

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

**Section 1: Planning Applications**

**Section 2: Planning Appeals**

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

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## 1. PLANNING APPLICATIONS

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

Reference	Item	Place	Ward	Page
9/2014/0424	1.1	Foston	Hilton	1
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When moving that a site visit be held, Members will be expected to consider and propose one or more of the following reasons:

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

**Item** 1.1

**Reg. No.** 9/2014/0424/MSF

**Applicant:**  
ATL LTD  
WOODYARD LANE  
FOSTON  
DERBY  
DE65 5BU

**Agent:**  
Mr John Church  
John Church Planning Consultancy  
Victoria Buildings  
117 High Street  
Clay Cross  
Chesterfield  
Derbyshire  
S45 9DZ

**Proposal:** THE ERECTION OF NEW WAREHOUSE BUILDINGS,  
THE ERECTION OF GARAGE/MAINTENANCE BUILDING  
AND THE CREATION OF AN OPEN STORAGE AREA  
AND ASSOCIATED WORKS AT ATL LTD WOODYARD  
LANE FOSTON DERBY

**Ward:** HILTON

**Valid Date:** 05/06/2014

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

This is a major application with more than two objections.

#### **Site Description**

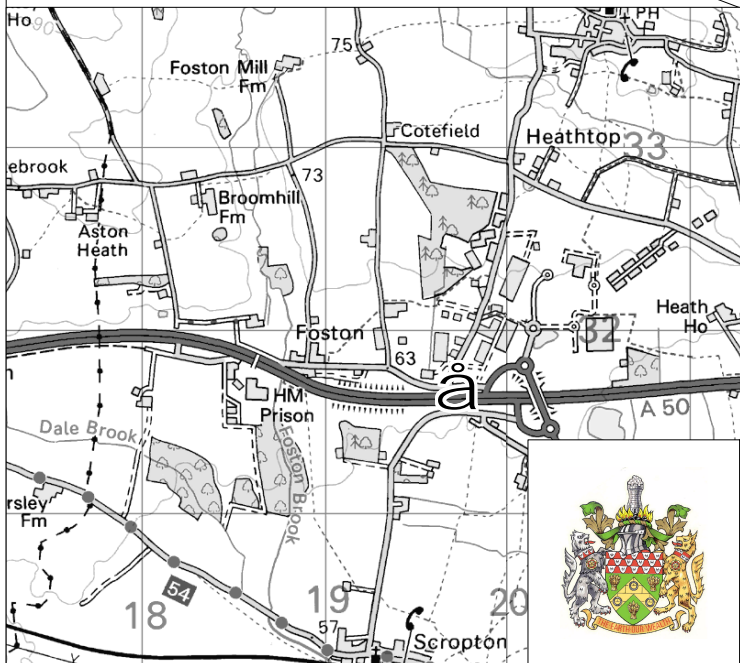
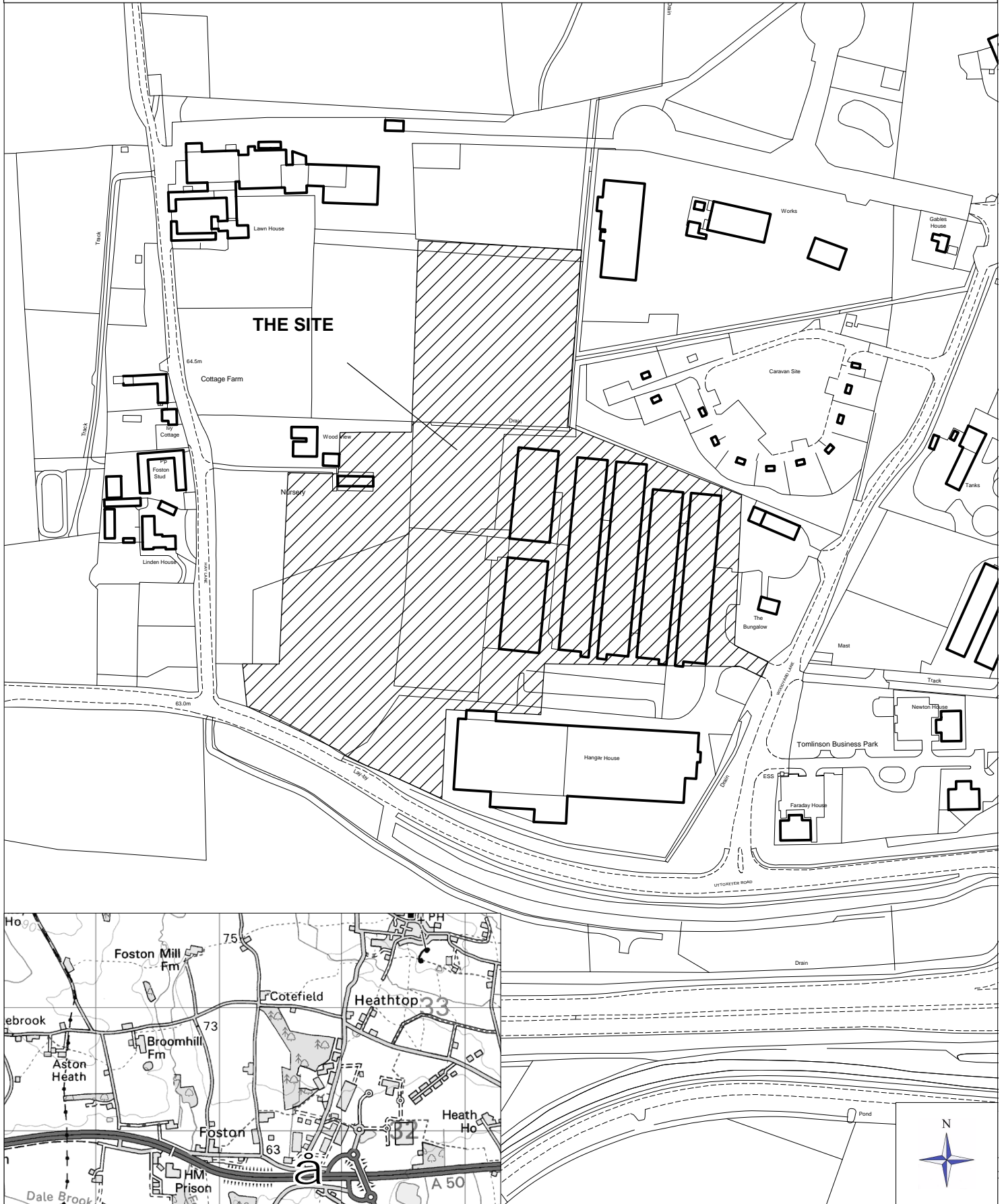
The site, amounting to about 1.8 ha lies to the south west corner of the former Church Broughton Airfield. The site includes a former turkey farm and a garden nursery. There is a belt of woodland, protected by a Tree Preservation Order, separating the site from residential properties along Hay Lane. The Uttoxeter Road boundary to the south is defined by a hedge beyond the site's security fence. The Woodyard Lane frontage is distinctly commercial in character with business units either side of the road. The northern boundary of the site is defined by an existing business premises with vehicular access off Hay Lane, and a travellers site.

The site is immediately adjacent to the existing ATL storage and distribution premises.

#### **Proposal**

This full application proposes the following main elements:

# 9/2014/0424 - ATL Ltd, Woodyard Lane, Foston DE65 5BU



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

- Warehouse of 14,070 sq m measuring 10 m to the eaves and about 11.5 m to the ridge - Unit 25
- Warehouse of 3150 sq m of similar height – Unit 20.
- Unit for three workshop units of 1296 sq m measuring 6.5 m to the eaves and about 8 m to the ridge – Unit 17.
- A small gate keepers building at the site access.
- Areas for car, HGV parking and storage.

Access would be gained via the existing site entrance off Woodyard Lane.

The layout makes provision for parking for 198 cars and 36 HGVs.

### **Applicants' supporting information**

- Permission has already been granted to develop the site. The proposals have been modified following a review of the layout and discussions with a partner logistics operator.
- The development would enable the company to enhance existing local partner trading arrangements.
- There would be significant new employment (80 jobs) including training opportunities.
- The proposed Unit 20 would act as a noise barrier.
- It is anticipated that residents would not be disturbed by 24 hour operation.
- The proposal would accord with the local plan and NPPF in respect economic development.
- There would be adequate provision for parking and manoeuvring and screening.
- The Travel Plan would minimise use of the private car.
- The site is, to a considerable degree, previously used land.
- Flood risk, noise, arboricultural and transport technical reports demonstrate that these interests would be safeguarded.
- Off-site highway works would be provided by way of planning contribution.
- The applicants deal with bulky items such that the ratio of staff to floorspace is less than typical. Furthermore the company already has measures in hand to minimise employee car usage. The level of parking proposed is thus commensurate with the proposal.

### **Planning History**

The most significant permissions are 9/2011/0889 & 0890, granted in 2013 which permitted substantial development for light industry and warehousing.

### **Responses to Consultations**

The Environment Agency has no objection subject to conditions to safeguard flood risk and pollution.

Derbyshire Wildlife Trust comments that conditions would need to address the provisions of wildflower rich grassland, and compensatory native hedgerow planting. The Trust also recommends a condition to require a habitat management and monitoring plan.

The Highways Agency has no objection subject to the developer making a planning contribution of £31,619.09 for improvements to the A50/A515 roundabout junction at Sudbury.

The Environmental Health Manager has given detailed consideration to the applicant's latest noise assessment and considers the scope and methodology of the assessment to be adequate. He therefore agrees with the conclusions of the assessment that the predicted outdoor noise from lorries and servicing would not exceed BS8233:2014 criteria at the nearest noise sensitive receptors and internal noise will not exceed  $L_{Aeq}$  or  $L_{Amax}$  BS8233:2014 criteria within the nearest noise sensitive receptors.

A remaining concern is that the internal noise calculations are based on assumptions about noise mitigation provided by building envelopes taken from BS8233:2104. These assumptions are not intended for non-standard building types such as those at noise sensitive area A – Caravan Park.

The overall assessment of the impact of the development from the report is that the noise will be heard by local residents and may cause small changes in behaviour. Therefore within the policy context of the National Planning Policy Guidance the development is deemed to be 'noticeable and intrusive' and that the impacts of the development should therefore be mitigated and reduced to a minimum.

The evidence from the assessment would support the contention that a limit on hours of working would be excessively burdensome.

A condition is therefore recommended requiring details of a scheme specifying the provisions to be made for the control of noise emanating from the site, this to include measures to control noise from access routes and manoeuvring areas, vehicle reversing alarm suppression, forklift trucks and internal and external plant.

The County Highway Authority raises concerns about the amount of parking. The amended plan addresses this to some extent by making overall provision on the site for 198 cars.

The Contaminated Land Officer seeks conditions to safeguard the environment from contamination.

Severn Trent Water Limited has no objection in principle.

The Crime prevention Design Adviser comments that the site carries a high risk of theft crime. Considerable amounts of police time have been spent investigating theft of valuable good from the site, which appears to have been preventable. The application does not adequately address the security issues. A condition is therefore recommended to secure a strategy of security improvements for the site, including adequate boundary fencing.

The Tree Officer has no objections in principle to the design. However, trees adjacent to the perimeter may be under threat during construction recommends conditions for their protection during this period.

## **Responses to Publicity**

The Parish Council objects because the Woodyard Lane junction has poor visibility and increased traffic would not be beneficial to the parish.

6 neighbours object as follows:

- a) There would be excessive all day noise from the development, including garage use of Unit 17, which would result in excessive disturbance of residents in Hay Lane.
- b) Buildings would be too close to Hay Lane, resulting in unacceptable noise.
- c) There should be no doors in the west elevation of Unit 17, in order to reduce noise.
- d) If permission is granted there should noise bunding and acoustic fencing along the west boundary.
- e) Publicity was inadequate.
- f) There would be increased HGV traffic through Foston. HGVs should be banned on this stretch of road and a more suitable designated route used.
- g) The noise survey omits two receptors. (Comment – an updated noise report has been received).

## **Development Plan Policies**

The relevant policies are:

Local Plan: Employment Policies 1, 4, 5 & 8; Transport Policies 6 & 7.

Emerging Local Plan: S2, S5, S6, SD1, SD2, SD4, BNE1, BNE3, BNE4, INF1, INF2

## **National Guidance**

The NPPF, in particular

Paragraphs 7, 11-14, 186, 187 & Annex 1

Chapter 1 (Economy)

Chapter 3 (Rural economy)

Chapter 4 (Sustainable transport)

Chapter 7 (Design)

Chapter 10 (Climate change)

Chapter 11 (Natural environment)

Annex 1 (Implementation)

The PPG, in particular ID6 (climate change), ID30 (noise), ID8 (natural environment), ID 26 (design), ID42 (transport), ID 36 (trees), ID33 (contamination), ID21a (conditions).

## **Planning Considerations**

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

- The principle
- Access and parking
- Noise

- Design
- Drainage implications
- Landscape and ecology.
- Crime prevention.

## **Planning Assessment**

### The principle

The National Planning Policy Framework, in para 19, indicates that “*significant weight should be placed on the need to support economic growth through the planning system*”.

Para 28 says that planning authorities should support economic growth in rural areas. It says that local plans should “... *support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings.*”

In the light of the above it is considered that the provisions of Local Plan Employment Policy 1: Existing Industry continue to carry weight in the decision making process in accordance with para 215 of the NPPF. This allows for the expansion of industrial and business uses on, or adjacent to, their existing sites, provided that the proposal is not detrimental to the character of the locality or residential amenity and does not cause environmental or traffic problems.

The proposal is for the erection of warehouses and garage maintenance building, along with a secure vehicle open storage area. Although the warehouses contain office accommodation this would not produce a requirement for sequential testing in accordance with para 24 of the NPPF, so long as the offices remain ancillary to the principal storage and distribution use of the site.

It remains the case that extant permissions are a substantial material consideration in assessing the acceptability of the proposal, which is therefore considered to be in accordance with the NPPF and Local Plan Employment Policy 1, subject to it being acceptable in terms of the impact on the character of the locality, residential amenity and environmental and traffic considerations.

### Access and parking

The pedestrian and vehicular access to the site and the local bus route can both be achieved either within the site boundaries or on land within the highway and remain as approved under the extant permissions. The applicants note the County Highway Authority concerns about the lack of parking provision but their stated objective is to meet the known requirements of the application site as a whole rather than meet a theoretical need. Given the similarity of the nature of the proposal to the permitted schemes this stance is reasonable, particularly when the Travel Plan is taken into account.

Concern has been expressed by objectors about lorries passing through the village. However the current proposal raises no new issues in this regard.



Impacts on the trunk road would be adequately mitigated by the A50/A515 junction improvements, which would be secured through a unilateral planning obligation.

Subject to the recommended related conditions and obligations the proposal would thus be in accord with Saved Transport Policies 6 & 7 of the local plan and Chapter 4 of the NPPF.

### Noise and lighting

Noise mitigation is incorporated in the design of the scheme by site layout, building orientation and proposed acoustic fencing. However, in order to ensure adequate protection for neighbours from noise associated with 24 hour operation, further measures are required, which would be secured by condition as recommended by the Environmental Health Manager.

A condition requiring full details of a lighting scheme would ensure that impacts of light on the general character of the area, residential amenity and ecology are adequately safeguarded.

The landscaped bund granted planning permission under application 9/2008/0808 and required by condition in the extant permissions has been constructed. An appropriate condition would secure its ongoing retention.

As such the amenity safeguards in the local plan saved Employment policies and Chapter 11 of the NPPF would be met.

### Drainage Implications

A range of drainage issues were fully addressed in the context of the extant permissions. Subject to the recommended conditions of the Environment Agency water pollution and drainage issues would be satisfactorily controlled in accordance with Chapters 10 & 11 of the NPPF.

### Design

The buildings would reflect that appearance and character of those already on the site and the wider area including Dove Valley Park and whilst substantial in terms of size and scale, this is dictated by the functional requirements of the applicant. The existing landscape context and the provision of additional landscaping by condition would ensure that the impact of the development on the wider area would not be harmful, as required by the Saved Employment Policies of the local plan and Chapter 7 of the NPPF. Further control over the external appearance and colours of the buildings, to ensure satisfactory visual impact, could be controlled by condition.

### Landscape and Ecology Considerations

The site is well screened from the west by the established and protected woodland. The Uttoxeter Road frontage has less strong screening and additional planting would be needed, as part of a landscaping scheme required by condition, to mitigate the impacts of large buildings and parking/storage areas on the general character of the area. Woodshop Lane has a commercial character already and little change would occur at this receptor.

The Tree Officer is satisfied that the protected woodland can co-exist with the development and whilst the physical development would be within the area protected by the TPO and result in the loss of a number of protected trees, those losses are not significant. As a result he advises that provided adequate measures are put in place to avoid damage to the remaining trees the impact of the proposal on the protected trees would be acceptable.

The site is large enough to enable some bio-diversity mitigation and enhancements to be achieved in accordance with the recommendations of Derbyshire Wildlife Trust in accordance with para 118 of the NPPF.

### Crime Prevention

The Crime Prevention Design Officer's has identified the potential for site security measures to be improved. The application provides the opportunity to seek improvement by condition, in accordance with para 69 of the NPPF.

### Conclusion

The application is of similar scale and character to the extant permitted schemes. The issues in respect of those applications were assessed in considerable detail. This application raises no new issues of substance such that a different decision would be justified.

### **Recommendation**

Subject to the receipt of a signed unilateral undertaking to the sum of £31,619.09 in respect of improvements to the A50 interchange east of Sudbury, **GRANT** permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to to the plans submitted with the application, as amended by drawing nos. JC/A122/220A, 12914-GH-01, 12914-01 Rev AC & 12914-01-S Rev D, 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, the original submission being considered unacceptable.
3. Notwithstanding the submitted information and prior to the installation of any external light source, details of a lighting scheme for the site, which shall conform with the Institution of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Light GN01:2011 (or any other guidance as may be agreed in writing with the local planning authority), shall be submitted to and approved in writing by

the local planning authority. No lighting shall be installed other than in accordance with the approved scheme, or any amendment thereto which may subsequently be agreed in writing with the local planning authority.

Reason: Further details are required to ensure that the scheme only illuminates those areas necessary to the operation of the site.

4. Notwithstanding the submitted details (and with the exception of the security gatehouse), prior to the commencement of any other part of the development a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development. The submitted scheme shall also contain proposals for the creation of an area of rough grassland to replace that lost to the development and shall include a schedule for the transplanting existing plant species to that area.

Reason: In the interests of the appearance of the area and to retain important species and habitat in the locality.

5. With the exception of the security gatehouse, prior to the commencement of any other part of the development a landscape management plan, including its implementation strategy, long term design objectives, management responsibilities and maintenance schedules for all landscape areas shall be submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall be implemented as approved.

Reason: In the interests of the appearance of the area and to retain important species and habitat in the locality.

6. With the exception of the area of rough grassland required by condition 4 above, which shall be implemented concurrent with removal of the existing rough grassland, in accordance with Condition 5 above all other planting, seeding or turfing comprised in the approved details of landscaping required by Condition 4 above shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the appearance of the area and to ensure that the replacement habitat and landscaping is established in accordance with good practice.

7. Notwithstanding the submitted details and with the exception of the security gatehouse no other part of the development shall commence until samples of the proposed materials to be used in the external construction of the development which shall reflect the noise insulation properties set out in the noise report accompanying the application, have been submitted to, and approved in writing by, the local planning authority and the development shall only be undertaken in accordance with the materials so approved and shall be retained as such thereafter.

Reason: To ensure a satisfactory standard of external appearance.

8. With the exception of the security gatehouse, before any other part of the development is commenced details for the provision of bat and bird boxes including provision for barn owls, to be located within the site or within the structure of the buildings hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and the bird and bat boxes shall thereafter be retained in position for the duration of the development.

Reason: In order to ensure that existing habitat in order to maximise the opportunity to encourage wildlife habitat creation within the site. Evidence of barn owls roosting at the site have been identified in the ecology report accompanying applications 9/2011/0889 & 0890. Barn owls are specifically protected under Schedule 1 of the Wildlife and Countryside Act 1981 and the condition is imposed in accordance with Section 25(1) of the Act as an expedient provision to conserve a protected species.

9. Further to Condition 7 above, with the exception of the security gatehouse, 30 days prior to the commencement of any other part of the development a barn owl roosting/nesting box shall be provided within 200m of the application site boundary in a location previously agreed in writing with the Local Planning Authority. The barn owl roosting/nesting box shall be retained in place for a minimum of 30 days after the permanent provision required by Condition 7 above has been put in place.

Reason: Evidence of barn owls roosting at the site has been identified on the site and they are specifically protected under Schedule 1 of the Wildlife and Countryside Act 1981 and the condition is imposed in accordance with Section 25(1) of the Act as an expedient provision to conserve a protected species.

10. With the exception of the security gatehouse no building or construction work on the site shall be commenced until evidence has been provided to the Local Planning Authority that no birds are nesting in any of the buildings to be demolished immediately prior to the works commencing.

Reason: Evidence of barn owls roosting at the site have been identified in the ecology report accompanying the application. Barn owls are specifically protected under Schedule 1 of the Wildlife and Countryside Act 1981 and the condition is imposed in order to allow the Local Planning Authority to discharge its obligation under Section 25(1) of the Act.

11. With the exception of the security gatehouse, before any other part of the development is commenced detailed designs of the surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, shall be submitted to and approved in writing by the local planning authority. The drainage scheme should demonstrate the surface water run-off generated up to and including the 100 year plus 20% (for climate change) critical rain storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme shall include:

- Surface water drainage system/s to be designed in accordance with either the National SUDs Standards, or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken.
- Limiting the surface water run-off generated by all rainfall events up to the 100 year plus 20% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
- Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 20% (for climate change) critical rain storm.
- Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.
- Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

12. With the exception of the security gatehouse, before any other part of the development is commenced detailed designs of the watercourse diversion shall be submitted to and approved in writing by the local planning authority. The diversion scheme should demonstrate the surface water run-off generated up to and including the 100 year plus 20% (for climate change) critical rain storm can be conveyed around the site, or that suitable flood flow routes have been provided. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme shall include:

- Detailed design (plans, cross, long sections and calculations) in support of the watercourse diversion scheme and any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.
- Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and reduce flooding to the proposed development and future users.

13. With the exception of the security gatehouse, before any other part of the development is commenced details of a footway between the site access on Woodyard Lane to the footway on Uttoxeter Road and thence to the bus stop on Uttoxeter Road together with details of the improvements to the bus stop both as set out in paragraph 10.6 as mitigation measures in the Traffic Impact Assessment (as submitted with applications 9/2011/0889 & 0890) shall be submitted to and approved in writing by the Local planning Authority. The

submitted details shall demonstrate a minimum footpath width of 2m and show the retention of deterrent kerbing to the whole of the Woodyard Lane frontage. The submitted details shall also demonstrate visibility sight lines measuring 2.4m x 103m in each direction to any access on Woodyard Lane.

Reason: In the interests of highway safety.

14. Notwithstanding the submitted travel plan a further draft of the Travel Plan shall be submitted to and approved in writing by the Local Planning Authority before any part of the development is brought in to use. The new draft shall incorporate the following amendments:

### 6.3

Recommended Travel Survey timetable:

- Initial staff travel survey should be undertaken within one month of full occupation of the ATL premises, along with surveys of all employees of all other units on site at that time.
- Subsequent surveys - of all employees on site - should take place on the anniversary of this first survey.
- The results of each survey, along with an action plan should be submitted in the form of a report to both the local planning authority and Derbyshire County Council, within one month of the survey completion.

### 7.3

An acceptance that cycle parking needs to be provided in prominent locations, close to work sites and convenient for users, as per car parking provision. The precise quantity, nature and locations shall be included in a detailed drawing accompanying the revised draft.

### 8.3

Travel Plan co-ordinator:

Contact name and details of the Travel Plan co-ordinator should be supplied to the local planning authority in consultation with Derbyshire County Council on appointment, and no later than three months prior to first site occupation, as described.

### 8.5

The Travel plan co-ordinator shall establish a site wide forum, at which site occupants are able to discuss areas of mutual interest. This should include the Travel Plan as an agenda item at least twice per year.

Once established, the remit of this group should include the ongoing Travel Plan implementation beyond the initial five-year period.

Following approval of the revised travel plan its provisions shall be implemented on first occupation of the buildings hereby permitted.

Reason: The use of a travel plan helps to reduce the need to travel to the site by the private motorcar and as such helps to establish the sustainability of the development. The Local Planning Authority consider that the submitted travel plan requires further amendment and this condition is imposed to ensure that an approved Travel Plan accords with best practice to ensure a minimum use of the private motor car to access the site.

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

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

16. With the exception of the security gatehouse no other part of the development shall take place until a suitable scheme for the prevention of ground gas ingress has been submitted to and approved in writing by the local planning authority. Alternatively the site shall be monitored for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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

17. With the exception of the security gatehouse before any other part of the development is commenced, a scheme shall be submitted to and approved in writing by the Local Planning Authority, which specifies the provisions to be made for the control of noise emanating from the site. The approved scheme shall be implemented throughout the lifetime of the development.

Reason: In the interests of the amenity of the occupiers of the nearby dwellings.

18. The landscaped bund and acoustic fence granted planning permission under application 9/2008/0808 shall be constructed, landscaped and the acoustic fence erected prior to the first use of the warehouse or industrial buildings hereby approved.

Reason: In the interests of the residential amenity of the occupiers of nearby dwellings and in the interests of minimising the impact of the development on the wider landscape.

19. With the exception of the security gatehouse, no site clearance works or development shall take place until there has been submitted to the Local Planning Authority for their written approval a scheme showing the type, height and position of protective fencing to be erected around the remaining protected woodland and any other hedges or trees that are to be retained in the development. The scheme shall comply with BS 5837:2012 (as amended).

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

- (i) There shall be no changes in ground levels;
- (ii) No material or plant shall be stored;

- (iii) No buildings or temporary buildings shall be erected or stationed;
- (iv) No materials or waste shall be burnt within 20 metres of any retained tree or hedgerow; and
- (v) No drain runs or other trenches shall be dug or otherwise created; without the prior written consent of the Local Planning Authority.

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

20. With the exception of the security gatehouse, before any other part of the development commences details of measures to minimise the risk of crime at the site, including a timetable for implementation, shall be submitted to and approved in writing by the local planning authority.

Reason: In the interest of crime prevention.

21. With the exception of the security gatehouse, before any other part of the development commences details of a scheme to install oil and petrol separators shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved.

Reason: To protect the water environment.

22. With the exception of the security gatehouse, before any other part of the development commences a Habitat Management and Monitoring plan for all retained and created habitats shall be submitted to and approved in writing by the local planning authority. The content of the Plan shall include the following:

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

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

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

Reason: To retain important species and habitat in the locality.

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



Reason: In the interests of pollution control.

24. Notwithstanding the submitted details, no building shall be occupied until a detailed scheme for the boundary treatment of the site, including position, design and materials, and to include all boundaries or divisions within the site, as well as a timetable for their provision, has been submitted to and approved in writing by the local planning authority. The approved scheme shall be completed as agreed.

Reason: To preserve the amenities of the occupants of nearby properties and in the interests of the visual amenity of the area.

25. Prior to it being brought into use, details of any proposal to make use of the area shown hatched on the attached plan 9/2014/0424 shall be submitted to and approved in writing by the local planning authority. Thereafter this area of land shall be used for the specified purpose only, unless the local planning authority gives further written approval.

Reason: To enable the local planning authority to assess the environmental impacts of the proposed usage.

#### Informatives:

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

At all times the pollution prevention measures provided at [www.gov.uk](http://www.gov.uk) should be followed.

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

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

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

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

The noise mitigation scheme should provide details of how noise measures will be integrated into proposed vehicle access routes, turning areas and other measures relating to HGV vehicle movements. Vehicular access should be designed so as to reduce the need for unnecessary vehicle movements, especially reversing and idling whilst waiting to load/unload. Although it is proposed that broadband sound be used for vehicle reversing alarms, consideration should also be given to the possibility of using visual rather than audible warning devices. Details of forklift operations outdoors, forklift types and noise mitigation measures should be provided. The scheme should also include details of the specification and location of internal and external plant so that it meets the proposed rating level of no more than 39 dBA LAr at the nearest noise sensitive receptor.

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

**Item** 1.2

**Reg. No.** 9/2014/1127/OS

**Applicant:**  
MR & MRS M & C HOUSDEN  
C/O AGENT

**Agent:**  
MISS SOPHIE TROUTH  
PEGASUS PLANNING GROUP  
4 THE COURTYARD  
CHURCH STREET  
LOCKINGTON  
DERBYSHIRE  
DE74 2SL

**Proposal:** OUTLINE APPLICATION (ALL MATTERS RESERVED)  
FOR THE ERECTION OF 13 DWELLINGS (TO INCLUDE  
AFFORDABLE) WITH GARAGING, PARKING,  
LANDSCAPING AND ACCESS TO BE PROVIDED FROM  
BURTON ROAD ON LAND AT SK2416 1799 BURTON  
ROAD ROSLISTON SWADLINCOTE

**Ward:** LINTON

**Valid Date:** 26/11/2014

**Reason for committee determination**

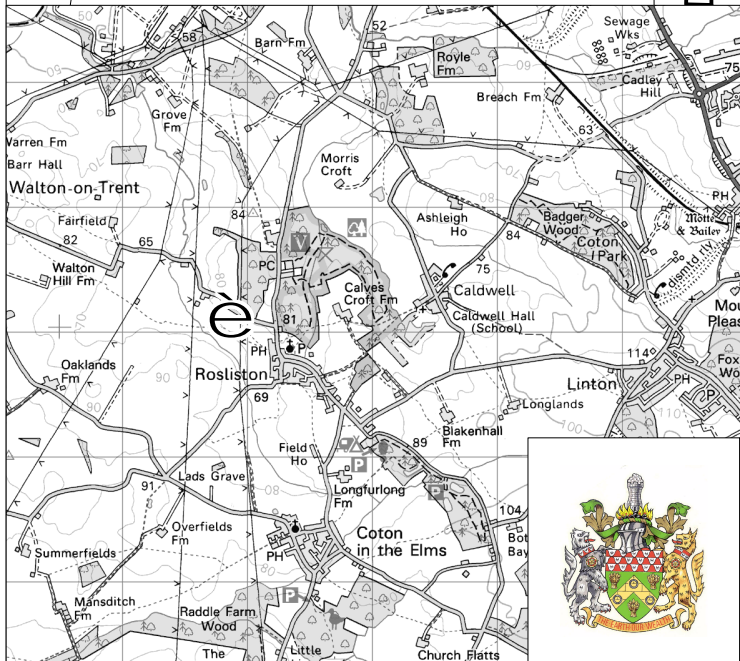
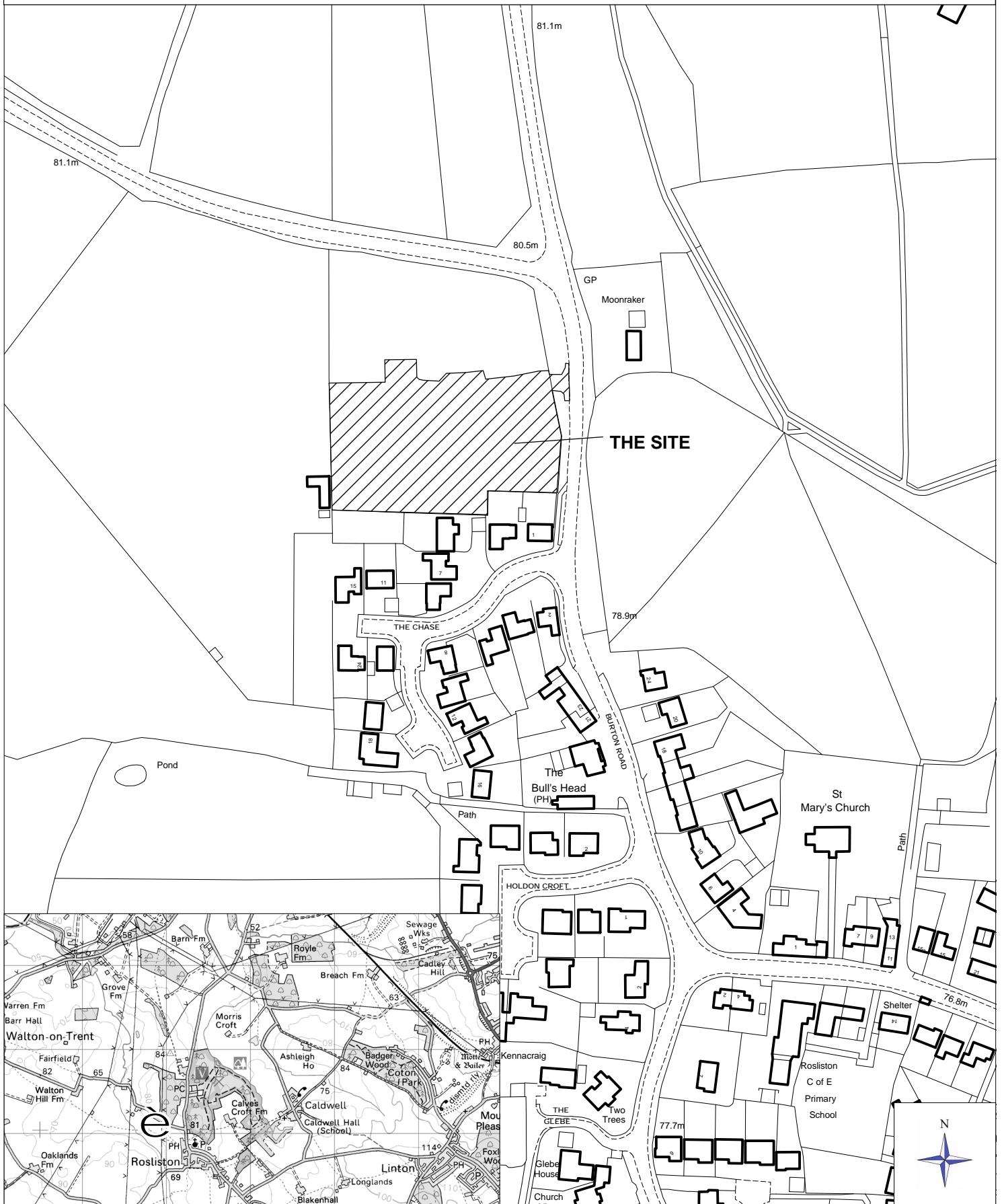
The application is for major development that is not in accord with the development plan and has attracted more than two letters of objection.

**Site Description**

The site measures some 0.49ha in area and is located on the northern edge of the village outside the village confine adjacent to the rear gardens of Nos. 1, 3 and 5 The Chase and an existing stable building within a field belonging to No.15 The Chase. The site, together with adjoining area of land to the immediate north also within the applicant's ownership, is the subject of Tree Preservation Order No.175 which was made in 2000 and confirmed in February 2001. There is an existing gated access into the site off Burton Road. The site is largely screened from the adjacent roads by existing trees and vegetation.

Other than the protected trees, some self-set trees and areas of scrub, the site is currently vacant. The site is some 500m from the Rosliston Forestry Centre and within The National Forest. There are no public rights of way that directly affect the site although there are several public footpaths within the surrounding countryside.

# 9/2014/1127 - Land at SK2416 1799 Burton Road, Rosliston DE12 8HY



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

## **Proposal**

The application is in outline, with all matters reserved for subsequent approval, for the erection of 13 dwellings, including 31% affordable housing, the erection of garages, the formation of parking areas, together with the provision of landscaping and a vehicular access off Burton Road. An indicative layout submitted with the application shows the formation of the new vehicular access in the approximate position of the existing field gate and a new 4.8m wide estate street/lane leading into the site culminating in a turning head.

The plans show an indicative housing mix comprising: 9 detached open market houses consisting of: 1 x 3-bedroom house, 7 x 4-bedroom house, 1 x 5-bedroom house; 4 affordable houses (31%) consisting of a terrace of: 2 x 2-bedroom cottage-style house, 2 x 3-bedroom cottage-style house.

A group of protected trees, consisting of 12 Silver Birch and 1 Pine, together with several individual trees, would be lost as a result of the proposed development. However, the indicative layout also shows new tree planting to replace some that would be lost, together with new boundary screen planting to augment the existing retained vegetation.

## **Applicants' supporting information**

The application is supported by several documents, including:

- Planning Statement
- Arboricultural Assessment
- Highways Report
- Landscape and Visual Appraisal
- Design and Access Statement
- Ecological Appraisal

These documents are available to view on the Council's website; however for ease of reference they can be summarised as follows:

### Planning Statement

The purpose of the Planning Statement is to demonstrate that the proposed development accords with the Development Plan for South Derbyshire District Council and covers topics including the site and its surrounding area; planning history; the proposed development; planning policy and guidance; an assessment of the proposals and Section 106 obligations. It concludes by stating that the proposal is in accord with the NPPF and the South Derbyshire Local Plan where it is consistent with the NPPF. The proposals constitute sustainable development and deliver a wide range of economic, social and environmental benefits.

### Arboricultural Assessment

This report presents the findings of the assessment and the survey of trees located within the site. The report concludes by stating that the site comprises mainly of scrubland within which there are several dense groupings of trees and that the

development will inevitably result in the removal of a small number of individual trees, two groups and a section of another group. This would create space throughout the remaining groups and individual trees to allow them to flourish and create an attractive amenity area. At the time of the survey the site was unmanaged and overgrown, with the trees along the boundaries being at a height where they obstruct views into the site. In the interests of good woodland management it is suggested that the Tree Preservation Order on those particular trees should not constrain the proposed development. As such the development is considered to be arboriculturally sound allowing for the retention of the vast majority of the existing trees and the proposed new tree planting set to increase the tree cover on site which will be visible from the wider area.

### Highways Report

This concludes by stating that the development would be within walking distance of the village facilities and the local pedestrian infrastructure is good, with street-lit footways. A new footway would be provided along the southern part of the site frontage to connect to the existing footway that ends at The Chase. The surrounding roads are residential in nature and present no barriers to cycling. Access to three bus services would be within walking distance, linking the development to Burton upon Trent and Swadlincote.

The proposed estate junction and visibility splays would conform to the relevant design standards and would adequately accommodate the development traffic without adverse impact. The village gateway would need to be relocated slightly to reflect the new extent of the village.

Safe and suitable access could be achieved with no adverse highway impacts expected. Therefore the development would accord with paragraph 32 of the NPPF and consequently it would be unreasonable to prevent the development on highway grounds.

### Landscape and Visual Appraisal

This addresses the landscape character, including the physical landscape features and elements; views and visual amenity experienced by residents, recreational users (including visitors and tourists) and road users. The LVA has determined the landscape and visual constraints and opportunities regard the site and its context and the analysis of these has influenced the development potential of the site and proposed development. The LVA has also influenced the inherent landscape strategy as part of the masterplan.

The approach taken to the proposed development recognises the landscape and visual attributes of the site and its context, reacting positively to this and seeking to integrate with its context at all levels of the design process, from site planning through to layout and landscape and urban design. On this basis it is considered that the development of the nature and scale proposed forms a sensitive response to the constraints and opportunities and is considered to represent a very limited impact on the site and surrounding area. As a result the proposed development forms an acceptable proposal in landscape and visual terms and in accordance with the environmental dimension of the NPPF, with more detailed provision of the landscape and visual aspects of the National Planning Practice Guidance and also local policy guidance.

## Design and Access Statement

This document demonstrates how the physical, social and economic context has influenced the design in conceptual terms and informed the final proposals. The design concept plan has been prepared illustrating the key principles that have guided the detailed development of the final illustrative layout. The applicant is committed to the delivery of a high quality development that is sensitive to the local context. In particular, the design proposal takes into account the need to create character areas that are unique to the scheme but also reflect the identity of the local area. The proposals aim to make the most efficient use of land that is appropriate to the nature and setting of the site. The site and its location on the edge of Rosliston in the National Forest enjoys easy access to local facilities and public transport, with clear access into the site and good pedestrian linkages to surrounding uses. The layout and urban form of the scheme is such that it supports crime prevention and community safety, with development clearly overlooking public spaces and streets. The landscape design is responsive to the sensitive setting of the site. Hedgerows and trees have been retained where possible and inform the structure and layout of the residential parcel, with existing planting to the north retained and enhanced. The masterplan proposals provide for a sensitive design solution to provide new housing in keeping with the form and character of Rosliston.

## Ecological Appraisal

This provides details of the ecology surveys that were completed in 2014. An extended Phase 1 Habitat Survey was undertaken on 4<sup>th</sup> July 2014. The trees within the site were assessed from the ground for their suitability to support roosting bats and searches were made for evidence of the presence of badger. A single bat transect survey was completed on 16<sup>th</sup> September 2014 and a static bat detector was used to record bat calls. Seven reptile surveys were completed and an assessment of ten ponds within a 500m radius of the site was undertaken for their suitability to support great crested newts. The Appraisal concludes that the proposed development would not have an adverse impact on any protected species and that, subject to the implementation of a nature conservation management plan, the use of a sustainable drainage system (SuDS) and the careful consideration of lighting, there would be minimal impact on wildlife as a whole.

## **Planning History**

9/1990/0755 – Erection of one detached dwelling adjacent Rosliston House – Refused and subsequent appeal dismissed 25/09/1991

9/2000/0400 – Outline for residential development with all matters reserved – refused and subsequent appeal dismissed 22/12/2000 with full award of costs to SDDC

## **Responses to Consultations**

Severn Trent Water has no objections.

Natural England has no objection in principle.

NHS England confirms that it will not require a health contribution for the proposed development owing to the limited number of dwellings proposed.

The County Archaeologist confirms that there is no requirement for an archaeological condition for this site.

The National Forest Company (NFC) considers that mitigation should be provided for those trees to be lost to the development. In order to create a net gain to the biodiversity value of the remaining woodlands the 'blue' land should be brought into management. This should include creating public access for new residents, tree works where needed and other environmental enhancements. The NFC therefore requests that a Management Plan is required by condition which should set out works to enhance the biodiversity value of the 'blue' land and incorporate public access. The Management Plan should also set out how public access would be maintained in the long term, i.e. by regular mowing of the rides.

The Strategic Housing Manager recommends that the four affordable dwellings are available for rent, with no requirement for shared ownership properties. She also suggests that two of the properties are 2-bedroom: 4 person dwellings and the remaining two are 3-bedroom: 5 person dwellings.

Derbyshire Wildlife Trust considers that the survey work undertaken in support of the application to be sufficient to provide adequate information on the ecological value of the site and the potential impacts arising from the development and supports the recommendations set out within Section 4 of the report. The Trust recommends two conditions in order to secure the long-term management and protection of valuable ecological features and to ensure mitigation and enhancement measures are implemented.

Derbyshire County Council has requested developer contributions in respect of the following:

£371.93 towards additional waste management capacity; and  
£34,352.34 for 2 secondary school places at The William Allitt School

DCC also requests that the applicants consider access to high speed broadband services for future residents and that the new homes are designed to Lifetime Homes standards.

The County Highway Authority confirms there are no objections to the current proposal from the highway point of view. However, although access is a reserved matter it is still necessary to establish that a satisfactory means of access can be achieved. The existing footway and street lighting on Burton Road would need to be extended to a point beyond the proposed access, generally in accordance with drawing No. ADC1060/001. This can be provided within highway limits and should allow the 30mph speed limit to be extended past the site access without the need for a Traffic Regulation Order. The relocation of the street furniture would be necessary to avoid obstructing the footway and emerging visibility. The CHA also confirms that, owing to the likely speed of vehicles approaching from the north exceeding 30mph, visibility sightlines of 2.4m x 43m are not adequate in this direction and should be extended to 80m. Furthermore, the service vehicle tracking indicated on the application drawing shows a twin axle refuse vehicle. However, the refuse vehicles used by South Derbyshire District Council are three-axle vehicles. The CHA requires conditions in respect of the provision of the access, gradients, internal layout, the provision of a 2m wide footway, the submission of



a swept path diagram, the provision of parking within the site and the location of any gates.

## **Responses to Publicity**

Rosliston Parish Council has made comments and observations on the proposed development as follows:

- There is a preference for more two-bedroom affordable units;
- The amount of affordable housing should be increased and not reduced later on in the planning process;
- The trees to be removed at the site entrance and the flowerbeds at the front of the site were planted by the Parish Council and therefore the developers should consult with the Parish Council to negotiate compensation and re-siting of the trees and flowerbeds;
- An extra high kerb should be constructed for the footway to the front of the site to deter cars from parking, particularly at school drop-off and pick-up times, so that visibility is not reduced when exiting the site.

Four letters and one email have been received, all of which object to the proposed development on the following grounds:

- a. Visual impact, detrimental to the rural character of the village and the Forestry Centre;
- b. Village boundary will be extended;
- c. Strain on facilities and highway network;
- d. No need for further estate development since Drakelow Park has been approved;
- e. Public transport is poor and the proposed development will lead to increased traffic on narrow roads;
- f. Increased danger caused by speeding vehicles on the entrance to the village and at the junction with The Chase – there is a need for a speed survey to be undertaken;
- g. Village school and doctors' surgery are at capacity;
- h. Increased parking, particularly at school drop off and pick up times;
- i. How will the environment be enhanced or pollution reduced?
- j. Detrimental impact on wildlife, habitats and protected trees;
- k. No employment within the village;
- l. Detrimental impact on tourism;
- m. Permission should be refused as the proposed would not improve the character and quality of the area and therefore is contrary to paragraph 64 of the NPPF;
- n. The site should be owned and managed by residents of The Chase who would seek to preserve and maintain the trees;
- o. Existing covenants on deeds of properties on The Chase;
- p. Impact on surface water drainage from the development;
- q. Information within the ecology appraisal has been purposely blacked out and therefore the developer is not being transparent;
- r. Lack of publicity and neighbour notification;
- s. Impact on privacy

## Development Plan Policies

The relevant policies are:

Adopted Local Plan: Saved Housing Policies 5, 8, 9, 11; Saved Environment Policies: 1, 9, 10, 14; Saved Transport Policy 6; Saved Community Facilities Policy 1 (B)

Emerging Local Plan: S2, S6, H1, SD1, BNE1, BNE3, BNE4, INF1, INF2, INF8

Supplementary Planning Guidance: Housing Design and Layout

## National Guidance

National Planning Policy Framework (NPPF), including paragraphs 7, 8, 14, 17, 47, 49, 50, 56, 57, 109, 118, 186, 187, 203, 204

National Planning Practice Guidance (NPPG) ID 50 Rural Housing, ID26 Design, ID8 Natural Environment

## Planning Considerations

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

- The principle of the development
- The Council's five-year housing land supply and sustainability
- Visual impact
- Highway matters
- Protected trees
- Section 106 obligations
- Miscellaneous issues

## Planning Assessment

### Principle of development

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

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

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

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

The application site is located to the immediate north of Nos. 1, 3 and 5 The Chase on the northern edge of Rosliston outside the village confine as shown on Inset 25 of the adopted Local Plan. The adopted Local Plan contains numerous saved policies relating to new residential development and countryside development that are considered to be consistent with the NPPF although recent appeal decisions have called into question the validity of some policies in certain circumstances. When assessing the application against the adopted Local Plan it is clear that the proposals would be contrary to Housing Policies 5 and 8 and Environment Policy 1. It is evident that the site is not within a village confine, but rather that the site lies in open countryside outside any settlement boundary.

Saved Housing Policy 5 only supports new housing developments provided that they can be accommodated within villages and they are in keeping with the scale and character of the settlement.

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

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

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

The Emerging Local Plan began its Examination in Public during November 2014 but was subsequently suspended pending further work being carried out with regard to the sustainability appraisal and the Housing Market Assessment (HMA). In the Plan, Policy H1 – Settlement Hierarchy – includes Rosliston as a Local Service Village where development of a local scale (up to 15 dwellings) and local scale affordable and cross subsidy exceptions sites of up to 15 dwellings will be promoted on appropriate sites and according to individual settlement circumstances. Clearly, this is the case here. However, although some weight can be afforded to the Emerging Plan now that it has progressed beyond its consultation stages and has reached the Examination stage, it would not be advisable to attribute it significant weight until such time as the Plan has been found to be 'sound' following completion of its Examination in Public and a five year supply of housing is demonstrable.

Given that the proposals do not accord with Saved Housing Policies 5 and 8 and Environment Policy 1 of the adopted Local Plan, it is considered that the principle of the development cannot be satisfied using these policies as the gauge. Notwithstanding this, Members will be aware that the decision is not as clear cut as the above policy considerations appear to suggest. Other important material considerations are fundamental to the outcome of this application.

## The Council's five-year housing land supply and sustainability

In terms of housing supply, paragraph 47 of the NPPF requires local planning authorities to use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the NPPF, including identifying key sites which are critical to the delivery of the housing strategy over the plan period. In addition, there is a burden on the local authority to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements (with an additional buffer of 20%) to ensure choice and competition in the market for land. Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered to be up-to-date if the local planning authority cannot currently demonstrate a five year supply of housing.

In terms of paragraph 14 of the NPPF the presumption in favour of sustainable development must apply unless there are adverse impacts that would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole. It has been made clear through numerous appeal decisions made since the inception of the NPPF that any negative considerations would need to be substantial in order to justify refusal of an application that makes a meaningful contribution to strategic housing need. The mere presence of less than optimal planning circumstances for any given development is not likely to outweigh the presumption.

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

Rosliston village is well within walking distance of the application site and provides a range of local services and facilities, including a shop, two public houses, a primary school, a takeaway, a village hall and a church, together with employment opportunities close by. There are also footpath links through to the Rosliston Forestry Centre and the wider public rights of way network. The village is also served by public transport and school bus services linking to The Pingle School in Swadlincote and John Taylor School in Barton under Needwood. It is evident that the site is sustainable and therefore would meet the sustainability objectives of the NPPF. Similarly, the proposal would accord with the advice in the NPPG with regard to rural housing and the importance of supporting sustainable rural communities.

Regard must be had to paragraph 14 of the NPPF in that (if the presumption in favour of sustainable development applies) the benefit of the housing proposals has to be balanced against the harm to the countryside. Moreover, to justify resisting the

proposals under paragraph 14 the harm must outweigh the benefit, not just marginally but rather 'significantly' and 'demonstrably'.

### Visual impact

The site currently has no defined use although, historically, it formed part of the grounds and gardens to Rosliston House (now demolished) and would have been classed at that time as residential. However, it is now mostly overgrown, overtaken by natural scrub and woodland and therefore has a mainly rural character. Consequently, the proposed development would have some visual impact on the surrounding area, particularly when viewed from Burton Road when leaving the village northwards. Notwithstanding this, the proposed development would abut existing dwellings on The Chase development and would likely be seen in the context of this small estate. Furthermore, the proposal is in outline with no details with regard to house types, dimensions or finishes being submitted. Should planning permission be forthcoming the applicants would be willing to enter into detailed discussions prior to the submission of reserved matters so that a high-quality scheme that sits well in the landscape could be agreed from the outset. The development would be screened by existing mature woodland when approaching the village along Burton Road.

It is considered, therefore, that there are no grounds for refusing the application on the basis of visual impact.

### Highway matters

Burton Road is a Class C road with a speed limit of 30mph noted on a gateway sign close to the proposed vehicular access into the site. There are footways on both sides of the road at the junction where The Chase meets Burton Road; however these terminate further towards the site. Burton Road is wide enough for two-way traffic and of adequate width for the volume of traffic typical of a rural area. Available data shows that two accidents were recorded between the years 2005 and 2012. Both involved vehicle to vehicle collisions on Catton Lane and Main Street and resulted in slight injuries.

The proposed vehicular access would be 7.5m wide comprising 0.7m wide service strip, 4.8m wide carriageway and a 2m wide footway. A new footway would be provided along the southern part of the site frontage to connect the development to the existing footway network that starts at The Chase.

In order to assess the highway impact of the proposed development a trip generation exercise has been submitted which states that a single house generates between 8 and 10 vehicle movements a day. Consequently 13 dwellings would generate between 104 and 130 car movements a day. 52 – 65 of these would depart and the same number would arrive. Typically, 13 dwellings would generate between around 10 traffic movements in a peak hour (8am to 9am and 5pm to 6pm). This is a modest amount and would not materially alter the current operation of the highway network. The DfT's *Guidance on Transport Assessment* notes a 30 vehicles per hour threshold as the starting point for considering whether a residential development should be assessed in greater detail.

It is noted that the County Highway Authority has not objected to the proposed development. However, it is not clear whether the development would be served by an

adoptable road or by a shared private access. In the event of the latter the access would need to be constructed as a splayed vehicle crossover rather than with the kerbed radii as shown on drawing ADC1060/001. Regardless of the type of access, the Highway Report refers to the provision of 2.4m x 43m visibility splays in both directions. The proposed access currently fronts the section of Burton Road subject only to the national speed limit, albeit adjacent to the commencement of the 30mph limit. It is considered that the speeds of vehicles approaching from the north are likely to exceed 30mph and, as such, a 2.4m x 43m visibility sightline is not considered to be adequate in this direction. However, an extended sightline could be achieved within highway limits. Consequently, subject to conditions, there are no objections to the proposed development on highway grounds.

The applicants confirm that the access road has been designed to adoptable standards and that it is their intention for the access road to be adopted, hence the provision of kerbed radii rather than a splayed vehicle crossover. They also confirm their willingness to accept a condition that requires a longer splay of 80m to the north.

### Protected trees

The trees within the application site and the land to the immediate north, which is also in the applicants' ownership, are protected by Tree Preservation Order No.175. This was placed on the trees following refusal of the outline application made in 2000 as they were considered to be under threat at that time. Since then the trees have not been particularly well managed. The majority of the protected trees are located on the 'blue land' to the north of the application site and are not affected by the current proposal. Pre-application discussions with the applicants reaffirmed the importance of retaining as many of the protected trees as possible; hence the submitted scheme covers only the southern part of the site in the applicants' ownership.

The submitted arboricultural report is considered to be factual and accurate by the Council's Tree Officer. Many of the trees on the site are young mature trees that hold moderate to high amenity value. Moreover, some trees will have much more to offer as they mature. The removal of those trees denoted in the arboricultural report in order to facilitate the proposed development (mostly Silver Birch and Pine) would not have a great adverse impact on the current treescape. Indeed, the future growth of the retained trees, together with the proposed additional planting, would more than compensate for the loss. That said, great care must be taken to fully protect the trees identified for retention, both during and post development and conditions and advice should be attached to reflect this.

The Council's Tree Officer and the National Forest Company support the proposals on the basis that the important protected trees would be retained and, as a result of the proposed development, be better managed. Therefore the longer term prospects for the site to be a benefit to the area would be enhanced.

### Section 106 obligations

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

As part of the application the applicants have expressed a willingness to enter into a Section 106 Agreement (or Unilateral Undertaking) to ensure delivery of such requirements as are reasonable and which accord with the tests set out in Community Infrastructure Regulations (CIL) 2010.

With regard to education, Derbyshire County Council has confirmed that Rosliston Primary School has spare capacity and is likely to have during the next five years. Consequently, there is no requirement for a contribution towards primary school places.

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

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

Applying the above tests, therefore, the obligations listed below are considered to be reasonable and necessary to make the development acceptable:

- Off-site recreation comprising £372 per person for open space, £220 per person for outdoor facilities and £122 per person for built facilities (the contributions probably being put towards improved facilities at Rosliston Forestry Centre);
- £34,352.34 towards the provision of 2 secondary school places (classroom project A at The William Allitt School);
- £28.61 per dwelling towards improved waste recycling facilities;
- The provision and retention of public access to the area of woodland to the north of the application site (see paragraph below);
- The formation of a management company to manage the woodland (see paragraph below).

By way of improving the current situation, the applicants have agreed to open up the woodland to the north of the application site for informal public access, and this would be managed by a management company. This would ensure the future management of the trees whilst also providing a woodland setting for the proposed development. It is envisaged that access to the woodland would comprise a series of rides that would be mowed on a regular basis and possibly some seating. It is proposed to include a condition to require the submission of a management plan to set out the works and to incorporate public access. The Management Plan should also demonstrate how the public access would be maintained in the long term. The requirement for the public access would also form part of the Section 106 Agreement.

It is proposed to address the requirement for affordable housing by way of a suitably worded condition rather than as part of the Section 106 Agreement as this is the preferred approach of the Strategic Housing Manager and the Planning Inspectorate for development of this scale.

#### Miscellaneous issues

Given the nature, scale and location of the proposal and the fact that the site area is 0.49ha, the application has not been screened for an Environmental Impact Assessment.

The issue of privacy would be assessed at the reserved matters stage.

With regard to the Parish Council's comments, on a development of this scale the amount of affordable housing being offered by the developers exceeds what would normally be required under Council policy and the Strategic Housing Manager is satisfied with the amount and mix. The affordable housing would be secured by condition. The request for a condition with regard to compensation for the loss of the trees and flowerbeds is unreasonable and would therefore be *ultra vires*. A suitably worded informative is advisable. With regard to the issue of the kerb, this detail would be overseen by the County Highway Authority.

### Overall Conclusions

The information within the supporting documents and responses from statutory consultees has not raised any particular concerns with regard to 'technical' issues. The County Highway Authority is satisfied that the development could be made acceptable in highway safety terms with the imposition of conditions. Similarly, wildlife within the site could be protected by mitigation and monitoring work. Public access to the woodland to the north of the application site would be beneficial to the future residents of the site as well as the residents of Rosliston. The detailed design, layout and impacts of the development on neighbouring residents and retained trees would be given careful consideration at reserved matters stage.

Therefore, the decision falls to be determined on more fundamental issues of principle. Whilst the application appears to be contrary to Saved Housing Policies 5 and 8 and Environment Policy 1, this is outweighed by the material considerations of the presumption in favour of sustainable development, which is the main objective (golden thread) running through the NPPF (and the Government's desire to 'significantly boost the supply of housing'). In this context involving a development that is sustainable and given that the Council is unable to demonstrate a five year housing land supply, it is recommended that the application is approved, subject to the applicants entering into a Section 106 Agreement or Unilateral Undertaking to cover the above obligations and subject to the conditions specified below.

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

### **Recommendation**

- A. That the Committee delegate authority to the Planning Services Manager to conclude the signing of a Section 106 Agreement or Unilateral Undertaking in pursuit of the provisions and contributions as set out in the planning assessment above;

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

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



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

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

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

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

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

Reason: To safeguard the character and appearance of the surrounding area.

4. Notwithstanding the submitted details, prior to the commencement of building operations on adjoining areas, the boundary with the area of protected trees (as annotated on Drawing No EMS.2484.005) shall be fenced with steel mesh fencing to 2.3m high supported by steel scaffold poles staked at 3 metre centres. The fencing shall be retained in position until all building works on adjoining areas have been completed unless otherwise agreed in writing with the Local Planning Authority.

Reason: To protect the trees from undue disturbance during construction works.

5. There shall be no excavation, storage, tipping or deposition of materials within the area fenced under condition 4 above without the prior written authorisation of the local planning authority.

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

6. All planting, seeding or turfing comprised in the approved details of landscaping required under Condition 2 shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

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

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

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

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

9. Prior to the commencement of development including any site clearance a detailed lighting strategy for the proposed development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the approved strategy.

Reason: To safeguard the character of the area and the natural environment.

10. Prior to the commencement of development including any site clearance a detailed landscape, ecological and arboricultural enhancement and management plan for the application site and the adjacent area of protected woodland shall be submitted to and approved in writing by the Local Planning Authority. The management plan shall set out works to enhance the biodiversity value of the adjacent woodland, such as the provision of bird and bat boxes, and incorporate public access and also set out how public access to the adjacent woodland will be maintained in the long term, i.e. by regular mowing of the rides.

Reason: In the interests of mitigation for those trees lost as a result of the development and in the interests of ecology and the health of the protected trees.

11. The development shall not commence until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the NPPF or any future guidance that replaces it. The scheme shall include:

i. no less than 30% of housing shall be affordable of which 100% shall be social rented or affordable rented;

ii. no more than 80% of the Market Housing units shall be occupied before completion and transfer of the affordable housing units;

iii. the arrangements for the transfer of the affordable housing to an Affordable Housing Provider;

iv. the arrangements to ensure such provision is affordable for both first and subsequent occupiers of the affordable housing to those households on the District Housing Waiting List; and

v. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing by means of the District Choice Based Lettings allocation scheme or in such other form as may be proposed by the Local Authority and agreed with the Affordable Housing Provider;

vi. a local letting plan giving first priority to households who can demonstrate a local connection to Rosliston.

Reason: To ensure the provision of affordable housing.

12. Notwithstanding the application drawings, whether or not the access and internal layout is intended for adoption, prior to any other works commencing the access shall be laid out in accordance with the 6Cs Design Guide and Manual for Streets. The access shall be provided with visibility splays of 2.4m x 43m in the southerly direction and 2.4m x 80m in the northerly direction, the area forward of which shall be cleared and maintained thereafter clear of any obstruction exceeding 600mm in height relative to the nearside carriageway edge.  
Reason: In the interests of highway safety.
13. The gradient of the access for a distance of the first 10 metres into the site from the Burton Road carriageway edge back from the highway boundary shall not exceed 1 in 30 and no more than 1 in 20 thereafter.  
Reason: In the interests of highway safety.
14. The internal layout of the site, whether remaining private or intended for adoption, shall accord with the 6Cs Design Guide and Manual for Streets.  
Reason: In the interests of highway safety.
15. Prior to the first occupation of any dwelling a 2m wide footway shall be provided on Burton Road, linking to that existing to the south of the application site extending to a point north of the proposed access, all laid out and constructed, drained and lit to Derbyshire County Council's standards in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.  
Reason: In the interests of highway safety.
16. Notwithstanding the submitted details a new Swept Path Diagram shall be submitted at Reserved Matters stage to demonstrate that emergency and service vehicles can adequately enter/manoeuvre within the site and leave in a forward gear.  
Reason: In the interests of highway safety.
17. Unless otherwise agreed in writing with the Local Planning Authority space shall be provided within the site for the parking of two vehicles per dwelling and maintained throughout the life of the development free of any impediment to their designated use.  
Reason: In the interests of highway safety.
18. No gates or other barriers shall be erected within 5m. of the nearside highway boundary and any gates elsewhere shall open inwards only.  
Reason: In the interests of highway safety.
19. No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive unless a competent ecologist has undertaken a careful check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation shall be submitted to and approved in writing by the Local Planning Authority.  
Reason: In order to protect nesting birds in the interests of nature conservaiton.

Informatives:

The dwellings should be designed to Lifetime homes' standards.

The applicants are asked to consider the provision of high speed broadband services for the future residents of the development.

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.

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).

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

The applicants are advised to discuss the removal and resiting of trees at the site entrance and flowerbeds on the site frontage with Rosliston Parish Council as soon as possible.

**Item**            1.3

**Reg. No.**        9/2014/1158/RSD

**Applicant:**  
**Mrs Helen Dawkins**  
**Miller Homes Ltd**  
**2 Centro Place**  
**Pride Park**  
**Derby**  
**DE24 8RF**

**Agent:**  
**Mrs Helen Dawkins**  
**Miller Homes Ltd**  
**2 Centro Place**  
**Pride Park**  
**Derby**  
**DE24 8RF**

**Proposal:**        **APPROVAL OF LAYOUT, SCALE, APPEARANCE AND LANDSCAPING (RESERVED MATTERS) OF APPLICATION 9/2013/0643 FOR THE ERECTION OF 40 DWELLINGS AND ASSOCIATED PUBLIC OPEN SPACE AND INFRASTRUCTURE ON LAND AT SK3126 1562 LONGLANDS REPTON**

**Ward:**            **REPTON**

**Valid Date:**     **17/12/2014**

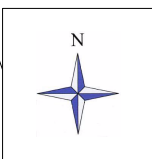
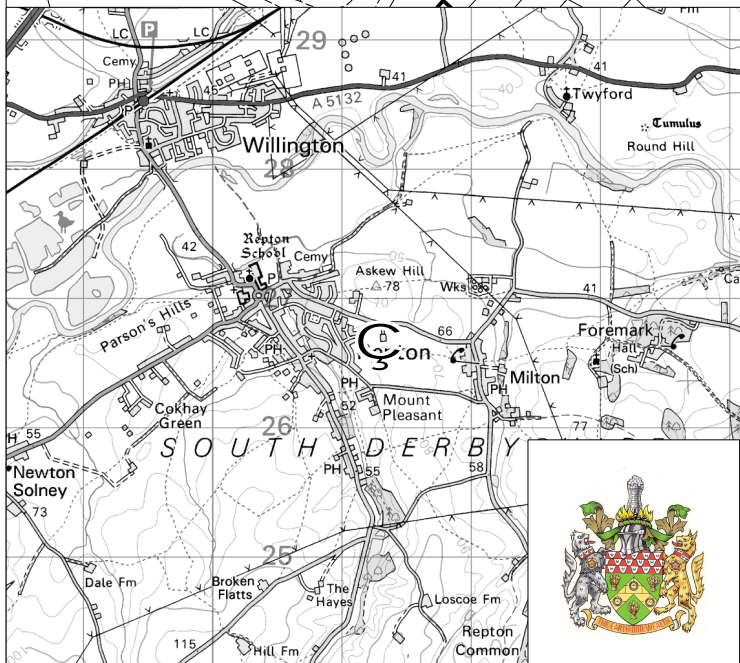
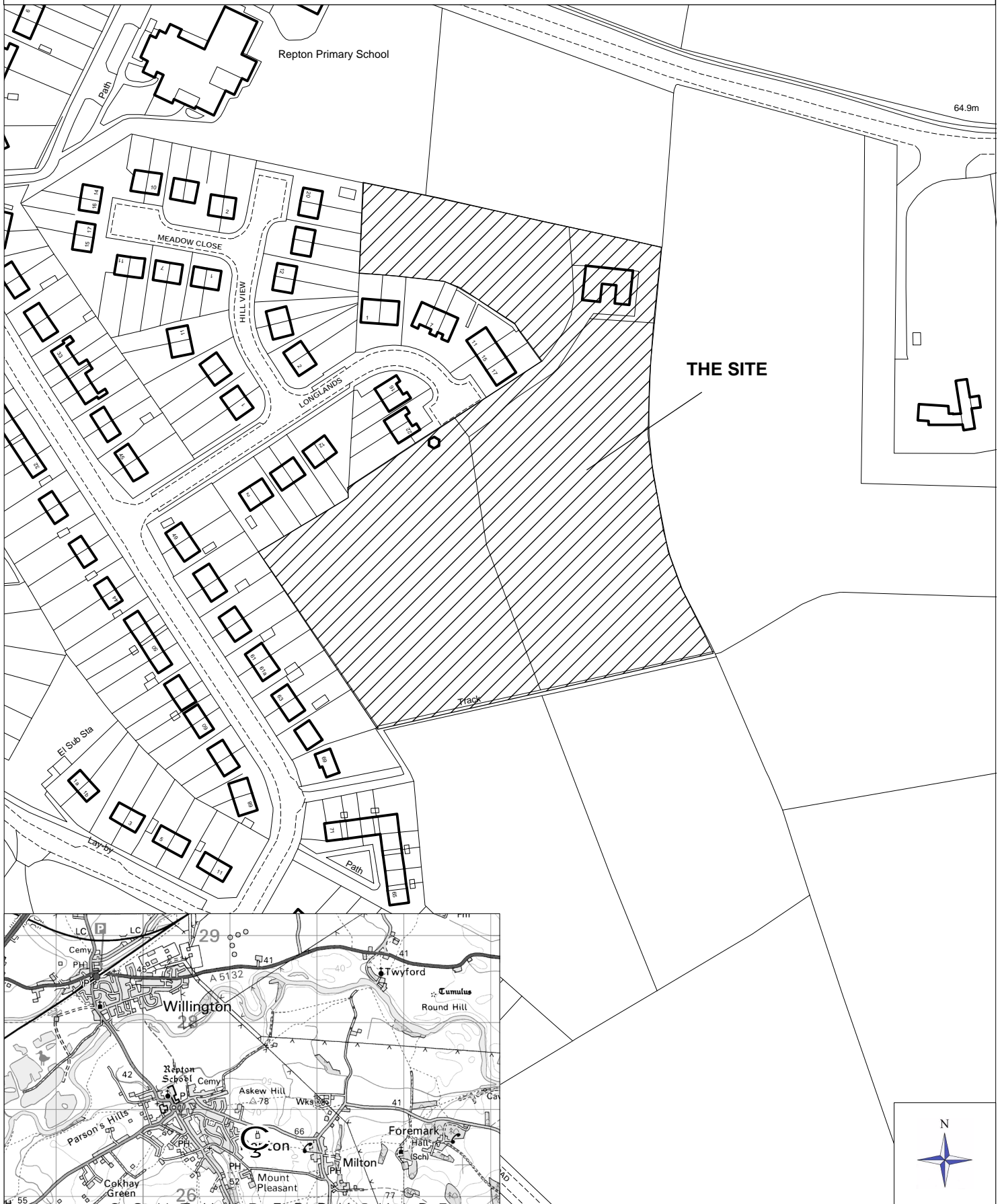
#### **Reason for committee determination**

The item is presented to committee as this is a major development having received more than two objections.

#### **Site Description**

The site extends to approximately 2 hectares and is presently put to pasture. It is largely a greenfield site just beyond the eastern edge of the village, carrying a stable block, access track and World War II pillbox. It is bordered by properties and their rear gardens along Longlands, Hill View and Springfield Road, with the rear boundaries made up by a mix of hedgerow, close boarded fencing and post and wire fencing. These frame the south-west and western edges of the site whilst a well-established hedgerow forms the north and north-east limits. There is a timber post and rail fence forming the southern edge immediately adjacent to a public footpath running between Springfield Road and Milton. The land falls from the eastern tip of the site reasonably steeply towards the west and north. The wider landscape rises further to the east and south-east, beyond the confines of the site, as well as to the north beyond Milton Road. Longlands is a standard estate road which connects to Askew Grove, Milton Road and Mount Pleasant Road via Springfield Road. It carries a footway to both sides and is lit along with surrounding roads.

# 9/2014/1158 - Land at SK3126 1562 Longlands, Repton DE65 6GB



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

## **Proposal**

Following approval of outline permission where all matters were reserved except for access, it is now sought to secure the layout, scale, appearance and landscaping for the provision of 40 dwellings with associated garaging, parking, estate roads, footways, public open space including a children's play area and above ground drainage features (SuDS).

## **Applicants' supporting information**

Aside from layout plans and elevational drawings showing the setting out of the site and plans for each dwelling proposed, isometric mock-ups of views of the Church Spire are provided along with details of the play equipment and SuDS headwalls. A habitat management plan also accompanies the submission.

## **Planning History**

- 9/2013/0643: Outline application (all matters reserved except for access) for residential development of up to 40 dwellings with means of access – Approved April 2014.
- 9/2012/0852: The formation of a manege – Approved January 2013
- 9/2010/0160: The formation of an access track to the stables - Approved May 2010
- 9/2009/0751: The erection of stables – Approved November 2009
- 9/2001/1150: The erection of five bungalows and seven houses (on the adjoining land now forming the end of Longlands) – Approved June 2002

## **Responses to Consultations**

The County Highway Authority generally raises no objection following amendments, clarification of drainage arrangements and that internal dimensions of garages will meet standards in the 6Cs guide. The only residual concern is the size of the turning head to the end of the estate road adjacent to the footpath and further potential development land to the south. Given the timing and phasing of this development and the potential for the estate road to continue into this land to the south, the turning head may not be required at the time of construction such that a condition is requested to ensure an appropriate solution at the time.

The County Flood Risk Management Team raises no objection to the proposed SuDS and drainage scheme following clarification over the capacity to receive extreme instances of rainfall, prioritisation of flows through the balancing pond and long term maintenance of that pond.

The Crime Prevention Design Advisor comments that consideration should be given to the links to play areas from shared private drives and the preference to gate these to emphasise the semi-private nature of these driveways. Further comments relate to plots specific amendments for surveillance windows and so forth, which have been accommodated in revisions.

Derbyshire Wildlife Trust has given consideration to the Habitat Management Plan and use of the Pillbox to create a bat roost. There is generally no objection with the proposed management of the grassland and SuDS acceptable, but it is noted there is no mention of the management of the perimeter hedgerows on the northern and eastern boundaries.

The Environmental Protection Officer (Contaminated Land) raises no objection given existing conditions on the outline permission are sufficient to address the risk associated with historical contamination.

## **Responses to Publicity**

The Repton Village Society objects of the following grounds:

- i) the reduction in the play area;
- ii) removal of public art and timber play area; and
- iii) an implied linkage to future development.

4 representations have been received raising the following objections:

- a) the proposal is outside the existing allocation as set out in the Draft South Derbyshire Local Plan Part 1, and the proposal is pre-emptive and undermines the consultation process;
- b) it threatens to create the precedent for further development along the road linking Repton, Mill Hill and Milton;
- c) there are too many cars using the country road system around Repton leading to gridlock around the Cross and onto the bridge at Willington, and this proposal would add to this problem;
- d) the local roads around the development are all in a shocking state of repair already without any additional vehicles;
- e) the roads are not appropriately designed to cycle safely and the lack of bus routes, all lead to greater car use;
- f) the local schools are full and unless more capacity is found their standards will fall;
- g) there is no library, doctors surgery, bank, abundance of shops or sporting facilities, there is not plenty of room in the one school and there is only a single restaurant;
- h) there were no details available on what was deemed affordable housing – are these going to be released onto the open market or will they be controlled by a housing association and really ring-fenced for the local population;
- i) it is an encroachment on valuable nature space;
- j) Repton is a village and should be allowed to remain one instead of becoming another suburb of Burton or Derby, or to be combined with Milton;
- k) the distinct characteristics and boundaries of Repton and Milton should be maintained proactively, and not drift towards merging;
- l) the development is on prominent high ground and will be visible from over a very wide area;
- m) the development will encircle an important public footpath which will degrade this footpath and enjoyment of routes across the wider area;
- n) a development of this size could be considered to be beyond organic growth;
- o) the development is out of scale and is not in sympathy with the existing settlement and its history; and



- p) the area around Springfield Road currently suffers from rainwater run off and the proposed development will only increase this problem

### **Development Plan Policies**

The relevant policies are:

- Saved Local Plan 1998: Housing Policy 11 (H11); Transport Policies 6, 7 and 8 (T6, T7 and T8); Environment Policies 9 and 13 (EV9 and EV13); Recreation & Tourism Policy 4 (RT4); and Community Facilities Policy 1 (CF1).

### **Emerging Development Plan Policies**

The relevant policies are:

- Submission Local Plan 2014 (as modified): Policies S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H9 (Land at Longlands, Repton), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity) and BNE4 (Landscape Character and Local Distinctiveness).

### **National Guidance**

- National Planning Policy Framework (NPPF): with particular reference to paragraphs 6, 7, 8, 14, 17, 32, 39, 58, 61, 69, 70, 96, 109, 118, 120, 139, 173, 203, 204, 206, 215 and 216.
- National Planning Practice Guidance (NPPG).

### **Local Guidance**

- Housing Design and Layout Supplementary Planning Guidance (SPG).

### **Planning Considerations**

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

- Highway, drainage, open space and plot layout;
- Scale and appearance of the built form; and
- Landscaping and biodiversity.

### **Planning Assessment**

The principle of development of this site has been established through the outline permission. Representations referring to the principle of development, such as traffic impacts on surrounding roads, pressures on local services and facilitates, and the impact on the open countryside have already been discussed and deemed acceptable subject to conditions or planning obligations secured under the outline permission. The assessment is thus solely confined to the Reserved Matters – layout, scale, appearance and landscaping.

## Highway, drainage, open space and plot layout

The detailed layout largely follows the masterplan provided with the outline permission. The highway extends towards the northern end of the site where the SuDS are now located to the north-western corner – addressing an outstanding concern as to the balancing pond segregating the open space and connectivity to the site to the north; as well as to the south, making provision for connection to land beyond falling within the emerging Local Plan H9 allocation. Following amendments the County Highway Authority has no objection and the layout is considered to make for suitable and safe vehicular movement, with the exception of a turning head as outlined above. The same can be said for pedestrian movement with a footway through the open space connecting to the site to the north (and Milton Road beyond), to roads within the development, and to the public footpath along the southern boundary. The location of the play equipment is also as envisaged, to the highest ground to ensure that the built form is stepped away from the crest of the ridge between Repton and Milton. A substantial tree planting buffer to the eastern boundary is also proposed as was envisaged. The open space and play provision is acceptable to the Open Space Manager.

The plot layout around the south-western and north-western edges reflects the regimented arrangement of dwellings along Longlands and Springfield Road and is welcomed. This results in the denser part of the site carrying a strong building line to frame the highway. Moving east across the site and toward the higher ground and landscaping buffer, the density “loosens” accordingly resulting in a more organic layout. This is with the exception of almshouses fronting the public footpath which achieves an appropriate balance between ensuring a low ridge height close to the high ground whilst providing a rhythmic frontage to the straight public footpath. The proposal also complies with the distance between dwellings standards set out in the SPG.

## Scale and appearance of the built form

All dwellings are between 1.5 and 2 storeys high with roof pitches designed to reflect the traditional local vernacular. In terms of scale the dwellings are considered wholly appropriate. As to appearance a range of urban designs and rural designs are presented and placed accordingly across the site, ensuring green edges and corridors are fronted by the rural character dwellings. A central entrance square is well framed by the dwellings here whilst, for instance, detailing on the dwellings which edge the open space is well suited. Materials compliment this design approach well.

## Landscaping and biodiversity

The planting along the eastern boundary has been amended to ensure a dense native mix establishes whilst the north/south pedestrian link through the open space is framed by beech trees – some of which will be copper beeches placed in key views. Street trees will follow this same rhythmic effect setting a design cue for any development permitted on land to the south. The entrance square will also be appropriately framed with trees. Overall the range and number of trees, accompanied by shrub planting, should help to provide a net biodiversity enhancement on the site. This is further complimented by the proposal to use the pillbox as a bat roost, with the Habitat Management Plan setting out details for this and management practices across the site.

As for hard landscaping, high quality exposed boundary treatments are secured (such as walls fronting highways, or arrow top railings to define public and private space to

dwelling) along with variation in kerb heights and materials to indicate the significance and purpose of certain areas of highway, driveways or footways.

## Summary

Overall the envisaged “high quality finish” for this development has been embraced and well executed by the applicant, providing the potential for an exemplar quality development. Conditions can secure any finer details in addition to the control already remaining in place 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**

**APPROVE** reserved matters permission subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the following plans/drawings/documents unless as otherwise required by condition attached to this permission or permitted 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):
  - a. (Layout, boundary treatment and material plans) REP/DL/01 Rev B, REP/BTP/01 Rev B and REP/MAT/01 Rev B;
  - b. (Drainage details) E620-01, E620-03, E620-42 and E620-45;
  - c. (Landscaping plan and play equipment details) 1411CAR-REP-01 Rev 4, 1411CAR-REP-02 Rev 4, 1411CAR-REP-03 Rev 4 and MILL-19596-08B;
  - d. (Habitat enhancement) Habitat Management Plan dated 12 February 2014, plan E-5429 AA (13.02.2015) and the Pill Box Bat Enhancements AA (13/02/2015);
  - e. (Housetypes and garages) 304801\_REP Rev A, 307801\_REP, 311801\_REP, 415801\_REP Rev A, 418801\_REP Rev A, 418801\_REP\_R, 420801\_REP, 422801\_REP, 307DA801\_REP, 415801\_REP\_R, 418801\_REP\_P, 420801\_REP\_R, ALMS801REP, ALMS80123REP, GAR801REP and GAR2801REP.

Reason: For the avoidance of doubt.
2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no walls, fences or other means of enclosure shall be erected forward of the principal elevations of dwellings, or boundary walls or fences to those dwellings, except as authorised under the submitted application, without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

Reason: In order to maintain the character of streets and public spaces as secured under the plans hereby approved.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), plot 23 hereby permitted

shall not be enlarged or extended to or beyond its east elevation without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.

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

4. Gutters and downpipes shall have a black finish.

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

5. Notwithstanding the approved drawings/plans, no development involving the construction of a dwelling shall commence until details, including samples and/or drawings where necessary, of the following materials/features have been submitted to and approved in writing by the Local Planning Authority:

- a. colour of fascia boards and mortar for verges;
- b. chimneys, roof lights and dormers;
- c. utility cupboard colours (both wall and ground mounted);
- d. highway kerb styles to all road typographies; and
- e. tree pit/root cage details for new trees and subterranean tree root protection measures for existing trees and hedgerows (if and where necessary), accompanied by planting or installation methodology.

Thereafter the dwellings/highways/driveways/footpaths shall be constructed, and trees planted, in accordance with the approved details.

Reason: To ensure a good standard of design in the interest of the appearance and character of the area.

6. Notwithstanding the approved drawings/plans, no development involving the construction of a dwelling, shared private drive or parking courtyard shall commence until revised drawings detailing the location and surfacing for bin collection points off shared private drives and courtyards have been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt such areas are defined as those which are not to form part of the adoptable public highway.

Reason: To ensure a good standard of design in the interest of the appearance and character of the area.

7. Notwithstanding the approved drawings/plans, no development involving the construction of a dwelling shall commence until drawings, to a minimum scale of 1:10 including cross sections, showing typical details for cills and lintels, eaves and verges and string courses have been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, no fascia boards shall be placed over corbelling and there shall be no use of cloaking tiles/dry verges. The dwellings shall thereafter be constructed in accordance with the approved details.

Reason: The plans submitted are insufficient to establish whether such architectural details are satisfactory, in the interests of the appearance of dwellings and the overall character of the area.

8. Notwithstanding the approved drawings/plans, no development involving the construction of plots 12, 13, 14, 15,16 or 20 shall commence until a revised scheme for the turning head fronting those plots has been submitted to and approved in writing by the Local Planning Authority. The layout thereby approved shall be provided prior to the occupation of any dwelling served by that section of estate road.

Reason: The turning head as proposed is of insufficient size to facilitate the turning of all vehicles likely to use the new estate road. Due to the proximity to the public footpath and potential for future development to the south (as indicated on the submitted drawings) changes to the design of this area will be required.

9. Notwithstanding the approved drawings/plans, prior to first occupation the approved Habitat Management Plan shall be revised to include details of the management of existing hedgerows to the boundaries of the site. Thereafter the amended management plan shall be implemented accordingly.

Reason: The Habitat Management Plan submitted fails to provide sufficient detail to ensure the appropriate management of these existing features in the interests of enhancing biodiversity.

#### Informatives:

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

This decision is considered to adequately address the requirements of conditions 1, 2(a) and 3 of outline planning permission ref: 9/2013/0643. Whilst some details have been provided in respect of conditions 12, 17 and 18, the extent of these details is not considered sufficient to offer full discharge of the pre-commencement requirements.

**Item** 1.4

**Reg. No.** 9/2014/1177/TP

**Applicant:**  
**Mr Martin Buckley**  
**South Derbyshire District Council**  
**Civic Offices**  
**Civic Way**  
**Swadlincote**  
**Derby**  
**DE11 0AH**

**Agent:**  
**Mr Martin Buckley**  
**South Derbyshire District Council**  
**Civic Offices**  
**Civic Way**  
**Swadlincote**  
**Derby**  
**DE11 0AH**

**Proposal:** THE PRUNING OF TWO LIME TREES COVERED BY SOUTH DERBYSHIRE DISTRICT COUNCIL TREE PRESERVATION ORDER NUMBER 203 AT LAND TO THE SIDE OF 127 HIGH STREET NEWHALL SWADLINCOTE

**Ward:** NEWHALL AND STANTON

**Valid Date:** 15/12/2014

**Reason for committee determination**

The Council is the applicant; the trees are protected by a tree preservation order, on Council maintained land.

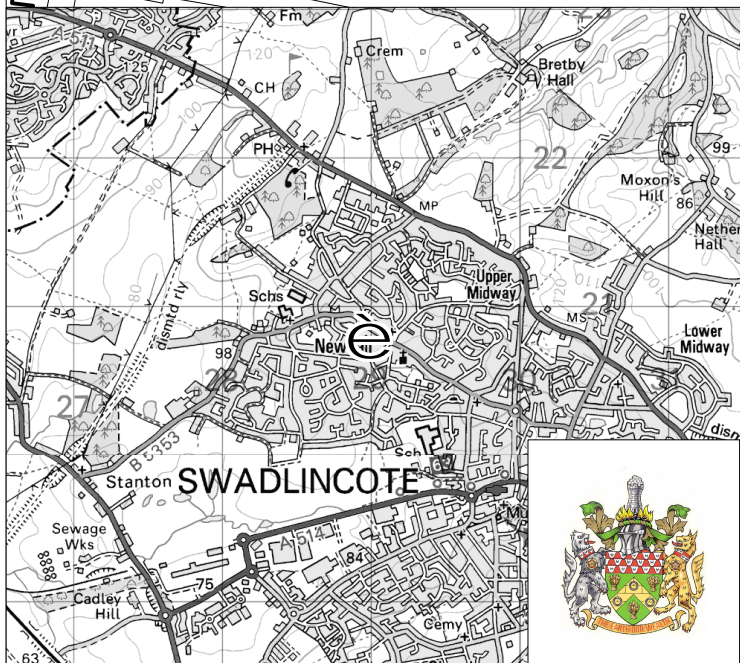
**Site Description**

The Lime trees sit on a small area of grass at the junction of Church Road and High Street, Newhall. The area is a mix of urban uses, some housing, some business premises whilst St John's Church (a Grade II listed building) can be found nearby.

**Proposal**

The proposal is to crown clean both trees, removing all deadwood and defective material and cleaning out all interlocking branches; this general upkeep work also involves cutting stubs back to branch bark collar or live wood where applicable. Given its proximity to the gable wall of 127 High Street, Tree 1 is to be cut away from that gable to give 2m of clearance. Both trees will then be crown lifted (up to 5m) removing all epicormic growth off the main boles, again up to the 5m point.

# 9/2014/1177 - High Street, Newhall DE11 0HP



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

## **Applicants' supporting information**

The trees are regularly inspected as part of the District wide audit of trees on Council owned or Council maintained land. The trees were last inspected (by the Councils Tree Officer) in December 2014 where it was recommended that the works were given high priority.

## **Planning History**

The TPO has been in force here since 2002.

## **Responses to Consultations**

None.

## **Responses to Publicity**

A neighbour has commented that this maintenance has been a necessity for many years and will be a welcome relief, more so in the winter months where the tree debris has caused blocked drains and gutters.

## **Development Plan Policies**

The relevant policy is Local Plan Environment 9;

## **National Guidance**

National Planning Policy Framework – in particular para 109.

## **Planning Considerations**

The main issue central to the determination of this application is whether the work proposed is warranted given the protective designation.

## **Planning Assessment**

These two mature trees provide some much needed green offer in the locality. Given their proximity to buildings and well used public thoroughfares however there will at times be some conflict, which necessitates some basic management work.

The works suggested would not be of any great detriment to tree health (Limes are known to regenerate after being cut) whilst any modest loss in their aesthetic value would be similarly short lived (fast regrowth/dense canopies). The works would effectively remove any defective material from the crown which could otherwise fall off in high winds.

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** consent subject to the following conditions:

1. The works hereby granted consent shall be carried out within two years from the date of this permission.

Reason: To enable the Local Planning Authority to retain control over the works.

2. The works hereby granted consent shall be carried out in accordance with the British Standards Institute recommendations for tree work.

Reason: In the interest of the health and safety of the trees.

Informatives:

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

03/03/2015

**Item** 1.5

**Reg. No.** 9/2015/0040/FM

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

**Agent:**  
Mr Tim Wayne  
Green 2K Design  
First Floor Thomas Henry House  
1-5 Church Street  
Ripley  
Derbyshire  
DE5 3BU

**Proposal:** THE ERECTION OF TWO DWELLINGS ON LAND TO  
THE REAR OF HILL VIEW CHAPEL LANE BARROW ON  
TRENT DERBY

**Ward:** ASTON

**Valid Date:** 09/01/2015

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

The application is reported to Committee at the request of Councillor Peter Watson because local concern has been expressed about a particular issue and this is the third application on the site.

#### **Site Description**

The site contains a bungalow with a large garden, located at the end of frontage development along Chapel Lane. It lies in the defined village confine and adjacent to the Barrow on Trent Conservation Area. The western boundary of the site is shared with Sunny Glen and Nos 1- 7 Club Lane. To the east is a field used as an animal sanctuary. Chapel Lane becomes unmade beyond the Club Lane junction.

The Environment Agency's Flood Risk Map shows the site split between Zones 2 & 3. The 1 in 100 year flood line is set at 39.13m above Ordnance Datum (AOD). Site levels in the vicinity of the proposed dwellings range from about 39.3m – 39.6m AOD.

#### **Proposal**

The application seeks permission for two detached houses, one of which would have three floors of accommodation, the uppermost being contained within the roof. This house would measure some 5.5m above existing ground levels to the eaves, and 9.8m above existing ground level to the ridge of the highest gable. The finished floor levels would be set at 39.88 m above Ordnance Datum.

9/2015/0040 - Rear of Hill View, Chapel Lane, Barrow on Trent DE73 7HE



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

The dwelling closest to existing houses in Club Lane (Plot1) would be lower, measuring some 8.4 m to the ridge. The nearest two-storey element of the dwelling would be about 16 m from the centre of the nearest ground floor habitable room window to no 3 Club Lane.

The garage for Plot 1 would have a room in the roof for ancillary accommodation (indicated as home office/games room).

The existing access to Chapel Lane would be modified, with a new access being formed to serve the existing bungalow.

The application is accompanied by a Flood Risk Assessment (FRA) that recommends finished floor levels at approximately 500mm above existing ground level (i.e. 39.88 AOD). This equates to a level 750mm above the 1 in 100 year flood level and 590mm above the 1 in 200 year flood level. The FRA acknowledges that in extreme flood conditions dry access along Club Lane would not be available and recommends a flood warning and evacuation plan.

A Phase 1 Habitat Survey and Great Crested Newt & Reptile Survey are also submitted.

### **Applicants' supporting information**

The supporting statement includes the following points:

- The previous refused proposal met the Council's supplementary planning guidance 'Housing Design and Layout' and the applicant reserves the right to appeal against the decision.
- This application is a response to government advice to seek to resolve issues outside the appeal system.
- The closest point to Plot 1 from 3 Club Lane has been increased by 2.1m.
- The accommodation in the roof space of the second storey has been removed. Additional accommodation is provided in the roof space of the detached garage to Plot 1. This has enabled the ridge line to Plot 1 to be reduced by 1.37 m.
- The pattern and style of the roof elements facing 3 Club Lane have been revised to further break up the form of development and remove bulk from the proposed building. There would be a reduction in gross floor area of Plot 1 by about 20% when compared to the previous scheme.
- The revisions go above and beyond the minimum distances specified in the supplementary planning guidance.
- The revisions have arisen following careful consideration on the refusal reason.
- Following responses from publicity the applicant has agreed to accept a condition removing permitted development rights for roof alterations (including dormers and rooflights) and also flues and pipes. Furthermore the applicant is willing to accept a condition to obscure the side windows facing No 3 Club Lane.

### **Planning History**

9/2014/0228 – Outline permission for three dwellings granted by Committee on 26<sup>th</sup> August 2014.

9/2014/1056 – Two dwellings – refused for the following reason:

Saved Housing Policy 11 of the adopted South Derbyshire Local Plan requires new housing development to provide reasonable amenities in terms of light, air and privacy for both existing and new dwellings, supported by emerging Local Plan Policy BNE1. The associated supplementary planning guidance sets out minimum separation distances to provide adequate protection to the occupants of existing dwellings. However guidelines assume a relatively level topography and little or no screening. Where this is not the case, the minimum distances may be increased/decreased as appropriate. In this case, because of the bulk and height of the proposed dwelling at Plot 1 this would have an unacceptable overbearing impact and loss of reasonable quality of outlook from the main habitable rooms to No 3 Club Lane, thereby contrary to the aforementioned development plan and emerging local plan policy, and also to the core planning principle in the NPPF to always seek a good standards of amenity for existing occupants of buildings.

## **Responses to Consultations**

The Highway Authority has no objection subject to conditions.

The Environment Agency has no objection provided that evacuation measures are secured in the event of flooding of the road. Flood prevention conditions are also recommended.

In response to the recent application 9/2014/1056 Natural England recommended conditions to enhance biodiversity on the site. Those comments remain relevant.

In response to the recent application 9/2014/1056 Derbyshire Wildlife Trust recommended conditions to enhance biodiversity on the site. Those comments remain relevant.

Severn Trent Water Ltd has no comment.

## **Responses to Publicity**

Two neighbours object as follows:

- a) There would be increased risk of flood caused by loss of ground permeability and surface water runoff.
- b) The proposed use of septic tanks would result in flooding and pollution.
- c) The dwellings would be out of scale and a character with the village, to the detriment of the conservation area.
- d) The layout would be cramped.
- e) Chapel Lane floods and is not suitable for increased usage. Damage to the lane would occur.
- f) There could be overlooking to the neighbouring dwelling.

## **Development Plan Policies**

The relevant policies are:

South Derbyshire Local Plan Saved Housing Policies 5 & 11 (and its associated supplementary planning guidance), Saved Environment Policies 9, 11 & 12, Transport Policies 6 & 7.

## **Emerging Local Plan Policies**

Pre-Submission Local Plan 2014: Policy S1 (Sustainable Growth Strategy), Policy S2 (Presumption in Favour of Sustainable Development), Policy S4 (Housing Strategy) Policy S6 (Sustainable Access), Policy H1 (Settlement Hierarchy), Policy BNE1 (Design Excellence) Policy BNE2 (Heritage Assets), BNE3 (Ecology) Policy INF2 (Sustainable Transport), SD2 (flood Risk).

## **National Guidance**

National Planning Policy Framework (NPPF), in particular:

Paras 6-10 (Achieving sustainable development)  
Paras 11-14 (The presumption in favour of sustainable development)  
Para 17 (Core principles)  
Chapter 6 (Delivering a wide choice of quality homes)  
Chapter 7 (Requiring good design)  
Chapter 10 (Flooding)  
Chapter 11 (Natural environment)  
Chapter 12 (Historic Environments)  
Paras 186 & 187 (Decision-taking)  
Para 196 & 197 (Determining applications)  
Paras 203-206 (Planning conditions and obligations)

NPPG ID26 (Design), 21a (Conditions), 23b (Obligations), 18a (Historic environment) ID7 (Flood Risk) ID8 (Natural environment).

## **Planning Considerations**

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

- The principle.
- Flood risk.
- Impact on the character and setting of the conservation area.
- Highway safety and transport.
- Residential amenity.
- Biodiversity

## **Planning Assessment**

### The principle

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

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

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

In terms of the current Local Plan, Saved Housing Policy 5 defines a village confine within which the site lies. As such residential development is supported by the development plan. The emerging Local Plan Policy H1 identifies Barrow on Trent as a ‘Rural Village’ and favours development of limited infill and conversion of existing buildings and local scale affordable, and cross subsidy exception sites of up to 12 on appropriate sites and according to individual settlement circumstance. Although the emerging policy does not favour the particular form of development proposed, the plan does not yet carry a great deal of weight. In view of the limited scale of the proposed development, Saved Housing Policy 5 remains consistent with the NPPF, which acknowledges that where there are groups of smaller settlements, development in one village may support services in villages nearby. As such the proposal represents sustainable development that is acceptable in principle.

Furthermore there is an extant outline planning permission 9/2014/0228. This remains a substantial material consideration given that there has been no relevant change in national or local policy in the interim.

#### Flood risk

The submitted flood risk demonstrates that the dwellings would not be at unacceptable risk in extreme flood events. However should Chapel Lane flood, dry access and egress would not be possible. The extant permission addressed this issue by proposing a Flood Warning and Evacuation Plan. The County Council’s Emergency Planning Manager had confirmed that the proposed measures would be suitable and sufficient for this location. This could be secured by condition as with the extant permission. On this basis the Environment Agency does not object to the proposal subject to conditional safeguards as recommended below. Concern has also been expressed about additional hard surfacing and therefore run-off exacerbating existing flooding issues. The FRA recommends a SUDs solution for the site that would ensure run-off is restricted to greenfield flows (as existing). Such a scheme would be secured by condition before any work commences.

#### Impact on the character and setting of the conservation area

The proposal lies adjacent to the conservation area. Although the dwellings would be larger than those in the immediate locality, their form would not be alien and they would be set well back from the public highway. As such they would not appear unduly dominant or out of character in the public realm. There is no proposal from the applicant or any highway requirement to make alterations to Chapel Lane. Subject to appropriate materials the proposed dwellings would preserve the setting of the conservation area, in accordance with Saved Environment Policy 12, BNE2 of the emerging local plan, and Chapter 12 of the NPPF and its associated guidance.

## Highway safety and transport

On the advice of the Highway Authority there would be no adverse safety issues arising. The garaging and parking proposed is appropriate to the scale and nature of the development. As such the proposal is in accord with Local Plan Saved Transport Policies 6 & 7, which remain consistent with the NPPF.

## Residential amenity

Given that the principle of development is established through the outline permission 9/2014/0228, a main issue for consideration in this case is the impact of the development on the living conditions of adjoining neighbours. The supplementary planning guidance suggests a minimum distance of 12 m from a main habitable room window of an existing dwelling to a proposed 'blank' 2 storey elevation. The guidelines assume a relatively level topography and little or no screening. Where this is not the case, the minimum distances may be increased/decreased as appropriate. Plot 2 would not have any demonstrable impact on adjoining neighbours. Following the refusal of application 9/2014/1056 the applicant has made significant alterations such that Plot 1 is lower (of conventional two-storey proportions), less bulky and further away from the neighbours. Although the floor levels would be slightly higher than the neighbours, the dwelling would be well in excess (by approximately 33%) of the minimum guideline distances in relation to No 3 Club Lane. For reference, the guidance suggests a margin of 20% for full height three storey dwellings. As such the development would not have an unreasonable overbearing impact on any neighbours. Subject to boundary screening, and obscure glazing to the west facing landing window, the relevant tests for overlooking set out in the SPG are met.

In respect of No 5 Club Lane The distance from the nearest windows of that house to the proposed dwelling would be about 14.5m, again well in excess of the minimum guideline distance. Furthermore because No 5 lies predominantly south of the nearest proposed dwelling there would be little impact on habitable rooms in terms of either overbearing effect or loss of sunlight.

Although the detached garage to Plot 1 would be taller than average, its distance from neighbouring dwellings would be in excess of the minimum guideline distance for a two storey dwelling. Therefore it would have no demonstrably harmful impact on the amenities of neighbours.

In view of the above considerations, the proposal would accord with Local Plan Saved Housing Policy 11. The development would satisfy the criteria of the policy to provide reasonable living conditions for existing and new occupiers.

## Biodiversity

Paragraph 118 of the NPPF seeks to conserve and enhance biodiversity. The recommended conditions of Natural England and Derbyshire Wildlife Trust would secure compliance, also in accord with Local Plan Saved Environment Policies 9 & 11.

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



## Recommendation

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

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

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

2. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development. The scheme shall include proposals to retain and plant new native hedgerows

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

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

Reason: In the interests of the appearance of the area and to provide biodiversity enhancement.

4. Finished ground floor levels shall be set at 39.88 metres above Ordnance Datum (mAOD) to accord with the recommendations of the approved Flood Risk Assessment, Version 2.0 by Julia Williams dated July 2014 and as shown on the submitted drawings.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

6. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority in consultation with the Environment Agency. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall demonstrate:

- The utilisation of holding sustainable drainage techniques;
- The limitation of surface water run-off to existing greenfield rates;
- The ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and
- Responsibility for the future maintenance of drainage features.

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

7. The Flood Warning & Evacuation Plan (appendix F to the submitted Flood Risk Assessment Version 2.0) shall be implemented on first occupation of the dwelling and shall be retained in accordance with that document thereafter.

Reason: To enable occupants to vacate the site before safe access is precluded by flood.

8. Prior to the first occupation of the development, the access to the site shall be modified in accordance with Drawing No 961 004 Rev H and shall be provided with 2m x 12m visibility sightlines in each direction, the area forward of which shall be cleared and maintained thereafter clear of any obstruction exceeding 1m (600mm in the case of vegetation) in height relative to road level.

Reason: In the interests of highway safety.

9. Before any other operations are commenced a new access shall be created to Chapel Lane for the existing dwelling in accordance with application drawing No. 961-004 Rev H, laid out, constructed and provided with 2m x 12 m visibility splays in each direction, the area in advance of the sightlines being maintained throughout the life of the development 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 interests of highway safety.

11. The bin store shown on Drawing No 961 004 Rev H shall be provided prior to the first occupation the development and shall be retained thereafter free from any impediment to its designated use.

Reason: To avoid the need to place bins in the highway on collection days, In the interests of highway safety.

12. Prior to the first occupation of the development, space shall be provided within the site curtilage for parking and turning of two vehicles for the existing dwelling. Each parking space shall measure at least 2.4m x 4.8m. The parking and turning areas for the new dwellings shall be provided in accordance with Drawing No 961 004 Rev H before the development is first occupied and shall be retained as such thereafter.

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

13. Foul water shall be disposed of to the main sewer.

Reason: In the interests of pollution control.

14. Prior to the commencement of development, details and a timetable for implementation of how the ecological value of the site will be enhanced, through for example the provision of bird nesting and bat roosting features, shall be submitted to and approved in writing by the local planning authority. The approved measures shall be implemented in full and shall be retained as such thereafter

Reason: To enable any unidentified ecological interest to be identified and protected proportionately.

15. This permission shall relate to drawing nos. 961 001 Rev C, 002 Rev D, 003 Rev C, 004 Rev H and 005 Rev A 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, the original submission being considered unacceptable.

16. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. In particular the details shall demonstrate how potential overlooking from the ground floor windows in the west elevation to Plot 1 to the ground floor windows to 3 Club Lane will be precluded. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

17. The window serving the stairway in the west elevation to Plot 1 shall be permanently glazed in obscure glass.

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

#### Informatives:

When seeking to discharge the above planning conditions, please note that the Environment Agency does not consider the use of oversized pipes or box culverts to be sustainable drainage. Should infiltration not be feasible at the site, alternative above ground sustainable drainage should be used.

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

## **2. PLANNING AND OTHER APPEALS**

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

<b>Reference</b>	<b>Place</b>	<b>Ward</b>	<b>Result</b>	<b>Cttee/Delegated</b>
9/2014/0378	Repton	Repton	Dismissed	Delegated

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# Appeal Decision

Site visit made on 19 January 2015

**by SD Harley BSc(Hons) MPhil MRTPI ARICS**

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

**Decision date: 12 February 2015**

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**Appeal Ref: APP/F1040/A/14/2228441**  
**136 Main Street, Repton, Derby DE65 6FB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs D Lowe against the decision of South Derbyshire District Council.
  - The application Ref 9/2014/0378, dated 16 April 2014, was refused by notice dated 16 July 2014.
  - The development proposed is conversion and single storey extension to existing stable to create an annex and change of use of agricultural land to domestic curtilage.
- 

## Preliminary Matters

1. Two different plans with the same Ref 1036L-10 were submitted. The agent for the appellant advises that the plan for consideration is the one with the smaller site area edged in red. As a result the Council has withdrawn reason for refusal number 4 of application Ref 9/2014/0378. I have therefore considered the appeal on the basis of the plan with the smaller site area and the three remaining reasons for refusal.

## Decision

2. The appeal is dismissed.

## Main Issues

3. The main issues are, firstly whether the proposed conversion and change of use would comply with development plan policies relating to development in the countryside and secondly, the effect of the proposal on highway safety along Main Street.

## Reasons

### *Background*

4. Number 136 Main Street was formerly a two storey barn now converted to a dwelling. There have been a number of subsequent permissions and No 136 as extended is now occupied as a children's day nursery with residential accommodation at first floor. The forecourt is largely used as a car park and the area directly behind is used mainly as out door space for the nursery.
5. The stable which is the subject of this appeal is sited in a field belonging to the appellant. This field and other land in the same ownership lie to the rear of Nos 136 to 152 Main Street. Land behind Nos 138 to 152, including the stable,

was the subject of two appeals decided in February 2014<sup>1</sup> (appeal A and appeal B). In essence appeal A upheld an enforcement notice requiring the removal of a timber building, timber retaining walls and hard standing from the land as then being avoidable development in the countryside given the existing stable. In essence appeal B, against refusal of planning permission for a barn conversion with kitchen extension on the side, was dismissed on the grounds of the intensification of use of the private access between Nos 140 and 142 Main Street (the private access).

### ***Effect on the countryside***

6. The stable is situated behind a ribbon of predominantly residential development along the western side of Main Street at some distance from the centre of the village. The surroundings are distinctly rural and the site lies outside the defined village boundary for Repton. The purpose-built stable is quite large and has sufficient door height in its eastern wing to comfortably accommodate a tractor and other machinery with room for animals and feed stuffs.
7. Environment Policy 1 of the South Derbyshire Local Plan 1998 (the LP) explains that outside settlements new development, which includes a change of use, will not be permitted unless it is essential to a rural-based activity or unavoidable in the countryside and the character of the countryside and landscape are protected. This Policy is consistent with the National Planning Policy Framework which recognises the intrinsic character and beauty of the countryside and the need to support thriving rural communities within it.
8. In considering appeals A and B a colleague Inspector described the rural-based activity on the site as appearing to include the maintenance and care of the pasture and the keeping of three goats, two miniature ponies and some chickens. Part of the case for the appellant in respect of appeal A was that a building was needed to house machinery needed to maintain the land. In the decision notice dated 6 February 2014 the Inspector said "*I do not see how a claim can be reasonably made that the timber building is essential to the rural-based activity here or is otherwise unavoidable in the countryside, if at the same time the larger more suitable permitted out building is being put forward for an alternative residential use or possibly being used 'for the owners' hobbies and housing of pet' as indicated at part 14 of the planning application form relating to appeal B*".
9. Evidence about the use of the stable and associated land is not wholly consistent. The application form for application Ref 9/2014/0378 describes the existing use of the site as "stable and hobby workroom". At the time of my site visit the stable and land were practically vacant although there was one piece of parked machinery. The proposal before me would result in the loss of a building that has, and could be, used for housing for animals and storage machinery, feed stuff and similar items.
10. The appellants say that all personal possessions and animals have been removed from the site so there is no longer a need to store feed and bedding; that minimal equipment would be required to maintain the grass land; and that arrangements have been made to store any required items elsewhere. Although this may be the case now there would be no mechanism for preventing the keeping of animals on the retained fields in the future with the

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<sup>1</sup> APP/F1040/C/13/2204007 and APP/F1040/A/13/2205457

concomitant pressure for shelter and storage of associated equipment, feed, bedding and so on. Accordingly I give little weight to the argument that the building is disused or redundant in the context of paragraph 55 of the Framework

11. It therefore seems to me that any conversion of the building and change of use of the land from agricultural to residential would not be essential to a rural based activity and that it would be avoidable.
12. I have taken into account the proposal by the Appellants that storage for any agricultural use could be undertaken elsewhere and that the proposal includes the removal of a log store but the former could not be guaranteed and the latter could result in an alternative need for a log store or similar storage associated with residential use at No 136. Accordingly I give little weight to these two matters.
13. Whilst aspects of the proposal may be acceptable under Housing Policy 7, for the reasons set out above I conclude that the proposed conversion and change of use would not comply with Environment Policy 1 of the LP and paragraph 55 of the Framework

### **Highway Safety**

14. The proposed annex would result in the residential accommodation at No.136 being, in effect a five bedroomed house. Access would be via the existing access to No 136. Car parking would be in the car park serving No 136 which, although on private land, is also used by many customers, visitors and staff.
15. The Highway Authority considers that both the private access and access to the nursery car park have sub standard emerging visibility. Objections are not raised to the proposed change of use of the stable provided the annex could be conditioned to be ancillary to the occupancy of the existing dwelling but objections are raised to increased traffic movements.
16. At the time of my visit, early afternoon mid week, the car park was by no means full. During the morning and evenings, when most children would be brought to or collected from the nursery, it is likely that the comings and goings of vehicles and pedestrian would be relatively high. Main Street is a relatively busy through route between Repton and Swadlincote. Although it benefits from some traffic calming measures, the intensification of use of the sub standard access at No 136 arising from vehicles associated with the increased residential use, which would be likely to comprise additional trips for social and other uses at different times of the night and day, would increase risks to highway safety of vehicles and pedestrians in the vicinity of the access.
17. I conclude that the availability of the additional residential accommodation proposed would consolidate and/or intensify occupancy and the associated vehicle movements. I have carefully considered whether a condition restricting occupancy of the annex as ancillary accommodation to the associated main household, as proposed by the appellants, could be applied in this case. Paragraph 206 of the Framework sets out 6 tests that should be met before planning conditions should be imposed. National Planning Practice Guidance (the Guidance) says that whether it is appropriate to impose a condition will depend on the specifics of the case.

18. The plans show that the annexe would have two bedrooms, one with an ensuite bathroom; a bathroom and a living room. There would also be what the appellants call a 'small' kitchen which would be in the single storey extension and would be some 3m by 4.5m (scaled from the plan). Whilst the appellants maintain that the conversion would be an annex, the ownership of land can change and given the accommodation that would be provided the building could be used as a separate dwelling. In view of the location of the building; the separable garden/courtyard/patio areas; and the difficulty of identifying occupiers/visitors using the shared car park lead me to conclude that the proposed condition would be difficult to enforce in this case without unacceptable intrusion. Accordingly I consider that such a condition in this case would not meet the principles in the Framework or the Guidance.
19. My attention has been drawn to permissions granted elsewhere in the District where the use of a condition restricting occupancy of a proposed annex has been imposed by the Council despite the annex containing all the facilities needed for independent living. I do not have full details of the planning circumstances relating to the examples quoted and their degrees of comparability with the appeal before me. I therefore give no weight to the fact that conditions may have been appropriately imposed in other circumstances and have considered the appeal before me on the planning merits of the case.
20. The proposal includes erecting a hedge and fence on the boundary between the appeal site and the private access between Nos 140 and 142 to prevent its future use by vehicles associated with the annex. In my view the loss of storage/animal housing in the stable would be likely to lead to some intensification of the use of the private access by vehicles associated with maintenance of the land and caring for livestock. However, this could happen in any event and I do not consider that this alone would justify refusal on highway safety grounds.

### **Other matters**

21. The proposed conversion works would generate construction jobs and contribute in a very minor way to the economy. The extent to which the accommodation would add to delivering a wide choice of quality homes is similarly on a limited scale. The Council raises no objections to the design of the proposed conversion works. Following my site visit I see no reason to disagree. However, these matters, whilst weighing in favour of the proposal, are not sufficient to out weigh the harm identified above and therefore I find the proposal overall would not amount to sustainable development and these matters do not lead me to any different conclusion.
22. The appellants say that the stable could be put to a different use under permitted development rights. However, conditions apply before such rights can be taken up and whether these would be met or not, or the likelihood of them being exercised, is not clear. Accordingly, whilst such a fallback position could constitute a material consideration, it has attracted little weight in my consideration of the appeal before me.
23. I have taken into account the expressed wish of the appellants to have quiet, private living accommodation and a garden separated from the interruptions arising from the nursery use. However, given that the ownership of land can change whereas any development would be permanent, personal circumstances such as this do not out weigh the harm identified above.



24. The appellants say the Council did not previously raise issues in relation to the change of use or its design and that this was not addressed by the Inspector in the earlier appeals. The previous application was, however, for a different development from that in this appeal and whilst I have noted these submissions, I must take into account the evidence before me in respect of this application and decide the appeal on its own merits.

**Conclusion**

25. For the reasons set out above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

*SDHarley*

INSPECTOR