

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

## **SECTION 1: Planning Applications** **SECTION 2: Appeals**

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

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## **1. PLANNING APPLICATIONS**

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

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
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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 report of the Strategic Director (Service Delivery) or offered in explanation at the Committee meeting require further clarification by a demonstration of condition of site.
2. Further issues of principle, other than those specified in the report of the Strategic Director (Service Delivery), arise from a Member's personal knowledge of circumstances on the ground that lead to the need for clarification that may be achieved by a site visit.
3. Implications that may be demonstrated on site arise for consistency of decision making in other similar cases.

Item 1.1

Ref. No. 9/2018/1378/NO

**Applicant:**  
**Mr Tim Shone**  
**Melbourne Sporting Partnership**  
**Melbourne Sports Park**  
**Cockshut Lane**  
**Melbourne**  
**Derby**  
**DE73 8DG**

**Agent:**  
**Mr Tim Shone**  
**Melbourne Sporting Partnership**  
**Melbourne Sports Park**  
**Cockshut Lane**  
**Melbourne**  
**Derby**  
**DE73 8DG**

**Proposal:** THE CREATION OF 3NO. ARTIFICIAL GRASS TENNIS COURTS WITH 3M HIGH PERIMETER FENCING AT THE MELBOURNE SPORTS PAVILION COCKSHUT LANE MELBOURNE DERBY

**Ward:** MELBOURNE

**Valid Date** 10/01/2019

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

This item is presented to Committee because the Council is associated with the Melbourne Sporting Partnership (MSP).

#### **Site Description**

The site lies to the north-western corner of the playing fields immediately adjacent to existing tennis courts. There are dwellings to north and one on the opposite side of Cockshut Lane.

#### **Proposal**

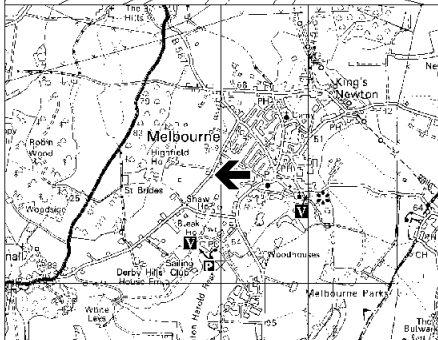
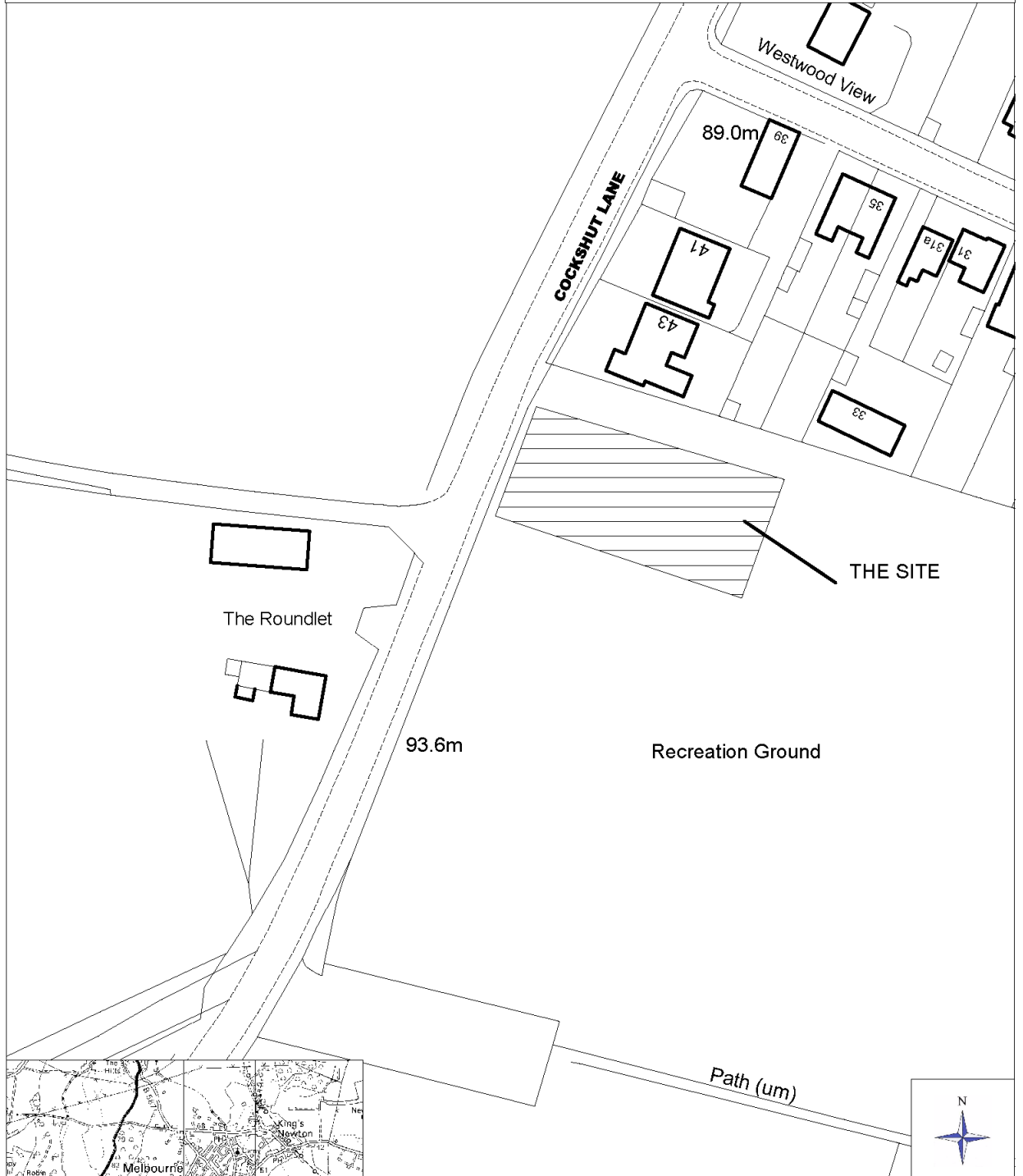
The application proposes three all artificial grass courts with 3m high perimeter fencing, coloured green. There are two trees to the north of the application site but within the playing fields and the application indicates that these will be protected by deployment of a cellular mesh construction over the roots. A Tree Survey has informed the extent and nature of the measures.

No floodlighting is proposed.

#### **Applicant's Supporting Information**

- The sports ground is run by the MSP Management Committee, a partnership of the multi sports using the sports ground.
- The proposal does not seek to change the current use of the sports ground.
- At peak times all courts are full, players have to wait to play.
- Since opening the tennis court usage has grown to its current level, to the extent that additional courts are required to avoid the overcrowded organised

9/2018/1378 - MELBOURNE SPORTS PAVILION, COCKSHUT LANE,  
MELBOURNE, DE73 8DG



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juniors, school and adult coaching sessions and reduce court waiting times for players.

- Evidence is supplied to demonstrate existing overcrowding of the facility.
- The 3 proposed additional courts back onto the existing courts with an access gate between the two sets of courts. This would facilitate coaching/lesson coordination, use for school – supervision etc.
- The surface would be “synthetic grass” on a sand binding, porous macadam subbase, which is proven to be a better surface for both juniors (truer bounce and faster surface) but more importantly does not cause as much trauma to the joints. It would allow some of the club’s existing players suffering from conditions such as arthritis, rheumatism etc. to enjoy more playing time; current members/players age range 4 years to 84 years.
- The two existing trees would be retained and protected. The proposal would not damage the trees.
- The existing car parking area on the site was formed to serve the sports field including a facility on the same site area as this proposal. There would be no increase in numbers of people using the site. Membership numbers are capped at the current level.

### **Planning History**

Redevelopment of the playing fields was permitted under planning permission 9/2011/0910 (amended by 9/2013/0458). The applicant site was identified in those permissions as an area for a bowling green.

### **Responses to Consultations**

The Environmental Health Manager has no objection on the basis of acceptable impacts on the local area.

Derbyshire Wildlife Trust has no objection subject to a condition relating to nesting birds in the Lombardy Poplars.

### **Responses to Publicity**

Melbourne Civic Society has no objection.

Objections have been received from four neighbours on the following grounds:

- a) There would be increased noise and disturbance, and loss of privacy due to the close proximity of neighbouring dwellings.
- b) The existing playing fields and clubhouse generate unacceptable noise 7 days a week.
- c) Any floodlighting would be a nuisance.
- d) Existing parking is inadequate and vehicles park in the road causing danger to pedestrians.
- e) The existing courts are not used to their full potential so need is questioned.
- f) Existing drainage is inadequate and the area becomes waterlogged. This could impact on neighbouring property.
- g) The benefits of the development would not outweigh the adverse impacts on neighbours.
- h) Adjoining property values would be diminished.

## **Development Plan Policies**

The relevant policies are:

- South Derbyshire Local Plan Part 1 2016: BNE1 (Design) BNE4 (Landscape) S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity), SD2 (Flood Risk), SD3 (Sustainable Drainage) INF 2 (Highway Safety and parking) and INF9 (Open Space, Sport and Recreation).
- South Derbyshire Local Plan Part 2 (2017): BNE7 (Trees)

## **Emerging Policies**

The relevant policies are:

- Melbourne Neighbourhood Development Plan (NDP): No relevant policies to date.

## **National Guidance**

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

## **Planning Considerations**

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

- The principle
- Impact on the amenities of neighbours
- Drainage and flooding
- Trees
- Visual impact
- Parking

## **Planning Assessment**

### The principle

Policy INF9 seeks to provide sufficient high quality recreation facilities to meet the needs of new development and, where possible, to meet the needs of the existing population. The principle of the use of the site for sport and recreation is long established and while the recent permissions for re-development of the playing fields indicate a bowling green, the provision of tennis courts supports the policy objective to enhance facilities at Cockshut Lane.

### Impact on the amenities of neighbours

The proposal would bring sporting activity closer to neighbours. However the hours of use of the new courts would be no longer than the remainder of the playing fields. The Environmental Health Manager has considered noise and does not feel that neighbours would experience unreasonable impacts. The nearest part of the new tennis courts would be some 7-8 metres away from neighbouring boundaries and there would be no significant overlooking. As such the proposal satisfies the requirements of Policy SD1 to avoid adverse impacts on existing occupiers.

### Drainage and flooding

The proposal does not specify how surface water would be disposed of. Drainage issues have been identified across the site and MSP has submitted an application for the laying of a new surface water drainage system (application ref: 9/2019/0271) which proposes to mitigate known drainage issues and to facilitate enhanced infrastructure to the MSP playing fields. Policies SD2 & SD3 encourage any developments that could lead to changes in surface water flows or increase flood risk to be managed through the incorporation of Sustainable Drainage Systems (SUDS), which mimic natural drainage patterns, unless this is not technically feasible, or where it can be demonstrated that ground conditions are unsuitable for such measures. As the new surface water system (9/2019/0271) has not been permitted to date, a pre-commencement condition is necessary in order to comply with the aforementioned policies, requiring a scheme for surface water drainage to be submitted for approval, along with a program for implementation.

### Trees

The submitted tree survey identifies the root protection areas (RPA) of the two trees to the north of the site. It proposes the installation of a root protection system which would adequately safeguard the trees in conformity with Policy BNE7.

### Visual Impact

The main visual impact would arise from the perimeter fencing, which would be seen from road above the existing boundary hedges. Nevertheless it would, visually be a lightweight mesh construction similar to the existing adjacent tennis courts and would not adversely affect the general character of the area of the surrounding countryside in accordance with Policies BNE1 & BNE4.

### Other

The condition suggested by the DWT is not necessary as it would duplicate existing statutory protection afforded to nesting birds.

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

## **Recommendation**

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with drawing nos. MSP 02 & MSP 03, and the tree protection measures detailed in Document Ref: MSP 04 submitted with the application, unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).  
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. Development shall not begin until details of a surface water drainage scheme for the site, which shall include a program for implementation, has been submitted to and

approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details and program.

Reason: To prevent increased risk of flooding, acknowledging that there is a concurrent proposal to provide mitigation for known drainage issues and to facilitate enhanced infrastructure to the MSP playing fields, such that it is essential to be able to provide adequate drainage at the outset.

4. The tennis courts shall not be used for any other sporting activity other than tennis without prior written approval from the Local Planning Authority.

Reason: To prevent uses on the tennis courts which could result in excessive noise.

5. The tennis courts hereby permitted shall not be used from 9:30 pm until 8.00 am the following day, unless as may otherwise be agreed in writing with the Local Planning Authority.

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.



16/04/2019

Item 1.2

Ref. No. 9/2018/1409/MAO

**Applicant:**  
Mr Ali Wright  
C/O Agent Elephant Holdings Ltd

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

**Proposal:** HYBRID PLANNING APPLICATION FOR EMPLOYMENT DEVELOPMENT COMPRISING (1) OUTLINE PLANNING APPLICATION (ALL MATTERS EXCEPT FOR ACCESS AND LAYOUT TO BE RESERVED) FOR THE ERECTION OF BUILDINGS TO PROVIDE USES WITHIN CLASSES B1, B2 & B8 AND ANCILLARY SHORT TERM RESIDENTIAL ACCOMMODATION (CLASS C3) AND OTHER ASSOCIATED ANCILLARY DEVELOPMENT, AND (2) FULL PLANNING APPLICATION FOR THE CHANGE OF USE OF BUILDINGS TO CLASSES B1 & B2 (INCLUDING THE RETENTION OF EXISTING B8 USE) WITH ASSOCIATED INTERNAL AND EXTERNAL ALTERATIONS, DEMOLITION OF EXISTING ANCILLARY BUILDINGS AND STRUCTURES, AND THE RECONFIGURATION OF EXISTING EXTERNAL HARD STANDINGS AND PARKING AREAS ON LAND AT SK3528 6084 SINFIN LANE BARROW ON TRENT DERBY

**Ward:** ASTON

**Valid Date** 21/12/2018

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

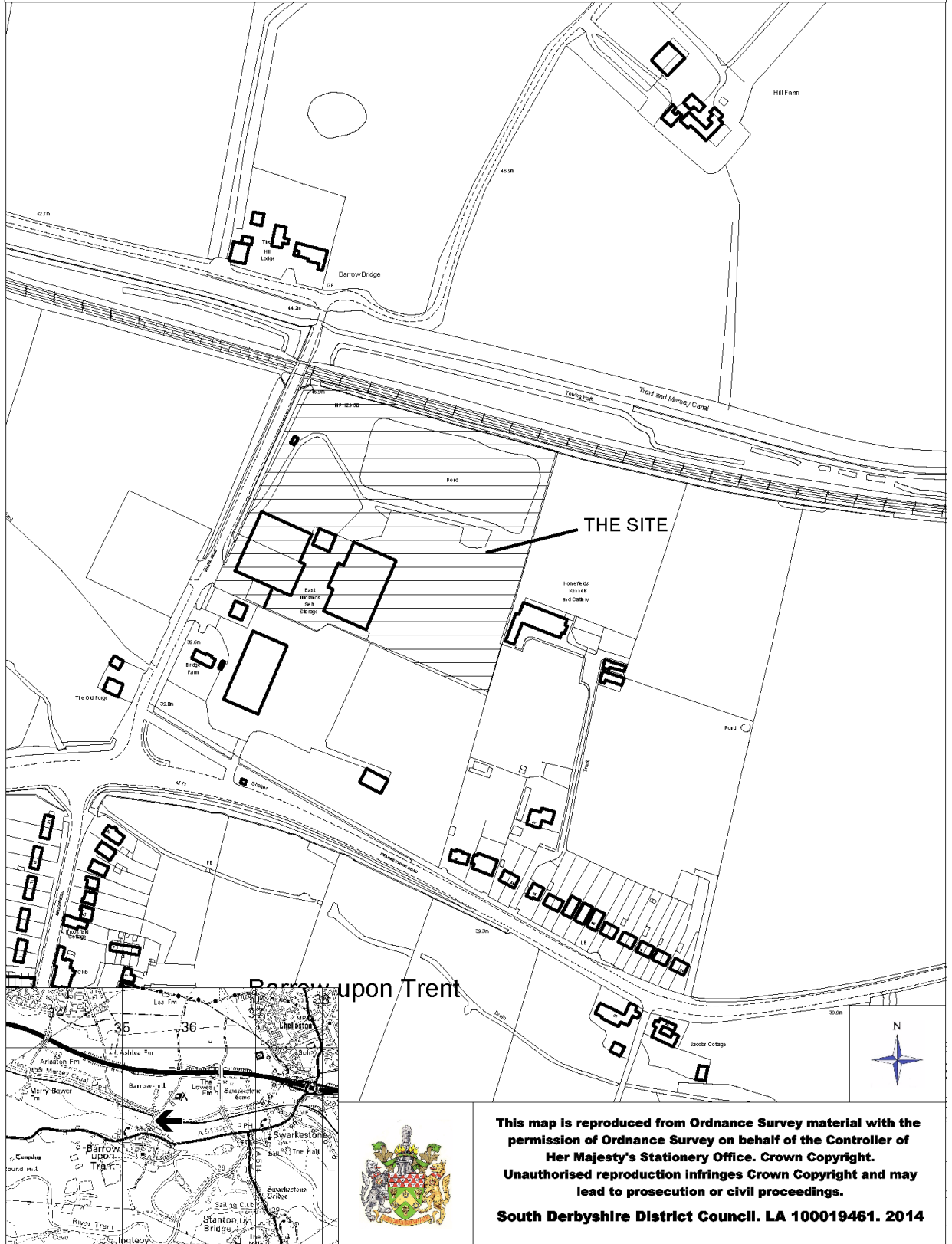
The item is presented to Committee at the request of Councillor Watson as local concern has been expressed about a particular issue, and the as the proposed development is not entirely compliant with the development plan.

#### **Site Description**

The application site is located off Sinfin Lane, to the north east of the rural village of Barrow upon Trent. The site extends to 2.68 ha, with its south western area currently occupied by a number of buildings within Use Class B8, most recently occupied by East Midlands Self Storage. Permission was granted in 2014 for an expansion of this existing facility to the east of the existing buildings on a greenfield undeveloped part of the site but this permission lapsed in 2017.

The north eastern part of the site is occupied by an existing man made pond, previously used for private angling, and surrounded by a number of self-set trees. To the north western corner of the site is an area of land, with an extant permission for the installation of equipment for the research, testing and generation of electricity from biomass.

9/2018/1409 - LAND AT SINFIN LANE, BRETBY, DE73 7JL



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The site itself is generally flat, but Sinfin Lane rises adjacent to the western boundary of the site in order to pass over the east – west railway line which forms the northern boundary of the site. To the north of the railway line and beyond a tree belt lies the Trent and Mersey Canal and its conservation area over which is Barrow Bridge which provides access to Deep Dale Lane and Moor Lane beyond Sinfin Lane.

The eastern boundary of the site adjacent to Holmfields Kennels and Cattery is formed by low level fencing and existing unmanaged trees tree and hedge planting. The southern boundary is formed by post and rail fencing and close boarded fencing adjacent to an existing industrial unit occupied by JPS Flowers.

The existing vehicular access to the site is from Sinfin Lane, which is a restricted access road for any vehicles over 7.5 tonnes except for access (which includes the application site).

## **Proposal**

This application has been submitted in two parts (a hybrid application), part full and part outline. The amount of development on this 2.68 ha site in total equates to 8,720 sq.m. split between the full and outline parts of the application.

A. The full application is for the change of use of the existing buildings on site. The building closest to Sinfin Lane it to be split in to 3 separate units for B1 and B2 uses (not including offices), with the larger retained building proposed for B2 and B8 uses. Internal and external alterations are proposed to the building, and includes the demolition of some ancillary buildings and structures, and the reconfiguration of existing external hard standings and parking areas.

B. The outline element of the application has been submitted with all matters save for layout and access reserved for future approval. This element covers the northern part of the site and south eastern corner (upon which permission for expansion of the existing business was granted) and so is in two distinct parts. The first part to the south eastern and central part of the site proposes the erection of 5 buildings, and is described as a 'Business Incubation Zone' which proposes three buildings containing small industrial units for a variety of B class uses. These 'incubator' units are proposed to support small start-up and growing businesses which would be supported by two office buildings which wold provide associated ancillary support functions such as site management, meeting rooms and secretarial facilities with one of the buildings containing an ancillary short term residential unit. The second element of the outline submission proposes two larger buildings to the north and northwest of the site again for a variety of B class uses; the intention is for these units to be sold or rented, and divided as the market demands.

Vehicular access to the site is proposed via a new access point to the north of the existing access on Sinfin Lane, with the existing access retained for use as an egress only point for the existing units. In addition to the internal road layout and pedestrian access throughout the site, a new pedestrian link is proposed from the site south along Sinfin Lane to the existing footpath network where improvements are also proposed including to the existing pedestrian refuge across the A5132.

The site layout sees the retention of the majority of the existing boundary trees and landscaping (save for the new access point) with the units proposed set away from the boundaries in order to provide a landscaped edge to the site. The Business Incubation Zone is proposed to provide a square arrangement with the buildings facing the shared business spaces. A central wetland landscaped area is proposed to double as a SUDS and landscape feature. The larger units align with the northern and western boundaries where the site is partly screened from Sinfin Lane due to the level of the railway bridge.

## **Applicant's supporting information**

The Planning, Design & Access Statement sets out a description of the site, its history and the proposed development. Both the local and national policy context is set out including a succinct description of the requirements of the relevant policies.

The statement sets out that the layout of the site has been developed based on an 'understanding of the operational requirements of modern business users', and the characteristics and constraints of the site splitting the proposal in to three elements: 1. The existing units adjacent to Sinfin lane – these buildings are generally retained as existing with modifications and updating; 2. A business incubation zone comprised of 5 new buildings to the eastern part of the site to house start-up businesses which are proposed as smaller scale and sized units, the function of which is to be supported by office and meeting spaces; 3. Buildings 1 and 2 are the two larger buildings proposed on the site with the intention of the buildings to mirror the existing units on the site, the location of these larger buildings adjacent to the railway line and Sinfin Lane (which is at a higher level than the site) is considered to lessen their visual impact.

The scale of development ranges from 3-6m eaves heights and 6-8m ridge heights of a similar scale to the existing (and retained units), the buildings are described as a mixture of single and two-storey buildings to accommodate modern commercial requirements, with a central 3 storey building to add variety to the site and to terminate the view from the access road. The appearance of the buildings would generally follow their commercial function – to be determined at the detailed application stage.

Landscaping at the site has been developed following a landscape and visual appraisal of the proposal and a landscape strategy has been prepared. This strategy responds to the challenges of introducing new buildings, car parking and manoeuvring space on a previously developed site. The proposal includes the retention of dense vegetation on the site boundaries with an internal landscaping scheme proposed to echo characteristics of the local area with native planting, and the creation of a wetland (including drainage) feature to the centre of the site.

Access and movement in to the site is dictated by the retention of the existing site access, with an additional access created 60m to the north. The strategy has been informed by the Transport Assessment including a movement strategy within the site and assessment of car parking provision. A new footpath is proposed along the eastern edge of Sinfin Lane to link in to the existing footpath network, improvements are also proposed to the Swarkestone Road / Sinfin lane junction including the provision of improved pedestrian crossing and cycle facilities. The new access to the site would facilitate the use of the existing access for egress only.

The remainder of the statement goes on to summarise the technical considerations and the various submitted assessments, summarised elsewhere in this section of the report. The planning balance and overall conclusion to the statement sets out the relevant sections of the NPPF and Local Plan and highlights the positive approach both take to new economic development. Advice provided by local commercial operators has informed a business case for the development which highlighted the need within the area for 'incubator space', and new business units in general. The Statement has considered the South Derbyshire Economic Development Strategy 2016-2020 which identifies a number of weaknesses in the area including the need to increase diversity of the economic base of the District, the limited supply of small and grow on workspace, and amongst other things the limited availability of conference, meeting and business training facilities and overnight accommodation for business visitors.

The economic benefits of the development are considered to be worthy of significant weight in the planning balance. The social benefits of new local employment opportunities are also highlighted and considered to be of great weight. The environmental impacts of the development are not considered to give rise to any adverse significant impacts and should be considered as having neutral weight in the sustainability balance. The Statement concludes that the proposal represents sustainable development with compelling economic and social benefits associated with the delivery of the development.

A Business Case has been prepared which highlights the support for 'sustainable employment activities on land outside of settlement boundaries' providing they support 'the social and economic needs of rural communities in the District' within policy E7. The case highlights the current limited employment space within this rural north-eastern area of the district serving its key and local service villages of Melbourne, Repton, Shardlow, Aston on Trent, Willington, Weston on Trent and Ticknall. This is considered especially pertinent given the housing growth within these areas, and it is important that this area is supported with sufficient land and premises to support existing businesses, accommodate start-up businesses and to provide opportunities for business expansions.

The development at Sinfin Moor (Infinity Garden Village) will provide employment opportunities in this part of the District but it is unlikely that this site would provide the same immediate need as the application site, as it is anticipated that this site will be delivered towards the end of the plan period. A question is raised as to whether the allocated and committed sites are likely to meet the Council's aspirations of small and grow on business in the form of premises or serviced plots - an acknowledged need, especially given that Sinfin Moor is likely to focus on advanced engineering sectors supported by existing presence in Derby. The proposal provides associated shared services such as meeting rooms, secretarial services and welfare facilities to meet the needs for small and grow-on business – this combination of uses and support services provides a unique opportunity for which significant positive weight should be placed.

In terms of the existing employment land stock in this part of the District, the lack of existing premises is highlighted by the Council's Economic Development Team and the number of existing businesses specifically with the local area which are seeking larger premises. The employment land review from 2007 remains the most up to date evidence and assesses some of the existing employment stock in the District – the most relevant of the sites are assessed for their suitability to meet the needs identified. None of which would be sufficient to meet the acknowledged demand in this area of the district or accommodate the proposed development. Existing vacant properties and premises have also been considered, again with no sites or premises suitable to meet these demands again highlighting the lack of available stock for the range of uses proposed. This assessment is considered to provide a strong proven business case for the development proposed.

An Acoustic Planning Report has been undertaken in order to assess the impact of the proposals on local residential amenity particularly from industrial and road traffic noise. Surveys were undertaken to the south of the existing site access and at the eastern site boundary, the results of these surveys indicate that noise from vehicles accessing the site are unlikely to impact on the nearest noise sensitive receptors due to the existing permitted uses at the site and the existing road network in the area.

The report confirms that no overnight operations are proposed, and operational noise from the site will predominantly occur within buildings, which due to the distance separation and existing boundary screening are considered to remain within the existing ambient noise levels measured and as such are unlikely to be noticeable outside of the site. This is subject to openings within the units remain closed during noisy activities sound reduction provided

by the buildings would be sufficient to achieve a suitable noise environment. The report concludes that the proposed development should not be precluded from planning approval in terms of noise impact on existing or future sensitive receptors.

The Transport Assessment details pre-application scoping undertaken with the Highway Authority, which included discussions relating to the site access, study area, trip generation and distribution, accident study, and access and parking provision. The usual review of relevant planning policy is undertaken with large swathes of the NPPF and Local Plan quoted verbatim. The Assessment includes a speed survey, 7 day traffic count (20-26 November 2018) and consideration of PIA data (Personal Injury Accident).

The proposed site access is located to the north of the existing site access, this would leave the existing site access to serve the existing buildings via a one-way system. The likely trip generation and scale of the development has informed the level of parking and the servicing arrangements proposed. The Assessment also considers access to the site via non-car modes, and as a result provision is made for pedestrian movement around the site, and a footpath on Sinfin Lane to link in to the existing footpath network. It is acknowledged that bus services in the area have recently been downgraded but as a result of the development there could be sufficient demand for the operators to reconsider this position.

A Transport Assessment Addendum was prepared post submission of the application and provides further detailed analysis of any possible highway safety issues and a detailed examination of off-site impacts within the study area. The following junctions were assessed: A5132 / Sinfin Lane T-junction - Should have adequate spare capacity in the 2024 Design Year 'with Development'; A514 Swarkestone Road / A5132 T-junction - The proposed development would not have a severe impact on this junction, as it has already been shown to have capacity concerns prior to the addition of development traffic. In addition to this there are no pre-existing safety concerns over the previous 5-year period at this junction. This demonstrates how the junction currently operates in a safe manner even under periods of congestion at present, and this should continue following the proposed development; Sinfin Lane / Site Access – considered to have adequate spare capacity and therefore be suitable to serve the proposed development; A50 / A514 / Infinity Park Way Roundabout – consultation with Highways England demonstrates that the impact on this junction would not be severe.

A Framework Travel Plan has been prepared which sets 4 objectives: Minimise single occupancy car trips by promoting and supporting alternative modes; To increase the number of employees / visitors using alternative modes of transport rather than single occupancy cars; Promote healthy lifestyles and a sustainable, vibrant local community; and Achieve a reduction in the level of peak hour traffic generation associated with the site. Measures and initiatives are set out, along with monitoring and review mechanisms.

A Response to the Highway Authority Consultation Response notes that the Highway Authority accepts the following elements of the development proposals; a second point of access; proposed footway provision along the eastern edge of Sinfin Lane; improvements to the pedestrian and cycle facilities at the A5132 / Sinfin lane junction; and the proposed parking layout. The main areas of concern relate to the 7.5 tonne weight restriction on Sinfin Lane and the off-site impact at the A5132 /A514 Ghost Island T junction.

The response considers that the weight limit should be retained as it is, in order to deter HGVs not associated with the site using this route either by accident or in order to reach the new A50 junction (associated with Infinity Garden Village) and reduce the likelihood of HGVs having to turn within the site to avoid the weight restriction. In addition, the access is designed to have a smaller 6m radius kerb to the north of the access in order to prevent and HGVs being able to access to the north. The applicants consider that a Traffic management

Plan would be sufficient to manage deliveries to and from the site and should alleviate concerns.

Whilst acknowledging that the proposed development would be adding to an already congested situation at the A5132 /A514 Ghost Island T junction. The Transport Assessment (TA) demonstrates that the proposed development traffic would only lead to traffic increase of 1.69%, and would therefore not have a severe impact on the junction. A number of previous decisions taken by the Highway Authority (not in South Derbyshire) are referred to where it has been accepted that developers are not required to make improvements to junctions that are already over capacity.

Alternative routes are suggested to the site for car borne traffic, which in addition to the above and a Framework Travel Plan would not lead to no severe residual cumulative off-site impact and the development complies with the requirements of the NPPF.

The Landscape and Visual Appraisal submitted follows the standard methodology of the Landscape Institute and IEMA. The site lies within the Trent Valley Washlands National Character Area, and the Lowland Village Farmlands Derbyshire character area. The study area surrounding the site extends to approximately 4km with land levels varying only be around 10 – 20m across the area. The site is considered typical of these character areas, generally flat with local vegetation restricting views of the site to the immediate north, east and predominantly west. 9 viewpoints were chosen to represent a cross section of long and short distance views of the site. The appraisal considers that the site cannot be seen from distance, with the site not visible in views across the Trent Valley, some views available from the A5132 and the site boundaries. The appraisal predicts the landscape impacts to be slight adverse, with aspirations to reduce this impact over time through the implementation and management of the proposed landscaped areas. The visual impacts of the development are considered to be moderate adverse initially but restricted to a small areas of direct influence – this would reduce (and even result in an improvement) as the landscaping matures.

A Flood Risk Assessment has been undertaken as required due to the size of the development proposed. The site is located in Flood Zone 1, and is therefore at low risk of flooding and represents a sequentially preferable site for new development (in terms of flood risk). The only identifiable risks from flooding come from ground water and reservoirs, risk from groundwater can be managed though foundation design where necessary, with the residual risk of a reservoir failure or breach being extremely unlikely. The surface water strategy is intended to effectively and safely manage surface water for the site, ensuring no increase in runoff rates or increase in flood risk and is also intended to be provided as a central feature of the site.

A Phase 1 Environmental Assessment supports the application and describes the sites past uses, highlighting that there is unlikely to be any risk from made-ground. The development of the site is considered to pose a negligible risk to human health.

The Arboricultural Report has been undertaken, and considers that the majority of trees within the site are mediocre specimens, which allows a significant portion of the site to be developed. A number of trees along the northern and eastern boundaries are to be retained along the railway line and adjacent to the kennels/cattery. The trees of most value are those identified as G2, which are located along the hedgerow to Sinfin Lane and are to be retained. A carefully designed landscaping scheme including new planting to compensate for any loss and is considered to create a better quality landscape on-site than currently exists.

An Archaeological and Heritage Assessment has considered the impact of developing the site on both above and below ground designated and non-designated heritage assets. This includes the Barrow upon Trent and Trent & Mersey Canal Conservation Areas. The

assessment concludes that the implementation of the proposed development will not result in an adverse impact on, harm to, or loss of significance from any of the identified designated heritage assets, either in terms of an effect on their physical fabric or through changes to their wider setting. It is considered that the current nature of the site, being light industrial units, and the previous consents on the site, clearly demonstrate development of this nature is acceptable within the site without causing harm to any designated heritage assets.

Archaeological works within the wider area have recorded evidence of prehistoric and Roman activity, along with evidence associated with the medieval to postmediaeval rural settlement of Barrow-on-Trent. This demonstrates the fairly intensive nature of archaeological activity in the wider area. An assessment of historical maps and aerial photographs show multiple phases of use within the site. It is considered that the previous uses of the site will have removed or truncated any surviving archaeological finds and features (if present). As such, there is very limited potential for remains within the site to predate the modern period given the previous impacts to the site. Any such remains which do survive within the site are most likely to relate to the modern use of the site and would be of low archaeological significance. On this basis, it is considered that no further archaeological works should be required in relation to the application.

The Ecological Appraisal identifies that there are no statutory designated nature conservation sites (i.e. SSSI), with influencing distance of the site. There are however 3 Local Wildlife Sites (LWS) within 1km of the site. The nearest LWS is approximately 350m south-east of the site. No features suitable for roosting bats were encountered on the site, the manmade pond is a fishing lake with no evidence of it being used by protected species. There was no evidence of water vole using the site. The only potential impacts on protected species is considered to be the potential impact on nesting birds, which subject to avoidance measures i.e. the timing of clearance of the site or a survey of the site prior to any works commencing.

## **Planning History**

- 9/2006/0688 The excavation and removal from site of approximately 27,000 tonnes of sand and gravel to increase the size of the existing pond for recreational fishing and to provide a car park. Approved 05/09/2006. This permission was for further excavations on the site to extend the existing man made pond and proposed to cover the area of the current planning application but was never implemented.
- 9/2014/0877 Outline application (all matters except for access, layout and scale to be reserved) for the erection of four blocks of buildings in connection with the existing self-storage use. Approved 16/12/14. This permission was specifically for the erection of four warehouse buildings and approved the development of some 3,288 sq.m. of additional floorspace, a total floorspace of 6,426 sq.m. The permission lapsed in December 2017.
- 9/2015/0147 The installation of plant and equipment for the research, testing and generation of electricity. Approved 01/05/15. This permission has been implemented although not completed.

## **Responses to Consultations**

The Highway Authority initially raised concerns in respect of the impact of the development on the public highway. These related to the existing 7.5 tonne weight limit, and the attractiveness for vehicles to use Barrow Bridge especially with the pending new A50



junction to the north, and the impact on the A514/A5132 junction. The applicants have provided a drawing showing the relocation of the weight limit on Sinfin Lane to the north of the proposed access, which will restrict any vehicles over 7.5 tonnes turning north out of the proposed access which addresses this first concern. Whilst the A514/A5132 junction currently operates over capacity, the applicant has considered measures to improve this junction. However the applicant has demonstrated to the satisfaction of the Highway Authority that measures required to improve the flow of traffic at the junction would not be cost effective or commensurate with the impact of development on the junction. As such the Highway Authority do not consider that the impact of the development on highway safety would be such that a refusal of the proposal could be sustained.

#### Highways England offers no objection

The Environmental Health Manager has identified the key environmental impacts of the development to be: 1. The potential exposure of the new ancillary short term temporary residential receptors (C3) to existing noise sources in the location; 2. The potential exposure of existing noise sensitive residential receptors surrounding the development to new noise sources; 3. The potential adverse impacts on local air quality from traffic associated with the development; 4. The potential impact of historical land contamination on the site. Having considered the submitted supporting information and assessments undertaken there are no significant concerns in respect of the four identified issues subject to the imposition of conditions relating to contaminated land, minimum glazing and attenuation specification for the ancillary residential accommodation, noise levels, hours restrictions and that all doors and windows to the B1, B2 and B8 units remain closed at all times except for the explicit purpose of entry or exit from the premises.

Derbyshire Wildlife Trust concurs with the submitted appraisal that bats do not present a constraint to the proposed works. However, the appraisal has not considered the presence of reptiles on the site, which is a significant omission given the wet habitat on site and the connectivity to the adjacent railway and canal corridors. Whilst it is acknowledged that the pond was formerly used for angling, there remains the potential for the site to be used by other amphibians including the Common Toad (a priority species) – as the proposal includes the decommissioning and infilling of the pond it is important that it is fully assessed. The report acknowledges that a complete biological inventory of the site was not undertaken, which is a significant limitation of the survey, and needs to be carried out. In addition, the proposal is considered to result in a net loss of biodiversity, with no calculations provided to inform the assessment. The proposal is considered to therefore be contrary to the objectives of the NPPF and policy BNE3 of the Local Plan.

Derbyshire Police does not wish to comment on the full element of the scheme. However, as the outline application alters the security dynamic at the site, whilst there is no objection in principle the security provision at the site would require ‘fleshing out’ at reserved matters. Due to the sites location and a risk of ‘travelling crime’ controls will be required to restrict access, and secure the site overnight.

Network Rail has no objection in principle subject to detailed design considerations to be highlighted to the applicant in respect of working close to an existing railway line.

Natural England has no comment to make on the application.

The Canal and Rivers Trust notes that the adjacent Trent & Mersey Canal is a designated conservation area, with little consideration given to the potential for damage to the bridge as a result of increased traffic. As a minimum a Travel Plan is suggested that highlights the restricted access at Barrow Bridge.

The Lead Local Flood Authority has no objection to the proposal, subject to conditions relating to the submission of a detailed design and associated management and maintenance plan for surface water, the management of surface water during construction, and details of the easement for the proposed watercourse diversion.

The Environment Agency has no objection subject to the imposition of a condition relating to contaminated land, similar to the suggested condition by the Environmental Health Manager.

Sport England does not wish to provide detailed comments in this instance. However, its does note that the proposal includes the loss of an angling facility. The NPPF and any relevant local plan policy may need to be considered in determining whether the application is acceptable in terms of planning policy.

The Development Control Archaeologist notes that the application is informed by an archaeological assessment of the site. However, he does not agree that no additional assessments are required, as there remains potential for sub-surface archaeological features to survive a condition requiring the undertaking of a scheme of investigation is considered appropriate.

## **Responses to Publicity**

Barrow on Trent Parish Council objects to the application for the following reasons:

- a) The increase in number of vehicle movements;
- b) Impact on the Swarkestone junction (A514 / A5231) – impact on delays and travel times;
- c) Infinity garden village – this will encourage businesses to set up in the area, much more appropriate than the provision of small industrial units in a small village;
- d) A new A50 junction will encourage traffic along Deep Dale Lane, which is inappropriate for any additional traffic.
- e) How will the lake be drained? Local watercourses will not cope with large amounts of water.

No individual objections or letters of support have been received.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S5 (Employment Land Need), S6 (Sustainable Access), H1 (Settlement Hierarchy), E1 (Strategic Employment Land Allocation), E5 (Safeguarded Employment Sites Dove Valley Park), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF7 (Green Infrastructure), and INF9 (Open Space, Sport and Recreation).
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE5 (Development in the Countryside), BNE7 (Trees, Woodland and Hedgerows) and BNE10 (Heritage)

## **National Guidance**

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

### **Local Guidance**

- South Derbyshire Economic Development Strategy (SDEDS)
- South Derbyshire Design Guide SPD
- The Barrow upon Trent and Trent and Mersey Canal Conservation Area Character Statements

### **Planning Considerations**

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

- Principle of development;
- Landscape and visual impact;
- Highway matters; and
- Biodiversity and protected species.

### **Planning Assessment**

#### Principle of development

One of the key means of achieving sustainable economic development as outlined in the NPPF is through the planning system and its role in helping to build a strong, responsive, and competitive economy. This can be achieved by ensuring that sufficient land of the right type is available in the right places at the right time in order to support growth, innovation and improved productivity. The role of the planning system is to help to create the conditions in which businesses can invest, expand and adapt, with the NPPF highlighting that significant weight should be given to this need to support economic growth and productivity.

Supporting the economy of the District, including the rural economy is a key strategy of the Local Plan and the SDEDS. The SDEDS itself specifically identifies a shortage of start-up and grow-on business accommodation in the District. Both the NPPF and Local Plan identify that there is a specific need within rural areas to enable the sustainable growth of all types of businesses both through the conversion of existing buildings and new buildings. Indeed the NPPF specifically recognises that sites to meet local business and community needs may need to be found beyond local settlements, and in locations that are not well served by public transport. This is echoed by policy E7 provided the development supports the social and economic needs of the rural communities in the District, and that new rural economic development proposals are supported by a sound business case. Policy E2 supports the development of land (irrespective of location) for B1(b), B1 (c), B2 and B8 uses where the proposal is for the redevelopment of established industrial or business land or premises.

The applicants have prepared a detailed business case in support of the application, which is outlined above. This highlights the strategies of the SDEDS, and evidences the outstanding specific need for serviced industrial plots, there is evidence of considerable demand locally especially in the Melbourne area. The business case put forward and the evidence available presents a compelling and sound case in support of the proposed development, such that it is considered that the principle of the conversion of the existing buildings and the development of the remainder of the site for new employment development would comply with the requirements of policies E2 and E7 of the Local Plan and the provisions of the NPPF.

Two other areas in which the principle of development needs to be considered, and is less clear cut relates to the loss of the existing pond, and the proposed residential unit. The pond was originally an irrigation pond, created following the extraction of gravel and was subsequently used for angling. It is therefore arguable that the in-filling of the pond would result in the loss of a sporting facility and an area of open space. However, the angling facility is a private facility which has been closed since the applicant took ownership of the, and is considered to have little public amenity value due to its lack of public access. As such the infilling and loss of this facility is not considered to be a matter to weigh significantly against the re-development of the site, especially given the location of the site close to the Trent and Mersey Canal, which provides an alternative angling facility within very close proximity to the site.

The outline element of the proposal also includes the provision of a residential unit within one of the buildings that would mainly be used for on-site office and conferencing facilities. This element is described as being ancillary to the overall operation of the site, of which the SDES acknowledges that there is a need, i.e. overnight facility for business stop-overs. Whilst the precise size of the unit is unknown at this stage it is understood that this unit would provide a form ancillary short term residential accommodation which would be directly linked to the overall business use of the site. Whilst residential development in this area would normally be contrary to the provisions of the development plan (i.e. a new residential use outside of any recognised settlement boundary without agricultural justification), the need identified for such a facility and the fact that it would be a small element of a complimentary business offer on the site is considered to be an appropriate justification for a variation from recognised planning policies which otherwise restrict new residential development in rural areas. This is subject to conditions that would restrict the occupation of the unit to visitors to the site with a restriction on the amount of time any single occupier could use the unit.

### Landscape and visual impact

The surrounding landscape is generally low and flat, with established field hedgerows typical of the Trent Valley Washlands landscape character area. The site itself is also flat, and part occupied by existing buildings (to the south west) which are proposed for retention and updating, a pond which is proposed for in-filling to the north and eastern part of the site, hardstanding areas and pockets of scrub to the north western corner, the only unaltered greenfield part of the site is to the south eastern corner, upon which permission has previously been granted for built development as an expansion to East Midlands Self Storage.

Due to the topography of the surrounding area, the site is rarely visible from beyond Sinfin Lane with the existing buildings located in the most prominent position due to the level of Sinfin Lane. The northern extent of the site (where the two larger buildings are proposed) would be partially screened by the rising level of Sinfin Lane as it passes over the railway line and Trent and Mersey Canal, the screening of the site from this location is also aided by the existing hedgerow and hedgerow trees which rise with the level of the road.

Beyond the site itself, the landscape has a more rural quality and comprises a mix of pasture and arable farmland. Longer distance views may be available of the site from the A5132 during the winter but these views are likely to be fleeting and are not considered significant. The proposed new built development would also sit in context with the existing buildings.

The proposals for the updating of the existing buildings (the subject of the full application), propose areas of re-cladding and general tidying up of these buildings and their surroundings, including the demolition of smaller additions to the buildings. These alterations

are considered to be appropriate, and improve the visual attractiveness of the buildings and site in general complying with the requirements of policy BNE1.

In terms of the outline proposals (i.e. the remainder of the site), the application includes details of the site layout for consideration at this stage with only parameters proposed for the scale of the buildings and an indication that the appearance of the buildings will be of a 'modern industrial appearance'. The layout is intended to balance the extent of the site area and the operational requirements for the proposed uses. The 'Business Incubation Zone' proposes five new buildings arranged in a block structure to the eastern part of the site. A 'horse shoe' arrangement of three buildings is proposed of a smaller scale in terms of height and mass and suited to start-up businesses along with two other buildings which would house offices, meeting rooms and other ancillary accommodation and functions in connection with this area.

The two larger buildings are proposed positioned adjacent to Sinfin Lane and the railway line. This part of the site is reasonably well screened, assisted by the levels on Sinfin Lane, and the mature tree line on the boundary of the site and in-between the railway line and canal. The indicated scale of these buildings would be two-storey, of a similar scale to the existing and retained buildings. It is noted that these buildings are located at the closest point of the site to the Trent and Mersey Canal Conservation Area, such that the scale of the buildings in this location will need to be carefully considered at the reserved matters stage to ensure that the buildings do not result in harm to the conservation area.

Overall it is not considered that the impact of the development on landscape character would be significant, with the more localised visual impacts mitigated by the level of Sinfin Lane, which would be further minimised by appropriate landscaping. The loss of the manmade pond is not considered to be detrimental to the landscape or character of the area. Generally the layout of the site is not considered to give rise to undue impacts on the local landscape, natural environment such that the requirement of policies E2, E7, BNE1, BNE4 and BNE5 are adhered to. This is of course subject to subsequent later consideration of the appearance, scale and landscaping for the site.

### Highway matters

The thrust of local (S6 and INF2) and national policy relating to highway matters seek to ensure that safe and suitable access can be achieved for all users, and that any significant impacts arising from the development on the existing transport network or on highway safety can be adequately mitigated. The NPPF seeks to ensure that opportunities are taken to promote sustainable transport and is explicit that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual impacts on the road network would be severe. Here there are three main areas for consideration: highway capacity and safety on the existing network; the proposed vehicular access and the internal layout; and sustainable transport measures.

With regards to the impact of the additional traffic generated by the proposal on the local highway network, the applicant has undertaken an assessment of 6 vehicular junctions at or within the vicinity of the site, as follows:

1. The existing site access;
2. The new site access located 60m to the north of the existing;
3. A5132 / Sinfin Lane T-junction;
4. A514 Swarkestone Road / A5132 T-junction;
5. Sinfin Lane / Site Access;
6. A50 / A514 / Infinity Park Way Roundabout

Each junction assessment was based on the following traffic flow scenarios:

- 2018 Observed Year;
- 2019 Baseline Year;
- 2024 Design Year; and
- 2024 Design Year + Proposed Development.

The submitted transport assessment concludes that all junctions with the exception of junction 4 would be able to operate within capacity for all of the scenarios considered. The capacity analysis identified that junction 4 is currently operating over capacity, and the proposed development would be adding to an already congested situation. The capacity assessment identifies that additional traffic from the development would lead to traffic increases of 1.69% of the total background traffic. The question therefore is whether this increase in traffic on an already over capacity would result in a severe impact on the functioning of this junction. The Highway Authority have considered in detail the traffic modelling provided, and also the options available for improvements to the junction. However, the measures required at the junction which could improve capacity or traffic flow are not considered to be cost effective or commensurate with the impact of the development on this junction. As such there are no highway safety objections based on the capacity of the existing network to accommodate the development proposed.

A key concern for the Highway Authority, and locally relates to the likelihood of vehicles from or visiting the site using Barrow Bridge to access or leave the site. Sinfin Lane is subject to a 7.5 tonne weight restriction, with allowance for access which includes access to the existing site. There is concern that the future development of an additional A50 junction at Deep Dale Lane would improve the attractiveness of using the Barrow Bridge for access. To this end it is considered necessary for the positioning of the weight restriction to be relocated on Sinfin Lane from its junction with the A5132 (Swarkestone Road) to the north of the proposed site access, which would restrict vehicles over 7.5 tonnes accessing the site from using Barrow Bridge. The current situation is that once a vehicle has entered the 'Access only' area (Sinfin Lane) it would then be free to access any part of the restricted access area meaning that there would be no restriction on using the bridge. To this end it is considered necessary to impose a condition on the permission requiring the applicant to apply for a Traffic Regulation Order in order to relocate the weight restriction.

In terms of the proposed vehicular accesses and the internal layout, the proposal is to provide a new access point 60m north of the existing access, with the existing access restricted to the egress of vehicles occupying the existing units. Measures such as restricted kerbs on the northern side of the access are included in order to restrict vehicles turning right out of the site access.

Adequate visibility for vehicles has been demonstrated to the satisfaction of the County Highway Authority, and swept path analysis has been provided to demonstrate that the primary site access can be used by articulated lorries. In general the proposed access points into the site are considered to be acceptable, subject to the submission of precise construction details of the new access works. Adequate provision for service vehicle access, manoeuvring and off-street parking is provided within the site, with the quantum of parking spaces provided sufficient to meet the County Council's parking standards. So in terms of technical highway safety, there is no objection to the development for the provision of a vehicular access in to the site, and the internal layout.

As acknowledged above, sites necessary to meet the needs of local businesses are required in rural locations that are not well served by public transport, which is unfortunately the case here. The application includes provisions to increase the attractiveness of accessing the site by public transport, walking and cycling though providing a new footpath link from the site to the south along Sinfin Lane where the existing footpath terminates at the A5132 junction;

and improvements are proposed to the existing crossing over the A5132. In addition, the submitted travel plan includes the following measures to promote sustainable travel: the provision of appropriate space for the storage of cycle equipment; to increase the number of employees / visitors using alternative modes of transport rather than single occupancy cars; promote healthy lifestyles and a sustainable, vibrant local community; and achieve a reduction in the level of peak hour traffic generation associated with the site.

Overall the development is considered to provide safe and suitable access. The impacts of the development on the wider highway network are not considered to be severe, and where possible measures to encourage and promote the use of sustainable transport measures are proposed such that the proposal is considered to comply as far as is achievable with requirements of Local Plan policies S6 and INF2 and the provisions of the NPPF.

### Biodiversity and protected species

The Habitats on-site are comprised of semi-improved grassland, scrub, hedgerow, scattered trees, a large pond and a small butyl lined tank. An Ecological Appraisal has been undertaken on the site, including a walkover survey.

Policy BNE3 supports development which contributes to the protection, enhancement, and management of biodiversity and delivers net gains in biodiversity wherever possible. Similarly the NPPF requires impacts on biodiversity to be minimised with net gains in biodiversity provided.

As noted above in the response received from Derbyshire Wildlife Trust, the current submission is lacking in terms of the necessary protected species surveys for the site, which are required in order to assess the and inform the necessary mitigation measures and to ensure that there is no net loss of biodiversity.

The applicant has committed to undertaking additional works in order to overcome the objections of the Wildlife Trust, including an updated site walkover survey, amphibian survey informed by eDNA testing of the waterbodies on the site for great crested newts and the common toad, a reptile survey, and biodiversity impact calculation and associated mitigation strategies. The results of these surveys will need to be considered in detail in consultation with Derbyshire Wildlife Trust to ensure that sufficient mitigation can be provided and a net gain in biodiversity is achieved as a result of the development.

### Other:

Environmental Impact Assessment: The proposal was screened under the Environmental Impact Assessment (EIA) Regulations 2017. The proposal is considered to fall within paragraph 10(a) of Schedule 2 to those Regulations, being an infrastructure project. However having taken into account the criteria of Schedule 3 to the Regulations, the proposal is not considered to give rise to significant environmental effects in the context and purpose of EIA. Accordingly the application is not accompanied by an Environmental Statement.

Flooding and drainage: The application is supported by a Flood Risk Assessment, which identifies that the site will be developed with a SUDS scheme designed to accommodate a 1 in 100 year flood event with a 40% allowance for climate change and an additional 10% allowance for urban creep to be accommodated by a variety of SUDS features including underground storage and an above ground wetland feature. Surface water is proposed to discharge to an existing ditch to the eastern part of the site, as it has been demonstrated that the site is unsuitable to retain surface water due to the presence of groundwater. The proposals include the in-filling of the existing pond on the site and to alter the route of an

existing watercourse. The concerns of the Parish Council in respect of the drainage of the pond are noted and there are two options available both of which would provide a suitable means of draining the pond and are proposed to be secured by condition: either a limited discharge in to the existing watercourse (subject to the relevant consents from the Lead Local Flood Authority and/or Environment Agency), or collection of the water by tanker to be disposed of away from the site. Overall the proposed scheme is considered to provide suitable and adequate surface water drainage for the site subject to the conditional approval of a detailed scheme incorporating its management and maintenance, and as such will comply with the requirements of policies SD2 and SD3.

**Heritage:** The impact of the development on the nearby heritage assets namely the Barrow upon Trent and Trent and Mersey Canal Conservation Areas is partly considered above but it is worthwhile confirming that the proposed development is considered to preserve the significance of the Barrow upon Trent Conservation Area due to its separation from the site and existing development closer to its setting. In terms of the closer Trent and Mersey Canal Conservation Area, the site makes a limited contribution to the setting of the conservation area due to the intervening railway line and vegetation cover. While the principle of development on the site is not considered harmful, the impact on the canal would be reduced through suitable landscaping and boundary treatments that would aid in screening the site in its limited views from the conservation area. These matters can be secured through the future landscaping reserved matter. It is also important that the scale of these buildings is appropriate in this context, which again can be secured through the future reserved matters applications for appearance and scale. Generally the principle of development on the site is not considered harmful and would preserve the significance of the setting of the Trent and Mersey Canal Conservation Area. In terms of archaeology, due to the potential for archaeological features to remain on the site despite previous groundworks, i.e. in undeveloped parts of the site, a scheme of archaeological investigation is considered appropriate and is conditioned accordingly. Overall the proposed development is considered to comply with the requirements of policies BNE2 and BNE10 in addition to the provisions of the NPPF.

**Amenity impacts:** The protection of the amenity of neighbouring dwellings and uses is provided for throughout the Local Plan and NPPF in particular policies SD1, E7 and BNE1. To the east the kennels and cattery are unlikely to be impacted upon by a change in use or development of the site, neither is the existing flower business directly to the south. There are however, two nearby dwellings to the south of the site, and a number of dwellings fronting the A5132 to the south east of the site that have the potential to be impacted upon. The application is supported by an Acoustic Planning Report, which highlights that the proposed units closest to the dwellings on the A5132 are proposed as B1 uses, which by definition the operations within should be capable of being carried out in a residential area without being detrimental to residential amenity. The scheme also includes provisions for no outside working, doors generally opening facing away from any noise sensitive receptors, and doors and shutters being closed when operations are being carried out within the buildings. The Environmental Health Manager concurs with the recommendations and conclusions in the report that the development would not give rise to significant impacts on amenity subject to a number of conditions designed to protect the amenity of nearby uses and residents including operating hours restrictions.

**Trees:** The scheme includes the loss of a large portion of trees within the site, especially those surrounding the existing pond. The Arboricultural Report undertaken correctly identifies that these are generally poor self-set specimens, those trees of importance are retained, which are generally those to the sites boundaries especially those along Sinfin Lane. Subject to the protection of trees along the site boundaries during construction and their bolstering through an appropriate landscaping scheme the loss of trees within the site is not seen as a significant constraint to the development. A suitable scheme of landscaping



would offer the opportunity to provide a scheme of appropriate mitigation for the lost trees, with appropriate species and specimens to be managed appropriately.

### Summary / planning balance

It is acknowledged that some elements of the development may not be entirely compliant with specific policies in the Local Plan, as proposal is for a new development on a partly greenfield site outside of any recognised settlement boundaries which does weigh against the development. However, this application for industrial economic development is presented with a strong, sound and compelling business case supported by evidence gleaned from the South Derbyshire Economic Development Strategy. The development would meet identified economic needs in this part of the District, and is supported by the economic development policies of the Local Plan and the provisions of the National Planning Policy Framework in particular paragraphs 80 – 84, both of which seek to ensure planning aids in building a strong, competitive economy. The proposal will provide the employment opportunities' lacking in this area and this form of economic development needs to be given the strong planning support it deserves and this weighs heavily in favour of the proposal.

The fact that the highways impact of the development can be appropriately mitigated and accommodated in the area (subject to conditions), the impact of the development on the landscape and character of the area is considered acceptable (subject to the detailed reserved matters applications), and that appropriate sustainable drainage provision can be provided also weigh in favour of the proposals. As members will see from the main report there remain a number of outstanding matters relating to protected species and biodiversity, which will be the subject of detailed assessment and scrutiny once the surveys have been undertaken, and it is considered that subject to these matters being adequately addressed, the proposed development represents sustainable development and is recommended for approval accordingly.

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

### **Recommendation**

- A. Grant delegated authority to the Head of Planning and Strategic Housing to consider the further information required in relation to protected species and biodiversity as set out in the report, and include additional conditions where appropriate in relation to this matter and (if necessary) biodiversity offsetting contributions through a Section 106 Agreement; and
- B. Subject to A, **GRANT** permission subject to the following conditions:

#### Conditions for the Outline Permission for the area defined on drawing number 1810 13 Revision A:

1. This permission is granted in outline under the provisions of Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015, and before any development is commenced the further approval of the Local Planning Authority is required in respect of the following reserved matters:
  - (a) appearance;
  - (b) landscaping; and
  - (c) scale.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory, and so to conform with Section 92(2) of the Town and Country Planning Act 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

2. (a) Application for approval of the remaining reserved matters listed at condition 1 shall be made to the Local Planning Authority before the expiration of three years from the date of this permission; and

(b) The development hereby permitted shall be begun before the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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

3. The development hereby permitted shall be carried out in accordance with drawing number 1810 11 Revision K; unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

4. The reserved matters listed at condition 1 shall broadly be in accordance with the illustrative landscape strategy (ref. 1086 001 Revision A) and the design principles of outlined at Section 4 of the Planning, Design and Access Statement (ref. December 2018). Notwithstanding these parameters, each application for reserved matters approval shall incorporate or be supported by, in so far as relevant to that/those matter(s), the following specific detail/requirements:

(a) where applicable, details of measures to support hard landscaping within any root protection areas of retained trees or hedgerows;

(b) the internal layout of the site shall be in accordance with the guidance contained in the 6C's Design Guide (or any subsequent revision/replacement of that guidance) and Manual for Streets issued by the Department for Transport and Environment and Local Government (or any subsequent revision/replacement of that guidance);

(c) a Landscape and Ecological Management Plan (LEMP) for all retained and created habitats demonstrating provision for the establishment of the approved landscaping scheme for a period of no less than twenty-five years and details of the legal and funding mechanism(s) by which the long-term implementation of the LEMP will be secured by the developer with the management body(ies) responsible for its delivery; and

(d) a scheme of security measures for the site, including fencing, lighting, CCTV and secure cycle parking facilities for the employees of, and visitors to, the employment premises.

Reason: For the avoidance of doubt and in order to secure an appropriate detailed design which accords with best design principles under the Council's Design Guide SPD and Secured by Design, and in the interests of sustainable drainage and reducing flood risk, biodiversity and the cultural heritage of the District.

5. No development, including preparatory works, shall commence until a site-wide phasing programme including the proposed sequence of providing:

(a) employment units including associated parking and landscaping bunds,

(b) public and private highways including street lighting,

(c) sustainable drainage systems and associated infrastructure,

(d) any off-site works required under this permission, a planning obligation or agreement under the Highway Act 1980

has been first submitted to and approved in writing by the Local Planning Authority. The details shall be provided with reference to plan(s) and define the extent and location of individual development phases or sub-phases and the associated interim access arrangements. The development shall not be carried out other than in accordance with the approved programme.

Reason: To ensure that the impacts of the development are appropriately mitigated at all stages of the construction phase, and so occupiers of the development are able to reach and access services and facilities at an appropriate time, in the interests of achieving sustainable development.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, as amended, or any order revoking and re-enacting that Order with or without modification, the development hereby approved shall be used only for the uses set out in the application form and Planning, Design and Access Statement (ref. December 2018) and for no other purposes whatsoever.

Reason: Only the approved use has been considered in establishing whether the proposal would have acceptable impacts in this location, and other uses would require further detailed consideration by the Local Planning Authority.

7. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) Order 2015, or any Order(s) revoking and re-enacting either or both Order(s), with or without modification, the residential unit hereby permitted shall be used for the purpose of ancillary business accommodation only and for no other purpose, including any other purpose within Class C3 of the Order, without the prior grant of planning permission by the Local Planning Authority pursuant to an application made in that regard, and:

(i) the unit shall not be occupied as a person's sole, or main place of residence;

(ii) the accommodation shall not be occupied by a person or group of persons for a continuous period of more than 28 days and it shall not be re-occupied by the same person(s) within 3 months following the end of that period; and

(iii) the site operator shall maintain an up-to-date register of the names of all occupiers of the building(s), and of their main home addresses, and shall make that information available at all reasonable times to the Local Planning Authority.

Reason: The provision of a conventional residential dwelling in this location would be contrary to the Development Plan and the objectives of sustainable development, and to enable to the effective monitoring of the use of the site.

8. The B Class uses hereby permitted shall not take place other than between 0700 hours and 2100 hours Mondays to Fridays, and between 0700 hours and 1600 hours on Saturdays. The B Class uses hereby permitted shall not take place whatsoever on Sundays, public holidays and bank holidays.

Reason: To safeguard the amenities of nearby occupiers.

9. The rating level of noise emitted from the site shall not exceed 46dBA LAeq (1hour) at any time as measured at the nearest noise sensitive receptor. Where access to the nearest noise sensitive receptor is not possible or measurements are affected by other local noise sources, measurements shall be undertaken at an appropriate location and corrected by means of a noise propagation calculation to establish the noise levels at the nearest noise sensitive receptor.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers.

10. The B Class uses hereby permitted shall not operate unless the doors, shutters and windows of the premises are closed, and shall be kept closed at all times except as required for the incidental entry or exit of goods or customers.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers.

11. No removal of trees, hedges and shrubs shall take place between 1st March and 31st August inclusive unless a survey to assess the nesting bird activity on the site during this period and a scheme to protect the nesting birds has first been submitted to and approved in writing by the Local Planning Authority. No trees, hedges and shrubs shall be removed between 1st March and 31st August inclusive other than in accordance with the approved bird nesting protection scheme.

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

12. No site preparation or construction works pursuant to this permission shall take place on the site other than between 0800 to 1800 hours Monday to Friday, and 0800 to 1300 hours on Saturdays. There shall be no construction works (except for works to address an emergency) on Sundays or Public Holidays.

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

13. There shall be no burning of materials on site during the construction phase of the development. For the avoidance of doubt this includes any preparatory works to clear vegetation on site.

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

14. No generators shall be used on the site during the construction phase without details having first been submitted to and approved in writing by the Local Planning Authority. Thereafter, only those approved generators shall be used.

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

15. The open land (or parking or manoeuvring areas) within the curtilage of the site shall not be used for the storage, display or sale of anything whatsoever.

Reason: In the interests of the visual amenities of the area.

16. No development, including preparatory works, shall commence until a scheme for the protection of trees, hedgerows and ponds has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be based on best practice as set out in BS 5837:2012 (or equivalent standards which may replace them) and ensure that no vehicles can access, and no storage of materials or equipment can take place within, the root and canopy protection areas of trees/hedgerows. The approved scheme of protection shall be implemented prior to any works commencing on site and thereafter retained throughout the construction period.

Reason: In the interests of safeguarding existing habitat and the visual amenities of the area, recognising that initial preparatory works could bring about unacceptable impacts to protected and non-protected interests.

17. a) No development, including preparatory works, shall commence until a Written Scheme of Investigation for archaeological monitoring (WSI) has been submitted to and approved in writing by the Local Planning Authority, and until any pre-commencement element of the approved WSI has been completed to the written

satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions, and:

- i) the programme and methodology of site investigation and recording;
- ii) the programme and provision to be made for post investigation analysis and reporting;
- iii) provision to be made for publication and dissemination of the analysis and records of the site investigation;
- iv) provision to be made for archive deposition of the analysis and records of the site investigation; and nomination of a competent person or persons/organisation to undertake the works set out within the WSI.

b) The development shall take place in accordance with the approved WSI and shall not be occupied until the site investigation and post investigation reporting has been completed in accordance with the programme set out in the approved WSI and the provision to be made for publication and dissemination of results and archive deposition has been secured.

Reason: To enable potential archaeological remains and features to be adequately recorded, in the interests of the cultural heritage of the District, recognising that initial preparatory works could have unacceptable impacts.

18. No development, including preparatory works, shall commence until details of the finished floor levels of the buildings hereby approved, and of the proposed ground levels of the site relative to the finished floor levels and adjoining land levels, shall be submitted to and approved in writing by the Local Planning Authority. Such details shall be supplemented with locations, cross-sections and appearance of any retaining features required to facilitate the proposed levels. The development shall be constructed in accordance with the approved details.

Reason: To protect the amenities of adjoining properties and the locality generally, recognising that site levels across the site as a whole are crucial to establishing infrastructure routeing/positions.

19. No development shall take place until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for the storage of plant and materials, site accommodation, loading, unloading of goods' vehicles, parking of site operatives' and visitors' vehicles, routes for construction traffic, hours of operation, method of prevention of debris being carried onto highway and any proposed temporary traffic management.

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

20. Prior to the first use of any building hereby permitted, the new vehicular and pedestrian access to Sinfin Lane shall be constructed. The junction shall be laid out in accordance with drawing numbers F18075/02 Revision A and F18076/03 Revision A, having a width of 7.3m, radii of 15m on the southern and 6m of the northern sides, a 2m footway on the southern side, and visibility sightlines of 90m to the south and 70m to the north, both measured to a point 1m in from the nearside edge of the carriageway, as measured from a point located centrally and 2.4m back into the access. The area within the sightlines shall thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level. For the avoidance of doubt the developer will be required

to enter into an agreement with the Highway Authority under section 278 of the Highways Act 1980 in order to comply with the requirements of this condition.

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

21. Prior to the occupation of the buildings hereby permitted a Traffic Regulation Order shall be promoted for the relocation of the 7.5 tonne weight restriction to a point immediately to the north of the new access to Sinfin Lane and any associated works and signage in conjunction with Derbyshire County Council (the Highway Authority).

Reason: To ensure safe and suitable access and in the interests of highway safety.

22. Prior to the occupation of the buildings hereby permitted the access, parking and manoeuvring area shall be laid out in accordance with the approved plan(s) and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, such space shall be maintained throughout the life of the development free of any impediment to its designated use as such.

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

23. Prior to the occupation of the buildings hereby permitted the following works to the existing highway shall be carried out:

- (a) A new 2m footway on Sinfin Lane as detailed on drawing number F18076/06; and
- (b) Alterations to the pedestrian/cycleway at the junction of Sinfin Lane with the A5132, including upgrading of the central refuge as detailed on drawing number F18076/14.

The works shall be carried out in accordance with the approved details, and constructed in accordance with Derbyshire Council Council's specifications for works within the public highway. For the avoidance of doubt the developer will be required to enter into an agreement with the Highway Authority under section 278 of the Highways Act 1980 in order to comply with the requirements of this condition.

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

24. The gradient of the new estate street access shall not exceed 1:30 for the first 10m into the site from the existing highway boundary and 1:20 thereafter.

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

25. No development, including preparatory works, shall commence until details of measures indicating how additional surface water run-off from the site will be avoided during the construction works have been submitted to and approved in writing by the Local Planning Authority. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved measures and systems shall be brought into operation before any works to create buildings or hard surfaces commence.

Reason: To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development itself; recognising that initial works to prepare the site could bring about unacceptable impacts.

26. No development, including preparatory works, shall commence until a detailed design of, and associated management and maintenance plan for, surface water drainage of the site, in accordance with the principles outlined within:
- (a) Sinfin Lane, Barrow upon Trent Flood Risk Assessment, Revision P1, (December 2018 by Canham Consulting Ltd) and also including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team; and
  - (b) DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015).

shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage infrastructure shall be installed in conformity with the approved details prior to the first occupation/use of each respective building/road/hard surface served by the surface water drainage system or in accordance with a phasing plan first submitted to and approved in writing by the Local Planning Authority. Those elements of the surface water drainage system not adopted by a statutory undertaker shall thereafter be maintained and managed in accordance with the approved management and maintenance plan.

Reason: To ensure that the principles of sustainable drainage can be incorporated into the development, noting that initial preparatory and/or construction works may compromise the ability to mitigate harmful impacts.

27. Upon completion of the surface water drainage system, including any attenuation ponds and swales, and prior to their adoption by a statutory undertaker or management company; a survey and report from a suitably qualified independent engineer shall be submitted to and approved in writing by the Local Planning Authority. The survey and report shall demonstrate that the surface water drainage system has been constructed in accordance with the details approved pursuant to condition 20. Where necessary, details of corrective works to be carried out along with a timetable for their completion, shall be included for approval in writing by the Local Planning Authority. Any corrective works required shall be carried out in accordance with the approved timetable and subsequently re-surveyed by an independent surveyor, with their findings submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the effective operation of the surface water drainage scheme following construction of the development.

28. No development, including preparatory works, shall commence until details showing a reasonable easement for maintenance of the proposed watercourse diversion have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with approved details with the easement maintained for the life of the development.

Reason: To ensure the proposed ordinary watercourse diversion will be manageable and maintainable prior to commencement of the construction phase to ensure that risk of flooding due to structural failure of the watercourse caused by the development is mitigated.

29. No development, including preparatory works, shall commence until a scheme for the dewatering of the pond or groundwater has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with approved details.

Reason: To protect and prevent the pollution of controlled waters and minimise flood risk.

30. Prior to the installation of any external lighting a detailed lighting strategy (designed in accordance with the guidelines issued by the Institute of Lighting Engineers, or any equivalent guidelines which may supersede such guidelines) which shall include precise details of the position, height, intensity, angling and shielding of lighting, as well as the area of spread/spill of such lighting, has been submitted to and approved in writing by the Local Planning Authority. All lighting shall be installed in accordance with the approved strategy and thereafter retained in conformity with them.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers and/or transport routes from undue illumination impacts or distraction, and to minimise light pollution at night.

31. Prior to the occupation of the short term residential unit, the windows to all of the habitable rooms shall be fitted with a specification of Rw 31dBA or better (or equivalent). The provision of ventilation within these rooms shall be such that the ventilation rates for dwellings specified in Approved Document F of the Building Regulations are capable of being achieved with the windows closed (such as through the use of sound insulated trickle vents). Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, all subsequent replacement of windows to habitable rooms shall achieve at least the same level of noise suppression.

Reason: In the interests of protecting the amenity of the area prospective occupiers.

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

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

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

Reason: To ensure that future water resource needs, wastewater treatment and drainage infrastructure are managed effectively, so to satisfy the requirements of policy SD3 of the Local Plan Part 1.

Conditions for the Full Permission for the area defined on drawing number 1810 13 Revision A save for necessary works to provide the new vehicular access:

34. 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).



35. The development hereby permitted shall be carried out in accordance with drawing numbers 1810 11 Revision K, 1810 15 Revision C, 1810 16 Revision C, 1810 17 Revision C, and 1810 18 Revision B; unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.
- Reason: For the avoidance of doubt and in the interests of achieving sustainable development.
36. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, as amended, or any order revoking and re-enacting that Order with or without modification, the development hereby approved shall be used only for the uses set out in the application form and Planning, Design and Access Statement (ref. December 2018) and for no other purposes whatsoever.
- Reason: Only the approved use has been considered in establishing whether the proposal would have acceptable impacts in this location, and other uses would require further detailed consideration by the Local Planning Authority.
37. The B Class uses hereby permitted shall not take place other than between 0700 hours and 2100 hours Mondays to Fridays, and between 0700 hours and 1600 hours on Saturdays. The B Class uses hereby permitted shall not take place whatsoever on Sundays, public holidays and bank holidays.
- Reason: To safeguard the amenities of nearby occupiers.
38. The rating level of noise emitted from the site shall not exceed 46dBA LAeq (1hour) at any time as measured at the nearest noise sensitive receptor. Where access to the nearest noise sensitive receptor is not possible or measurements are affected by other local noise sources, measurements shall be undertaken at an appropriate location and corrected by means of a noise propagation calculation to establish the noise levels at the nearest noise sensitive receptor.
- Reason: In the interests of protecting the amenity of the area and adjoining occupiers.
39. The B Class uses hereby permitted shall not operate unless the doors, shutters and windows of the premises are closed, and shall be kept closed at all times except as required for the incidental entry or exit of goods or customers.
- Reason: In the interests of protecting the amenity of the area and adjoining occupiers.
40. No removal of trees, hedges and shrubs shall take place between 1st March and 31st August inclusive unless a survey to assess the nesting bird activity on the site during this period and a scheme to protect the nesting birds has first been submitted to and approved in writing by the Local Planning Authority. No trees, hedges and shrubs shall be removed between 1st March and 31st August inclusive other than in accordance with the approved bird nesting protection scheme.
- Reason: In order to safeguard protected species from undue disturbance and impacts.
41. No site preparation or construction works pursuant to this permission shall take place on the site other than between 0800 to 1800 hours Monday to Friday, and 0800 to 1300 hours on Saturdays. There shall be no construction works (except for works to address an emergency) on Sundays or Public Holidays.
- Reason: In order to protect the amenities of adjoining residential occupiers.

42. There shall be no burning of materials on site during the construction phase of the development. For the avoidance of doubt this includes any preparatory works to clear vegetation on site.

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

43. No generators shall be used on the site during the construction phase without details having first been submitted to and approved in writing by the Local Planning Authority. Thereafter, only those approved generators shall be used.

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

44. The open land (or parking or manoeuvring areas) within the curtilage of the site shall not be used for the storage, display or sale of anything whatsoever.

Reason: In the interests of the visual amenities of the area.

45. No development, including preparatory works, shall commence until a scheme for the protection of trees, hedgerows and ponds has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be based on best practice as set out in BS 5837:2012 (or equivalent standards which may replace them) and ensure that no vehicles can access, and no storage of materials or equipment can take place within, the root and canopy protection areas of trees/hedgerows. The approved scheme of protection shall be implemented prior to any works commencing on site and thereafter retained throughout the construction period.

Reason: In the interests of safeguarding existing habitat and the visual amenities of the area, recognising that initial preparatory works could bring about unacceptable impacts to protected and non-protected interests.

46. No development shall take place until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for the storage of plant and materials, site accommodation, loading, unloading of goods' vehicles, parking of site operatives' and visitors' vehicles, routes for construction traffic, hours of operation, method of prevention of debris being carried onto highway and any proposed temporary traffic management.

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

47. Prior to the first use of any building hereby permitted, the new vehicular and pedestrian access to Sinfin Lane shall be constructed. The junction shall be laid out in accordance with drawing numbers F18075/02 Revision A and F18076/03 Revision A, having a width of 7.3m, radii of 15m on the southern and 6m of the northern sides, a 2m footway on the southern side, and visibility sightlines of 90m to the south and 70m to the north, both measured to a point 1m in from the nearside edge of the carriageway, as measured from a point located centrally and 2.4m back into the access. The area within the sightlines shall thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level. For the avoidance of doubt the developer will be required to enter into an agreement with the Highway Authority under section 278 of the Highways Act 1980 in order to comply with the requirements of this condition.

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

48. Prior to the occupation of the buildings hereby permitted the access, parking and manoeuvring area shall be laid out in accordance with the approved plan(s) and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, such space shall be maintained throughout the life of the development free of any impediment to its designated use as such.

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

49. The gradient of the new estate street access shall not exceed 1:30 for the first 10m into the site from the existing highway boundary and 1:20 thereafter.

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

50. Prior to the installation of any external lighting a detailed lighting strategy (designed in accordance with the guidelines issued by the Institute of Lighting Engineers, or any equivalent guidelines which may supersede such guidelines) which shall include precise details of the position, height, intensity, angling and shielding of lighting, as well as the area of spread/spill of such lighting, has been submitted to and approved in writing by the Local Planning Authority. All lighting shall be installed in accordance with the approved strategy and thereafter retained in conformity with them.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers and/or transport routes from undue illumination impacts or distraction, and to minimise light pollution at night.

51. Prior to their incorporation in to the building(s) hereby approved, details and/or samples of the facing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed using the approved facing materials.

Reason: In the visual interest of the building(s) and the surrounding area.

52. Prior to the occupation of a unit a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. All hard landscaping shall be carried out in accordance with the approved details prior to occupation of each respective unit, whilst all planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of each respective unit or the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interest of the visual setting of the development and the surrounding area.

53. Prior to the construction of a boundary wall, fence or gate, details of the position, appearance and materials of such boundary treatments or enclosures shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments or enclosures shall be completed in accordance with the approved details before the respective building(s) to which they serve is/are first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or

any statutory instrument amending, revoking and/or replacing that Order, no further boundary treatments shall thereafter be erected.

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

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

Reason: To ensure that future water resource needs, wastewater treatment and drainage infrastructure are managed effectively, so to satisfy the requirements of policy SD3 of the Local Plan Part 1.

#### Informatives:

1. On the basis of information submitted and having regard to additional environmental information collected by the Local Planning Authority to inform this opinion, I can confirm that the development described within your Screening Request, and as summarised above, is captured by the criteria and thresholds set in paragraph 10 (a) of Schedule 2 of the Regulations; but in the opinion of South Derbyshire District Council, having taken into account the criteria in Schedule 3 to the Regulations, the proposal would not likely give rise to significant effects on the environment by virtue of factors such as its nature, size and location. In coming to the above view account has been taken of the advice contained in section 4 of the Planning Practice Guidance, in particular paragraphs 031 and 032 (screening Schedule 2 projects), and the evidence submitted alongside the proposal. Accordingly the District Council does not consider the proposed scheme to be EIA development and will not require the submission of an Environmental Statement in support of the proposal.

2. You are advised, as part of the application for approval of reserved matters, to provide details of the following (so to avoid the need for additional conditions at a later stage):

- facing materials and windows/openings reveals details;
- surfacing materials and patterns; and
- boundary treatments (including materials thereof).

3. The developer is strongly encouraged, as part of the delivery of the scheme to install electric vehicle charging points throughout the site.

4. The applicant is advised of the response of Network Rail to this application (a full copy being available upon request):

- All surface and foul water arising from the proposed works must be collected and diverted away from Network Rail property. In the absence of detailed plans all soakaways must be located so as to discharge away from the railway infrastructure. These matters should be considered in seeking to discharge condition 10 of the outline permission.

- All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

- All excavations/ earthworks carried out in the vicinity of Network Rail

property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail.

- Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Project Manager.

- At least six weeks prior to works commencing on site the Asset Protection Project Manager (OPE) must be contacted. The OPE will require to see any method statements/drawings relating to any excavation, drainage, demolition, lighting and building work or any works to be carried out on site that may affect the safety, operation, integrity and access to the railway.

- Any demolition or refurbishment works must not be carried out on the development site that may endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures. The demolition of buildings or other structures near to the operational railway infrastructure must be carried out in accordance with an agreed method statement. Approval of the method statement must be obtained from Network Rail's Asset Protection Project Manager before the development can commence.

- Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed.

- The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure or undermine or damage or adversely affect any railway land and structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land and soil. There must be no physical encroachment of any foundations onto Network Rail land. Any future maintenance must be conducted solely within the applicant's land ownership.

- Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary.

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

6. The developer is strongly encouraged, as part of the delivery of properties on the site, to provide full fibre broadband connections (i.e. from streetside cabinet to the property). Further details of initiatives to support the provision of full fibre connections as part of broadband installation at the site can be obtained from Digital Derbyshire on [broadband@derbyshire.gov.uk](mailto:broadband@derbyshire.gov.uk) or 01629 538243.

7. The applicant and/or developer is reminded of the Council's responsibility to issue official addresses for all residential and business premises within South Derbyshire. All new addresses are allocated in line with our street naming and numbering guidance (search for 'Street naming and numbering' at [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk)) and you are advised to engage with the Council as soon as possible to enable the issuing of street and property names/numbers created by this development. Any number and/or property name that is associated with identifying individual properties must be displayed in a clear, prominent position that can be read from the roadside. It is the developers' responsibility to erect the appropriate signage once the build(s) is/are ready for occupation. There are two types of the

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

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

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

8. The watercourses, attenuation pond(s) and/or swale(s) hereby permitted or which would be incorporated into public areas on the site should be designed to accord with health and safety guidance as set out in the CIRIA SuDS Manual 2015 (C753) or guidance that may update or replace it, and to meet the requirements of the Construction (Design and Management) Regulations (CDM) 2015 through assessing all foreseeable risks during design, construction and maintenance of the pond, minimising them through an 'avoid, reduce and mitigate residual risks' approach.

A. The County Council does not adopt any SuDS schemes at present (although may consider ones which are served by highway drainage only). As such, it should be confirmed prior to commencement of works who will be responsible for SuDS maintenance/management once the development is completed.

B. Any works in or nearby an ordinary watercourse may require consent under the Land Drainage Act (1991) from the County Council. For further advice, or to make an application please contact [Flood.Team@derbyshire.gov.uk](mailto:Flood.Team@derbyshire.gov.uk).

C. No part of the proposed development shall be constructed within 3-8m of an ordinary watercourse and a minimum 3 m for a culverted watercourse (increases with size of culvert). It should be noted that DCC have an anti-culverting policy.

D. The applicant should demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water discharge, in line with Table 4.3 of the CIRIA SuDS Manual C753.

E. Flood resilience should be duly considered in the design of the new building/s or renovation. Guidance may be found in BRE Digest 532 Parts 1 and 2, 2012 and BRE Good Building Guide 84.

F. Surface water drainage plans should include the following:

- o Rainwater pipes, gullies and drainage channels including cover levels.
- o Inspection chambers, manholes and silt traps including cover and invert levels.
- o Pipe sizes, pipe materials, gradients and flow directions and pipe numbers.
- o Soakaways, including size and material.
- o Typical inspection chamber / soakaway / silt trap and SW attenuation details.
- o Site ground levels and finished floor levels.

G. On Site Surface Water Management;

- o The site is required to accommodate rainfall volumes up to 1 in 100 year return period (plus climate change) whilst ensuring no flooding to buildings or adjacent land.
- o The applicant will need to provide details and calculations including any below ground storage, overflow paths (flood routes), surface detention and infiltration areas etc, to demonstrate how the 100 year + 40% Climate Change rainfall volumes will be controlled and accommodated, also incorporating a sensitivity test to 40% Climate change. In addition an appropriate allowance should be made for urban creep throughout the lifetime of the development.
- o Production of a plan showing above ground flood pathways (where relevant) for events in excess of 1 in 100 year rainfall,

to ensure exceedance routes can be safely managed

- o A plan detailing the impermeable area attributed to each drainage asset (pipes swales etc)

Peak Flow Control

- o For developments which were previously developed, the peak run-off rate from the development to any drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100 year rainfall event must be as close as reasonably practicable to the greenfield run-off rate from the development for the same rainfall event, but should never exceed the rate of discharge from the development, prior to redevelopment for that event.

Volume Control

- o For developments which have been previously developed, the runoff volume from the development to any highway drain, sewer or surface water body in the 1 in 100 year, 6 hour rainfall event must be constrained to a value as close as is reasonably practicable to the greenfield runoff volume for the same event, but must not exceed the runoff volume for the development site prior to redevelopment for that event.

- o 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 the features remain functional

- o Where cellular storage is proposed and is within areas where it may be susceptible to damage by excavation by other utility contractors, warning signage should be provided to inform of its presence. Cellular storage and infiltration systems should not be positioned within highway.

- o Guidance on flood pathways can be found in BS EN 752.

- o The Greenfield runoff rate which is to be used for assessing the requirements for limiting discharge flow rates and attenuation storage for a site should be calculated for the whole development area (paved and pervious surfaces - houses, gardens, roads, and other open space) that is within the area served by the drainage network whatever size of the site and type of drainage system. Significant green areas such as recreation parks, general public open space etc., which are not served by the drainage system and do not play a part in the runoff management for the site, and which can be assumed to have a runoff response which is similar to that prior to the development taking place, may be excluded from the greenfield analysis.

H. If infiltration systems are to be used for surface water disposal, the following information must be provided:

- o Ground percolation tests to BRE 365.

- o Ground water levels records. Minimum 1m clearance from maximum seasonal groundwater level to base of infiltration compound. This should include assessment of relevant groundwater borehole records, maps and on-site monitoring in wells. Soil / rock descriptions in accordance with BS EN ISO 14688-1:2002 or BS EN ISO 14689-1:2003

- o Volume design calculations to 1 in 100 year rainfall + 30% climate change standard. An appropriate factor of safety should be applied to the design in accordance with CIRIA C753 - Table 25.2.

- o Location plans indicating position (Soakaways serving more than one property must be located in an accessible position for maintenance). Soakaways should not be used within 5m of buildings or the highway or any other structure.

- o Drawing details including sizes and material.

- o Details of a sedimentation chamber (silt trap) upstream of the inlet should be included.

Soakaway detailed design guidance is given in CIRIA Report 753, CIRIA Report 156 and BRE Digest 365.

I. All Micro Drainage calculations and results must be submitted in .MDX format, to the LPA. (Other methods of drainage calculations are acceptable)

J. The applicant should submit a comprehensive management plan detailing how

surface water shall be managed on site during the construction phase of the development ensuring there is no increase in flood risk off site or to occupied buildings within the development.

9. In order to comply with the requirements of condition 21 you are advised that the implementation of a Traffic Regulation Order is required. The Traffic Regulation Order process is a lengthy legal process involving statutory public consultation and you should allow an average of 6 months from instruction to implementation. You are advised that the Traffic Regulation Order process cannot commence until payment of the TRO fees are received.

10. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained by contacting the County Council via email - [es.devconprocess@derbyshire.gov.uk](mailto:es.devconprocess@derbyshire.gov.uk). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.

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



16/04/2019

**Item** 1.3

**Ref. No.** 9/2019/0205/SSA

**Applicant:**  
PGFI III Limited  
C/O Agent

**Agent:**  
Mr Mark Krassowski  
Walsingham Planning  
Brandon House  
King Street  
Knutsford  
WA16 6DX

**Proposal:** TEMPORARY CONSENT FOR BOREHOLE DRILLING WORKS  
INCLUDING ANCILLARY INFRASTRUCTURE AT DOVE VALLEY PARK  
PARK AVENUE FOSTON DERBY

**Ward:** HILTON

**Valid Date** 26/02/2019

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

This item is presented to Committee at the discretion of the Head of Planning and Strategic Housing.

#### **Site Description**

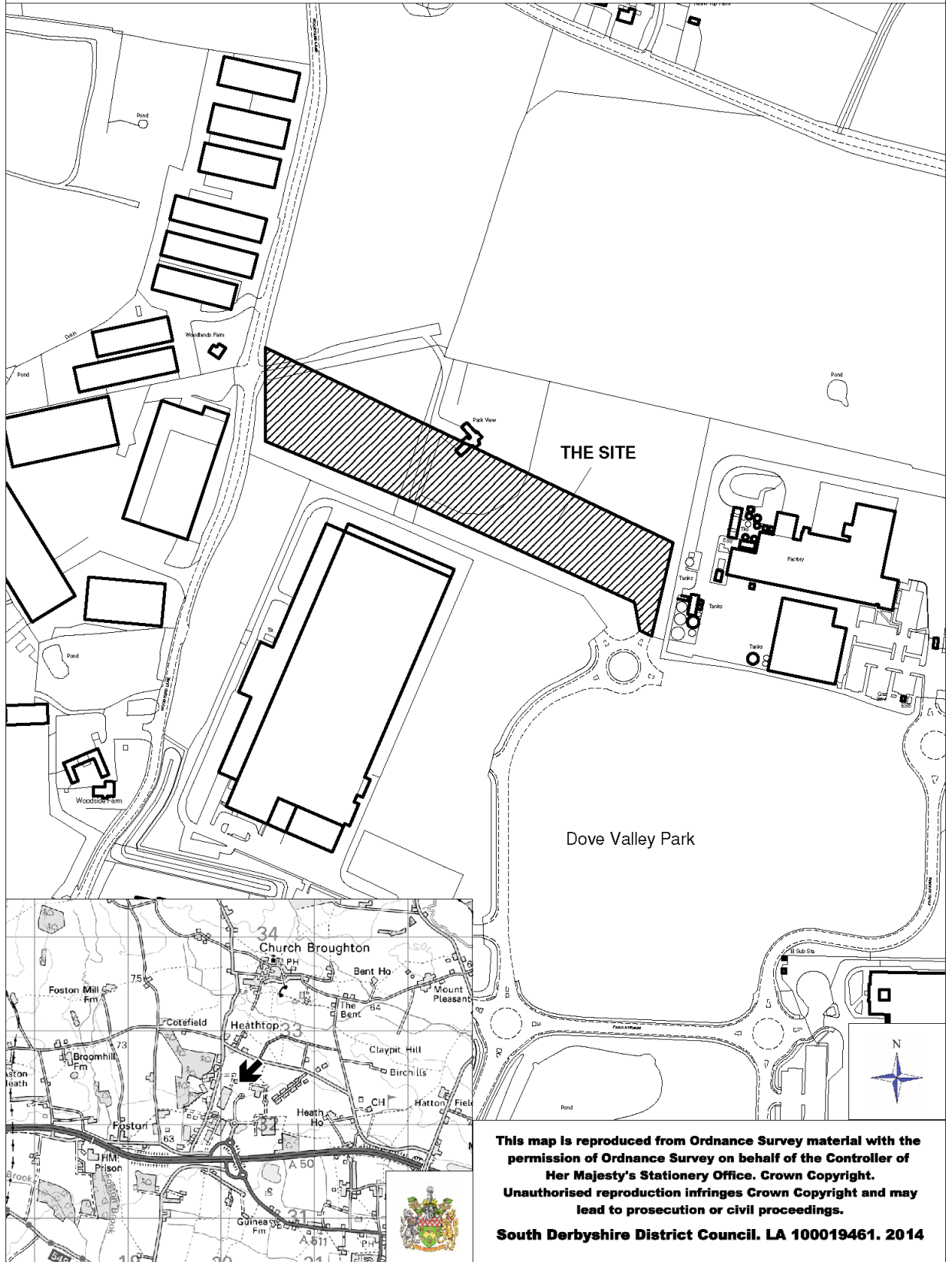
Dove Valley Park is located to the north of the A50 and is accessed via the A511 Uttoxeter Road and Pakenham Boulevard. The main estate road through the Park is Park Avenue, with the industrial estate predominantly comprised of a number of large scale business units (in storage/distribution and general industrial uses). Phase 2 of Dove Valley Park is, at present, undeveloped although extant outline permission for development of further industrial and warehousing units exists. The application site itself relates to a small part of Phase 2, to the west of the current Muller Dairy, north of the JCB factory and east of Woodyard Lane to the west. The site occupies an area of approximately 2 hectares.

Further north, across remaining land within the Phase 2 permission, the site is bound by an Unnamed Road to the north (from Cote Bottom Lane to Bent Lane) which serves a number of isolated residential properties, farmsteads and open fields to its northern side. Woodyard Lane to the west serves further commercial and industrial units along its length, and some residences. A single dwelling within the Phase 2 site, known as Park View, straddles the site boundary although this is currently vacant and boarded up.

#### **Proposal**

The applicant has secured land at Dove Valley Park with the intention of constructing a water bottling plant. This application is for preliminary investigation works involving the sinking of up to four boreholes for the purposes of testing and extracting ground water. The consent is sought for a temporary period of 24 months.

9/2019/0205 - Dove Valley Park, Park Avenue, Foston, Derby DE65 5BZ



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## **Applicant's supporting information**

Aside from site plans and details of the drilling rig, a Construction Noise Assessment is provided. This is stated to have been undertaken by a suitably qualified acoustician in accordance with the national planning guidance and British Standard 5228:2009. The assessment models predicted noise level from the borehole drilling operations at the eastern end of the site and finds these to be some 14dB lower than the BS5228 threshold daytime noise limit of 65dB LAeq(T). At the western end, the modelling suggests noise levels some 9dB lower. It is therefore considered that the proposal would not cause any significant effect at the nearest dwellings and no further noise control measures are required.

A supporting letter also states consent has been obtained from the Environment Agency (EA) under Section 32 (3) of the Water Resources Act 1991 to investigate the groundwater source and a copy of the EA permit is submitted with this application. The letter also details the method of drilling, etc.:

*"There will be two phases of drilling. The first phase involves drilling a 650mm hole to a maximum depth of 80m, with the installation of a stand pipe. To protect the borehole a steel tube will be inserted and cemented in place. The hole will then be drilled further to a depth of approximately 150m with a diameter of 475mm. Further cemented barrier piping will be inserted. The third stage of drilling involves drilling to a depth of 185m with a diameter of approximately 311mm. The hole will be reinforced with locking tubes, and a fourth stage of drilling to a depth of 220m will take place. Finally, the hole will be deepened to a depth of 250m.*

*Following the completion of the drilling an experimental well will be established with the installation of stainless-steel tubes followed by the back filling of the hole to provide a hydraulic seal to prevent in flow.*

*The drilling will be carried out by a mobile drilling rig (a DSB 3/14 all wheel drive 3 axle truck) of the sort identified on the drilling rig details sheet supplied with the application. The drilling will take place in a compound measuring 72m by 18m. The compound will be secured with a 2.2m high hoarding.*

*All required plant and equipment, together with a parking area for all site vehicles, will be located within the compound area. A separate plan is provided to show the proposed layout of the compound area including approximate size of all structures. The largest structure will be a container measuring 9m x 4m x 2.4m in order to provide office, canteen and welfare facilities for the site workers.*

*A second phase of drilling will take place after 12 months and will involve re-siting the plant compound elsewhere within the application site. A maximum of 3 further boreholes will be drilled during this phase.*

*Vehicular access to the application site will be taken from Park Avenue, the main Dove Valley Park spine road. Traffic movements will be low, with no more than 6 light vehicle movements in the peak hour. The drilling rig will remain on site during the drilling periods.*

*At the end of the process all of the drilling equipment and the site compound will be removed".*

## **Planning History**

The wider Dove Valley Park comprises two phases. Phase 1 is fairly well established, although some vacant plots still exist. There is a considerable list of applications relating to that phase, which are not necessarily duplicated here, but of note is:

9/2017/0816 Outline application for the development of site for B2/B8 units, each unit providing no less than 15,000sqm of floor space with access for approval now and all other matters reserved for future approval – Approved November 2018.

9/2005/1078 Phase 1.

## **Responses to Consultations**

The Development Control Archaeologist does not consider that the proposal would have any archaeological impact.

Natural England has no comments to make.

The Environmental Health Officer (EHO) notes the risk from former potential contaminative uses, such as the military use in the 1950s and areas of unfilled ground, underground tanks and pollution incidents within and outside the site boundary. A precautionary condition is recommended to address any unexpected contamination which might be discovered. In addition, the residential properties within the area are noted and thus the working times suggested by the noise assessment should be adhered to. Whilst no vibration assessment has been provided, the method for the borehole is screw such that this is considered to be of low risk. Light and air pollution has also been reviewed as low risk.

At the time of writing, the response of the Environment Agency (EA) is awaited. If possible, this will be reported at the Committee meeting although it is not anticipated that any issues would arise given a permit has already been granted under the Water Resources Act.

## **Responses to Publicity**

At the time of writing, a single representation in support has been received.

The publicity period remains open at the time of this report being written and it will not expire until after the Committee meeting takes place. The recommendation below therefore allows for proper consideration of any representations received and a mechanism to report the item back to Committee for a decision if representations raise material planning considerations which are not already addressed in the assessment below.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S5 (Employment Land Need), E1 (Strategic Employment Land Allocation), E5 (Safeguarded Employment Sites Dove Valley Park), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness) and INF2 (Sustainable Transport); and
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in the Countryside), BNE7 (Trees, Woodland and Hedgerows) and BNE10 (Heritage).

## National Guidance

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

## Planning Considerations

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

- Principle of development; and
- Noise and amenity impacts.

## Planning Assessment

### Principle of development

The development falls to be considered on its merits with regard to policy BNE5 given it is located beyond a settlement boundary, within the countryside. The policy makes allowance for development which is 'unavoidable' in such a location. Regard needs to be had to the purpose of the application – that being to carry out what are essentially preliminary investigatory works which would otherwise not be development in their own right, in order to enable the subsequent development of the site in line with the extant outline permission and allocation under policies E1 and E5. With this in mind, the proposal is unavoidable – it being a component of the wider delivery of the employment allocation.

Policy BNE5 also requires proposals to not unduly impact on landscape character and quality, biodiversity, best and most versatile agricultural land and heritage assets. Whilst the proposal could affect existing trees within the site, these are relatively young specimens and their loss has already been accepted under the outline consent. Various measures are in place under that permission to ensure a net biodiversity gain as Phase 2 is built out such that any incidental loss from above ground clearance to complete a borehole is not likely to be significant. The visual impact of the proposals would also be minor when seen in conjunction with the existing buildings at Dove Valley Park and when also considering the transitory nature of the rig across the site over the reasonably short timeframe sought. It must be noted that much of the site area would be undisturbed by the proposal, given drilling would take place in just 4 focussed locations. The land is not considered to be best and most versatile land given its historical uses and heritage assets are not considered to be compromised by the development proposed here.

### Noise and amenity impacts

The drilling rig has potential to cause some noise impacts on adjoining occupiers. However, the relative distances to nearby dwellings (noting that Park View itself is in the control of the wider landowner and remains empty ahead of its demolition) and findings of the noise assessment conclude that the impacts are not likely to be unacceptable. The EHO raises no objection and the limitation to daytime hours for operations to be carried out would ensure the proposal would not cause unacceptable living conditions for occupiers overnight. Vibration, light and air pollution is also not considered to be an issue arising from this proposal, given the particular rig proposed and relative distances to adjoining properties.

### Other considerations

The proposal is also unlikely to have any implications on highway capacity or safety, with equipment brought to site at the beginning and end of the temporary period required, and

associated employee vehicles likely limited in number and ameliorated amongst the vehicles associated with the businesses at Dove Valley Park.

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

## Recommendation

- A. Grant delegated authority to the Head of Planning and Strategic Housing to consider the further representations which raise material planning considerations within the publicity period not considered in the report and responses from consultees (and to address any such issues attaching additional conditions where necessary); and
- B. Subject to A, **GRANT** permission subject to the following conditions:
  1. The development hereby approved is granted for a limited period only expiring on 30 April 2021 when, on or before this date, the use shall cease and the structures and associated works shall be removed from the site and the land restored to its former condition in accordance with a scheme which shall have first been submitted to and approved in writing by the Local Planning Authority unless reserved matters (or full planning permission) for development of the site (either alone or in conjunction with other land) is being implemented.

Reason: The permission is granted for a limited period only in the recognition of the particular circumstances of the proposal concerned.
  2. The development hereby permitted shall be carried out in accordance with plan ref. R8001 Revision P3 and the Work Site Layout plan, and by utilising a DSB 3/14 drilling rig (or one of equivalent specification), unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

Reason: For the avoidance of doubt and in the interests of sustainable development.
  3. Except in an emergency, no works shall take place other than between 0730 hours and 1800 hours Mondays to Fridays, and between 0800 hours and 1300 hours on Saturdays. There shall be no such activities whatsoever on Sundays and public holidays.

Reason: To safeguard the amenities of nearby occupiers.
  4. During the period of site clearance and construction works, there shall be no burning of cleared vegetation or other materials.

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

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

Informatives:

1. The application has been screened in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and the Authority is satisfied that the development will not give rise to significant environmental effects.

16/04/2019

Item 2.1

Ref. No. 9/2018/1244/FM

**Applicant:**  
Mr & Mrs P Bishop  
Ash Farm Kennels  
Ash Farm  
Ingleby Lane  
Ticknall  
Derby  
DE73 7HW

**Agent:**  
Mr Craig Barks  
Bagshaws LLP  
Vine House  
Church Street  
Ashbourne  
DE6 1AE

**Proposal:** THE ERECTION OF A RURAL WORKERS DWELLING AND ASSOCIATED WORKS TO SUPPORT THE EXISTING DOG KENNELS AT ASH FARM KENNELS ASH FARM INGLEBY LANE TICKNALL DERBY

**Ward:** REPTON

**Valid Date** 16/11/2018

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

This item is presented to Committee at the request of Councillors Peter Smith and Peter Watson as there has been local concern expressed about a particular issue and there are unusual site circumstances that should be considered by the Committee.

#### **Site Description**

The site is located adjacent to an existing farm (Ash Farm) and is located on the outskirts of Ingleby. The site is located on a gradient which slopes down towards the highway but is largely obscured from views by existing trees and hedgerows. Access to the dwelling would be through the existing farm access, with a separate driveway that would veer off towards the kennels.

#### **Proposal**

Permission is sought for the erection of a rural workers dwelling, to serve the manager of the dog and cattery kennels business at the site. The additional dwelling is proposed on the basis that it would be to support the kennels business.

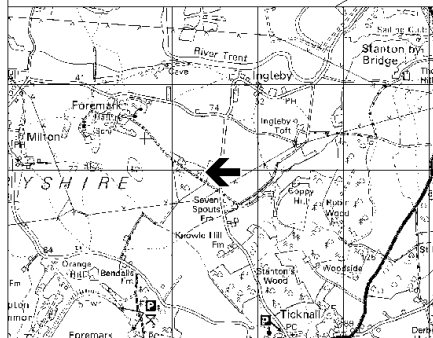
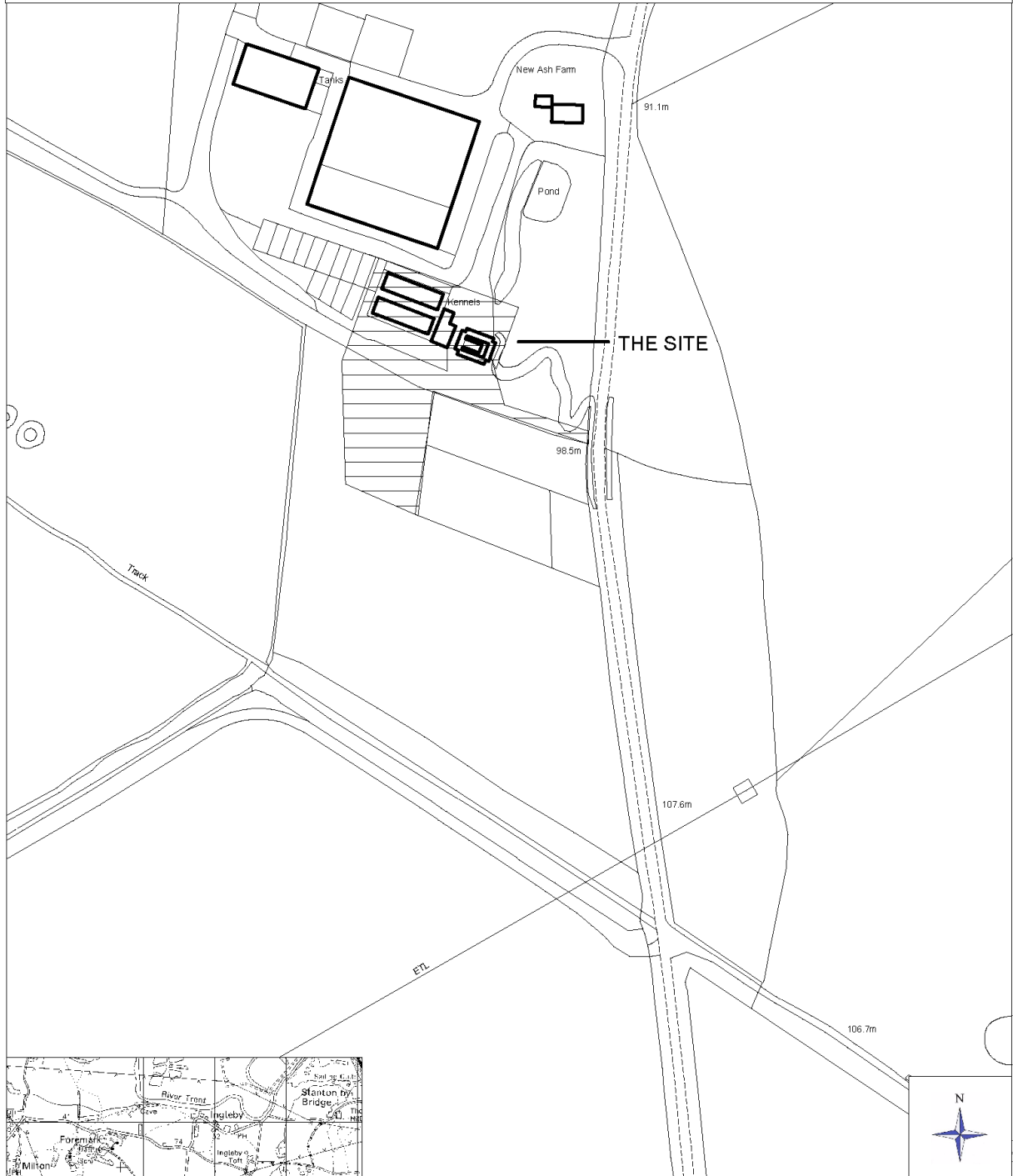
#### **Applicant's supporting information**

##### Planning Statement and Justification

The kennels began as an agricultural diversification project in 2004, this is now operated separately. The farm is owned by the Church Commission, of which the landlord is supportive of the proposal and is operated by the applicant's family on a historical basis. The farm and kennels are run by the applicant and the kennels now requires a rural workers dwelling to serve the established kennels.



9/2018/1244 -ASH FARM, ASH FARM KENNELS, INGLEBY LANE,  
TICKNALL, DE73 7HW



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

The proposed dwelling is considered essential to allow the farm diversification business to continue to operate. In accordance with the Embleton case, it would not be necessary for financial details to be submitted under paragraph 79 of the National Planning Policy Framework (NPPF).

Financial details have been provided for years 2014, 2015 and 2016. Unfortunately, financial details for 2017 and 2018 are unavailable due to unforeseen circumstances. Since April 2016, the kennels has expanded with a further ten kennels added, two more apprentices were taken on and the cost of boarding was increased. A minimum of three staff always need to be present on site throughout the week, during peak times this increases to six people with casual staff covering Sundays. The out of hours checks are conducted by the overall manager.

The cost of the build would be offset by the sale of the business investment property without any loan.

The existing farmhouse is occupied by the applicant and the applicant's father (partner in the farm) has to commute to the site. The applicant would occupy the new dwelling and the applicant's father would reside in the existing farmhouse. This means that the applicant is currently responsible for the farm and the kennels in the absence of a rural dwelling to serve the kennels.

### **Planning History**

9/2001/1014 – Erection of cattle housing – Approved with conditions

9/2004 /0751 – The erection of a reception/storage area for 36 kennels for boarding – Approved with conditions

9/2007/1434 – Erection of a building as a cattery – Approved with conditions

9/2014/0900 – Prior notification for the erection of a steel portal frame agricultural building – Prior Approval not required.

### **Responses to Consultations**

There has been no objections raised by the Environmental Health Officer/ Contaminated Land Officer owing to the proposed dwelling being tied to the kennels and as the owner would have a vested interest in the kennels there would be no adverse impact due to noise.

Following the submission of amended plans, the County Highways Authority has raised no objection to the application on the basis that the existing access would be used to serve the dwelling. The County Highway Authority considers that a safe and suitable access could be accommodated subject to the inclusion of a condition that the proposed visibility splays would be constructed prior to the first use of the proposed dwelling.

There have been no comments received from Severn Trent.

### **Responses to Publicity**

There has been one letter/email of objections that has been received, raising the following concerns/points:

- a) Concerns as to any further expansion of the Ash Farm Kennels. Over the course of the last 3 years to coincide with the creation of open field exercise areas the noise

pollution levels from the kennels facility has increased substantially, not just affecting and impacting on Ingleby, but subject to wind direction changes that can now be heard in Stanton by Bridge, Milton & Ticknall.

- b) The planning application concerning a dwelling is somewhat incidental without the relevant noise pollution controls that are required, as this is getting out of control and increasingly, impacting on the surrounding villages and its residents.
- c) The current noise pollution levels from the kennels is continuing to increase and causing a real nuisance to all of those that live within the area. Any planning consideration as to something with such a high noise pollution impact needs due consideration & attention.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), INF2 (Sustainable Transport).
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development), H25 (Rural Workers Dwellings) and BNE5 (Development in the Countryside).

## **National Guidance**

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

## **Local Guidance**

- South Derbyshire Design Guide SPD

## **Planning Considerations**

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

- Principle of Development;
- Essential Need and Business Justification;
- Visual Impact; and
- Highways Issues.

## **Planning Assessment**

### Principle of Development

The site is located outside of a settlement boundary and would represent housing development in the open countryside. Whilst the principle of the erection of an isolated dwelling in the open countryside would be considered unsuitable, there is scope within policies H25 and BNE5 of the Local Plan for the erection of a rural workers dwelling where it has been demonstrated to be essential to a rural based business and would not have a harmful visual impact on the character of the surrounding countryside.

Policy H25 of the Local Plan stipulates that for a new permanent rural worker's dwelling, it would be necessary for the applicant to clearly demonstrate that:

- there is an established existing essential need for an additional worker's dwelling;
- the rural-based activity has been established, is sustainable and has the prospect of remaining so; and
- the essential need cannot be fulfilled by an existing dwelling within the locality.

In order for the principle of the development to be deemed acceptable, it would be necessary to demonstrate an established, essential functional need for a worker to reside at the site, that the enterprise is both existing and established, and that it is and is likely to remain sustainable. This is to ensure that the business that underpins the need for the proposed dwelling would have sufficient longevity; as the failure of the rural based business would result in a vacant, isolated dwelling within the countryside. In addition, there must also be no prospect of meeting the need by utilising an existing dwelling in the locality.

### Essential Need and Business Justification

It has been noted within the submitted Planning Statement that the manager of the kennels (applicant) is currently living at the existing farmhouse and is currently carrying out the night checks on the kennels and that the other partner at the farm (applicant's father) is living off site and is traveling to the farm on a daily basis. It is proposed that the manager would move out of the existing farmhouse and would move into the proposed dwelling to oversee the kennels and that the partner in the farm would then move into the existing farmhouse. The Planning Statement confirms that there is currently somebody who is living on site and provides a twenty four hour surveillance of the kennels and farm. Whilst this may not be convenient, the essential need to provide somebody continuously on site is currently being met through the manager living at the existing farmhouse. There has been no evidence provided to demonstrate that the existing farmhouse has been severed from the kennels business and on the basis that the current manager of the kennels is still residing at the site; this provides a link between the kennels and the existing farm business.

It has been noted by the Agricultural Consultant that there is a lack of robust financial evidence to substantiate the growth and the economic sustainability of the business, due to the omission of Tax and National Insurance details, it would not be clear from the submitted finances if the kennel business would provide a sufficient profit after these sums have been deducted. In addition, the finances do not show that the manager of the kennels deducts a wage from the overall profit of the kennels business. The business would need to demonstrate that it is economically sustainable so as to support the building of the proposed dwelling and that it would provide a livelihood for the people who would be living in the proposed rural workers dwelling. If the kennels cannot demonstrate that a suitable living can be generated from it, then this would fail to satisfy the test and would simply be a new dwelling in the open countryside.

On the basis of the information that has been submitted to date, it would appear that the proposed dwelling would fail to comply with policy H25 (A) i, ii and iii) and policy BNE5 ii) of the Local Plan in that the existing farmhouse at Ash Farm provides twenty four hour surveillance at the kennels as well as the farm business and there has been a lack of financial details provided which demonstrates the required economic sustainability of the site.

### Visual Impact

The proposed dwelling would be single storey in height and would be located to the south of the site. The position of the proposed dwelling would be located outside of the existing envelope of the built up area of the existing kennels and agricultural buildings. There is a significant gradient at the site which rises up from the highway up to the site of around 2m in height difference. However, the site is heavily screened by tree coverage to the west, south

and east of the site and given the height of the proposed dwelling, it is considered that the proposed dwelling would not have a harmful visual impact and therefore would comply with policy BNE1 of the Local Plan.

### Highways Issues

Concerns were initially raised by the County Highway Authority with regard to the creation of a new access to serve the proposed dwelling at a point where there would be substandard visibility. However, following the submission of amended plans which propose to utilise the existing access and the creation of a separate driveway to the proposed dwelling, the County Highway Authority has removed its initial objections subject to conditions that the proposed visibility splays are constructed in accordance with the approved plans prior to the first use of the dwelling house. On the basis of this, it is considered that the amended access details would create a safe and suitable access which would accord with policy INF2 of the Local Plan.

### Conclusion

Based on the information that has been submitted, it would appear that the proposed dwelling would not be supported by robust financial details that would support the economic sustainability of the business and that owing to the manager of the kennels living in the existing farmhouse at Ash Farm; that the essential need is currently being met by an existing dwelling at the site. There has been no information submitted to demonstrate that a further dwelling would be essential to the long term viability of the kennel business. On the basis of this, the proposed rural workers dwelling would not comply with policies H1, SDT1, H25 and BNE5 of the Local Plan and it is recommended that the planning application be refused.

### **Recommendation**

**REFUSE** permission for the following reason:

1. The essential need and justification for the erection of a rural workers dwelling at the site is underpinned by the essential need arising from the kennel business at Ash Farm and the requirement for somebody to be on site throughout the night. However, the site currently benefits from the availability of an existing rural workers dwelling; which the manager of the kennels presently resides at in order to oversee the kennel business and farm business and to carry out nightly checks. There has been a lack of robust financial information submitted that would support the economic sustainability of the kennel business and would therefore, not justify a further rural workers dwelling at the site as the business has not been proven to be financially sound owing to the omission of crucial financial details in the financial justification. The proposal for the creation of a permanent dwelling, would therefore, fail to satisfy the test of economic sustainability and essential need in that this is already being provided by the existing rural workers dwelling at Ash Farm. The proposal is therefore contrary to policies H25, BNE5, SDT1 and H1 of the Local Plan and paragraph 79 of the National Planning Policy Framework (NPPF).

16/04/2019

Item 2.2

Ref. No. 9/2018/1400/FH

**Applicant:**  
Mr & Mrs Simpkins  
30 Bretby Lane  
Bretby  
Burton On Trent  
DE15 0QW

**Agent:**  
Martin Pettitt  
Repton Architectural Services  
9 Hill View  
Repton  
Derby  
DE65 6GT

**Proposal:** THE ERECTION OF EXTENSIONS AND A GARAGE (ALTERNATIVE SCHEME TO THAT REFUSED UNDER APPLICATION REF. 9/2018/0173) AT 30 BRETBY LANE BRETBY BURTON ON TRENT

**Ward:** REPTON

**Valid Date** 21/01/2019

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

This item is presented to Committee at the request of Councillor Peter Smith as local concern has been expressed about a particular issue and unusual site circumstances should be considered by the Committee.

#### **Site Description**

The application property lies to the south of and on land higher than that of dwellings fronting Bretby Road, with a separation of approx. 40m from these properties. The access is a private drive which is also shared by the occupiers of 30A Bretby Road. The property is built on land which changes in level, it appears to have been extended over time, with a cross gabled roof and has been rendered throughout with the adjoined storage building left as brick which has been painted white. The property is traditional in character, with wet verges, chimney stacks and timber windows and doors. The site features a tarmac parking area and large woodland area to the east; there is also a good sized rear garden which features several mature trees and is well vegetated.

#### **Proposal**

The application seeks planning consent for the erection of a two-storey side extension and single storey attached garage both of which replace an existing single storey storage room. A single storey rear extension providing a garden room and utility room which extends off the existing kitchen is also proposed.

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

The Design and Access Statement is submitted in support of the planning application for the erection of extensions to No.30 Bretby Lane. It makes justification as to the re-submission of the application following the previous refusal and details the alterations to the proposed

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scheme, also describing the site and its wider context. A detailed policy assessment has been undertaken concluding that the proposal complies with the NPPF and Policies BNE1 and H27 of the Local Plan. It has also been considered that the proposal complies with the minimum distance guidelines as set out in the SPD.

A Day and Sunlight Report has been submitted in order to ascertain the impact of the proposed extension of No.30 Bretby Lane, on the daylight and sunlight provision of neighbouring property No.30a Bretby Lane. The assessment concludes that all of the neighbouring windows, rooms and amenity space comfortably fulfil all the planning guidance and as such is regarded as a high level of compliance and in their opinion the proposals accord with the intent and context of the planning guidance in this case.

### **Planning History**

9/2005/1337      The erection of an extension and conservatory – Granted 05/01/2006

9/2018/0173      The erection of extensions – Refused 02/05/2018

### **Responses to Consultations**

East Staffordshire Borough Council has no comment to make.

### **Responses to Publicity**

Four objection letters have been received, raising the following concerns:

- a) Little variation to the scheme when compared to the previous refusal.
- b) The extension is not compatible and out of character with the existing building or and the surrounding properties.
- c) The extension appears as a new house linked to the existing dwelling, linked by a corridor.
- d) Large windows to the rear would result in a loss of privacy to neighbouring properties.
- e) Does not appear to be a reasonable proposal for the site.
- f) The scale and appearance of the extension would be unacceptable.
- g) The alterations made to the previous refusal are not enough for the proposal to be compliant with Policy H27.
- h) Impact of loss of sunlight and daylight to our internal living space and external amenity area.
- i) Loss of privacy to both the outside amenity area and to rear internal living space of the neighbouring property.
- j) The Daylight and Sunlight Report submitted is not based on the drawings submitted as part of the application.
- k) The Design and Access Statements submitted contains a number of factual errors.

### **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues) and BNE1 (Design Excellence).
- 2017 Local Plan Part 2 (LP2): H27 (Residential Extensions and Other Household Development).



## **National Guidance**

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

## **Local Guidance**

- South Derbyshire Design Guide SPD

## **Planning Considerations**

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

- Residential amenity; and
- Layout, scale and design.

## **Planning Assessment**

### Residential amenity

In regards to the impact on the amenity of neighbours that surround the property to the North West of the site along Bretby Lane, the separation distance is in excess of 30m, comfortably meeting the minimum distance requirement of 21m. However, the most critical assessment is of the impact of the proposal on No.30a, being the closest property to the site, located north east of the existing dwelling. When measuring from the primary rear elevation windows of No.30a to the proposed two-storey bank elevation, the extension would stand some 13.5m away. The usual minimum distance requirement as set out in the SPD would be 12m. However, the two storey extension would be situated on the shared boundary and on higher ground than that of 30a and be of such a bulk and size that the extension would be harmful in terms of overbearance and overshadowing of neighbouring amenity space (main rear garden area). In addition, the proposed rear elevation window serving the garage would not be considered acceptable as it would result in clear views into the garden of No.30a. As such it's considered that the proposal fails to comply with Policy SD1 as it is considered that the proposal would lead to adverse impacts on the amenity of existing and future occupiers of the neighbouring property.

### Layout, scale and design

The host dwelling has some traditional character; the original mass of the dwelling is still readable located on the higher ground, with any previous alterations (see site history) generally of a subservient size/position and of similar character. It sits on higher ground than its neighbours but in its present form assimilates comfortably with the landscape. Views of the site from Bretby Lane are very limited, although it is visible from the nearby public footpath (Bretby FP1), with views partly obscured by trees and vegetation.

The proposal includes both single storey and two storey mass and by virtue of its size/position it is considered that it would compete (more so the two storey part) with the original mass of the existing house, to the detriment of the current hierarchy of the dwelling. In addition the proposed use of glazing and its modern style substantially differs to that of the existing character, which is considered traditional and appropriate for its rural context. The differing design and its height and mass would result in the dwelling being viewed more as two dwellings rather than as a natural extension which appears subservient to the host. As such it is considered that the proposal would be detrimental to the established character of the existing dwelling and that of the surrounding area and therefore fails to comply with Policies BNE1 and H27.

## **Recommendation**

**REFUSE** permission for the following reason:

1. The proposed two storey extension fails to acknowledge the established hierarchy where the host dwelling reads as the dominant part located on the higher ground, supported by subservient single storey parts. The proposed mass however, in particular because of its sheer size, its heavily glazed finish and its semi isolated position, confuses that hierarchy to the detriment of the host and therefore the general character of the area. Furthermore, because of the proximity of the extension to the site's north eastern boundary, and its mass, it would cause overshadowing and overbearance to the garden space (No30a) to the detriment of the living conditions of the occupiers of that dwelling. The development would therefore be contrary to policy BNE1 of the Local Plan Part 1, policy H27 of the Local Plan Part 2, the South Derbyshire Design Guide Supplementary Planning Document, and Chapter 12 of the National Planning Policy Framework (NPPF) and associated Planning Practice Guidance (PPG).

## **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>	<b>Page</b>
9/2017/1072	Midway	Midway	Dismissed	Delegated	66



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## Appeal Decision

Site visit made on 18 February 2019

**by J Spurling BSc(Hons) DipTP PGDip(Law) PGDip(CMI) MRTPI MCFI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27<sup>th</sup> March 2019**

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**Appeal Ref: APP/F1040/W/18/3215752**

**777 Burton Road, Midway, Swadlincote, DE11 0DN**

- 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 Nigel Gardiner-Harvey against the decision of South Derbyshire District Council.
  - The application Ref 9/2017/1072 dated 4 October 2017, was refused by notice dated 1 December 2017.
  - The development proposed is 4 new dwellings with changes to the existing driveway and Burton Road.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application was made in outline with all matters reserved, except for access. Therefore, I have treated all plans as indicative other than where they relate to access.
3. Whilst the appellant has stated that they are happy to remove the proposed resulting kerb line change from the proposal, this information is still before me and therefore I have determined the appeal accordingly.

### Main Issue

4. The main issue is the effect of the proposed development on highway safety.

### Reasons

#### *Highway Safety*

5. The site is located within Swadlincote. The surrounding area predominantly consists of detached dwellings in good sized plots. The site consists of a substantial plot, the bulk of which comprises land to the rear of four residential properties on Burton Road.
6. The proposal is to build four dwellings, with access to be provided onto Burton Road (the A511). The access would be provided between 777 Burton Road, which is shown to be in the same ownership, and 779 Burton Road.

7. Policy INF2 of the South Derbyshire Local Plan Part 1 (2016) (LP Part 1), amongst other matters, sets out that development proposals should have no undue detrimental impact upon highway safety<sup>1</sup> and that appropriate provision is made for safe and convenient access to and within the development for pedestrians, cyclists, public transport users and the private car.
8. Burton Road is on a bus route and is lit and is subject to a 30mph speed limit with footways on both sides. The footway fronting the appeal site measures approximately 1.6m. The road runs from Ashby-de-la-Zouch to Burton upon Trent and is a well trafficked A road.
9. The current visibility guidance is contained within the Manual for Streets (MfS) and Manual for Streets 2 (MfS2) document. This requires a Sight Stopping Distance (SSD) onto a road subject to a 30mph speed limit of 43 metres. The Highways Authority have set out that the SSD can only achieve 24m to the east and less than 10m to the west, when measured from an X distance of 2.4m back from the carriageway due to the limited footway width and third party land.
10. The appellant considers that the stopping distances, which are mentioned for vehicles travelling in excess of 30mph are irrelevant and that the speed limit should be enforced including using a speed camera. However, the Manual for Streets makes it clear that greater speeds on roads do require a greater SSD. Whilst sympathising that speed limits should be enforced, and that a speed camera could be provided, this is a matter beyond the scope of the appeal.
11. The Manual for Streets references that a relaxation of the set back from 2.4m to 2m can be considered on lightly trafficked and slow speed roads. From the information before me, vehicle movements along Burton Road in a 24 hour period were, in some instances, in excess of 9,000 in both an easterly and westerly direction. Furthermore, the speeds on Burton Road are not slow. Therefore, a distance of 2.4m set back is needed.
12. The appellant has proposed to build out the kerb line fronting the appeal site by 0.2m to increase the footway width whilst correspondingly reducing the width of the carriageway. From my site visit, I did not observe any existing alterations to the kerb line in the vicinity of the site. Even if the measures suggested by the appellant could be implemented, from my own observations I consider that it could pose a hazard to road users by forcing vehicles to move more towards the centre of the carriageway. Notwithstanding this, the setback would still mean that the SSD could not be achieved, even with this greater level of setback.
13. From the evidence before me, the visibility splays to the west and east are not entirely in the ownership of the appellant or the Highway Authority and therefore the appropriate splays to the west and east are unable to be achieved. There would be a lack of visibility to the extent that any increase in traffic exiting the appeal site onto Burton Road would result in an increased risk of collision. This would be detrimental to highway safety.
14. The appellant has referred to other similar developments, which have had planning permission granted on the same stretch of road. However, even

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<sup>1</sup> The Framework at paragraph 109 state that "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

though I do not have full details, there is nothing to indicate that they have resulted in similar impacts on highway safety or would act as a justifiable precedent for the development proposed. In any event, each application should be considered on its own merits and that is the approach I have taken in determining this appeal.

15. The appellant has stated that the site was used as a farm and haulage yard for many years without problems in terms of large articulated lorries using the drive on a daily basis. They have also stated that the access has been in use for 50 years without any issues. Even if this was the case, I have no substantive evidence of this before me.
16. I acknowledge that the level of traffic generated by the development would not be significant in the context of the existing traffic using Burton Road. However, these factors do not outweigh the harm I have found in relation to the substandard nature of the visibility splay available for vehicles exiting the appeal site. I conclude that the development would give rise to significant harm to highway safety contrary to Policy INF2 in the LP (Part 1), and also the Framework.

#### **Other Matters**

17. Whilst the appellant has stated that they are happy to alter the access in any way available, I am required to consider the information that is before me. The appellant considers that they have not been given advice about how to improve the outcome and that they have been passed between different departments. However, this is a procedural matter, which is beyond the scope of the appeal.
18. The appellant has referenced the housing crisis. The provision of four additional dwellings would make a contribution to the Local Planning Authority's housing land supply. However, this does not outweigh the harm that I have already considered would result from the proposal.

#### **Conclusion**

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

*J Spurling*

INSPECTOR