

Whilst the intervening field between the farmhouse and the site is certainly part of its wider setting and the openness and slope contributes to its significance; it is considered more difficult to argue that the site itself makes a specific contribution. It is the long views from Ticknall Road and Main Road which make a small contribution to its significance, with views from the footpath increasing this contribution on the approach towards the farmhouse. Without any evidence for a wider, landscaped or parkland setting, or created vistas, it is not considered possible to argue otherwise, even though the site affects its setting; particularly when the development would block views from Ticknall Road (at least) - one of the main views. This view is increasingly revealed travelling south, in a kinetic fashion, up to a point where the farmhouse can no longer be seen (on Main Street). In addressing this it is noted that the development is pulled back from Ticknall Road and views from the junction of Repton Road and along the PRow would be retained within a visual corridor. In addition the internal road layout could conceivably be adjusted at reserved matters stage to create a view in from the proposed access and along estate roads. However the kinetic nature of views at the present time would still be confined to corridor aspects, and confidence of the latter possibility is currently low given such a design has not been embraced despite it being raised during pre-application discussions. Furthermore the green nature of these existing views would be lost. The applicant has offered to surrender the desire for the

handful of dwellings to the south of the PRoW but this is not considered to materially change the above assessment.

In assessing harm on the setting, the higher the listing grade potentially the greater the importance of the setting. In conclusion the development would affect the setting in so far as it reduces its isolated landmark appearance – particularly when viewed from afar, although it will remain a prominent landmark from some aspects. Hence whilst the importance of the asset is high, the magnitude of impact is only slight adverse leading to less than substantial harm. Nevertheless, less than substantial harm does not equate to a less than substantial objection and in this case the impact must be weighed against the wider public benefits.

Turning to the church, the main significance is the opposite of that with the farmhouse – it is primarily how it is experienced from a distance. It has the strongest historic associations of any building in the village and it is one of the highest buildings in the locality, deliberately located on a prominent ridge and designed to be seen from many miles around. It was present from the 15<sup>th</sup> Century and there may have been a predecessor. This landmark position and its relationship with the village and surrounding villages is a very important part of its historic significance. The church is also of high communal significance, likely leading to subsequent development of the village. Certainly the nucleated development of upper Hartshorne before Lower Hartshorne supports this view.

The Heritage Statement erroneously claims the setting is confined to Church Lane and the churchyard. The setting of the church is actually very wide, being the surroundings in which it can be experienced and there is case law to support this. Its visual prominence reinforces its social status whilst its spiritual role is also an important part of its high significance. Its visibility changes within the settlement but the wider views are particularly important. The progressive view of the church from Ticknall Road is also a very important one and this has been addressed by pulling back development from the road frontage and preserving views from the junction of Repton Road southwards. Hence although the proposals do change the main views of the church, it does not obscure them; although it would alter its prominence within these views depending on aspect. The development is considered to affect its setting, although the impact is considered to be less than substantial harm.

There are further non-designated heritage assets influenced, such as the school and the cottages adjacent, and possibly those near to the Old Mill Wheel. However it is not considered that the impacts on the setting of these buildings would amount to harm, although they do hold some importance in relation to townscape and character of the settlement and this is discussed further below. The hedgerow along Ticknall Road and Main Street has been considered under the Hedgerow Regulations. A hedgerow appears on the 1766 Enclosure map for the Parish and on balance there is potential for it to be an integral part of a field system pre-dating the Inclosure Acts. The proposal would thus lead to loss of important hedgerow in two locations to provide for the access and any associated visibility splays. This weighs against the proposal but is considered to constitute less than substantial harm and must be weighed against the benefits arising.

Attention finally turns to below ground interests with archaeological survey work indicating the site has moderate potential for medieval settlement archaeology, alongside a lower background potential for previously undiscovered remains of

prehistoric/Romano-British date. This is likely to have been an area of medieval occupation; though it is not clear whether medieval village activity extended as far as the site and there are no earthworks to confirm this. Representations received and evidence from the applicant also point to the site forming pastoral or feudal land between two manors, as well as potentially forming the referenced 'break' between the two halves of Hartshorne in the Domesday Book. Nevertheless it is considered that any interest would be of less than national or regional importance such that a conditional approach would ensure the degree of harm to this heritage interest is negligible.

### Landscape, townscape and visual impacts

The village of Hartshorne has developed significantly over the last two centuries and the core of the original settlement, located around the church, forms the nucleus of development. The identity arising is strong and the historic core is surrounded by fields to the north forming a guard to the developed edge. Historically the area around Upper Hartshorne developed and grew in a pattern of long, ribbon development, with an occasional but small, 20<sup>th</sup> Century cul-de-sac breaking the rhythm. This provides a sharp contrast with the nucleated cluster of activity on the ridge. The historic core is not designated as a conservation area but nevertheless makes an important contribution to the historic landscape character. Any new development therefore should not take the focus away from this historic core. Furthermore the very evolution of the village has consistently occurred in two distinct halves. The presence of lower Hartshorne as a recognisable urban 'pocket' does not become apparent until the early to mid-1900s. The disjointed ribbon of development along the western side of Main Street remains consistent throughout, maintaining the break between Upper and Lower Hartshorne by way of functional open spaces and premises, such as the school and play area, or the public house and adjacent cricket ground. This separation reinforces the value of this landscape – made abundantly clear by representations received. This proposal would clearly erode the primacy of the historic core, with a dense and larger area of housing with a form not dissimilar to the nucleated focus on the ridge, confusing the legibility of the evolution of the settlement – particularly over time as the proposals become 'weathered' to the archaeology of the settlement. The linear character of development, which contributes to the intrinsic qualities of the settlement, would also be eroded. Overall there is considered to be a substantial harm to the very character of the village as a whole as a result of this proposal, with it failing to safeguard and protect the historic features which make it special in its own right. This weighs heavily against the proposal.

It is with this concern in mind that the Council commissioned its own LVIA to 'test' the conclusions reached in the applicant's LVIA. The site carries no statutory or local landscape designations and landscape features are mainly limited to the peripheries of the site. This site and its environs lie at the northern edge of the Leicestershire & South Derbyshire Coalfield National Character Area (NCA), with views into the Melbourne Parklands NCA. The County Landscape Character Assessment (2014) also provides definition, with the site falling within the Coalfield Village Farmlands Landscape Character Area (LCA), subdivided into the Estate Farmlands LCA and the Sandstone Slopes and Heaths LCA. The site is within the National Forest and the site along with its surroundings generally are consistent with the NCA and LCA characteristics.

The Council's LVIA again notes that the site forms an area of open countryside within the centre of the village between the two halves of Hartshorne which helps to retain a rural connection between the village and the surrounding countryside with open views outwards. The site also provides a green and rural setting to the church and farmhouse

which form prominent elements of the rising and wooded roofline of Upper Hartshorne. The site is of high local value for its role in helping to retain this strong rural connection between the village and the surrounding landscape, and maintaining separation and a sense of openness between Upper and Lower Hartshorne. It is clear from representations received that this land forms such a purpose in both a physical and conceptual sense. The PRoW provides right of access to and through the site further enhancing the feeling and perception that this land functions as public open space. Indeed the NPPF regards open space as “all open space of public value... which offer important opportunities for... recreation and can act as a visual amenity”, with the NPPF pointing towards the need to recognise and protect locally important spaces and landscapes, whilst enhancing access and PRoWs. It is somewhat difficult to conclude that the proposal would enhance the PRoW given it draws its value from the very open nature of the site and views across it. The site also provides value by way of the green and rural setting it provides to views of the listed buildings, particularly from the landscape to the north of the village, along Ticknall Road and the central part of the village.

The Council’s LVIA concludes that during the construction period there would be a short to medium-term effect on landscape character of the site, village and immediate surrounding landscape. The magnitude of effect would be high as there would be a great scale of change for the short-term and the significance of effect on this medium sensitivity receptor would be moderate adverse.

The Council’s LVIA goes on to state that upon completion the developed parts of the site would have an enduring presence in the landscape and would completely alter the site’s landscape character from open agricultural land to low to medium density, 2 to 2.5 storey residential development with associated gardens, roads, managed greenspace and woodland planting along the “rear” edges. The highway works would alter the semi-rural character of Ticknall Road through the completion of a footpath along the eastern side, whilst the second access on Main Street and zebra crossing would also introduce urbanising elements. However these latter highway elements would not be out of character within the built up village setting. The properties illustrated south of the PRoW would interrupt the presently open views to landmarks in Upper Hartshorne, as well as to the open landscape to the east. The character of the edge of Upper Hartshorne would be altered as it would limit views of this part of the village to a few channelled views and make the rising roofline appear more urbanised and less dispersed within trees. As noted a distinctive characteristic of the centre of the village is open panoramic views across the site towards the wider landscape. This sense of connection would be diminished and enclosed by properties limiting views of the countryside to glimpses above rooflines. On completion of the development the magnitude of effect on landscape character of the site and the character of the village as a whole would be high. It would disconnect the central part of the site from its rural surroundings and would join the two parts of the village which have previously retained separation through the presence of the site. The significance of effect would be major adverse.

Development of the site would also alter the perception of Hartshorne as a linear settlement, making it appear as a larger clustered settlement – something never done historically on such a scale – increasing its prominence in the landscape and diminishing the prominence of the church. With the proposed development resulting in a partial loss of key features characteristic within the wider landscape and described in the NCA and LCA descriptions, and would be a perceivable change for the long-term, the magnitude of change would be moderate adverse. Following establishment of

mitigation planting (i.e. after 15 years) the effect on landscape character would remain high with a continued significance of major adverse. From the wider landscape tree planting along the northern and eastern edges would have established to provide some screening to parts of the development however to the north of the village it would remain prominent. The significance of effect would remain moderate adverse for the wider landscape character.

Judgement of visual impacts has been considered in the context of the value placed on the relative scenic quality of the view. All views assessed have local value except for views of users of the National Forest Way, which is of national value. Residential properties, users of PRow and motorists and passengers on rural lanes have medium sensitivity to the proposed development, whilst workers and motorists on main roads have low sensitivity. A considerable number of major adverse impacts upon completion arise, alongside a similarly considerable number of moderate adverse. These are impacts primarily experience from PRows in and around the site, but extend to surrounding roads and properties adjacent to or overlooking the site. The key point of note is that after 15 years the significance of many of these effects does not change (e.g. by way of maturing trees and vegetation assimilating the development into its surroundings). The design of the development is not considered to mitigate for these impacts, nor is the applicant's willingness to 'offer up' the small number of dwellings south of the PRow.

The applicant has considered the Council's LVIA and provided a comparison summary. There is broad agreement as to the methodology and study area, although it is considered the criteria for landscape susceptibility and magnitude of landscape impacts are different. There is comparable coverage and scope for the assessment of visual effects, although a subtle difference in application of LVIA guidance means care needs to be undertaken to understand what the impact and significance refers to. For example where a PRow provides as a visual receptor, assessment can be made on changing views along the footpath or just from a single 'worst case scenario' point upon it. There are also a number of judgements included in the Council's LVIA which are not agreed, and this is not unexpected given that professional judgement is an important part of LVIA. As long as judgements are reasonable and made using clear and transparent methods there is no reason to refute the outcomes.

Notwithstanding the differences in the application of susceptibility and sensitivity at either a site level or at a level of local landscape character, there is some alignment between the judgements on landscape sensitivity. Overall the applicant's LVIA reports a lower magnitude of landscape impact, but it is noted this results from an 'averaged' impact across both the construction and operation phases. The same is true when considering the significance of effect. This limits the ability to rely on the applicant's LVIA for a 'true' assessment of effects post-completion and for the life of the development – those which matter most when considering landscape and visual impacts. In the absence of a division between construction and operation effects, the Council's LVIA is relied upon. Overall both LVIA's broadly show the most significant visual effects as those closest to the site. It is however noted that the Council's LVIA takes in more viewpoints and, crucially, considers the effects from within the site whereas the applicant's does not. This is somewhat anomalous with a public footpath passing directly through it. Inevitably views from within the site are very material in assessing impacts, particularly when they provide aspects out to the surrounding landscape. Hence the applicant's LVIA is weakened by this omission. Conversely the Council's LVIA, by taking in more viewpoints particularly in and around the site, will lead



to a greater number of moderate and major adverse impacts. However when changing the number to a proportion and considering the same receptors as the applicant; it is clear that there is lean towards the more significant impacts – major and moderate adverse. Whilst there is nothing fundamentally wrong with the slight deviations in methodology, the omission of assessment of views from within the site itself – particularly given the presence of a PRow is considered to place greater weight on the Councils' LVIA. It therefore follows that the impacts posted are slanted towards the worst possible effects.

When considering the proposal in the round and against saved, emerging and national policy; it is clear that the site provides a valued landscape where there is a presumption to protect and enhance. Both saved policies EV1 and EV8 are highly materials, as is emerging policy BNE1. The accessibility of the site, both physically and perceptually enhances the value attached to it, as does its key function in providing clear separation between the two halves of the settlement and a green setting for the historic core and landmark and listed buildings within it. This along with views down onto the site from higher ground provide a clear evolution of and character to the village, and this would be irrevocably lost if development of the scale and nature proposed were allowed to proceed. The harm which arises is considered to be substantive in both terms of landscape and visual impacts, with an enduring effect for generations into the future leading to a loss of clear views across the site to rising landscape beyond and an erosion of the significance of the townscape Upper Hartshorne in particular.

It is advanced that some landscape and visual harm is inevitable when developing greenfield sites and this is not disagreed. The applicant also highlights that the Council's LVIA makes no judgement on whether the significance of effects is acceptable in landscape and visual terms. That is not a failing of the LVIA – particularly when the consultant's brief was to simply undertake an assessment of the effects. The judgement of acceptability lies with the Council itself, when balancing all material considerations against prevailing policy. Accordingly the harm identified weighs significantly against the development and there is clear conflict with saved, emerging and national policy. This harm will need to be balanced against the benefits arising in order to judge whether the proposal delivers a sustainable outcome.

### Amenity impacts

The layout of the site as shown in the indicative masterplan as far as is practicable ensures public areas are adjacent to outward facing aspects. Existing dwellings would benefit from a good separation to proposed dwellings with no part of the layout giving cause for concern under the SPG, and detail under any reserved matters application can ensure compliance with it. The resulting use of the accesses is also not considered to cause unacceptable levels of noise or air pollution, with the main access also carefully positioned opposite Mill Pool Close to avoid headlights causing undue disturbance to occupiers of dwellings opposite. The associated impacts of construction on existing occupiers is also felt to be acceptable without the need for conditional control given separation by the intervening A514, which already influences noise pollution in the village.

### Design and layout

Detailed design matters would be reserved for consideration under a later application. Nevertheless the indicative masterplan has been formulated following involvement of

the regional design panel, OPUN, at the pre-application stage. They considered the key issues included a need to crystallise the 'vision' for the site to create a distinctive development that responds positively to its site context; justification for the development of the site, including provision of a robust site analysis including identification and mapping of key views, pedestrian desire lines and local facilities; provision of a robust landscape strategy including the provision of a hierarchy of spaces, clarity over their function and strong connections to the existing village; and exploring the potential to develop within the view of the listed church. Other issues included further consideration of access points, treatment and form of the primary route, and whether it was the correct time to be setting a proposed density of the development.

Most of the points raised have been embraced in one form or another although conversely, following the above assessment of landscape, visual and heritage impacts; it appears that the views of the farmhouse are those which need to be protected more than the church which would rise above rooftops. Nevertheless the landscape strategy appears to be well executed, along with a street and route hierarchy; and the concept of design and appearance of individual buildings is similarly justified. However the main issue which still persists is the 'function' of the development. It carries a nucleated character which reflects the evolution of Upper Hartshorne yet is clearly detached from it, providing confusion as to both the archaeology of the settlement but also just what the holistic design is trying to achieve. The above discussion regarding townscape and landscape impacts highlights this as a crucial element to the success of any development, as does the feedback from OPUN. When looking at the townscape and landscape impacts, it appears that a much smaller scale extension to the northern edge of Upper Hartshorne, off Main Street, or a ribbon form along Ticknall Road would be the extent of what might respect the intrinsic quality and value of this site and the wider design of the settlement. In short the design failing is a result of the quantum and depth proposed.

Notwithstanding this, the design of the site provides no fundamental concerns as to achieving appropriate parking provision and providing secure design and natural surveillance. Concerns over central parking courtyards can be addressed at reserved matters stage. The Design Excellence Officer has assessed the scheme against Building for Life noting it picks up points for legibility, connections, trees in the public realm and a generally well-structured building layout. Views to existing listed buildings are either blocked, restricted, urbanised or changed in their nature, however, and this suggests the design has not exploited existing buildings, landscape and topography, whilst limiting the ability of the scheme to respond to its context. Although it is technically possible for this scheme to score 14 out of 20 at the detailed design stage, there are wider questions about the impacts on landscape character and the existing settlement.

### Energy needs

Day to day energy needs are particularly relevant given there is no gas supply to the village. The Services Report conversely suggests there is no issue with supplies, although the report merely looks for conflicts which might preclude development on the land. It is of some concern that the bringing of a supply to the site could be expensive and affect viability, in turn limiting the delivery of affordable housing or financial contributions. The applicant has confirmed this is being explored. However in the absence of a supply at the present time, and no evidence to suggest a connection would be feasible and not compromise other planning gains; dwellings would be wholly

reliant on other sources for heating. One of the core aims of the NPPF is to support the transition to a low carbon future and encourage the use of renewable energy. Whilst Building Regulations might reduce energy demands through insulation, this does not address residual demand and it would be a backward step to allow a fall back to oil heating systems without proper exploration and understanding of what renewable resources could be utilised on the site, especially with the ability to orientate and design the dwellings to maximise solar gain whilst further explore biomass and ground source heating options. Unless the applicant can demonstrate a connection is workable, this should be made conditional of any permission, recognising the provisions of the NPPF and the emerging Plan, although there would still be some residual concern over viability and how it in turn affects the sustainable balance of the proposals.

### Summary

The assessment identifies that highway, infrastructure, ecological, drainage and amenity impacts are all acceptable, subject to conditions or obligations where necessary; and generally speaking detailed design can provide for an acceptable appearance and layout. The provision of up to 68 dwellings towards the housing supply must be afforded significant weight at the present time given the current absence of a 5-year housing supply, and the very fact that up to 30% of these would meet affordable housing needs also provides further weight in favour. The provision of a community green and associated parking, which would likely assist in reducing congestion around the school during peak hours, is also of some weight. The claimed economic benefits are noted and considered to contribute in favour to a degree, but not to the extent the applicant considers since convenience & comparison and some goods & services spending would not enhance or maintain the vitality of this rural community (paragraph 55 of the NPPF).

The overall ability of the settlement to 'handle' such a scale of development remains of concern with it important to get the right balance between housing delivery and ensure the social and employment needs of occupants can be readily met in a sustainable manner. There would be high levels of commuting to places of work, education, shopping or leisure compared to other locations being advanced in the emerging Plan. As noted the emerging hierarchy places Hartshorne as a Local Service Village and seeks to limit the quantum of development for this reason. The proposal would not address these existing shortcomings. This weighs against the development in terms of the social and environmental dimensions of sustainable development, albeit not to such a degree that a refusal could be substantiated on this point alone.

It is much more the landscape and visual impacts which cause major concern with the proposal. The very character of Hartshorne is invested in a split pattern of development with this open and green site at the very heart of it. Saved policy EV8 seeks to protect these kinds of spaces and the NPPF suggests this site could qualify for 'designation' as a Local Green Space. Aside from the nucleus of development around the historic core, development is linear and dispersed. There is strong historic evidence for this character which has persisted to the current day and the proposal would completely erode this credential as well as 'confuse' the archaeology of the settlement – especially with time as the proposal would compete with the unique nature of the historic nucleus. Furthermore the site is physically and perceptually accessed by a number of receptors and provides for views out from the village up towards surrounding higher ground, as well as the setting for listed buildings. The development would result in major adverse impacts on these views with further harm to the setting of listed buildings. The

landscape character of the village would also suffer major adverse impacts from a step change in nature and result in the prominence and primacy of landmark buildings, such as the church, being diminished.

The Minister of State for Housing and Planning has recently written to the Planning Inspectorate stating that harm to landscape character is an important consideration and recent dismissed appeal cases serve as a reminder of one of the twelve core principles at paragraph 17 of the NPPF. It is noted that whilst statutorily designated landscapes quite rightly enjoy the highest degree of protection, outside of these designated areas the impact of development on the landscape can be an important material consideration. It is also noted that the recent cases also reflect the wider emphasis within the NPPF on delivering sustainable outcomes, which means taking full account of the environmental as well as the economic and social dimensions of development proposals. Saved policies EV1 and EV8 are thus of considerable weight in this assessment.

When considering the three dimensions of sustainable development and whether there is a mutual balance reached under the proposals, it is considered the environmental dimension suffers a significant adverse impact and therefore raises doubt over the overall sustainability. In this light it is considered that the benefits of providing both market and affordable housing towards the 5-year supply, as well as any ancillary community gains, are clearly and demonstrably outweighed by the adverse impacts on the proposal.

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

## **Recommendation**

**REFUSE** permission for the following reason:

1. The very character of Hartshorne is invested in a split pattern of development with the site constituting an open and green space at its heart. The site is physically and visually accessed from a number of aspects and provides for views out from the village up towards surrounding higher ground, as well as contributing towards the setting of listed buildings - namely Manor Farmhouse and St Peter's Church. This space has existed over centuries of evolution of the settlement and is a highly valued landscape. The development would result in moderate and major adverse landscape and visual impacts with further harm to the setting of the listed buildings, diminishing their prominence and primacy as landmark buildings, as well as fundamentally altering the very landscape character of the village. Furthermore, aside from the nucleus of development associated with the historic core, the pattern of built development in Hartshorne is linear and dispersed, persisting to the current day without major change to this prevailing character. The proposal would erode this character as well as 'confuse' the archaeology of the settlement - especially over time with the proposal competing against the otherwise unique pattern of the historic nucleus. When considering the three dimensions of sustainable development and the mutual balance required, it is considered the proposal is unbalanced by way of the environmental dimension suffering disproportionately. In this light it is considered that the benefits of providing both market and affordable housing towards the 5-

year supply, as well as any ancillary community gains, are clearly and demonstrably outweighed by the adverse impacts on the proposal. The proposal is therefore considered to be contrary to saved policies EV1 and EV8 of the South Derbyshire Local Plan 1998 and policy BNE1 of the emerging Local Plan Part 1, and conflicts with paragraphs 6 to 8, 17, 34, 77 and 109 of the National Planning Policy Framework.

**Informatives:**

Notwithstanding this refusal, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, seeking to resolve planning objections and issues, suggesting amendments to the proposal, meetings and negotiations. However despite such efforts, the planning objections and issues have not been satisfactorily addressed. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

**Item**            2.2

**Reg. No.**        9/2015/0071/U

**Applicant:**  
Lawton Lowndes Plant Hire Ltd  
Ashgrove Lane  
Egginton  
DE65 6GU

**Agent:**  
Mr Bryan Wolsey  
Bryan Wolsey (Planning) Ltd  
29 Chapel Street  
Ticknall  
Derby  
DE73 7JY

**Proposal:**        **THE CONTINUED USE OF LAND FOR THE OPERATION  
OF A PLANT HIRE BUSINESS AT BLAKEMERE FARM  
BAKEACRE LANE FINDERN DERBY**

**Ward:**            **WILLINGTON & FINDERN**

**Valid Date:**     **30/01/2015**

**Reason for committee determination**

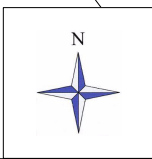
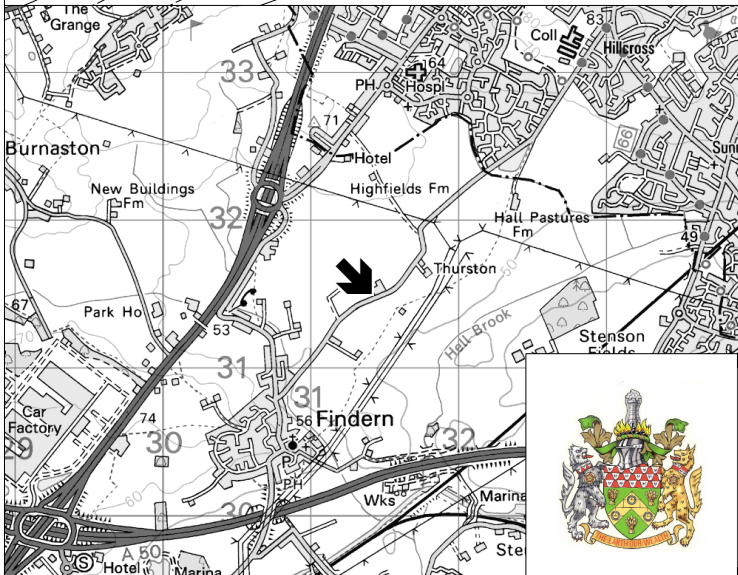
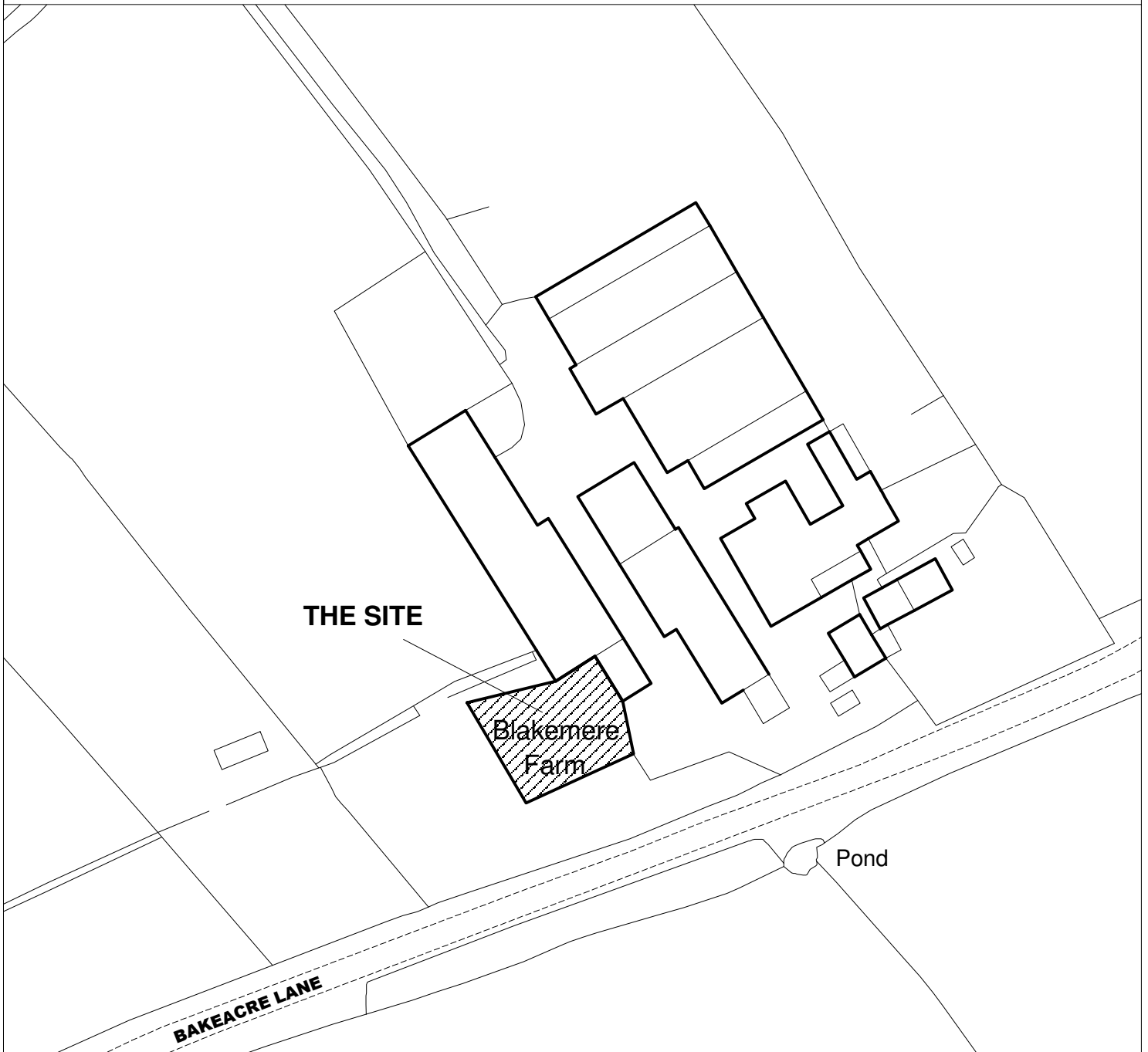
The item is presented to committee at the request of Councillor Mrs Brown as it is considered the committee should debate the issues in this case which are very finely balanced.

**Site Description**

The site comprises an enclosed compound of some 500m<sup>2</sup> on land immediately adjacent to the farmyard of Blakemere Farm. The site sits outside of a defined settlement boundary, some 1km north-east of Findern and a further 1.2km from the southern edge of Derby. The farmyard comprises a number of agricultural buildings running back from the public highway and original farm house. A single vehicular access serving both the farm and the plant hire business connects to Bakeacre Lane, which links Findern to the southern edge of Derby. The frontage to the lane is defined by a hedgerow to either side of the access, albeit set back for a short distance to the north-east.

The enclosure is defined by an approximately 2m high metal fence with green mesh netting. Within the compound is a recently erected building some 10.5m by 5m and approximately 4.5m high at its maximum. This building is used to store wagons and/or plant and allow for their maintenance under cover. The balance of the compound is given over to the parking of further lorries, plant and some machinery. There is a small portakabin serving as an office/mess room in the north-eastern corner of the site.

**Proposal**



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

The application seeks to regularise the use of land for the storage and maintenance of plant hire vehicles and machinery. The site is used principally as a store for the various items of plant and equipment used in connection with the business, with one 7.5 tonne plant lorry, two grab lorries and one tipper lorry. The firm operating from the site has, and hires out, JCB mini and micro diggers and dumpers, and three larger JCBs.

The application only seeks to regularise the use of the land, with the applicant considering it not expedient to go to the expense of having plans for the building drawn up if the use is in question. It is advanced that should permission be granted, a subsequent application would be sought for the building.

### **Applicants' supporting information**

Aside from the requisite location plan, the application is accompanied by a supporting letter. This recognises the application arises as the result of enforcement investigations and outlines the above site description, proposal and intentions regarding the recently erected building. It then moves to make a case in support of granting retrospective permission. It is advanced that the firm employs one full time lorry driver, one digger driver (employed on a sub-contract basis) and one self-employed driver, all in addition to the two directors. It is stated there are no plans to increase the number of vehicles, plant or employees with the limited size of the compound placing a restriction on the scale of operations and most of the administration carried out from the clients' home in Egginton. It is claimed the use began on a much lesser scale, with just one micro-digger, in 2003 and activity has grown since although it has varied with the economic climate and seasons.

In policy terms the NPPF and the saved Local Plan are recognised although it is considered the latter, given its age, are not in accordance with the NPPF with the view this adopts a more favourable approach to small-scale commercial and industrial development in the countryside in the interests of rural diversification. It is also considered there is some support under Employment Policy 4 notwithstanding conflict with Environment Policy 1. It is also argued that, as a sui generis use, the development falls within a "policy vacuum".

In terms of visual impact it is advanced that as the business is small and physically constrained by the existing boundary fence, "creep" onto adjacent land is limited, existing hedgerow provides a natural screen, the site is seen in the context of and against the backdrop of agricultural buildings. Ultimately it is considered the development is not seen in isolation nor is it prominent. It is highlighted the proposal would provide employment for five people, and the nature of the use and high land take means that the applicant cannot compete with high rentals commanded on industrial estate locations. An argument for rural diversification is advanced with the close relationship of the site to the existing farm, and the fact that it lies within their ownership, having clear and obvious benefits in terms of security for the site and equipment. In addition the rental for the land would assist the occupiers at the farm. In respect of highway safety it is considered the access has adequate visibility with vehicles having a relatively high driving position better than a typical car, and as all movements would take place by vehicle there is no need to consider the requirements of pedestrians.

Overall it is advanced that although there is some conflict with existing planning policies, these are generally out of touch with, and make little consideration for, the specific



needs of a plant hire facility. It is a small family-run business providing a service to small developers and individuals alike and is constrained by the physical limitations of the site. It is considered the use results in no demonstrable harm to interests of acknowledged importance.

### **Planning History**

9/2005/1448: The use for parking of one HGV vehicle – Approved February 2006 (personal permission)

### **Responses to Consultations**

The County Highway Authority comments that Bakeacre Lane is derestricted and given the nature of this section of the lane vehicles are likely to be travelling at around 50 to 60mph. The access therefore requires sightlines extending in 215 metres in either direction within controlled land. The visibility available at the access to the application site is below that recommended in national guidance and the applicant has failed to demonstrate that the required visibility can be achieved over controlled land. It is noted that the applicant suggests that, whilst substandard, farm vehicles would be using the access and that the use of plant hire vehicles would not impact on existing conditions; however there is no suggestion that the farm use will cease to off-set the use of the site for the plant hire business. The Highway Authority therefore considers that approval of the proposal would result in the introduction of additional vehicular movements over and above those generated by the authorised use at an access where visibility is substandard contrary to the best interests of highway safety, and on this basis recommends refusal.

The Environmental Health Officer (Pollution) raises no objection.

### **Responses to Publicity**

None received.

### **Development Plan Policies**

The relevant policies are:

- Saved Local Plan 1998: Environment Policies 1 and 9 (EV1 and EV9), and Employment Policies 4 and 5 (E4 and E5).

### **Emerging Development Plan Policies**

The relevant policies are:

- Submission Local Plan 2014: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness) and INF2 (Sustainable Transport).

### **National Guidance**

- National Planning Policy Framework (NPPF) including (but not exclusively) paragraphs 6, 7, 8, 14, 17, 19, 28, 32, 58, 109, 118, 203, 206, 215 and 216.
- National Planning Policy Guidance (NPPG).

## **Planning Considerations**

Applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The saved Local Plan policies presently form the Development Plan, although the NPPF is a significant material consideration. Various policies of the emerging Plan can also be afforded some weight given its progression whilst consultation replies and representations are also material considerations carrying varying degrees of weight.

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

- The principle of development
- The visual and landscape impacts
- Highway safety

## **Planning Assessment**

### The principle of development

The site lies outside the settlement confines for Findern and beyond the southern edge of Derby. In such locations saved policy EV1 limits development to that which is essential to a rural based activity or is unavoidable in the countryside; and in both cases the development should safeguard and protect the character of the countryside, including landscape quality. The NPPF identifies the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, with one of the three dimensions of sustainable development seeking this aim.

The proposal is contrary to saved policy E5 in that it is business development (also of an industrial nature) outside of a settlement boundary. In the absence of it being planned for by way of allocation, the test is whether it is rural diversification in respect of saved policy E4 and in turn essential or unavoidable in respect of EV1. Saved policy E4 allows for the re-use of existing buildings for commercial uses subject to ensuring certain impacts are acceptable. This proposal does not fall under such a category. The policy also allows for diversification of the rural economy provided it does not conflict with other policies of the plan. The fact that the site is adjacent to the farm and thus benefits from surveillance of occupiers is a very weak argument. Members will be aware that seldom does security needs justify what would otherwise be inappropriate development in the countryside, and this proposal is considered to be no different. Furthermore the proposal is not considered to be a diversification of the rural economy – it does not affect or alter the farming practices at Blakemere Farm. Instead it merely provides for a rental income arising from rental of land to a third party. Ultimately the proposal is not in the spirit or aims of ‘essential’ under saved policy EV1 and the degree of employment offered by the proposal is not considered to afford a great deal of weight in favour – in the same way that one or two dwellings would not contribute to significantly boosting the supply of housing.

Turning to the unavoidable test, the application is not supported by evidence of a meaningful search of alternative sites within more sustainable locations. Whilst rental of a site within a settlement or on an industrial estate may incur a greater cost, the difference between that presently being paid and that required elsewhere has not be demonstrated; and in any case the financial means of the applicant or business are not matters which weigh heavily in the balance. The applicant has not demonstrated the proposal is unavoidable.

### The visual and landscape impacts

Outside of identified settlements, this landscape has intrinsic value with wide open vistas across a relatively flat topography interrupted only by hedgerows, road and electricity infrastructure and isolated farmsteads. There is an absence of industrial and commercial intrusion. The visual and landscape assessment here is not about whether the development is not seen or seen against a backdrop of existing buildings – it is about the sustainability (or lack thereof) of piecemeal and non-strategic encroachment in the open countryside. The proposal introduces a visually prominent adjunct to the farmyard – even when excluding the building from consideration, encroaching out from the existing envelope and introducing enclosures, equipment and paraphernalia on a scale (and with branding) which clearly disassociates it from the agricultural activity occurring elsewhere at the farm. Whilst the applicant advances that most of the vehicles/plant rarely return to the site except for maintenance or when not in longer term use, this does not make the permanent characteristics of the use acceptable nor mitigate for when vehicles/plant have returned.

Regard is also had to the 2006 permission to ascertain whether this provides any support but the reason for the strictly limited permission (to just one HGV on a personal basis) recognised that the incidental storage of such a vehicle at a farm would be discernible to any member of the public. It cannot be said that is the case for this proposal.

The intrusion into the countryside, in light of the above discussion, is considered to be unwarranted and thus the harm arising is significant, weighing against the proposal.

### Highway safety

The comments from the County Highway Authority are acknowledged. Officer observations and reconstruction concur with 50 to 60mph speeds being realised. To the north-east some 50 metre appears to be possible before hedgerow obstructs visibility. In a south-west direction, visibility appears to be better. Without an accurate survey and/or confirmation of land in the control of the applicant; it is not certain the 215 metres required in either direction can be achieved. Even if control were demonstrated, in order to achieve necessary standards to the north-east (at least) a considerable length of hedgerow would need to be removed and/or substantially cut back.

As noted above the applicant considers this route to be very lightly trafficked. Officer observations indicate otherwise and it is understood that the route provides as an alternative route in and out of Derby during peak hours for those wishing to avoid the A38 junction north of Findern and primary routes into/out of the city thereafter. The 2006 permission related to just a single HGV with such movements absorbed within the existing movements associated with the farm. The applicant also highlights that the site was part of the wider farmyard where agricultural machinery and vehicles could have

been parked within the lawful use of the land. From there it is advanced they could have utilised the access to reach other land or do work for neighbouring farmers – with similar impacts on highway safety arising. The applicant also considers that the NPPF points to withholding permission on highway grounds only where the residual cumulative impacts are severe. These points are not agreed. It is not a case of what could have occurred, but instead a case of what is proposed above and beyond the lawful use of the land – which would continue alongside the proposal; whilst the interpretation of paragraph 32 of the NPPF is erroneous with Inspectors ratifying that the quoted test only applies where improvements to the highway network cannot address all the residual impacts.

The proposal here is thus considered to represent a material intensification of the use of the access, without any existing use of it being offset. In the absence of evidence to demonstrate that suitable emerging and forward visibility can be achieved the proposal is considered to introduce unacceptable risks to users of the lane, to the detriment of highway safety.

### Conclusion

Whilst the proposal provides for employment, the degree of this offering is limited. The claimed existence of the business since 2003 is unsubstantiated and aerial photography from circa 2006 evidences no designated compound. If such a use has persisted for the claimed period it has been merely incidental to the farm and unlikely constituted a material change of use. Withholding permission would thus not lead to the displacement of a significant or well established business.

This point aside the simple principles of planning policy point towards the proposal being unsustainable both in the eyes of saved Local Plan policies and the NPPF. The visual intrusion which arises is harmful to the intrinsic qualities of an agricultural landscape, and is totally unwarranted. Coupled with the highway safety concerns arising from the intensification of the use of an access with substandard visibility, the following recommendation arises.

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

### **Recommendation**

**REFUSE** permission for the following reasons:

1. The proposal would provide for piecemeal non-strategic encroachment in the open countryside introducing a visually prominent adjunct to the farmyard, stepping out from the existing envelope and introducing enclosures, equipment and paraphernalia on a scale which clearly disassociates it from the agricultural activity of the farm. The limited nature of the business and employment benefits arising are not considered to outweigh the presumption to protect and enhance the character and quality of the countryside, and the applicant has failed to demonstrate that this proposal is essential to a rural activity or is unavoidable in this location. The proposal therefore does not represent a balanced approach to sustainable development and is contrary to saved Environment Policy 1 of the South Derbyshire Local Plan 1998 ("the SDLP") and paragraphs 17 and 109 of the National Planning Policy Framework ("the NPPF").

2. The existing access would continue to serve for vehicular movements associated with agricultural activities whilst also serving for additional movements associated with the proposal. As a result it is considered that a material intensification in the use of the access arises. Emerging and forward visibility is constrained, particularly to the north-east, by hedgerows adjoining Bakeacre Lane, which is derestricted and observations indicate vehicle speeds of some 50 to 60mph. In the absence of speed readings to demonstrate otherwise, visibility splays extending to 215m either side of the access are required but it is apparent these cannot be achieved without removal of hedgerow and potential use of third party land. The applicant has not provided an accurate survey of the access and highway arrangements, nor confirmed control of further land to enable splays to be achieved and thereafter maintained. With intensification in the use of this substandard access the proposal is considered to introduce unacceptable risks to users of Bakeacre Lane to the detriment of highway safety. The proposal therefore fails to provide safe and suitable access for all users and is contrary to saved Transport Policy 6 of the SDLP and paragraph 32 of the NPPF.

Informatives:

Notwithstanding this refusal, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, offering the opportunity to resolve planning objections and issues and promptly determining the application. However despite such efforts, the planning objections and issues have not been satisfactorily addressed/the suggested information has not been supplied. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.