

Date: 11 March 2019

Dear Councillor,

**Planning Committee**

A Meeting of the **Planning Committee** will be held in the **Council Chamber**, Civic Offices, Civic Way, Swadlincote on **Tuesday, 19 March 2019 at 18:00**. You are requested to attend.

Yours faithfully,



Chief Executive

To:- **Conservative Group**

Councillor Mrs Brown (Chairman), Councillor Mrs Coe (Vice-Chairman) and Councillors Ford, Harrison, Muller, Stanton and Watson

**Labour Group**

Councillors Dr Pearson, Shepherd, Southerd and Tilley

**Independent / Non-Grouped Members**

Councillors Coe and Tipping

## **AGENDA**

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

- 1** Apologies and to note any Substitutes appointed for the Meeting.
- 2** To note any declarations of interest arising from any items on the Agenda
- 3** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 4** REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY) **3 - 54**
- 5** APPLICATION FOR AMENDMENT TO SECTION 106 AGREEMENT AT CHURCH ST CHURCH GRESLEY **55 - 58**
- 6** TREE PRESERVATION ORDER 502: THE BUNGALOW, COLLIERY LANE, LINTON **59 - 61**

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

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

# **REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)**

## **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, conservation area consent, hedgerows work, advertisement consent, notices for permitted development under the General Permitted Development Order 2015 (as amended) responses to County Matters and strategic submissions to the Secretary of State.**

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
9/2018/1306	1.1	Hartshorne	Woodville	5
9/2018/1384	1.2	Weston on Trent	Aston	18
9/2018/1276	1.3	Newhall & Stanton	Newhall & Stanton	29
9/2018/1395	1.4	Linton	Linton	43
9/2018/1322	1.5	Midway	Midway	48

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

1. The issues of fact raised by the report of the Strategic Director (Service Delivery) 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 Strategic Director (Service Delivery), 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

Ref. No. 9/2018/1306/NO

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

**Agent:**  
**Mr Andrew Dukesell**  
**DBD Architectural Consultancy Ltd**  
**50 Broad Street**  
**Leek**  
**ST13 5NS**

**Proposal: THE ERECTION OF AN AGRICULTURAL BUILDING WITH  
HARDCORE BASE AND ACCESS TRACK ON LAND TO THE REAR  
OF 45-49 MANCHESTER LANE HARTSHORNE SWADLINCOTE**

**Ward: Woodville**

**Valid Date: 29/11/2018**

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

This item is presented to Committee at the request of Councillor Kim Coe due to local concern that has been expressed about a particular issue.

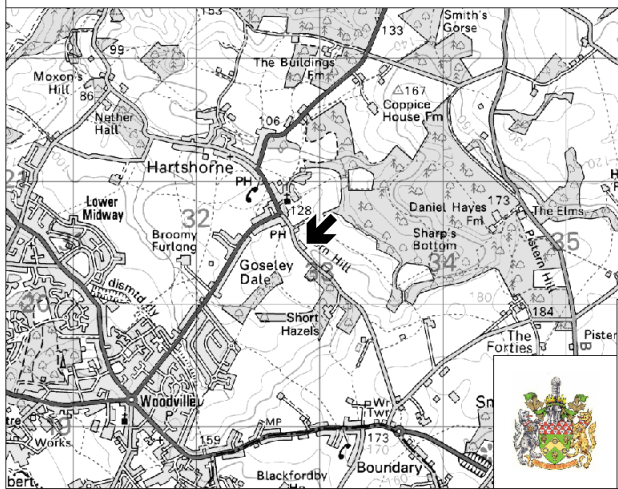
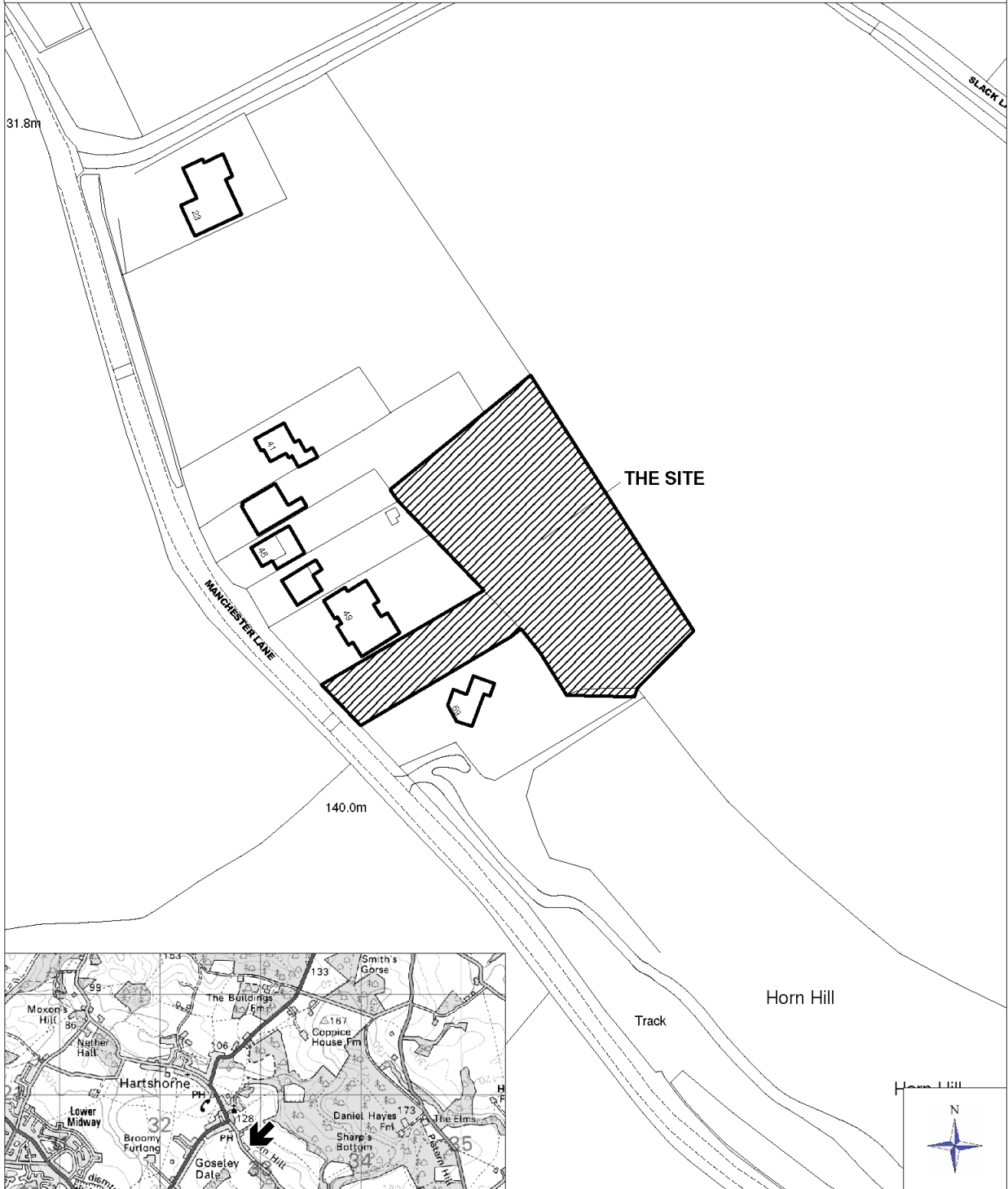
#### **Site Description**

The site comprises some 0.45 hectares of agricultural land lying to the rear of 45 to 59 Manchester Lane, forming a hammer shape. The principal part of the site which lies to the rear of the dwellings is broadly rectangular with the small part providing a linear corridor connecting to Manchester Lane by a second smaller area. The land is laid to rough grass. The larger area slopes steeply from the rear boundaries of the residential gardens towards a mature hedgerow on the eastern edge of the site (subject of a Tree Preservation Order (TPO)), where the land continues to fall beyond that across an arable agricultural field. The smaller area rises up from Manchester Lane and passes between numbers 49 and 59. A small section of hedgerow and a gateway exist at the interface with the highway (also the subject of a TPO).

#### **Proposal**

Consent is sought for the erection of an agricultural building to be used for agricultural storage, with improved access and an access track. Amended plans have been submitted which has significantly reduced the height of the building from the original proposal.

9/2018/1306 - Land to the rear of 45 - 49 Manchester Lane, Hartshorne, Swadlincote DE11 7BE



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## **Planning History**

- 9/2017/0342 The siting of four cabins for holiday accommodation and creation of associated parking, along with widening of access – Refused
- 9/2018/1184 The siting of four cabins for holiday accommodation and creation of associated parking, along with the widening of the access – Refused and dismissed at appeal in September 2018 on the grounds of harmful visual impact from the construction of the cabins.
- 9/2018/0920 The pruning of hawthorn trees covered by South Derbyshire District Council Tree Preservation Order number 472 (hedgerow to the rear of the site) – Refused, although an appeal has been made against this decision and is due to be heard at a hearing in May.

## **Responses to Consultations**

The County Highways Authority has raised no objection to the application subject to the inclusion of conditions relating to the required visibility splays and sufficient parking and manoeuvring space to be provided prior to the first use of the building.

There have been no objections raised by the Council's Environmental Health Officer/Contaminated Land Officer.

## **Responses to Publicity**

Hartshorne Parish Council has raised the following concerns/points:

- a) The size of the agricultural building would have a dominating effect on neighbouring residences. This will appear to be unnecessary large for the small size of the agricultural area and borders dwellings on Manchester Lane. A more suitable site of a smaller barn in the 'bottom' part of the land would be more suitable;
- b) The building and access track are a substantial area of impervious surface some of which is likely to direct run-off water towards the road (this has happened in previous years causing drains being blocked near to the Car Park on Manchester Lane);
- c) The access point is not suitable for large agricultural vehicles turning off a very narrow part Manchester Lane;
- d) This plot of land has over recent years been used for farming, a more appropriate agricultural use of the site is perfectly acceptable and in keeping with its setting;
- e) Concerns expressed that the 'Tenant' is over six miles away and therefore would not use the land on a regular basis; and
- f) Concerns were expressed at the proposed storing of expensive agricultural equipment without any suitable security in place.

Hartshorne Village Residents Association has raised the following concerns/points:

- a) Concerns that the proposed application would change the use to a brownfield site and would be a further attempt to change the site to holiday cabins. The application should be assessed in accordance with application 9/2017/0442 and 9/2017/1184;
- b) The farm that is five miles away is in a different name to the applicant;
- c) The site has never been mowed for fodder. This is not pasture or farmland and consists of a mix of coarse grass, nettles and rosebay willow;
- d) The site at 5100sqm is too small to support or sustain a flock of ewes and lambs and would be too small for rams outside of season;
- e) The proposed barn is enormous and is out of proportion for the size of the site. It is far too close to existing residences and will have a major detrimental visual impact on the environs of nearby Horn Hill, from which Hartshorne derives its name. If sheep were to be grazed, there would be no need for mowing;
- f) It does not make a sound economic business sense to have a barn on such a small site so far away from the parent far;
- g) The planning application contravenes every aspect and requirement of policy BNE7; and
- h) This does not appear to be a genuine farming activity.

There have been six letters/emails of objection that have been received, raising concerns/points which can be summarised as follows:

- a) It is understood that appropriate agricultural use of this site is in keeping with its setting and would ensure better maintenance of the land. However, whilst the land owner is a farmer, he has never used the site for agricultural purposes in the past, having vigorously pursued plans to develop holiday accommodation;
- b) There are a number of anomalies in the application. For instance: The landowner's address differs from the farm address. Land registry details a different owner of the farm from the applicant. The landowner has never previously used the site for agricultural purposes. The land has not been mowed annually;
- c) There are hedges related to the site. Two are protected and one is the subject of an appeal, which might have a bearing on this application;
- d) The measurements of the land differ from previous applications. Verge measurements are also inaccurate;
- e) The submission itself is weak and poorly supported. There is no substantial reason given for the necessity of using such a site so remote from the farm for the purposes described. It is short on farm business details, there is no mention of farm acreage, stock etc. The suggested usage is impractical as storage of expensive farm machinery, lambing, etc. is better close to farms. As well as, security, animal husbandry and travel would be problematic so far away;
- f) Although the attempt to minimise the impact on the important open nature of the site is appreciated, it is too close to residences. It is large and overbearing, standing higher than existing residences. Due to the sloping



- topography, the barn sides would equate to a six metre fence for some residences, blocking light and damaging residential amenity;
- g) It will be very visible from the nearby National Forest Way, even if the eastern boundary hedge is not laid. There are questions about its design being fit for purpose;
  - h) The proposed barn does not appear a typical agricultural build in terms of scale, particularly height, and form. Construction would usually be metal framed and much more open. The proposal drawings suggest a more enclosed build with foundations, less appropriate for moving machinery and housing sheep, but more suited for potential residential development;
  - i) There would be the risk environmental health problems with stock so close to residential housing. A smaller, more discreet building, such as the stables next to 59 Manchester Lane, would be more appropriate;
  - j) This is not really a necessary practical request. This land may have some agricultural potential, but it is too small and remote from a farm for a proposal of this type and scale. Given the recent planning history of this site it is feared that it is a means of gaining access and a suitable building for later development plans. However, the principle of agricultural use would be beneficial;
  - k) This application has very conveniently been put forward after two refusals of a Log Cabin application and an appeal. A Hearing of a TPO472 on a hedge to the rear of the land in question is also on the agenda during April/May 2019;
  - l) A decision made on this application would be a difficult one, due to planning policies S1, BNE4 and INF10 of the Local Plan Part 1 and Policy BNE5 of the Local Plan Part 2 of the previous applications and appeal. These policies seek to ensure that the districts landscape and rural character are enhanced, and character and local distinctiveness is protected against undue impacts. The latest appeal on the TPO 472 should be a priority and no decision should be made on this application until a decision has been clarified by the Inspector;
  - m) This application should be put on hold/delayed as the decision of TPO 472 is of the utmost importance in resulting the right decision for this application and for the residents of Manchester Lane, the Landscape and the National Forest way;
  - n) From the application the area of land is 0.45 hectares. The applicant states he wishes to use the land to grow grass, graze sheep, and mentions lambing. To enable him to carry out this operation he states he requires a closed barn in which to store a tractor, trailer and feed. The main farm unit is at Staunton Harold just over 5 miles away. There is no assertion that there is a lack of space at the main farm for storage of the vehicle;
  - o) According to the National Sheep Organisation this acreage, if productive grassland, will typically support stock densities of between six to ten sheep (this figure does not allow for the space taken by the barn and hard standing). This seems a small agricultural undertaking. There are several similar parcels of land in close proximity to the land in question which graze sheep and have lambing operations on this scale. Their buildings consist of small open sheds which store feed and offer shelter to the animals, whilst allowing light and ventilation for the animals;

- p) The agricultural necessity for a closed building of the proposed size should be questioned. A small building suitable for sheep rearing would lessen the degree of intrusion into the landscape, and would be congruous with the agriculture units in the immediate proximity. A smaller and more suitable building would also be much less expensive to build;
- q) To reach this unit from the main farm the tractor and trailer will have to negotiate Manchester Lane. I would expect the overriding need for this expensive equipment would be at the main farm (I cannot envisage that the profit from keeping 10 or fewer sheep would cover the maintenance of such equipment). The lane is narrow and visibility in some parts is poor. A tractor and trailer would block this lane to oncoming traffic. The lane is used as a cut through from Ashby. On average, over forty vehicles use the lane in one hour. The impact on the traffic flow would be significant;
- r) The barn at its highest point is estimated at 6.5 metres, although this measurement is not on the plans. The plans show the barn close to the boundary with the neighbouring properties. The land rises from those properties towards the proposed barn. This elevation is also not on the plans but the proximity of the barn and the elevation would increase the potential overshadowing of the existing properties;
- s) As it is proposed to use the barn for livestock management, the siting of the barn is likely to introduce pests into the neighbouring properties;
- t) It is questioned whether this application is in response to an agricultural need and not for the purposes of future speculative development;
- u) This planning Application is very contradictory to previous planning applications on this land. The description and size has changed considerably to suit the purpose of this application alongside other discrepancies. The land now measures 5100sqm, whereas the previous measurements 4517sqm;
- v) This site is now referred to as "farmland" whereas previously it was referred to "grassland & scrub & herbaceous weeds";
- w) The land is said to have been mown seasonally for livestock fodder whereas before the use was not known. Residents have lived here for thirty years and the land has only been mown for the purpose of the inspector for a recent Appeal. In previous applications the land was described as being "degraded form and not consistent with predominantly arable context";
- x) TPO 472 to the rear of the land, and TPO 477 at the entrance to the site are not mentioned on the application form. The widening of the access will affect TPO 477 and TPO 472 is now in the process of an Appeal;
- y) The last two major applications on Manchester Lane, South Derbyshire District Council stipulated a one and a half storey. This should still be implemented due to the area of outstanding natural landscape;
- z) On the site location plan, along the right hand side of the entrance, there seems to be outlined blocks but no mention of these on the planning statement. The Topographical survey is inadequate. It does not include houses No 45 & No 47. This barn resides to the rear of these premises and will have huge impacts due to the height of the barn, i.e. overshadowing, resident amenity, odour and vermin;
- aa) To house such a large tractor on an insecure site is impractical, particularly when the said farm is five miles away. This machinery would take up so much room in the barn there would be inadequate space for the housing of

- sheep and a food store. One also questions the health and safety of such machinery and silage stored under one roof, which would increase a fire risk;
- bb) The storing of different kinds of silage would not be suitable due to Government requirements and the building would not be able to accommodate these. This is also the case in terms of size requirements for lambing;
  - cc) The Council must seek to ensure that the privacy & amenity of existing occupiers are respected, as well as the character of the local landscape. Such a large scaled building as this would have a huge detrimental effect on the landscape and the residential amenity of local residents. Approval could set a precedent for further development on this site and additional impacts as in previous applications;
  - dd) This building that has been proposed is the type that would easily lead to a conversion in the future. Views from the National Forest Way are highly sensitive; the proposed building would be visible and noticeable;
  - ee) A recommendation for housing sheep is a much smaller open sided shelter. This would sit better in the landscape and would have no overbearing impact, as there is a land level difference of 1.5m from the site to Manchester Lane;
  - ff) It is incredible that such a building is being proposed when the reasons for refusal for far lower buildings in terms of height were supported twice by Planning Committee and at a Planning Appeal;
  - gg) Application 9/2017/0342 and 9/2017/1184 have been refused at the site for the harmful effect that the proposed buildings would have on the landscape;
  - hh) There are no other buildings of this type anywhere near this site. In a remote solitary location it will be an eyesore and inappropriate to the location;
  - ii) The applicant has been in dispute with the neighbouring farmer over the ownership of the Eastern boundary. It was in his interest to maintain the hedge high to hide his previous holiday cabin proposal. He asked for the TPO to be placed on that hedge to protect its height;
  - jj) A building of this size, especially located on the ridge of Horn Hill landform would form an alien feature and would be an intrusion into the countryside. It is considered that the building is far too large for this setting, and that it would overwhelm and dominate, the adjacent residential garden;
  - kk) The proposed building would be located within 50m of residential properties and the proposed building is not suitable to house livestock such as sheep due to the lack of ventilation and light. Given the distance from Old Parks Farm, it would be unsuitable to look after or attend sheep during lambing.
  - ll) It is believed that the applicant will attempt, in ten years time, to request the building be changed to a residential property;
  - mm) The ground level at the base of the proposed building is approximately 3.5m higher than that at the previously dismissed log cabin (Plot 4). The height of the proposed building is approximately 1.5m taller than the log cabin. Together with the 3.5m higher ground, this means that the proposed building would be approximately 5m taller (twice as tall) as the height the dismissed log cabin;
  - nn) Not sure to which surface water this refers to and the Local Planning Authority's (LPA) guidelines for the use of soakaways on the site. The drainage (foul and surface water) details should be shown in the application;
  - oo) The ownership certificate has not been signed correctly for the application;

- pp) The plans would require a removal of a TPO, the relocation of a speed bump with the only logical place for this outside of the current 30mph zone. This doesn't seem in proportion for an agricultural building, where there has been no agricultural need provided or backed up with a business case;
- qq) This is an application for a barn of 6.5 metres high, at the back of residential properties, with the justification that this has been done to lessen the impact of the build. This proposed position of this barn is not only as close to the residential properties at possible on almost the highest part of the site and therefore viable above the height of the hedge with a TPO on it so even more visible from the National Forest Way. The building would not only be visible from the National Forest way but also from the footpath running to Manchester lane from Goseley Wood; and
- rr) With the on-going misuse of the local carpark and recently reported drug taking in unoccupied entrances to Manchester lane properties, having such a large un-manned building to the rear of the properties could well increase the possibility of anti-social behaviour.

Following the submission of amended plans, there have been four letters/emails of objection raising the following concerns/points:

- a) Whilst the attempt to reduce the barn height is appreciated, there do not appear to be any dimensions attached and this building still appears to be overbearing;
- b) The applicant remains committed to his aims of getting residential planning permission within a green field area of Hartshorne. This completely ignores the views and wishes of residents and planning regulations;
- c) Local residents pay their council tax and expect the council employee's and elected councillors to act both professionally and in the true interest of the local community and not just the chosen cartels of individuals;
- d) Manchester Lane is a predominantly "Green Field" environment farmed by various local farmers none of which require a large driveway and remote barn facilities;
- e) Such remote barn facilities no matter what size will attract the criminal fraternity. Criminal activity will no doubt spread to the local residents properties;
- f) The area in question could easily be farmed with produce removed to the parent farm/barns. Hence such on site facilities cannot be justified should sheep be reared in this area of grassland would not support a large flock;
- g) At lambing time we normally associate this as requiring 24/7 on site presence, hence you would expect that toilet facilities would be required. The provision of a hard drive and barn facilities greatly reduces the area of farming land that could be used to provide a return on the investment required. Whilst the full area if farmed would provide only a modest return this return would be significantly reduced by the provision of the access drive to barn facilities, it is very doubtful that a solid business plan would support this investment other than a means to obtaining subsequent residential planning permission;
- h) Remain adamant that a building of this size, especially located on the ridge of Horn Hill land-form, would form an alien feature and would be an intrusion

into the countryside. The building is far too large for this setting, and it would overwhelm, and dominate, the adjacent residential gardens;

- i) It is difficult to extrapolate the applicants' willingness to re-position the log cabins away for the elevated part of the site, but is now proposing to erect an even taller building on one of the most elevated part of the site; and
- j) This application 'flies in the face' of HM Inspector's comments, and findings, and we respectfully ask the Planning Committee to refuse this application.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport) and INF8 (The National Forest);
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas), BNE6 (Agricultural Development) and BNE7 (Trees, Woodland and Hedgerows).

## **National Guidance**

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

## **Local Guidance**

- Design Guide Supplementary Planning Document (SPD)

## **Planning Considerations**

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

- Principle of development;
- Visual Impact;
- Impact on amenity; and
- Highway safety.

## **Planning Assessment**

### Principle of development

The site is located outside of the settlement boundary for the village of Hartshorne where policies BNE5 and BNE6 of the Local Plan recognise the need for buildings to serve rural based activities, such as agriculture and farming operations, that are unavoidable outside of such settlement boundaries. The policies therefore support the erection of the proposed agricultural building in principle as this would be essential to a rural based activity. However, this is provided that the proposed

building is proportionate in size for its intended purpose and that the proposed building is of an appropriate scale and design. Therefore, provided that the visual impact of the building can be adequately managed, it would be considered that the proposed agricultural building would be suitable.

### Visual impact

Policy BNE6 of the Local Plan recognises that agricultural buildings are unavoidable development within open, rural areas of the district and stipulates that a proposed agricultural building should be sensitively sited to ensure that it is close to existing agricultural buildings. This would be the only building on the site such that it could not be mitigated by the presence of existing buildings. The topography of the site and the heightened visibility of the site from the National Forest Way (NFW) were noted in the recent appeal decision relating to tourist accommodation. However, that scheme presented a different layout and character such that it is not appropriate to automatically apply the same outcome.

Concerns have been raised by local residents with regard to the visual impact of the proposal due to the height of the proposed building and the topography of the site, of which the proposed building would be positioned on higher ground and would be highly visible from the NFW. Amended plans have reduced the ridge height from 6.5m to 4.5m, and the proposed building is considered to be more proportionate to the scale of the site, minimising its visual influence in the area, and along with the incorporation of materials such as Yorkshire boarding it is considered suitable, complying with the principles of policies BNE1, BNE4, BNE5 and BNE6 of the Local Plan.

Concerns have also been raised regarding the outcome of previous application (ref. 9/2017/1184) and the subsequent appeal decision, and how the current application would contradict this outcome. However, as noted above, the assessment of the current application in comparison to that for tourism accommodation differs in principle, in that there is further scope for the erection of agricultural buildings within the open countryside, and that an agricultural building and multiple tourism lodges are not comparable in terms of scale, layout and overall character. A utilitarian building for agricultural functions is more 'appropriate' to the open countryside when compared against residences in the form of timber lodges. The assessments are therefore not comparable.

TPO477 is located to the front of the site along Manchester Lane and next to the proposed access and comprises a row of hawthorn trees along the frontage. Concerns have been raised with regard to the loss of the trees to accommodate the proposed access. However, these would be the same as what was assessed under the recent appeal, and it was concluded that whilst the group of trees would be affected; this would not impinge on the entirety of the group of trees and would not be harmful to character or appearance of the area and the integrity of the TPO. The proposed works would therefore not conflict with policies BNE3 and BNE7 of the Local Plan.

### Impact on amenity

Consideration is given to whether the proposal would be overbearing or detrimental on existing residents, and this has included the existing land levels as well as concerns with regard to farming operations being conducted so close to residential properties. However, the proposed building would be positioned in excess of 25m away from the rear of the nearest neighbouring residential property and would present no overlooking issues. There have been no objections raised by the Environmental Health Officer with regard to the proximity of the proposed agricultural building to residential properties, of which recent information from the applicant suggests that the building would be predominantly used for agricultural storage. On the basis of this, the proposal would comply with policy SD1 of the Local Plan.

### Highway safety

There have been no objections raised by the County Highways Authority, as the proposed access would be able to accommodate the required visibility splays and would create a safe and suitable access for vehicular and pedestrian road users which would comply with policy INF2 of the Local Plan. The nature of vehicles likely to utilise this access is not considered to compromise capacity on the wider network either.

### Other

Concerns have been raised by local residents that the proposal would pre-empt the Inspector's decision in respect of the proposed works to TPO472 – this being located to the rear of the site along the north and north eastern boundary. However, those trees would remain unaffected by this proposal owing to the distance between the row and the operational development proposed.

Concerns have also been raised with regard to the likelihood of the building being used for residential purposes in the future and that the site would be unfeasible for agricultural use. The application has been assessed as a building for agricultural purposes only. Future proposals must be considered on their merits at the time, if such a proposal is presented.

### Summary

It is considered that the proposal would be acceptable in principle and presents a materially different impact on the visual environs and character of the area to that which was considered by the Inspector under the recent appeal. The building would be of a nature which is appropriate to its rural setting. With the associated impacts on highway safety and residential amenities also considered acceptable, it is considered the proposal would be consistent with policies BNE1, BNE3, BNE4, BNE5, BNE6, BNE7, SD1 and INF2 of the Local Plan.

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

## Recommendation

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with plans/drawings ref. PL51A, PL52A and PL55C, 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 and in the interests of sustainable development.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, as amended, or any order revoking and re-enacting that Order with or without modification, the building shall be used for agricultural purposes in connection with the farming of the agricultural land within the agricultural unit only.  
Reason: The use of the building as part of another agricultural enterprise or for other uses could lead to the intensification in the use of the site to the detriment of the visual and aural amenities of the area.
4. Prior to the creation of the access, all existing trees and hedgerows on the site which are not to be removed in order to facilitate the development 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 positioned at the outer limits of the root protection area for each tree/hedgerow, as far as practicable, and retained in position until all building works on adjoining areas have been completed.  
Reason: To protect the trees/landscape areas from undue disturbance, noting that initial works could lead to unacceptable impacts.
5. Prior to their incorporation into the approved building 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 shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved materials.  
Reason: To safeguard the appearance of the existing building and the locality generally.
6. Prior to the erection of the building, to which this permission relates, the existing access to Manchester Lane shall be modified in accordance with the application drawings, laid out, constructed to industrial standard and provided with 2.4m x 42m visibility splay to the northwest and 2.4m x 50 visibility splay to the southeast, the area in advance of the sightlines being maintained clear



of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.

Reason: In the interest of highway safety.

7. The premises, the subject of the application, shall not be taken into use until space has been provided within the application site in accordance with the application drawings for the parking and manoeuvring of agricultural vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interest of highway safety.

8. There shall be no gates or other barriers within 10m of the nearside highway boundary and any gates shall open inwards only.

Reason: In the interest of highway safety.

9. The proposed access drive to Manchester Lane shall be no steeper than 1:30 for the first 10m from the nearside highway boundary and 1:12 thereafter and measures shall be implemented to prevent the flow of surface water onto the adjacent highway. Once provided any such facilities shall be maintained in perpetuity free from any impediment to their designated purpose.

Reason: In the interest of highway safety.

#### Informatives:

1. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport & Communities at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website [http://www.derbyshire.gov.uk/transport\\_roads/roads\\_traffic/development\\_control/vehicular\\_access/default.asp](http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp), email [ETENetmanadmin@derbyshire.gov.uk](mailto:ETENetmanadmin@derbyshire.gov.uk) or telephone Call Derbyshire on 01629 533190.
2. The Highway Authority recommends that the first 10m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner.
3. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
4. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

Item 1.2

Ref. No. 9/2018/1384/FM

**Applicant:**  
**Mr Gary Supple**  
**Glebe Homes**  
**20 Victoria Way**  
**Pride Park**  
**DE24 8AN**

**Agent:**  
**Mr Christopher Lindley**  
**Heatons**  
**9 The Square**  
**Keyworth**  
**Nottinghamshire**  
**NG12 5JT**

**Proposal: DEMOLITION OF EXISTING DWELLING AND THE ERECTION OF 3 NO. BUNGALOWS WITH RELOCATED ACCESS AT THE PADDOCK SWARKESTONE ROAD WESTON ON TRENT DERBY**

**Ward: Aston**

**Valid Date: 07/12/2018**

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

The item is presented to Committee at the request of Councillor Watson as local concern has been expressed about a particular issue.

#### **Site Description**

The 0.2 hectare site is located within the settlement boundary of Weston on Trent. The site currently comprises a large bungalow with first floor living space and several other outbuildings within the site. Most of the vegetation has been cleared from the site, although several mature trees at the front of the site and some vegetation along the boundaries still remain. There are neighbouring properties to the south and east, with all of the direct neighbours being bungalows.

#### **Proposal**

Full planning permission is sought for 3 dwellings replacing the existing dwelling on the site. The proposed dwellings are all bungalows of a similar style, with a pitched roof and gable feature at the front elevation of each. The proposed access would be off Swarkestone Road at the front of the site, similar to that of the existing access used. The 3 dwellings are located centrally within the site as a line, with the central plot having an integral garage and the 2 flanking plots having detached garages. There is open space at the front of the site with a driveway leading to each dwelling, and all each having a similar sized garden.



## **Applicant's supporting information**

The Ecological Impact Assessment concludes that the proposed redevelopment of the site would have no adverse effect on the favourable conservation status of any bat or protected species including barn owls. The presence of bats within the immediate area is noted and it is considered these bats do not use the site for any purpose and there would be no loss of potential roosting sites, foraging sites or foraging corridors as a result of the proposed redevelopment. No further surveys are required, no mitigation strategies are required and no licences are required from Natural England (Licensing Authority). Several recommendations have been made to enhance the site for possible wildlife gain.

The Planning Statement is submitted in support of the planning application for the erection of three bungalows within the current curtilage of a property known as 'The Paddock'. The site provides additional residential development on land which sits within the defined settlement boundary of Weston on Trent, a Key Service Village. It therefore, complies with Policy H1 of Local Plan Part 1, which lays out a principle for development to take place. The design and layout of scheme respects the existing form and characteristics of the village. In terms of impact on neighbouring residential amenities, the scheme has been carefully designed as such to limit impact to neighbouring dwellings including The Poplars and other existing residential dwellings within vicinity of the site. Therefore, the development adheres to Policy BNE1 of the LPP1 and the Council's Design Guide SPD. There are no technical constraints to the scheme in terms of highways and ecology which would give rise to adverse impacts on matters of acknowledged importance. Improved access arrangements are provided for pedestrians and vehicles within the proposed development. Furthermore, the site would be deliverable in the short term, would contribute to the supply of housing within South Derbyshire District and support the ongoing success of a small housebuilder. It summarises that the proposal is in accordance with Paragraph 11 of the NPPF and that the application should be approved subject to planning conditions where appropriate.

The Great Crested Newt (GCN) Management Plan/Mitigation Strategy proposes temporary GCN fencing and in doing so the segregation would prevent amphibians from entering the development plot and coming to harm. In addition 2 GCN hibernacula are proposed adjacent to/within the western boundary hedges (closest to pond 2) and outside the GCN barrier fence.

The GCN Reasonable Avoidance Method Statement (RAMS) concludes that it can be conditioned, as per the report, as part of any permission, to be carried out in accordance, prior to commencement and during any development of the site.

## **Planning History**

No relevant planning history.

## **Responses to Consultations**

The Highway Authority has no objections subject to conditions regarding access visibility sightlines, the width of the access, parking provision within the site and any gates being set back 6m within the site.

Derbyshire Wildlife Trust (DWT) advised that the bat assessment met guidance within Circular 06/2005 and, as such, sufficient information in relation to bats has been submitted to be reasonably confident that roosting bats will not be present and affected by the proposed development. However in the absence of any information in relation to the pond located 65m to the west of the application site, there were considered to be outstanding issues in relation to GCN that needed to be addressed prior to the determination of the application. The applicant submitted a GCN management plan/mitigation strategy and RAMS to the satisfaction of DWT, subject to ensuring that it is implemented via a planning condition.

### **Responses to Publicity**

Weston on Trent Parish Council has made the following objections/comments:

- a) The site is unsuitable for an increased number of dwellings;
- b) The proposed new access would be dangerous when entering and leaving the site;
- c) The access would be close to the bend where previous accidents have occurred;
- d) The proposed dwellings would not be in keeping with the existing dwellings;
- e) Parking concerns in regards to visitors and delivery vehicles; and
- f) Drainage issues would need to be addressed as there are problems with properties in Park Lane which the gardens would back onto.

3 objections have been received, raising the following concerns:

- a) The site is unsuitable for an increased number of dwellings;
- b) Drainage concerns as there are problems with properties in Park Lane which the gardens would back onto;
- c) Insufficient space on the site for drainage issues to be resolved;
- d) No demand for bungalows;
- e) The proposed housing density is out keeping with the rest of the village;
- f) Insufficient parking provision has been provided on the site;
- g) The lack of parking would result in people parking along Swarkestone Road which would be a highway safety concern;
- h) Sadly most of the hedges and vegetation have already been removed;
- i) Any wildlife on the site will have been destroyed;
- j) No footpath on that side of the road;
- k) Site access is in between 2 blind bends; and
- l) 3 properties on the site would appear cramped and not fit the street scene.

## Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H20 (Housing Balance), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness) and INF2 (Sustainable Transport).
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development) and BNE7 (Trees, Woodland and Hedgerows).

## National Guidance

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

## Local Guidance

- Design Guide Supplementary Planning Document (SPD)

## Planning Considerations

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

- Principle of development;
- Layout, scale and character;
- Highway safety and parking;
- Biodiversity; and
- Residential amenity.

## Planning Assessment

### Principle of Development

The site lies within the settlement boundary of Weston on Trent, which is defined as a key service village by Policy H1. This policy states that “*development of sites within the settlement boundary will be considered appropriate*”. As the site is located within the settlement boundary, development in this location is therefore considered to be appropriate and acceptable in principle. The explanation for Policy H1 states that the hierarchy is based on directing larger development sites to those areas which have a higher level of everyday services and facilities. This was informed by an assessment of services and facilities within the settlements and Weston on Trent was considered to fall within the criteria for a rural key service village. The proposal therefore complies with policy S6.

### Layout, scale and character

Policy BNE1 requires development to create places with a locally inspired character that respond to their context, be visually attractive and respect historic views and vistas. The proposed layout and house type is considered to reflect the character of the village, whilst the surrounding bungalows and the existing dwelling on the site also being a bungalow, are also emulated through the proposal. Several existing mature trees would be retained along the front of the site adjacent to Swarkestone Road and an open frontage to the development is proposed, similar to that of the existing dwelling. It is considered that proposal would therefore compliment the rural character of the site, and by setting the development back into the middle of the site and retaining the openness to the frontage; the visual link with the open countryside to the west of the site would not be lost.

The proposed external materials of the dwellings are considered appropriate for its rural setting on the edge of the settlement boundary, further window and verge detailing would be ensured through a planning condition, including the need for arched segmental headers to the principle window on each gable projection, helping to provide a more traditional character and high quality design.

The proposed scale, being single storey only, takes account of the scale of existing adjacent dwellings. The layout and scale is considered to respond to its context and retains the openness of the site in keeping with the character of the village, in accordance with policy BNE1 and the SPD.

### Highways safety and parking

Policy INF2 requires appropriate provision for safe and suitable access to and within a development. Vehicular access for the site is proposed at the front of the site via a proposed new, but relocated, access off Swarkestone Road. The Highway Authority considers sufficient visibility can be achieved at the access of 2.4m x 39m in the easterly direction and 2.4m x 53m to the west. An additional plan was submitted to ensure that these distances could be achieved. It is noted that the Highway Authority have raised no objections to the proposal. It is considered that sufficient space has been proposed within the site to ensure adequate parking provision, compliant with the parking standards as set out in the SPD. Additional vehicle movements generated by the proposal are unlikely to have a negative impact on the capacity of the wider highway network, as a result of the increase in dwellings on the site from 1 to 3. As such the access is considered suitable enough to facilitate 3 dwellings and would not adversely impact on highway safety to a point where it would reasonably justify refusal of the application, it therefore complying with the requirements of Policy INF2.

### Biodiversity

It is noted that clearance of vegetation and trees has already begun on the site, to the potential detriment of biodiversity that may have existed. However, as the site is presently a domestic garden outside of a conservation area and with no Tree Preservation Orders (TPOs), this work would not require consent. In response to this application being submitted, Derbyshire Wildlife Trust (DWT) was consulted upon to

assess the impacts on the site and the supporting documents received. Throughout the consultation period, the applicant has been required to submit further information to ensure that there is no harm to protected species as a result of the development. The resultant RAMS document submitted, resulted in their being no objections from DWT subject to the RAMS being implemented prior to development, which would be ensured via a planning condition. Additional landscaping could be secured under condition too. As such it is considered that the proposal would comply with Policy BNE3.

### Residential amenity

Policies SD1 and BNE1 require the impacts of the development on the residential amenity of neighbouring properties to be assessed, with the SPD stipulating minimum distance requirements between windows. When assessing the potential impacts on surrounding neighbours of the site, it should be noted that all 3 bungalows are single storey only with no first floor windows or living space proposed. Typically this would satisfy the requirements of the SPD subject to adequate boundary treatments. However in this case, the ground levels to the rear of the site fall away considerably, therefore when making an assessment against properties at the rear the proposed dwelling could be considered as two storey development.

When measuring the distance from the proposed rear elevations, primary windows of properties to the rear along Park Lane, the separation measures in excess of 30m to each property, comfortably meeting the greatest separation requirement of 21m. When assessing against the 2 existing bungalows south-east of the site, numbers 2 and 4 Park Lane, the distance is closer but also measures in excess of 21m within the 45 degree sector view from the rear primary windows, with there also being considerable vegetation providing an additional buffer.

When assessing against The Poplars, Park Lane, the closest property to the east, the separation is 9m from the proposed blank elevation of plot 3 to the ground floor primary window, with the SPD specifying 12m. However the difference in levels between these 2 points is minimal and not considered to be enough for plot 3 to be considered to have the equivalent impacts of two storey development, therefore satisfying the requirements of the SPD.

When assessing the impacts between the proposed dwellings on each other, they are all set on approximately the same level, and with the addition of sufficient boundary treatments there is considered to be no harmful impact. As such it is considered that the proposed dwellings would not demonstrably impact the residential amenities of neighbouring properties, in terms of overbearing and overshadowing and therefore they would be compliant with policies SD1 and BNE1 along with the SPD.

### Summary

The proposal is considered to be appropriate development within the settlement boundary of Weston on Trent and therefore compliant with the strategy of the Local Plan for delivery of housing, with the layout and scale reflecting the character of the surrounding area and retaining the open character of the site. The proposed access



is considered adequate in terms of visibility and the planning layout indicates sufficient parking and turning can be accommodated for each dwelling. In addition there is considered to be no harmful impact on the amenity of neighbouring properties.

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

## **Recommendation**

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with Drawing No.'s 100, 101 Rev A, 102 Rev A, 103 and 104 received on 7 December 2018 and Drawing No. HAS/18-032/02 Rev E received on 13 February 2019 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 and in the interests of sustainable development.
3. Prior to the first occupation of any dwelling hereby permitted, the new access shall be formed to Swarkestone Road. The access shall have a minimum width of 4.8m, be constructed as a splayed vehicular crossover and be provided with visibility sightlines of 2.4m x 39m in the easterly direction and 2.4m x 53m to the west. Notwithstanding the approved drawing, the sightline to the west shall also be taken tangentially to the nearside carriageway edge on the outside bend in the road. The area forward of the sightlines shall be cleared and maintained throughout the life of the development clear of any obstruction exceeding 600mm in height relative to the nearside carriageway edge.  
Reason: To ensure safe and suitable access for all users, in the interests of highway safety.
4. Prior to the first occupation of any dwelling hereby permitted, the existing vehicular/pedestrian access to Swarkestone Road shall be permanently closed off and the existing vehicular crossing reinstated as footway in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing

that Order, the measures to close off the access shall be retained as approved throughout the lifetime of the development.

Reason: To ensure safe and suitable access for all users, in the interests of highway safety.

5. Prior to the first occupation of any dwelling hereby permitted, the car parking and manoeuvring space shall be laid out in accordance with the approved drawings and maintained throughout the life of the development free of any impediment to its designated use.

Reason: To ensure adequate parking and turning provision, in the interests of highway safety.

6. Any gates shall be set back at least 6m as measured from the nearside edge of the carriageway.

Reason: To ensure safe and suitable access for all users, in the interests of highway safety.

7. The development hereby approved shall be carried out in accordance with the measures contained within the submitted approved Reasonable Avoidance Measures Method Statement by Wildlife Consultants Limited dated 4 March 2019.

Reason: In order to safeguard protected and/or priority species from undue disturbance and impacts, noting that initial preparatory works could have unacceptable impacts.

8. Prior to their incorporation in to the buildings hereby approved, details of the eaves, verges, cills and lintels shall be submitted to and approved in writing by the Local Planning Authority. The details shall include drawings to a minimum scale of 1:10 and also include a segmental arched header to the window of each projecting gable of each bungalow. The eaves, verges, cills and lintels shall be constructed in accordance with the approved drawings.

Reason: In the visual interest of the buildings and local distinctiveness.

9. Each dwelling shall be constructed and fitted out so that the estimated consumption of wholesome water by persons occupying the dwelling will not exceed 110 litres per person per day, consistent with the Optional Standard as set out in G2 of Part G of the Building Regulations (2015). The developer must inform the building control body that this optional requirement applies.

Reason: To ensure that future water resource needs, wastewater treatment and drainage infrastructure are managed effectively, so to satisfy the requirements of policy SD3 of the Local Plan.

#### Informatives:

1. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport and Communities at County Hall, Matlock regarding access works within the highway. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website [www.derbyshire.gov.uk](http://www.derbyshire.gov.uk), email [Highways.Hub@derbyshire.gov.uk](mailto:Highways.Hub@derbyshire.gov.uk) or telephone 01629 533190.

2. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner.
3. Pursuant to Section 127 of the Highways Act 1980, no work may commence within the limits of the public highway to close any redundant accesses and to reinstate the highway margin without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 127 Agreements may be obtained by contacting this Authority via email - [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 127 Agreement.
4. The developer is strongly encouraged, as part of the delivery of properties on the site, to provide full fibre broadband connections (i.e. from streetside cabinet to the property). Further details of initiatives to support the provision of full fibre connections as part of broadband installation at the site can be obtained from Digital Derbyshire on [broadband@derbyshire.gov.uk](mailto:broadband@derbyshire.gov.uk) or 01629 538243.
5. The applicant and/or developer is reminded of the Council's responsibility to issue official addresses for all residential and business premises within South Derbyshire. All new addresses are allocated in line with our street naming and numbering guidance (search for 'Street naming and numbering' at [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk)) and you are advised to engage with the Council as soon as possible to enable the issuing of street and property names/numbers created by this development. Any number and/or property name that is associated with identifying individual properties must be displayed in a clear, prominent position that can be read from the roadside. It is the developers' responsibility to erect the appropriate signage once the build(s) is/are ready for occupation. There are two types of the name plate the Council uses: Type A carries the Council's crest, whilst Type B does not. You are advised that the Types are usually expected in the following locations:
  - Type A: on classified (A, B and C) roads, at junctions with classified roads, and at the commencement of local distributor roads (roads acting as through routes within developments);
  - Type B: intermediate name plates along local distributor roads, on collector roads (roads which run within a development providing access and linking small access roads and access ways), on access roads (roads serving a small number of houses which may also have a surface shared by pedestrians and vehicles), and access ways which have a different name from their access road; all unless at a junction with a classified road (where Type A will be expected instead).Further advice can be found online at [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk) or by calling (01283) 228706.
6. For the use or re-use of sewer connections, either direct or indirect to the public sewerage system, the applicant/developer/owner will be required to make a formal application to Severn Trent Water Ltd under Section 106 of the

Water Industry Act 1991. Copies of current guidance notes and the application form may be obtained from [www.stwater.co.uk](http://www.stwater.co.uk) or by contacting the New Connections Team on 0800 707 6600.

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

**Item**            **1.3**

**Ref. No.**        **9/2018/1276/RM**

**Applicant:**  
**A Gilliver**  
**Avant Homes**  
**c/o Agent**

**Agent:**  
**Mrs Amy Smith**  
**Pegasus Group**  
**4 The Courtyard**  
**Church Street**  
**Lockington**  
**DE74 2SL**

**Proposal:**    **APPROVAL OF RESERVED MATTERS OF OUTLINE PERMISSION REF. 9/2014/0888 FOR THE ERECTION OF 400 DWELLINGS WITH ASSOCIATED CAR PARKING, LANDSCAPING AND INTERNAL ACCESS ROADS ON LAND AT SK2819 1873 (SITE C) WILLIAM NADIN WAY SWADLINCOTE**

**Ward:**            **Newhall and Stanton**

**Valid Date:**   **23/11/2018**

**Reason for committee determination**

The item is presented to Committee as the Council has an ownership interest in the site.

**Site Description**

The application site comprises four parcels of land which would be serviced off the recently approved roundabout and spine road (reserved matters approval ref. 9/2018/0812). The parcels have a combined area of 10.6 hectares and form part of the wider site, known as 'Site C' William Nadin Way. The wider site has an area of 26.8 hectare (gross) and is situated on the northern side of William Nadin Way. The site is adjacent to the south-eastern edge of Newhall, and Swadlincote town centre is approximately 1km to the south-east.

Site C is roughly rectangular in shape and is adjoined by Oversetts Playing Fields and existing housing to the north, a new housing estate to the east and a proposed urban park to the west. Further to the west is the driving range and golf course. Opposite the site, across William Nadin Way, are large industrial and warehouse buildings.

A local wildlife site known as the Breach Leys Farm Meadow County Wildlife Site is situated in the north eastern part of the site and Darklands Brook runs along part of the eastern boundary of the site, before continuing along the sites frontage, parallel with William Nadin Way.



The levels range from 83m AOD within the northern portion of the site to 73m AOD along the southern boundary. Historically (between 1992 and 1998) the site formed part of an opencast coal mine. Following this the land was remediated and returned to grassland with woodland areas. There are two watercourses and four ponds on the wider site.

## **Proposal**

Reserved matters approval is sought for the layout, appearance, scale and landscaping of the four parcels of proposed residential land. Cumulatively these parcels would provide the 400 dwellings approved under the outline consent. As mentioned, details of the site access, the spine road and strategic and public open spaces have been approved under the outline and the subsequent reserved matters application (further detailed within the planning history section below).

Phasing of the site is also set out and has been approved. It is proposed to deliver the site in four phases, these are as follows:

- Phase 1 – wildlife and drainage areas;
- Phase 2 – 125 dwellings on the south-eastern parcel with the central landscaped area;
- Phase 3 – 185 dwellings on the two parcels west of the spine road with the natural play area in between; and
- Phase 4 – 90 dwellings on the northern parcel, with the urban park and Oversetts recreation ground developed by other parties.

The section 106 agreement (secured at outline) requires the provision of 16.5% affordable housing. This equates to 66 dwellings. The agreement proposes a tenure split of 68% social rent and 32% intermediate. The layout of the affordable housing will be considered as part of this reserved matters submission.

## **Applicant's supporting information**

The Planning Statement that accompanied the outline application 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. This can also be applied to the current application for 400 units. The Masterplan which accompanied the outline application demonstrates that the site has been considered alongside other surrounding development and open space enhancement opportunities. As part of the reserved matters application, a mix of house types have been provided across the development sites, which complement each other. This also includes 66 affordable housing dwellings, with a Registered Provider contracted to manage these units.

There are also new pedestrian and cycle links proposed within the site which would connect to existing networks, and additional linkages provided between residential areas and the new areas of public open space. The wider proposals incorporate more than 22.31 hectares of new public open space and National Forest planting including a Locally Equipped Area for Plan (LEAP). It is concluded that the development accords with the Local Plan where it is consistent with the NPPF.

Furthermore the proposal constitutes sustainable development and delivers a wide range of economic, social and environmental benefits.

A Statement of Compliance has been prepared to enable the correlation and corroboration of the outline Design and Access Statement (DAS). The statement of Compliance, in conjunction with the DAS, lists the relevant planning policies that are pertinent to the development, with policy H2 taking precedence in informing the proposed layout. The statement also states the access is as per the outline submission, and the approved infrastructure works determined under application ref. 9/2018/0812. The wider infrastructure and access incorporates footpaths to both sides of the 6m wide spine road which are both to be 3m wide leading off the main roundabout, decreasing to 2m wide along the extent of the spine road. Access roads to facilitate the proposed development are proposed off the spine road, creating a permeable and cohesive development that enables good surveillance over both streets and routes within the development, inclusive of all road users, whilst maintaining broad accordance with the indicative vehicular and pedestrian routes as shown on the outline concept masterplan.

As outlined within the Statement of Compliance, the main access spine route's primary character is defined by green spaces separating the route from dwellings, punctuated by landscaping and proposed trees. Beyond the spine route, the proposed dwellings are predominantly 2-storey, with the use of occasional 2.5 storey dwellings to denote key locations on primary routes. There is also a mix of integral garages, single detached and double garages.

Along the main spine route, properties have been located at junctions to create gateway features into the parcels. Throughout the development, where properties address to two roads, these have been designed to be double fronted dwellings facing both roads to address both street frontages. A study of the local vernacular has been undertaken to inform the designs and the landscaping strategy further enhances and accompanies the approved structural landscaping. The statement has assessed the character of properties within the District and has incorporated features found in the area into the proposed properties such as splayed brick heads, traditional porches and chimneys in key locations.

The Flood Risk Assessment and Drainage Strategy as received at outline (ref. 9/2014/0888) 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 (i.e. < 0.1%). The southern and eastern areas of the site are located within Flood Zone 2 and 3, associated with the Darklands Brook. The residential development has been restricted to Flood Zone 1. SuDS features are proposed as part of the approved reserved matters covering the wider site drainage, and this would provide water management at source and conveyance routes together with water quality and biodiversity benefits. 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 Tree Survey Arboricultural Assessment, as received with outline application has been followed as part of this reserved matters application, with retained trees and hedges incorporated and enhanced within the scheme.



## Planning History

- 9/2018/0812 Approval of reserved matters for access, layout, scale, appearance and landscaping of outline permission ref. 9/2014/0888 in so far as the access roundabout, spine road, green infrastructure, open space and drainage – Approved 06/12/2019
- 9/2014/0888 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 erection of changing facilities, new urban park, landscaping, associated drainage infrastructure (including suds), and creation of pedestrian and cycle ways – Approved 29/06/2018

## Responses to Consultations

The County Highways Authority originally stated that the swept path analysis was not acceptable and provided reasoning for this. Amended swept path analysis details have been provided to address the concerns raised. These are currently subject to re-consultation and any comments received will be reported verbally to the Committee.

The Police Designing Out Crime Officer originally raised various concerns relating to a number of plots and house types. Through the submission of the amended plans the majority of the original concerns have been addressed. The two outstanding comments relate to the absence of fenestration to the side of the dwelling on plot 31. This detail was requested to ensure an element of surveillance to the adjacent parking court. Although this detail hasn't been provided, direct access has now been provided to the parking court from the dwellings they would serve and it has been agreed that additional lighting details would be secured for the area. This matter is further appraised within the main body of the report. The final comment relates to the absence of fenestration to the side elevation of some of the affordable housing units. On the basis of the internal layout, which has been agreed with the Registered Provider, it has not been possible to introduce habitable room windows to the side elevations of the dwellings in question. Notwithstanding this, an element of surveillance would be secured from the landing window within the side elevation of the dwellings and the public rights of way and open spaces that these properties would be adjacent to would also be surveilled by other nearby dwellings.

The National Forest Company (NFC) has commented that the proposed landscaping plan would provide a limited variety of trees on-plot which would reach a small mature size and consider that the species mix should be increased to secure greater resilience. They have also noted that there are parts of the site which do not benefit from any landscaping, which should be addressed. It has further been identified that not all landscaping opportunities have been capitalised on, and suggestions have been made on how this could be overcome. Comments have also been made in relation to the orientation of some plots, but amendments are under consideration at the time of writing. Finally the NFC note that where side elevations and brick walls face on to open space, insufficient landscaping has been provided to soften the

transition between the built and natural environment. Revised landscaping plans have been provided to address the concerns raised and any additional comments received will be reported verbally to the Committee.

The Strategic Housing Manager has objection to the scheme on the basis of the open plan layout of the 2 and 3 bedroomed affordable housing units. Concerns are raised that these would be family sized homes and that it would not be suitable for such properties to have a single ground floor room and that the layout would not be conducive to family living. Concern has also been raised that the dwellings would be more problematic to let. This matter will be further appraised within the main body of the report.

### **Responses to Publicity**

None received.

### **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), H2 (Land north of William Nadin Way), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF7 (Green Infrastructure), INF8 (The National Forest) and INF9 (Open Space, Sport and Recreation).
- 2017 Local Plan Part 2 (LP2): SDT1 Settlement Boundaries and Development) and BNE7 (Trees, Woodland and Hedgerows).

### **National Guidance**

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

### **Local Guidance**

- Design Guide Supplementary Planning Document (SPD)
- Affordable Housing SPD

### **Planning Considerations**

The site is within the settlement confines of the Swadlincote Urban Area and forms part of a strategic allocation in the LP1, under policy H2. This allocation allows for up to 600 dwellings. The site subject of this reserved matters application is the largest of three sites and is known as 'Site C'. 'Site A' is for 68 dwellings, located off Park Road, Newhall and 'Site B' is for 132 dwellings situated on Woodland Road, Stanton.

The outline permission requires the submission of certain details alongside each reserved matters submission (in so far as relevant to that submission), including:

- a. The design of the internal layout of the site in accordance with the guidance contained in the 'Manual for Streets' document; and
- b. Landscaping details that accord with the Landscape Strategy set out in section 5 of the outline Design and Access Statement.

Policy H2 also requires:

- i. That the site be considered holistically with other development and open space enhancement opportunities;
- ii. A mix of dwelling types shall be provided across the three parcels of land which complement each other;
- iii. The provision of recreational and community facilities;
- iv. 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;
- v. An appropriate buffer in agreement with the Council to be placed around the Breach Leys Farm Meadow County Wildlife Site;
- vi. An appropriate easement along watercourses on the site free of built development;
- vii. Provide high quality cycle and pedestrian links both within the development and connecting to existing and proposed networks, including NCN63 Burton to Leicester route; and
- viii. Developer Contributions to be made towards the provision of a new Household Waste Recycling Centre in the Swadlincote area.

With the principle of development established, matters relating to the impact on local services and facilities, ground conditions, ecology and flood risk have all been previously considered acceptable, subject to conditions and/or obligations. Furthermore, reserved matters consent has also been granted for the access roundabout, spine road, green infrastructure, open space and drainage.

The focus under this application is therefore primarily on the reserved matters applied for and in so far as the 'subject' areas of the site (i.e. the residential parcels). However, consideration will also be had of whether the scheme is compliant with the requirements stipulated as part of the outline consent.

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

- Layout of the housing parcels;
- Scale and appearance of the dwellings; and
- Landscaping.

## **Planning Assessment**

### Layout of the housing parcels

Policy BNE1 requires new development to be well designed, to embrace the principles of sustainable development, to encourage healthy lifestyles and enhance people's quality of life by adhering to design principles relating to community safety,

street design, movement and legibility, diversity and community cohesion, ease of use, local character and pride, National Forest, visual attractiveness, neighbouring uses and amenity, healthy lifestyles and resource use. In addition proposals for new development are also assessed against the Council's Design SPD.

Throughout the course of the application various amendments have been secured to the layout of the individual housing parcels to ensure that they adhere, as far as is practical, both with the design criteria as set out within Policies BNE1 and H2 and the SPD. The application proposes four parcels of residential development. These would be served by the previously approved spine road, which has been influential in the layout of the housing parcels. The spine road would dissect the site, resulting in one parcel of residential development being to its east, two parcels to its west, and the final parcel being sited to its north. To promote connectivity between the parcels, each would be linked through a range of designated footways. These public rights of way would also link the parcels of residential development with the surrounding green infrastructure and the existing residential development further north and east.

In terms of the specific layout of each parcel of development, the siting of properties would follow the principles of perimeter block development; whereby dwellings would address the street, thus providing active frontages and opportunities for natural surveillance and their private amenity space would be inward facing, to ensure security. To the perimeters of each parcel, dwellings have been orientated to ensure views over the adjacent areas of public amenity land and routes, and where properties occupy corner plots, they have been designed as 'dual fronted' to ensure surveillance in both directions.

The status of the primary route would be defined by the tree lined boulevard secured as part of the former reserved matters application. This would create a strong sense of enclosure and would aid legibility. To either side of the carriageway predominantly detached dwellings, set back by private drives, would follow the alignment of the street and properties would occupy a continuous building line. This layout would further re-enforce the status of this route. Leading from this primary route would largely be cul-de-sacs of secondary streets. Such streets would be narrower in width and key junctions would be finished in varied materials. The proposed street design would naturally promote traffic calming, encourage multi-use and signal a change in character from that of the more formally laid out primary route. Where possible key views would be terminated by an elevation or mature tree specimen, and focal points have been created through dwellings being sited closer to the pavement edge. This layout would promote a stronger sense of enclosure, as illustrated by the layout of plots 139–141 and 186–188, and an additional focal feature has been created through the crescent of development fronting onto the 'green' feature bounded by plots 76–81. A number of tertiary streets comprising of private drives would be sited towards the perimeters of the development, or where development would front public open space and a softer approach to surfacing material is required. They would also serve to minimise vehicular movements in these areas.

Achieving the required parking provision in accordance with the SPD has been a challenge for this site. The quantum of provision is not of issue – it is the manner of provision. Improvements have however been secured through the submission of amended plans and whilst still not ideal, the final layout is considered an acceptable

compromise in this case. Parking has been mainly sited adjacent to dwellings, but where this has not been possible, frontage parking has been broken up and its appearance softened through the incorporation of additional soft landscaping or a change in surface material. Throughout the development there are also a number of examples of tandem triple parking. This parking layout is discouraged within the SPD, however when weighing up the alternative, which would involve further expanses of frontage parking with little in the way of soft landscaping, on balance, this solution to achieving the required parking provision is considered preferable.

A rear parking court is also proposed to the rear of plots 32–34, which if inappropriately designed could also lead to antisocial behaviour. In this instance however, there would be direct access from this area to the dwellings it would serve. This would ensure it would be convenient to use and the area would also benefit from appropriate lighting (secured by way of condition) and landscaping. The parking court would also be overlooked by a number of dwellings adjacent to its remaining boundaries. On balance, although this parking solution is not ideal, given that there would only be one example of such, and on account that it has been designed to minimise potential issues as far as possible; its inclusion would be acceptable in these circumstances. Elsewhere, the majority of parking provision would be within close proximity and would be overlooked by the dwellings they would serve, and where parking is slightly detached, it would continue to benefit from a degree of natural surveillance. Furthermore, it would also be ensured that such spaces would be well lit, as a means to deter potential anti-social behaviour.

The layout promotes an even dispersal of property types, ensuring interest to the street and avoiding property clusters, whilst the 66 affordable housing units would be well spread throughout three of the four parcels of development proposed (in line with the clustering requirements of the SPD). The general orientation and siting of properties would also ensure that occupiers of the development (and the existing residential development to the north) would benefit from suitable levels of privacy and would not be overshadowed, in accordance with the SPD.

Overall the layout of the housing parcels would result in a legible, well-connected and inviting development and in this regard would be consistent with the intentions of policies BNE1 and H2, the SPDs and the overarching principles of the NPPF.

#### Scale and appearance of the dwellings

Policy BNE1 requires development to be well designed, with more specific guidance on how this is to be achieved, provided within the Design SPD. The house types as originally proposed have been subject to amendments to ensure they are as locally responsive as possible, in accordance with guidance set out in the SPD. That said, it has not been possible to secure all the amendments; and such circumstances will be further appraised below.

The scheme proposes a mix of two-storey and two-and-a-half storey properties; however two-storey properties are dominant. This variety provides interest to the roofscape and also serves to break up stretches of two storey semi-detached properties. To safeguard residential amenity, building heights have been restricted to two storeys along the northern boundary, where new housing is proposed that backs

on to the existing housing of Meadow View Road and Meadow Lane. The scale and massing would also be reflective of the local residential character and the existing site features. The dispersal of house types throughout the development further reinforces the hierarchy of streets and the specific character of individual parcels of development, and through proposing a good mix of dwelling and tenure type, there would be increased likelihood of properties being occupied during different parts of the day (so as to increase opportunities for natural surveillance).

In terms of their design, the dwellings take on a predominantly traditional appearance as a result of their specific architectural features and proposed materials. Overall the dwellings would appear well balanced, and would generally have a symmetrical appearance. This approach results in an aesthetically pleasing form of development. Further detail has been incorporated including chimneys and rendered panels on key plots, which provide end stops and focal points and more generally, decorative brick detailing, including brick string courses, a variety of header and cill finishes, ground floor bay windows (of varying design) and porches (of varying style) finished in high quality materials have been proposed. Fenestration has also been set within a reveal, as common within traditional forms of architecture. Utility boxes have been re-sited to either the side/rear of dwellings or, where practical, have been grounded. Where this has not been possible these features would be colour matched to that of the proposed brick. Concerns have been raised in relation to the off-set position of fenestration within certain house types. Further justification has been provided to clarify this and, on balance, this issue alone would not be fundamentally detrimental to the design overall.

The Strategic Housing Manager has raised concerns over the ground floor layout of the 2 and 3-bed affordable dwellings, in that these properties would have an open plan layout and so would not be suitable for family occupancy. Whilst these concerns are acknowledged, in terms of the internal layout for affordable dwellings there is no criterion within policy H21 to prevent this and no further stipulation in this regard is contained within the Affordable Housing SPD or its Annex 2. One must also have regard to the wider national trend towards a preference of open plan living, and this is not essentially a matter which the planning system should concern itself with. On account of this, and given that a Regional Provider has been secured who is satisfied with the layouts proposed; there would be no policy basis on which to object to the scheme in this regard.

Where gardens face onto the street they are to be enclosed by curved brick walls set back from the building line, so to ensure such features remain subservient and to allow for additional planting to their frontage. Whilst the general approach to boundary treatment has been agreed, specific details for certain plots remain outstanding. In addition, the finishes for eaves and verges have also to be agreed. To secure such details, an appropriately worded condition is proposed. A palette of three brick types has been proposed. These are traditional in their texture and colour and are considered to compliment and reinforce the character of the development. On this basis they are considered acceptable. The proposed roof tile is yet to be agreed given the current proposed solution is not reflective of local vernacular and the SPD aspirations; however the submission of such details is conditioned on the outline consent.

In terms of scale and appearance the proposal is considered to accord with policies BNE1 and H2, the requirements of the outline consent, the aspirations of the Design Guide SPD and the principles of the NPPF.

### Landscaping

Policy BNE1 seeks, amongst other objectives, to ensure that new development creates places with locally inspired character that respond to their context and have regard to valued landscapes, townscape, and heritage characteristics. Landscape character and local distinctiveness considerations are further set out in policy BNE4, and policy INF9 seeks to ensure both sufficient and high quality green space and recreation facilities.

As mentioned, the strategic green and open spaces along with the larger areas of recreational ground and their landscaping have been approved under the previous reserved matters consent. This reserved matters application is therefore solely concerned with the landscaping of the individual plots and the estate roads and the margins of the site.

The landscaping plans have also been subject to various revisions. Additional tree planting has been proposed throughout the site; and to the perimeters of the development where the residential parcels would be adjacent to the various areas of open space, wildflower grassland has been proposed. This grassland would serve to soften the edge between the built development and the natural environment, would enhance overall biodiversity and would help emphasise the sites position within the National Forest. Where possible, existing landscape features, including trees and hedgerows are to be protected and preserved as part of the development. Where individual plots are adjacent to the highway, the intervening land would be subject to various landscape solutions. These would comprise of ornamental shrub planting, the planting of specimen trees, or grassed areas enclosed by ornamental hedges. Key plots however would be more heavily landscaped and may combine a combination of landscaping solutions. Throughout the development additional soft landscaping, including tree planting, has been incorporated as a visual break to expanses of frontage parking and to soften the appearance of built development on key plots and end stops. At key junctions within the development, sections of the streets are proposed to be finished in paving. This variation of material would aid legibility, reinforce the status of the route and would also result in traffic calming.

Overall the proposed landscaping is considered to be an appropriate response to developing the site taking into account the existing natural features and the surrounding area and would ensure an attractive development is provided. In this regard the development is therefore considered to comply with the requirements of policies BNE1, BNE4, H2 and INF9 of the Local Plan, the Design SPD and the overarching principles of the NPPF.

### Summary

On balance the proposed layout, appearance, scale and landscaping of the four parcels of residential development is considered to be appropriate and would be in

accordance with the requirements of the relevant Local Plan policies, the SPDs and the parameters set out under the outline permission.

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

## **Recommendation**

**GRANT** approval of details subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the drawings and plans listed in the Drawing Schedule dated 7 March 2019 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 and in the interests of sustainable development.

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, no further boundary treatments shall be erected forward of any walls, fences or other means of enclosure which are exposed to a highway, footpath, shared courtyard or driveway or public open space/forest planting.

Reason: In the interests of overall design, in order to maintain the character of green and public spaces as secured under the plans hereby approved.

3. Notwithstanding the approved plans, prior to their incorporation into the buildings hereby permitted details of the following shall be submitted to and approved in writing by the Local Planning Authority:
  - a. Details of the verges, including the proposed mortar, and of the eaves;
  - b. Colour of the doors, window frames, fascia boards and rainwater goods;
  - c. Window/door reveal details; and
  - d. Porch and bay canopies (which shall utilise traditional materials for tiled appearance porches/bays).

The buildings shall be constructed in accordance with the approved details and thereafter, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, maintained as such.

Reason: In the visual interest of the buildings and local distinctiveness, and so to ensure this character is retained throughout the lifetime of the development.

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



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

5. Notwithstanding the submitted plans, none of the dwellings hereby permitted shall be occupied until such a time as a detailed external lighting scheme for the development (including for all communal parking areas and vehicular routes, and including details of future management together with a timetable for its provision) has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and timetable and thereafter so maintained.

Reason: In the interest of community safety and to safeguard the character and visual amenities of the site and the wider area.

6. Notwithstanding the details on the submitted landscaping plans, prior to occupation of any dwelling hereby approved, revised details of planting on the landscape strips between frontage parking and details of the specific tree specimens and their location, along with a scheme outlining their implementation so to enable maturity to be achieved shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and timetable and thereafter so maintained.

Reason: To safeguard the character and visual amenities of the site and the wider area.

#### Informatives:

1. Pursuant to Sections 219/220 of the Highways Act 1980, relating to the Advance Payments Code, where development takes place fronting new estate streets the Highway Authority is obliged to serve notice on the developer, under the provisions of the Act, to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980.
2. Pursuant to Section 50 (Schedule 3) of the New Roads and Streetworks Act 1991, before any excavation works are commenced within the limits of the public highway (including public Rights of Way), at least 6 weeks prior notification should be given to the Director of Economy, Transport and Environment at County Hall, Matlock (tel: 01629 533190 and ask for the New Roads and Streetworks Section).
3. The applicant and/or developer is reminded of the Council's responsibility to issue official addresses for all residential and business premises within South Derbyshire. All new addresses are allocated in line with our street naming and numbering guidance (search for 'Street naming and numbering' at [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk)) and you are advised to engage with the Council as soon as possible to enable the issuing of street and property names/numbers created by this development. Any number and/or property name that is associated with identifying individual properties must be displayed in a clear, prominent position that can be read from the roadside. It is the developers' responsibility to erect the appropriate signage once the build(s) is/are ready for occupation. There are two types of the name plate the Council uses: Type A carries the

Council's crest, whilst Type B does not. You are advised that the Types are usually expected in the following locations:

- Type A: on classified (A, B and C) roads, at junctions with classified roads, and at the commencement of local distributor roads (roads acting as through routes within developments);

- Type B: intermediate name plates along local distributor roads, on collector roads (roads which run within a development providing access and linking small access roads and access ways), on access roads (roads serving a small number of houses which may also have a surface shared by pedestrians and vehicles), and access ways which have a different name from their access road; all unless at a junction with a classified road (where Type A will be expected instead).

Further advice can be found online at [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk) or by calling (01283) 228706.

4. The developer is strongly encouraged, as part of the delivery of properties on the site, to provide full fibre broadband connections (i.e. from streetside cabinet to the property). Further details of initiatives to support the provision of full fibre connections as part of broadband installation at the site can be obtained from Digital Derbyshire on [broadband@derbyshire.gov.uk](mailto:broadband@derbyshire.gov.uk) or 01629 538243.
5. The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property.

Item 1.4

Ref. No. 9/2018/1395/FH

**Applicant:**  
**Mr Alan Wright**  
**55 Main Street**  
**Linton**  
**Swadlincote**  
**DE12 6PZ**

**Agent:**  
**Mr S. Cox**  
**56 Clifton Close**  
**Swadlincote**  
**Derbyshire**  
**DE11 9SQ**

**Proposal: ALTERATIONS TO EXISTING CONSERVATORY AND ROOF AT THE REAR OF 55 MAIN STREET LINTON SWADLINCOTE**

**Ward: Linton**

**Valid Date: 08/01/2019**

**Reason for committee determination**

This item is presented to Committee as the applicant is married to a member of the Council's staff.

**Site Description**

The application property is a 20<sup>th</sup> Century (late 1950s) single storey bungalow of red/brown brick and concrete roof tile construction with uPVC windows and doors throughout. The site is located within the key service village of Linton and forms part of the ribbon development along the northern side of Main Street. The properties either side of the application property are predominately 2-storey modern houses.

**Proposal**

The application seeks planning permission for alterations to the existing conservatory and the roof of the existing single storey extension at the rear of the property.

**Applicant's supporting information**

None submitted.

**Planning History**

REP1157/2 Erect bungalow and garage – approved January 1958

9/2018/1395 - 55 Main Street, Linton, Swadlincote DE12 6PZ



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- 9/2002/0112 The conversion of the garage to living accommodation together with the erection of a detached garage, conservatory and car port and the formation of a vehicular access – approved March 2002
- 9/2002/0465 Resubmission of 9/2002/0112 application (increased ridge height to garage and hipped roof and altered fenestration to conservatory) – approved June 2002

### **Responses to Consultations**

Not applicable.

### **Responses to Publicity**

None received.

### **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S2 (Presumption In Favour of Sustainable Development), SD1 (Amenity & Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence); and
- 2017 Local Plan Part 2 (LP2): H27 (Residential extensions and other householder development)

### **National Guidance**

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

### **Local Guidance**

- Design Guide Supplementary Planning Document (SPD)

### **Planning Considerations**

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

- The impact on the living conditions of the adjoining properties; and
- The impact on the general character and appearance of the area.

### **Planning Assessment**

The proposal would not involve any increase to the footprint of the existing bungalow and the internal layout would remain mainly as it currently is with the 'conservatory' becoming a sitting area. There would be no increase in the number of bedrooms and the existing accesses, car port and garages (integral and detached) on the site would not be affected by the proposed development.

Ground levels between the application property and the 2 immediate neighbours (53 and 57 Main Street) are relatively flat and there is adequate screening around the application site boundary to maintain the current privacy levels between these neighbours at ground floor level, in accordance with the SPD. Being to the rear of the property, the proposed alterations would have no impact on the neighbours to the south side of Main Street and there are no neighbours to the north of the site that would be affected by the proposal.

Due to the widths of the existing conservatory and rear extension, the proposed alterations to the roofs of these structures would result in a roof pitch and gable width that would not match those found elsewhere on the host. However, the proposed materials would match the existing and the proposed works would not be readily visible from the public realm. As such, the existing bungalow would retain its dominance as the host and there would be no visual impact on the existing street scene.

The proposal would therefore conform to the requirements of policy BNE1 of the LP1 and policy H27 of the LP2 in that the proposed development would be of a scale and character in keeping with the host property and would not be unduly detrimental to the living conditions of adjoining properties or the general character of the area.

The proposal would conform to policies BNE1 and SD1 of the LP1 in that it would not lead to adverse impacts on the environment or amenity of existing and future occupiers within and around the proposed development.

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

## **Recommendation**

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the submitted plans, made valid on 8th January 2019, 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 and in the interests of sustainable development.
3. 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 prior to their incorporation into the development hereby

approved, alternative details have been first submitted to and approved in writing by the Local Planning Authority.

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

Informatives:

1. The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place. It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to The Coal Authority Policy in relation to new development and mine entries available at: [www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries](http://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries). Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action. Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com). If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. Further information is available on The Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority).

Item 1.5

Ref. No. 9/2018/1332/NO

**Applicant:**  
Mr M Roseborough  
c/o Designspace Architecture  
Tillbridge Lane  
Sturton By Stow  
LN1 2DS

**Agent:**  
Mr J Cook  
Gelder Ltd  
c/o Designspace Architecture  
Tillbridge Lane  
Sturton By Stow  
LN1 2DS

**Proposal:** THE ERECTION OF AN EXTENSION TO PROVIDE ADDITIONAL STORAGE AND WC FACILITIES AT MIDWAY COMMUNITY CENTRE CHESTNUT AVENUE MIDWAY SWADLINCOTE

**Ward:** Midway

**Valid Date:** 21/01/2019

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

The item is presented to Committee as the Council is the applicant and currently has management control of the facility.

#### **Site Description**

The community centre sits on the corner of Chestnut Avenue and Rowan Drive, Midway. The centre has two rooms available for hire, the Sports Hall and the Foyer Meeting Room. The centre also has changing facilities for teams and officials who hire the two football pitches located adjacent to the building. There is an existing vehicular access to the site with parking on land to the north whilst land to the south is used as a children's play area.

#### **Proposal**

The proposal is for the erection of a single storey extension on the western elevation to the Midway Community Centre to provide additional storage and WC facilities.

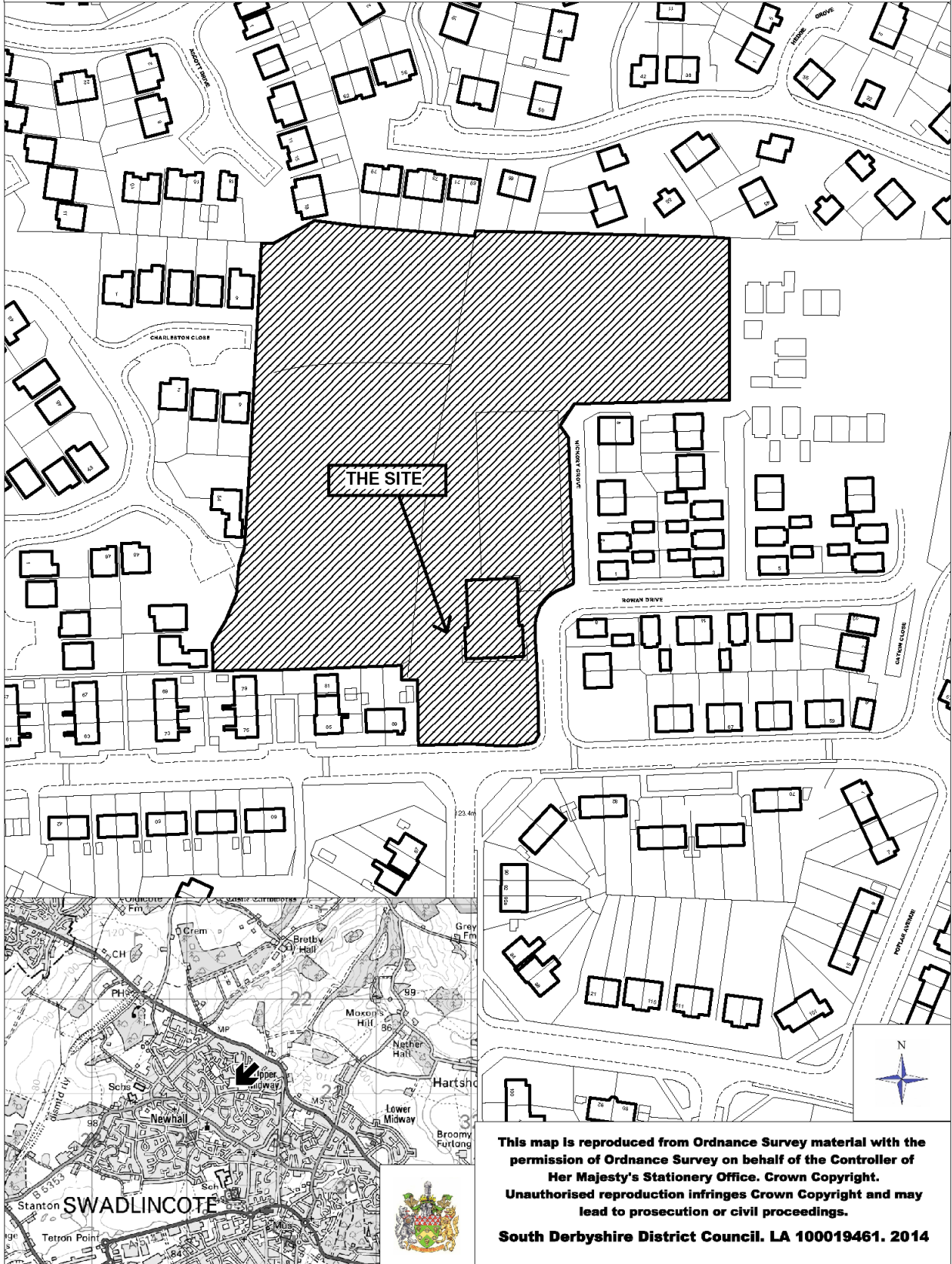
#### **Applicant's supporting information**

A Design and Access Statement has been submitted setting out the evolution of the proposal and the constraints and opportunities of the site and concludes the most appropriate location for the extension.

A Coal Mining Report was submitted confirming the history of mining workings below the site. A Phase 2 Geo-Technical and Geo-Environmental Site Investigation Report relating to the previous application has also been provided summarising the



9/2018/1332 - Midway Community Centre, Chestnut Avenue, Midway, Swadlincote DE11 0EL



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

constraints within the former mining area and confirms the site is outside the area previously defined to be at risk from shallow coal mine workings.

### **Planning History**

- 9/2014/0158 The erection of 66 dwellings and associated infrastructure, development of new community facilities and sports hall and car park with demolition of existing pavilion, and installation of new play area and two new football pitches – Approved 15/05/2014
- 9/2017/0982 Display of an advertisement – Granted express consent 18/10/2017

### **Responses to Consultations**

The Coal Authority notes that the Phase 2 Geotechnical and Geo-Environmental Site Investigation Report (February 2014) which accompanied application 9/2014/0158 confirms the site to be outside the area previously defined to be at risk from shallow coal mine workings and therefore has no objections to this application.

The Highway Authority states that the proposal would have no impact on existing highway conditions and therefore raises no objection.

Environmental Health states that the site is within influencing distance of historical activity (quarrying and unknown areas of infilled ground) and within a coal consultation area which could give rise to contamination hazards. Given the above and considering the nature of the development (extension only to the main building) in addition to the development of the land for housing, this has reduced the risk with the contamination scheme that was put in place. Conditions relating to noise, air and land quality are proposed.

### **Responses to Publicity**

One response has been received, raising the following concerns/points:

- ss) Whilst no objection to the proposal, this is an opportunity to request the possibility of extra security measures to reduce anti-social behaviour in the area; and
- tt) Additional CCTV cameras or a complete fence along the surrounding walls may be sufficient to deter this behaviour.

### **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), INF2 (Sustainable Transport) and INF6 (Community Facilities);
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development).

## **National Guidance**

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

## **Local Guidance**

- Design Guide Supplementary Planning Document (SPD)

## **Planning Considerations**

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

- Design, appearance and impact on the locality of the area; and
- Highway issues

## **Planning Assessment**

### Design, appearance and impact on the locality of the area

The proposed extension would provide an additional 38.3 sq m of internal space for storage and toilet facilities for the existing community centre. The Design and Access Statement states that several schemes had been drawn up prior to submission of the application but, following discussion, a number of amendments have been made to made to ensure a higher quality of design and to minimise the impact of the development on the wider area.

The extension would be single storey in height with a mono-pitch roof at the same pitch as the existing southern section of the community building, and constructed of matching materials. This would therefore appear to be a sympathetic and subservient extension to the existing facility and the use of matching materials would have the effect of blending naturally with the existing building. The proposal would necessitate the redirecting of the footway on the western side of the building but this would not affect the play area or playing pitches. Whilst the extension does bring the community building closer to existing dwellings to the west on Rowan Drive, there are no overlooking issues as the building is still over the 25m away from any residential development. The proposal is therefore considered to comply with policies BNE1 and SD1.

### Highway issues

The extension would be on the western elevation on the southern part of the existing building. As such there would be no loss of existing parking within the dedicated parking area to the north of the existing building. The proposal itself does not provide any additional space for community use per se, but provides much needed storage space and WC facilities which would provide additional storage space and enable the building to operate both indoor and outdoor events at the same time but independently of one another. Whilst this could have the effect of increasing the number of people using the facility at any one time and consequently the number of

vehicles at the site, the Highway Authority states that the proposal would have no impact on existing highway conditions and therefore raise no objection. The proposal therefore complies with policy INF2.

### Other matters

The one neighbour representation received does not specifically object to the proposal but suggests additional security measures such as additional CCTV cameras or a complete fence along the surrounding walls, which may be enough to deter anti-social behaviour. Whilst this may be an existing issue, this is not directly attributable to the development proposed. The Council currently has a CCTV camera system in operation and is monitoring the situation. Cultural Services will review the situation following the completion of the extension to determine whether an additional CCTV camera is required.

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

### **Recommendation**

**GRANT** permission under Regulation 3 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. The development hereby permitted shall be carried out in accordance with drawing ref 1002 Rev C, 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 and in the interests of sustainable development.
3. 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 prior to their incorporation into the development hereby approved, alternative details have been first submitted to and approved in writing by the Local Planning Authority.  
Reason: To safeguard the appearance of the existing building and the locality generally.
4. Except in an emergency, no demolition, site clearance, construction, site works or fitting out shall take place other than between 0700 hours and 1800 hours Mondays to Fridays, and between 0800 hours and 1300 hours on Saturdays. There shall be no such activities whatsoever on Sundays, public holidays and bank holidays.

Reason: To safeguard the amenities of nearby occupiers.

5. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, a written scheme to identify and control that contamination shall be submitted to and approved in writing by the Local Planning Authority prior to any further works taking place on the site. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA (or equivalent guidance which may subsequently update or replace it), and appropriate remediation/mitigation proposals. The approved scheme shall be implemented in accordance with the approved remediation/mitigation proposals.

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. For any additional buildings, sufficient measures to protect the development from the risks posed by any ground gases or vapours shall be incorporated into the development hereby approved. The measures shall accord with the requirements of sections 3 and 6 of Building Research Establishment 414 (2001) 'Protective Measures for Housing on Gas Contaminated Land construction methods', or any equivalent guidance that may revise or replace it. Alternatively, proposed measures which achieve an equivalent level of protection shall be first submitted to and approved in writing by the Local Planning Authority prior to the construction of any floorspace. A verification report confirming the detail and date of the measures installed shall be submitted to the Local Planning Authority prior to first occupation of the premises concerned, with all measures thereafter maintained throughout the lifetime of the development.

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.

#### Informatives:

1. The phased risk assessment from 9/2014/0158 should be consulted prior to undertaking works, to ensure that the pollutant pathways are broken and if they are all works shall follow legal 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. For further assistance in complying with planning conditions and other legal requirements, applicants and developers 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 at [www.southderbyshire.gov.uk/ourservices/environment/pollution/contaminated-land](http://www.southderbyshire.gov.uk/ourservices/environment/pollution/contaminated-land). Reports in electronic formats are preferred. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the Environmental Protection Officer (Contaminated Land) in the Environmental Health Department:

environmental.health@south-derbys.gov.uk. Further guidance can be obtained from the following:

- CLR 11: Model Procedures for the Management of Contaminated Land;
- CLR guidance notes on Soil Guideline Values, DEFRA and EA;
- Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001;
- Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency; and
- Guidance for the Safe Development of Housing on Land Affected by Contamination Environment Agency (ISBN 0113101775).

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

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<b>REPORT TO:</b>	<b>PLANNING COMMITTEE</b>	<b>AGENDA ITEM: 5</b>
<b>DATE OF MEETING:</b>	<b>19<sup>th</sup> MARCH 2019</b>	<b>CATEGORY: DELEGATED</b>
<b>REPORT FROM:</b>	<b>STRATEGIC DIRECTOR (SERVICE DELIVERY)</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>TONY SYLVESTER PLANNING SERVICES MANAGER</b>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>APPLICATION FOR AMENDMENT TO SECTION 106 AGREEMENT AT CHURCH ST CHURCH GRESLEY</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	<b>CHURCH GRESLEY</b>	<b>TERMS OF REFERENCE: DC01</b>

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## **1.0 Recommendations**

1.1 The Committee endorses the amendment to the agreement to accept £500,000 in lieu of the 15% on-site affordable housing and previously required (for the purchase of affordable housing units elsewhere in Church Gresley), £2,398,100 towards education, recreation and adoption of sustainable urban drainage on the site (see 4.1 below), and the acquisition and transfer to the adjacent primary school of adjacent land. It is recommended that the sums be expended as local to the site as possible.

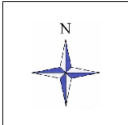
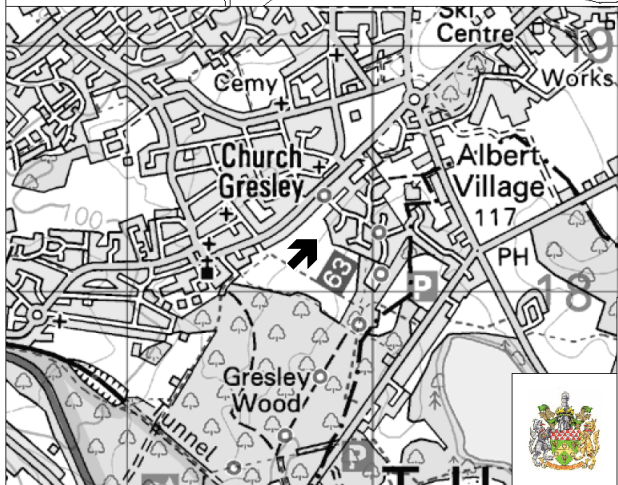
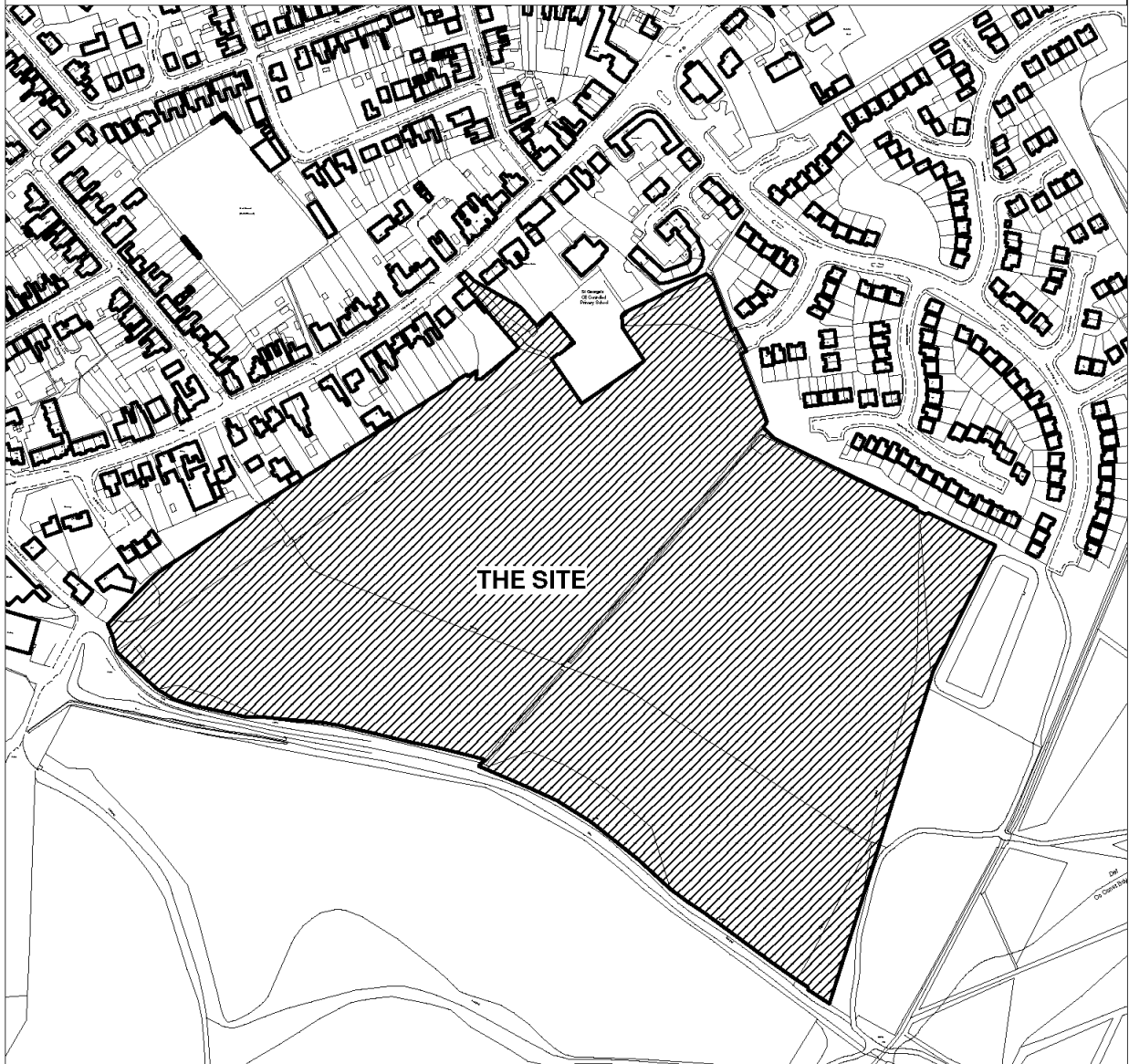
## **2.0 Purpose of Report**

2.1 An application has been received from the land owner of this site to review the Section 106 agreement under Section 106A of the 1990 Act. This report considers the reasons why the application has been submitted and a recommendation is proposed.

## **3.0 Executive Summary**

3.1 The submitted amendment to the Section 106 agreement for the site shows that following further site investigation, the cost of remediating this former clay pit had previously been underestimated such that the costs of the Section 106 agreement could not be met in full from the values that the sale of properties on the site could normally attract. This conclusion has been confirmed by the District Valuer. However, a revised affordable housing solution has been offered which is recommended for acceptance.

Land at SK2918 7015 Church Street, Church Gresley, Swadlincote  
(DE11 9NP)



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## 4.0 **Detail**

- 4.1 Members will recall that the site is part of the Church Gresley Housing allocation in the adopted Local Plan Part 1 under Policy H3. Accordingly, in 2014 an outline application for the development of the site (as shown on the plan on the previous page) for 306 dwellings was granted permission subject to certain provisions set out in a Section 106 agreement:
- Education: St George's Primary School: £695,339, Secondary (Pingle School): £790,104, Post 16 (Pingle School): £335,302 (total: £1,820,745)
  - Recreation/Public Open Space (POS): £497,355<sup>1</sup>
  - Adoption of SUDs: £80,000
  - Waste & recycling: £5,893
- 4.2 The agreement also included some additional dedicated land given over to enable the expansion of the primary school onto adjoining land (part of the housing site) in accordance with the H3 policy. It was agreed that 15% affordable housing would enable a viable scheme to emerge (it was also agreed that some of the affordable housing could be given up in order to help facilitate the construction of a new community facility which could assist with the future accommodation of Gresley F.C.).
- 4.3 A number of attempts have been made over the last few years to find a development partner to bring the site forward but the scale of the planning obligations has always been seen as a major problem when considered alongside the significant costs associated with site remediation. As such the site has remained unsold whilst others in the District proceed apace.
- 4.4 As further site due diligence was undertaken, after the outline planning permission was granted, it became evident that the magnitude of the site constraints (due to its former use as a clay pit) were far greater than original anticipated.
- 4.5 A viability assessment has been submitted by the land owner which has been considered by the District Valuer who came to the conclusion that a scheme with no affordable housing, but with the full Section 106 contributions only, shows a small deficit of £66,013 and therefore only a small reduction in the Section 106 contributions would be needed for a viable scheme. This would effectively leave the total package of contributions that the development could 'afford' at £2,337,980 but without any affordable housing.
- 4.6 Considerable negotiations have subsequently taken place to find a solution that provided the majority of the contributions but retaining some affordable housing on site notwithstanding the District Valuer's assessment of what the site can afford. An offer has now been made by the land owner that confirms the three main elements of the current Section 106 agreement remain intact (i.e. all elements excluding the waste contribution, which case law has since discredited) along with a contribution of £500,000 to support the delivery of affordable housing elsewhere in the area. This amounts to the equivalent of about 12 on-site affordable dwellings. This offer equates to a total package of £2,898,100 representing an additional contribution of £560,120 above the

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<sup>1</sup> less £177,927 if the on-site POS is not transferred to the Council

District Valuer's concluding affordable package. The expansion land for the primary school would also be honoured.

- 4.7 The land owner states that it remains committed to bringing the site forward but believes that a concession against the planning obligations set out in the March 2016 Agreement is essential to incentivise a developer partner, hence the compromise offer put forward.

## **5.0 Financial Implications**

- 5.1 The amended agreement would result in the maintenance of the sums for: education £1,820,745, recreation/POS: £497,355<sup>1</sup>, adoption of SUDs: £80,000, (i.e. a total of £2,398,100) and the additional affordable housing commuted sum of £500,000 as set out above. This would not necessarily allow a contribution to be made to a Community Stadium (Gresley F.C.) in the sum that was previously envisaged.

## **6.0 Employee Implications**

- 6.1 None.

## **7.0 Corporate Implications**

- 7.1 The scheme would contribute towards facilitating and delivering a range of integrated and sustainable housing and community infrastructure.

## **8.0 Community Impact**

- 8.1 **Consultation:** As carried out in the course of the planning application.
- 8.2 **Equality and Diversity Impact:** The available funds for the purchase of affordable housing will thus assist in achieving greater equality.
- 8.3 **Social Value Impact:** the package put forward although reduced from the current requirements would assist in improvements to local education and other facilities and access to affordable homes.
- 8.4 **Environmental Sustainability:** Mitigation of the impact of the development will contribute toward the achievement of environmental objectives.

## **9.0 Conclusions**

- 9.1 Although it is always disappointing when the impact of development on local area infrastructure cannot be fully mitigated, the solution offered is reasonable given the difficulties in site remediation and thus the viability of the development.

<b>REPORT TO:</b>	<b>PLANNING COMMITTEE</b>	<b>AGENDA ITEM: 6</b>
<b>DATE OF MEETING:</b>	<b>19<sup>th</sup> MARCH 2019</b>	<b>CATEGORY: Delegated</b>
<b>REPORT FROM:</b>	<b>STRATEGIC DIRECTOR (SERVICE DELIVERY)</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>CHRIS NASH (01283) 595926 <a href="mailto:chris.nash@southderbyshire.gov.uk">chris.nash@southderbyshire.gov.uk</a></b>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>Tree Preservation Order 502: The Bungalow, Colliery Lane, Linton</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	<b>Linton</b>	<b>TERMS OF REFERENCE:</b>

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## **1.0 Recommendations**

1.1 That this tree preservation order should be confirmed.

## **2.0 Purpose of Report**

2.1 To consider confirmation of this tree preservation order.

## **3.0 Detail**

3.1 This tree preservation order (TPO) was made on 16<sup>th</sup> November 2018 in respect of both individual and groups of trees (of various species) including Field Maple, Silver Birch, Norway Maple, Cherry, Pine and Oak, situated on land at The Bungalow, Colliery Lane, Linton.

3.2 The TPO was made following receipt of planning application ref. 9/2018/0867 which shows (through its indicative layout) the amenity offering of the trees would be significantly compromised, replaced by housing and associated access, etc.

3.3 One letter of objection has been received through consultation stating:

- There is evidence to suggest that the TPO has been applied unfairly in an attempt to frustrate development;
- The TPO process has been used to fabricate a single reason for refusal on a site that would otherwise be deemed a suitable for residential development;
- Whilst the group of Silver Birch (G1) and Ash, (G3) were shown on the application to be retained a third group of trees Norway Maple, Cherry and Pine (G2) located through the centre of the site, was proposed to be removed;
- An Arboricultural Survey supported the application and judged all trees to be category B trees but those trees within area G2 all parties agreed were planted by the landowner approximately 10 years ago;
- Category A trees are defined as 'trees of a high quality and value, including public visual amenity value. It is usual for such trees to be retained unless the planning merits of a particular scheme or layout override'. Category B trees do not have the same amenity value;

- There have been no formal objections to the planning application including the Council's Tree Officer, DWT or the National Forest Officer;
- The group proposed for removal in the application are barely visible from outside the site;
- The G2 group do not offer a high level of amenity to anyone outside the application site;
- It is not clear that G2 meet the criteria for amenity value as set out in government guidance;
- There is no evidence that government guidance has been considered in this TPO;
- The Council's poorly worded policy appears to allow edge of settlement sites to be developed based on recent appeal decisions. This may explain the placing of the TPO;
- An FOI request showed that there had been no communication between planning officers and tree officers to determine the value of the trees;
- The TPO appears to have been applied unilaterally in the absence of any professional advice;
- The applicant has never proposed the removal of G1, G3, T1, T2 or T3 which may pass the test of amenity and amenity value. However, it is clear that group G2 does not meet the relevant requirements.

#### 3.4 In answer to the comments made officers have the following response:

- There is no evidence to demonstrate that the TPO has been applied unfairly in order to frustrate development. The existing trees were assessed for their amenity value, and so to ensure their immediate protection the TPO was progressed. There is no requirement for the landowner to be notified in advance.
- The site lies outside of the settlement confines of Linton where new housing is strictly limited. Application ref. 9/2018/0867 was refused on four grounds (principle, visual and landscape impact, impact on retained trees and design)
- The group of trees to the centre of the site, to be removed, offer amenity value and are graded as category B specimens.
- Age of the trees is not a determining factor, noting that the TPO procedure allows for trees yet to be planted to be made subject to a TPO once planted. As noted in the previous point, group G2 are category B trees.
- Whilst category A trees might attract greater likelihood of protection, it is not uncommon for category B specimens to be made subject to a TPO. Protection is based on a number of factors, including amenity offering, health of the tree(s) and anticipated lifespan, and not the arboricultural categorisation.
- Whilst there were no formal objections to the application from the Tree Officer, Derbyshire Wildlife Trust (DWT) or the National Forest Company (NFC), both DWT and the NFC noted the removal of trees and suggested compensation was required and/or views of the Tree Officer should be sought. It is not a pre-requisite for the Tree Officer to raise objection, or for professional advice to be in-hand, for a TPO to be made.
- Group G2 are clearly visible from the west of the site, along Colliery Lane, rising above the boundary hedgerow to Sealwood Lane. It is also visible across adjacent land from the south, through the group of Silver Birch (Group 1) along the southern boundary.
- The amenity value of the group is recognised in the officer's assessment leading to the refusal of application ref. 9/2018/0867. The trees, along with the boundary hedgerow to Sealwood Lane provide a green 'buffer' to the edge of Linton when approaching from the west, in particular. They are publically visible.

- ‘Amenity’ is not defined in law, but the Planning Practice Guidance (PPG) states TPOs *“should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public”* and before confirming authorities *“should be able to show that protection would bring a reasonable degree of public benefit in the present or future”*. This is public benefit is considered to exist, as outlined above, and removal of the trees would have a significant negative impact.
- Regard has been had to the PPG in making the TPO and in preparing this report.
- The wording of planning policy is not relevant to the decision as to whether to protect trees or not.
- Protection has extended to those trees to be retained given direct and liveability concerns arising from development in close proximity to the trees.

3.5 In addition to the above, it should be noted that the tree survey provided with the application was not an Arboricultural Impact Assessment (AIA) which assessed the impact of the particular development proposals on the trees. It did however state *“in an effort to ensure any issues are resolved from the outset it is recommended that a site visit is undertaken with the Local Authority’s Planning Case Officer and Tree Officer to ensure that the approach for development and tree retention is suitable”*. No request was ever made for such a visit prior to the application being made.

#### **4.0 Planning Assessment**

4.1 It is expedient in the interests of amenity to make the trees the subject of a TPO in accordance with advice set out in the PPG.

#### **5.0 Conclusions**

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

#### **6.0 Financial Implications**

6.1 None.

#### **7.0 Corporate Implications**

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

#### **8.0 Community Implications**

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

#### **9.0 Background Information**

- a. 16 November 2018 – Tree Preservation Order.
- b. 20 December 2018 – Letter of objection.