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Date:21<sup>st</sup> May 2021

Dear Councillor,

**Planning Committee**

A Meeting of the **Planning Committee** will be held at **Grove Hall**, Greenbank Leisure Centre, Civic Way, Swadlincote, DE11 0AD on **Tuesday, 01 June 2021** at **18:00**. You are requested to attend.

Yours faithfully,

Chief Executive

To:- **Labour Group**

Councillor Tilley (Chairman), Councillor Shepherd (Vice-Chairman) and Councillors Gee, Pearson and Southerd.

**Conservative Group**

Councillors Bridgen, Brown, Lemmon, Muller and Watson.

**Independent Group**

Councillors Angliss and Dawson.

**Non-Grouped**

Councillor Wheelton.

## **AGENDA**

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

- 1** Apologies and to note any Substitutes appointed for the Meeting.
- 2** To note any declarations of interest arising from any items on the Agenda
- 3** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 4** REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY) **3 - 92**

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

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

# **Report of the Strategic Director (Service Delivery)**

## **Section 1: Planning Applications**

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

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## 1. Planning Applications

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

Reference	Item	Place	Ward	Page
<a href="#">DMPA/2019/1176</a>	1.1	Castle Gresley	Linton	6
<a href="#">DMPA/2019/1460</a>	1.2	Church Gresley	Church Gresley	54
<a href="#">DMPA/2021/0201</a>	1.3	Heathtop	Hilton	68
<a href="#">DMPA/2021/0295</a>	1.4	Barrow on Trent	Aston	78
<a href="#">DMPA/2021/0487</a>	1.5	Melbourne	Melbourne	83
<a href="#">DMPA/2020/0773</a>	1.6	Swarkestone	Aston	87
<a href="#">DMPA/2021/0510</a>	1.7	Ticknall	Repton	93

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.

## Glossary of terms

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

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

**Item No.** 1.1

**Ref. No.** [DMPA/2019/1176](#)

**Valid date:** 18/11/2019

**Applicant:** East Midlands Homes **Agent:** Tyler Parkes

**Proposal:** **The erection of 100% affordable 70 unit residential scheme with associated works on Land at SK2817 5619 off Oak Close, Castle Gresley, Swadlincote, Derbyshire**

**Ward:** Linton

### **Reason for committee determination**

This item is presented to Committee at the request from Councillor Pegg as local concern has been expressed about a particular issue, the committee should debate the issues in this case which are very finely balanced, and unusual site circumstances should be considered by committee.

### **Site Description**

The site is an agricultural field with an agricultural barn, a stream to the south west of the site with trees, hedgerows and scrub present within and at the boundaries of the site including TPO's. The site is accessed from Oak Close which is a 5.5m, 30mph speed limit, dual flow, single lane highway with pedestrian infrastructure to both sides lit with street lighting and dropped kerbs. Oak Close itself is accessed via Cedar Road which leads onto Bass's Crescent or Arthur Street both leading onto Linton Road providing access to the wider area, all of which are adopted highways. The site has varying topography and is mostly sloping. To the north, west and east are existing residential properties of general single and two storey nature in a variety forms such as semi-detached and detached properties.

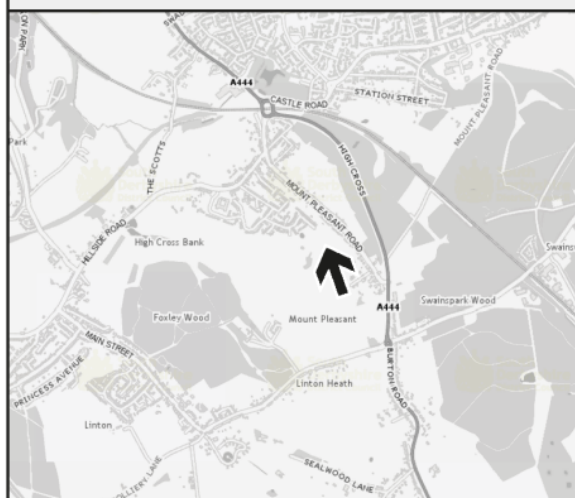
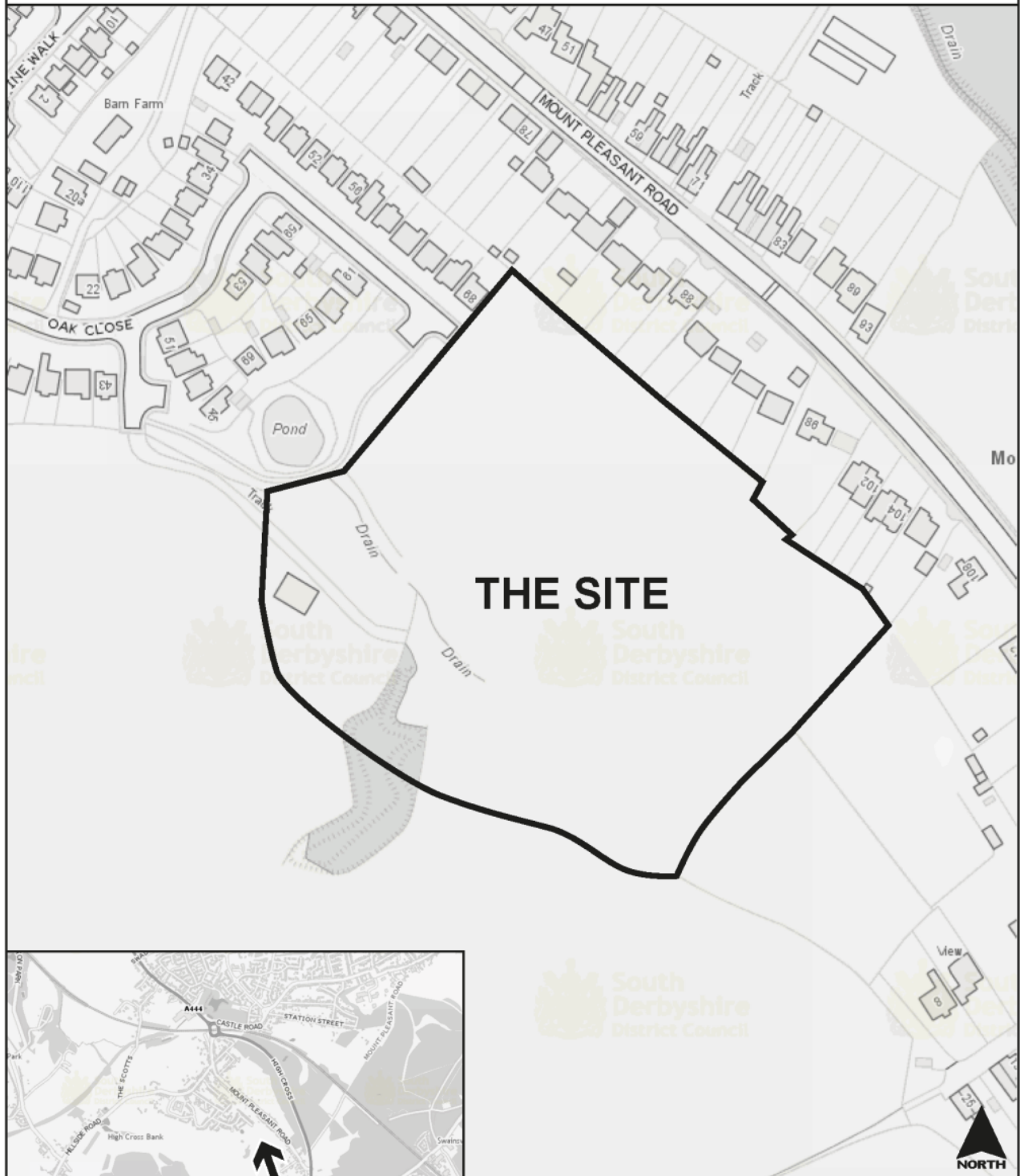
### **The proposal**

The proposal is to erect 70no. 100% affordable dwellings with associated works. The associated works includes the demolition of the existing barn and creation of: access off the existing Oak Close adopted highway; highways infrastructure, landscaping, Public Open Space; LEAP; National Forest Planting and On/Off Site drainage including attenuation basins.

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

The Planning Support Statement including Planning Obligations Statement confirms the applicant to be EMH Homes (EMH), part of the East Midlands Homes Group who were established as the East Midlands Housing Association in 1946, one of the largest/most successful providers of affordable housing and housing-related support services in the East Midlands. The applicants consider that the revised scheme presented reflects where possible the discussions had at pre-application and held during the lifespan of the application itself. They consider the site is appropriately located within the built-up area of a Local Service Village and allocated for residential development as a 'non-strategic housing site' within the adopted LPP2 Policy H23, and therefore the principle of residential development is established. They consider that the proposals are in accordance with the principles of sustainable development and through the planning appraisal and supporting documents/drawings the applicants have demonstrated the development is in compliance with relevant policies and other material considerations. They note the development would provide 70no. 100% affordable dwellings including 2no. bungalows built out at M4(3) wheelchair accessible standards whilst exceeding the Council's requirements in respect of public open space and national forestry planting and seeking to reduce the risk of flooding from existing flooding (non-development related) to the benefit of the local community. Taking into account these provisions the applicants seek that any planning obligations for items such as education etc. be subject to negotiation and that a Viability Study/Appraisal supports the application. They consider the development should be approved without delay.

**DMPA/2019/1176 - Land at SK2817 5619, off Oak Close, Castle Gresley, Swadlincote (DE11 9RU)**



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**South Derbyshire District Council. LA 100019461.2017**



The Design and Access Statement considers that the layout and design of the site responds where possible to the comments and conversations including pre application discussions between the Council and applicant's team. The applicants consider that the proposals will deliver sustainable development in line with current policies. They consider the development will increase the supply, quality and breadth of choice of affordable homes in sustainable, inclusive, mixed communities and that the homes are affordable homes are well-designed and will be well built in a location in proximity to a range of facilities, key services, infrastructure and access to employment. The applicant's opinion is that the mix of types of housing will attract a mixture of households that are likely to require housing over a long period of time. The applicant's consider that the proposed site layout takes into consideration the following: existing gradients on the site in a manner to reduce amount of proposed retaining structures; safe vehicle and pedestrian points leading to Oak Close; good distances between dwellings to respect/maintain private amenity spaces; provision of private amenity spaces and parking for each dwelling mostly within curtilage in line with local standards and natural surveillance and Secure by Design recommendations factored in. The dwellings are proposed as semi-detached and flats in a terraced format serviced by an adoptable road arrangement. The applicant's consider the dwellings in keeping with adjacent streetscenes which are low-rise, that the small blocks of new dwellings offer good use of the site and that the soft landscaping and open road network will enhance the site area as a whole. The proposed amenity space around all the dwellings has been designed to be integral to the overall layout and sympathetic to the area as a whole. They consider amenity space location balances requirements for privacy of residents and providing an attractive outlook for the community. It is proposed that all dwellings will have a level access to their front doors, rear and side access to parking and for refuse collections. The applicant's propose that plots 21 and 22 will be wheelchair user dwellings conforming to Part M4(3) all other dwellings will be accessible and adaptable to Part M4(2). They consider the development to be in compliance with relevant policies and guidance and respectfully seek the application be approved.

Residential/Dwelling Units Supplementary Information Sheet confirms that the proposal is for 70no. affordable dwellings. The applicant's propose that 44no. social/affordable or intermediate rent dwellings are proposed split as follows: 20no. two-bed houses, 10no. three-bed houses, 6no. four-bed houses and 8no. one-bed flats. The applicant's propose 26no. affordable home ownership dwellings split as follows: 10no. two-bed houses and 16no. three-bed houses.

A Transport Statement considers that the development is shown to be well served and accessible to more sustainable modes of transport. The proposed development has good accessibility to education, health, employment, retail and leisure facilities such as Gresleydale Health Centre – Church Gresley (1.7km), Burton Hospital (11.6km), Alexandra Road Dentist – Swadlincote (4.2km), pharmacy on Linton Road, shops, offices etc. in Castle Gresley and Swadlincote all accessible by public and private transport options. Using TRICS and Linton Census 2011 data they calculate that the vehicle trip impact as a result of the development will be 86no. morning peak period (0800 to 0900) and 66no. afternoon peak period (1700-1800) new vehicle trips, equating to one new vehicle trip every 42s in the morning and 54s in the afternoon and that these levels are unlikely to be noticeable above daily fluctuations in background traffic. From this data it is stated 82.3% of travel modes are driving a car or van. As the development will be accessed off Oak Close by extending the existing highway into the site and they consider that it is unlikely that the number of new vehicle trips generated from the proposed development will result in a significant adverse impact on the surrounding highway infrastructure. The main roads within the development will comprise approximately 4.8m to 5.5m wide carriageway with 2.0m wide footways on both sides. Vehicular and pedestrian connections will be formed onto the existing Oak Close connecting the development with the wider area in line with design guidance. It is considered that the development is well connected in a sustainable location to access public or passive means of transport such as Route 63 traffic-free National Cycle Network to the east with cycle journeys possible on road also. The applicants state that the nearest bus stops for the development are located on Linton Road 645m westbound and 485m eastbound from the proposed site access, both of which provide details of timetables with frequencies of service to Linton, Burton and Swadlincote to access services and employment with two school bus routes operating to the Pingle Academy (22) and William Allitt School (125). The nearest railway station is noted as being in Burton-on-Trent which provides access to Nottingham, Birmingham New Street, Cardiff Central, Derby and Tamworth. The applicants state that car and cycle parking will be provided generally in line with guidance set out in South



Derbyshire Design Guide. They consider taking into account these points there are no reasons on highways grounds that planning permission should not be granted.

The Framework Residential Travel Plan summarises the results of the Transport Statement aforementioned. From these results they state the motivations of the RTP to be: to provide sustainable access to facilities required by residents on site; to make the proposed development more accessibly for residents through the use of sustainable modes of transport; to help potential residents to be healthier, fitter and more productive by encouraging exercise; and to create a pleasant sustainable community. The overall aim of the RTP is 'to reduce the dependency of residents on single occupancy car journeys by encouraging increased use of more sustainable forms of transport'. The objectives of the Framework RTP: to reduce the proposed use of single occupancy car journeys by encouraging increased use of more sustainable forms of transport; to promote the health and environmental benefits of using more sustainable forms of transport; and to assist residents in making informed choices about their mode of travel to and from the development. They propose a 10% modal shift reduction in single occupancy vehicle journeys to work measured during morning and evening peak hours measured against latest census data collected at time of first occupation of the development. The reduction is planned over a 5 years following first occupation basis without prioritising one form of transport over the other. A Travel Plan Co-Ordinator is proposed to be appointed for this development and will have prime responsibility for setting up and administration of the RTP appointed 6 months prior to first occupation of the development. Short term ownership of the RTP will lie with the applicant/house builder until the 5 year period and initial monitoring provided targets are achieved during this time. Long term ownership of the RTP will rest with future residents through either appropriate resident committees or a community trust. It is proposed the RTP will be promoted as specifically detailed in this document and as per a marketing strategy.

The Arboricultural Impact Assessment Method Statement and Tree Protection Plan considers that the site layout has been produced that represents the most appropriate integration between the new buildings and existing trees. This report contains a BS5637:2012 Tree Survey and Categorisation; Arboricultural Impact Assessment; Arboricultural Method Statement and Tree Protection Plan. The survey covered 26 individual trees, 2 groups of trees and 3 hedgerows with the site comprising a low to moderate amount of tree cover, being made up of a single arable field, with perimeter vegetation comprising of boundary hedgerows with scattered mature trees and a woodland parcel to the south-western aspect. The report considers that the site is made up of a mixture of moderate to low quality arboricultural value with a woodland compartment providing a significant amount of arboricultural merit and screened the site from the surrounding area. It is considered that following the original assessment that the inclusion of a wider site edged red area where these trees were not surveyed is in an area where development works are not proposed and has limited arboricultural constraints, destined for high volume replanting. There are 2no. tree preservation orders (TPOs) at the site no.78 a group of various species G2 (Hawthorn, Crack Willow and Ash) and T10-T26 (comprising Crack Willow, Ash, Elm and English Oak) located to the south western and western boundaries and no.491 including 3no. individual trees T1, T6 and T7 (comprising Ash and Sycamore) located to the northern and eastern boundaries no tree works to these trees to be carried out without the prior consent of the Council. The survey concludes that 4no. trees T10, T11, T12 and T18 (all Crack Willow) are unsuitable for retention in their current condition and thus recommended that they undergo works or removal in the interests of good arboricultural management irrespective of future development of the site. 8no. trees (T13, T14, T15, T16, T17, T19, T21 and T22 – Crack Willow, Ash, Elm and English Oak) and 1no. group (G2 – Hawthorn, Crack Willow and Ash) to accommodate the layout as they are considered to be low quality – category C and of limited arboricultural merit. The applicants consider the removal of these trees be unlikely to result in significant loss of public amenity or arboricultural value to the site, though they note any losses of trees should be mitigated against through replacement planting as part of the landscaping scheme for the development. The report recommends that temporary protective fencing be erected to create a construction exclusion zone to adequately protect retained trees from damage during construction works, erected from the outset of development before any activities are executed or materials/plant brought onto site. The report also recommends actions for when new trees are planted and for their care. This report considers that the development would not significant impact tree and hedgerow life on site, subject to tree protection during construction, retention as advised and new planting and therefore there is no reason the development cannot go ahead with regards to these

considerations.

A Shadow Study provides an analysis of the shading as a result of the T1 Ash Tree subject of Tree Preservation Order no. 491 would have on the dwellings at plots 21 and 22 located to the eastern section of the proposed development. The applicants consider that this tree would cast limited amounts of shadow on the affected plots and only at certain times of the day and therefore both plots would benefit from natural day light to both the dwelling and garden each day throughout the year at an acceptable level. It is recommended that some formative head pruning and crown lifting to allow additional light into these plots particularly when the sun is lower in the sky which permission would be required to carry out such works to this tree due to TPO.

A Landscape Visual Study uses a variety of view points to provide a representation of views into the proposed development in a way that has evaluated the degree of likely visual change to the landscape, taken from publicly accessible locations but in a manner to consider impacts on private individuals. The appraisal took into account the Tree Preservation Orders. The study concludes the most likely significant views subject to change would be points 1, 2 and 6. They consider that views 1 and 2 are close views of the site experience by residents going about their daily routines and that due to the nature of the change, orientation of the view and mitigation proposed that the change is likely to be moderately significant. View 6 is from a PROW experienced by walkers accessing the countryside. The view will change in part as the site is only partially visible and some distance away. They consider that the change will be set against the background of existing developments and therefore the proportions of the view will change rather than its nature and this would be considered moderately significant. They consider that with landscaping enhancements proposed and mitigation that there will not be significant impacts on landscape character resulting from the development.

The Preliminary Ecological Appraisal Report considers that the proposals were assessed as having no significant effect on the biodiversity conservation objections for any important ecological features and the proposed development is compliant with relevant national and international legislation and policy relating to ecology, in some instances subject to the use of planning conditions should approval be granted. Habitats on site are considered to be common and widespread with low floristic value and no further surveys required though remaining trees and hedgerows should be protected included during construction. Due to presence of neighbouring pond Great Crested Newt survey required to establish presence/suitable habitat etc of species and to recommend mitigation. Due to types/quality of nearby and on-site trees and nearby agricultural building, further bat surveys required to establish roosting potential. Recommends if bats found bat boxes etc. for compensation would be required. Buzzard nest reported in T20. As scrub and trees on site for majority will be removed PMW document required to minimise risk to nesting birds and reptiles. Scrub etc. removal should be done outside of nesting bird season or otherwise experience ecologist present during removal works preceded by nesting bird checks. Further badger surveys required due to nearby presence/potential of setts. Hedgehog holes in fences/boundary treatments required.

A Great Crested Newts eDNA Results Report confirms the absence of Great Crested Newts in Pond 1.

An Ecological Impact Assessment considers that following the conduction of relevant surveys that the proposals were assessed as having no significant effect on the biodiversity conservation objections for any important ecological features and the proposed development is compliant with relevant national and international legislation and policy relating to ecology, in some instances subject to the use of planning conditions should approval be granted. Site bordered by residential developments to north east and north west and immediately adjacent to south east and south west are a block of woodland, hedgerows and arable fields. Site itself comprises arable field, with species-poor intact boundary hedgerows, tall ruderal vegetation and an area of dense scrub, scattered deciduous trees, poor semi-improved grassland and a wet ditch in the west of the site. A small area of broadleaved woodland lay was present in south west of the site projecting further outside the boundary. Limited botanical interest and poor species diversity. No impacts on the nearest statutory designated sites Badgers Hollow, Colton Park LNR, Moira Junction LNR, River Mease SAC/SSSI are anticipated due to existing management arrangements for these sites. No impact on the nearest non-statutory designated site at Swainspark Wood is anticipated. The assessment recommends retention of the REG important

hedgerow and tree habitats in accordance with root protection areas and new tree planting/meadow creation in areas around public open space to provide biodiversity benefits to offset loss with robust pollution prevention measures to prevent degradation of adjacent habitats during construction phase – to be secured through CEMP/LEMP planning condition. The assessment notes in respect of bat roosting, foraging and commuting T12 identified as having Low Roost Potential and T18, 19 and 20 surveyed further with no bats roosting with some limited impacts expected for foraging commuting to low bat numbers recorded possibly as a result of increased artificial light. No bat presence found in agricultural building. The assessment recommends mitigation for bat protection to be via use of planning conditions to secure endoscope survey on T12 prior to felling, felling of T18 between 1st May-1st October outside hibernation period in temperatures exceeding 10C and the replacement of any removed vegetation with native tree species and maintenance of connective features such as hedgerows and tree lines by adhering to RPA's plus the implementation of sensitive bat lighting scheme both during and post-construction and the use of CEMP/LEMP. Following eDNA survey no Great Crested Newts were found within or nearby to the site including pond beyond site boundary to the west following surveys. The site is considered to have limited potential to support reptile population either for foraging, commuting or habitat. The site and its immediate surroundings do not record water vole, otter or white clawed crayfish and the closest recordings for these are considered too far from the site for the development to impact this. Following an updated badger survey while no active setts are present within the site, there are signs of activity immediately beyond, thus to ensure protection/mitigation for them updated site visits should be undertaken to check the presence of active badgers setts in the 6 months preceding the commencement of works to check for any new setts on site or within 30m of the site boundary and every six months during construction. In respect of nesting bird and reptiles it is considered that mitigation and precautionary measures in line with legislative protection for those animals including during the construction phase that planning conditions can be used to secure CEMP due to the potential effects for killing/injury of animals during the construction phase due to habitat removal or activities during the construction period. As invasive species such as Japanese Knotweed has been located within the site but beyond the 'developable' area protocols to stop spread and its removal will be required as a planning condition attached to any approval of the development. For the removal of low diversity and common habitats to ensure biodiversity gains as a result of development habitat creation in the form of National Forestry Planting, retention and enhancement of existing hedgerows and creation of meadow areas with management regime sympathetic to biodiversity will be required as planning condition through such things as an LEMP.

A Site Investigation Report investigated potential contamination risks for the site, to provide advice on further surveys, monitoring and mitigation including informing foundation design. The report provides both Phase I and Phase II contamination risk assessments. The site was historically agricultural and is agricultural up to present day. Alluvium mapped along southwestern boundary along line of the stream. Bedrock comprises Chester Sandstone Formation in the north and the Helsby Formation in the south. The investigation and assessment concludes the risk to identified receptors from chemical contamination, ground gases and asbestos to be low and no remediation necessary noting the topsoil across the site is suitable for reuse. Soakaway testing indicated soils are effectively impermeable therefore soakaway drainage unfeasible in this location. Radon protection are not required for the proposed buildings. No presence of shallow cast coal mining on or near to the site (within 100m) therefore very low risk. Proposed finished floor levels will involve cut and fill and therefore soils on site will generate cohesive and granular fills. Additional investigations are recommended to confirm density of sands beneath the site using SPT testing and to establish the extent of cohesive deposits. Investigation in the area to the south west should be carried out to confirm if any Alluvium is present beneath the proposed plots and if present, ground gas monitoring should be carried out to confirm the ground gas regime for the site.

A Geophysical Survey Report detected no anomalies or archaeological interest. A single uncertain trend has been detected and is likely to be due to modern or agricultural processes. Several linear responses have been attributed to former field boundaries and ridge and furrow ploughing. As the results from the survey indicated the presence of former field boundaries plus the ploughing as a consequence there is no a priori reason why archaeological features would not have been detected if present.

The Flood Risk Assessment (FRA) notes that the site is currently agricultural land and has a varied topography, bound by existing residential form to the north-east and north-west and agricultural land to the south-east and south-west. It is noted that there is an existing drain crossing the site alongside the south-western boundary and that this drain connects into the pond located just north of the site. The site geology as noted from the JPP Geotechnical and Environmental and Geotechnical Investigation (GI) in appendix D notes the bedrock geology to be Helsby Sandstone Formation (Mudstone – extremely weak to weak) with no superficial deposits. The majority of the site is noted as topsoil with other mixtures of sand and clay. The GI included soakaway tests which identified that infiltration is not a viable method of discharging surface water from the site. As per the NPPG the proposals would be classed as Most Vulnerable development consisting of dwellings. The site is located in Flood Zone 1 according to the Environment Agency Flood Map for Planning Rivers and Sea and therefore at low risk from flooding defined as having a less than 1 in 1000 annual probability of river or sea flooding. A sequential test or exception test is not required. The site is defined as being at very low risk of surface water flooding in a given year according to the Environment Agency map 'Risk of Flooding from Surface Water' (less than 1 in 1000). The north-western corner of the site is shown to be at low (1 in 100 to 1 in 1000) and medium (1 in 30 to 1 in 100) risk of surface water flooding in a given year. The surface water route shown crosses the site at the north west corner originating from the adjacent field. An area towards the southern corner of the site is shown to be low risk of surface water flooding considered likely to be associated with the drain that crosses the site along the south-western boundary. There is a small area at low risk of surface water flooding located towards the north of the site. The applicants conclude that they consider the risk of surface water flooding to the development to be low. The applicants from use of DEFRA's Magic Map website consider the risk of flooding from groundwater to be low. The sewer to the south western boundary is an existing combined gravity sewer located within the application site and from review it is not considered that the risk of flooding from sewers is a significant risk to the proposed development. The site is not at risk of flooding from canals or artificial water sources. The assessment notes that there has been historic flooding to areas surrounding the site. The off-site flooding is understood to be resultant of overtopping of the existing pond, located to the north-west of the site, and surcharging of the existing land drain to the west of the pond with information from the LLFA identifying 10 properties experienced internal flooding during 2016. An updated review of this is available under report L/11285/002 to provide a solution for these issues. As the site is currently greenfield and open it is fully permeable and considered a greenfield site with no existing drainage. SUDS have been considered for the site and mostly due to constraints considered unsuitable, though rainwater harvesting from water butts, tree planting (including retaining existing trees), tanked permeable paving to driveways and detention basins with low flow channels are possible.

It is proposed the route of the drain will be diverted slightly to accommodate the proposed development as shown in Appendix B of the FRA. The surface water flow across the site north west corner will be maintained post-development as this corner comprises public open space. It is proposed that land levels of the site will be designed to ensure no dwellings are at risk of surface water flooding. It is proposed that storm water will outfall to Severn Trent Waters existing storm water sewer located to the north west of the proposed site. For the Surface water drainage strategy it is proposed that the surface water discharge rates for the development will be restricted to greenfield equivalent runoff rates to ensure that the rate of surface water runoff from the site does not increase as a result of the proposed development. The drainage strategy comprises a piped network with attenuation provided in a detention basin to the south west of the site. Surface water is proposed to outfall to the existing Severn Trent storm water sewer located to the north-west of the proposed development site. Tanked permeable paving will be provided for all private drives. The surface water drainage strategy is shown in appendix G and demonstrates that the surface water attenuation can be accommodated on site and the method of discharge. The applicants state that this will accommodate storms of up to the 1 in 100 year event plus an allowance of 40% for climate change with the design life of a residential development to be greater than 60 years. To provide a betterment on the existing greenfield runoff rate of 3.8l/s, runoff from the proposed development will be restricted to the minimum rate of 2.5 l/s. A flow rate of 2.5l/s will provide a 34% betterment on the existing runoff arrangement. The surface water will discharge into the existing drain that crosses the site and will be attenuated via a detention basin in the north-west corner to accommodate a 1 in 100 year event plus an allowance of 40% for climate change. The proposed impermeable area of the site is 1.027ha and based on this the applicants calculate an



allowable discharge rate of 2.5 l/s, the storage requirement for the 1 in 100 year plus climate change event has been calculated as 755m<sup>3</sup>. Overland flows will be directed to follow the path that overland flows currently follow. The foulds will drain to the existing combined sewer crossing the site which will be diverted slightly and a gravity connection can be made (confirmed by ST Water) to the existing 225mm diameter combined sewer subject to modelling by STW and further details of connection. The applicants propose that the maintenance of the scheme will be minimised so that it can be established who will maintain and manage elements not proposed for adoption. For surface water maintenance is proposed as follows: private drains-home owner; SUDS Private – homeowner; SUDS Communal SUDS Adoption Authority/Management Company and Adopted sewers Severn Trent Water. For foulds maintenance is proposed as follows: private drains – homeowner and adopted sewers Severn Trent Water. It is proposed as a result of the attenuation basin position that the existing land drain will be diverted around this where it leads to the existing pond with a diversion of flow into a new surface water drain of adoptable standard from the attenuation basin down to the turning head to the west on Oak Close where it will connect with the existing Severn Trent water network. The applicants therefore conclude subject to the results of assessments that the proposed mitigation and surface/foul etc. drainage schemes result in the development not contributing further to flood risk thus satisfying the principles of the NPPF.

An Off- Site Flooding Report makes reference to the meetings and site visit held with SDDC to discuss relevant flooding issues with all relevant stakeholders covering: surcharging of existing pond east of Oak Close which then floods properties in the vicinity; over land flow from the adjacent field causing flooding to properties and possible issues with the outflow pipe from the existing pond which routes through the garden of no. 43 Oak Close.

Existing pond - In respect of the existing pond it is stated to drain with a 300mm diameter inflow pipe, the water level within the pond is noted on the topographical survey as 92.6 with levels at top of pond 93.6-93.85. In the immediate vicinity of the outfall the levels are lower with a less formal pond bank, continuing to the north. It is stated as water levels increase it appears that the bank levels are not high enough to contain the water and flooding of the properties occurs noting the outflow pipe from the pond does not currently have a formal headwall and is provided with mesh wire as a trash screen. The applicants suggest that to better protect adjacent properties from potential flood event due to surcharging that the bank levels are increased to at least 1m above pond water level with formal headwall provided so that a trash screen can be installed alongside a maintenance scheme from the SUDS manual to ensure the existing pond continues to work efficiently.

Overland Flows – The report notes that during times of heavy rainfall overland flows from the adjacent fields cause flooding to the properties of Oak Close and down Oak Close itself. The topographical survey data shows the field fall to the north at a gradient of 1:11 exacerbated after times the fields are mowed. A hydraulic assessment was undertaken including Microdrainage. To provide flood protection to Oak Close it is suggested to install a series of ditches to intercept the overland flows which will flow into a storage pond which has the capacity to handle the 1 in 30 year event (see FRA). Drawing E101 in Appendix D shows proposed ditches and storage ponds in a field beyond developable area to the south west (originally not in application site). It is proposed to ensure that the new pond is effective local levels upstream will be amended to create a valley towards the new storage pond in order to provide increased protection during flash type floods. The report notes that this proposal will not remove the risk of overland flow but states that by providing some storage this will reduce the risk that is currently present especially during the more frequent storms. The ditches and pond will connect to existing land drainage that currently serves this area of land.

Outfall Pipe from existing pond – The outfall pipe from the existing pond runs through the top of Oak Close and through the garden of no. 43 then back to Oak Close to the north. CCTV surveys of the pipe shows it reduces from 300mm to 150mm, though it is unknown how long the 150mm pipe runs. During periods of heavy rainfall this reduction in pipe diameter will act as a throttle and water upstream will surcharge which may explain the flooding at no.43. To remove the risk of surcharging caused by pipe reduction this should be replaced with 300mm pipe intercepting the existing within Oak Close and then run along to the point the existing pipe reverts back to 300mm diameter with the pipe remaining in private ownership and subject of highway approval under a s50 licence, drawing E104 in appendix G

shows the proposed route. Inclusion of a forestry area will also help natural flood water attenuation. They note that the remedial measures mentioned in this letter are outside the boundary of EMH proposed development and on land not within EMH direct control and will require full agreement with relevant landowners. The applicants consider with this and the other mitigation in the FRA that this covers flood risk strategies for the site.

Flood Risk and Water Management Query Responses In this letter it is confirmed that the existing greenfield runoff rate is calculated as 3.8l/s and that it is proposed to restrict flows from the development to 2.5 l/s therefore the post development runoff rate will be reduced. The letter also confirms that the additional proposed mitigation attenuation basin in the field adjacent to the development will reduce (to a certain extent) the flood risk to both the highway and existing properties, by providing storage capabilities within the attenuation basin for the 1 in 30 greenfield volume. It is stated this is achieved by allowing overland flood water to drain to the attenuation basin at the low point of the land and be conducted away from the area via the existing land drain rather than cascading across the field as in the current situation. They note that whilst flood risk cannot be eliminated entirely providing some storage will reduce the risk that is currently present, especially during more frequent storms. In this letter it is noted that without providing proposed mitigation works to the existing pond it will continue to pose a flood risk (existing pond in other ownership), however to reduce this the applicants propose to divert the developments storm water outfall away from the pond and towards the 300mm diameter drain in oak Close, thus completely bypassing the existing pond with the developments storm water. The applicants recommend that the existing pond works are undertaken by the riparian owner namely Greenbelt to prevent any future flooding issues arising from the pond. This letter also notes that there will be no increase in flow rates to the public sewer and are not adding any additional areas other than what is already drained via the existing pipe route. They confirm the increase in pipe size aforementioned is only for a small section where it is proven to be 150mm which causes surcharging upstream. The existing outfall from the pond is 300mm diameter and the existing outfall to the sewers is 300mm diameter which is not proposed to change.

The Viability Assessment notes that ordinarily under planning policy only 30% of the 70no. dwellings proposed would be required as affordable but as the applicant is a Registered Provider whose primary purpose is to provide rented and home ownership opportunities to customers who are unable, financially to access market housing. It is noted that while new developments are expected to contribute towards local services (where they are increasing the demand on those services) if an Applicant feels that the impact of those contributions is such that scheme viability is compromised, they can seek a viability assessment seeking a concession. The applicants state in this instance £874,000 has been requested despite the fact that the new homes will be made available to local people who are already accessing local services. This assessment provides anticipated development revenues and costs to derive a residual land value for the scheme which has been compared to an appropriate benchmark land value for the site. The assessment concludes that despite and investment from Homes England and because of the excessively high costs associated with site infrastructure including provision for off-site flood mitigation and water management measures, the scheme is unable to provide the full £874,000 of contributions requested. It is confirmed in the assessment that the applicant East Midlands Homes are committed to undertaking the off-site flood mitigation and water management works totalling some £123,000. The off-site flood mitigation is said to comprise:

1. Existing Pond to west of site (outside subject red line plan): Increase the bank levels to at least 1 metre above the level of the pond water, and provide a headwall.
2. Over land flows: In times of heavy rainfall, the flows from adjacent fields cause flooding to the existing properties in Oak Close and to Oak Close itself. To mitigate this, it is proposed to provide a series of ditches which will discharge into a second attenuation basin. This second attenuation basin (in addition and to the south of the other attenuation pond on the Site Layout Plan) is to be provided within the red line plan.
3. Outfall pipe from Existing Pond: This pipe currently runs from the existing pond to the top of Oak Close, through the garden of no.43, back to Oak Close, and then west to the existing Severn Trent storm water drains. Whilst mainly 300mm in diameter, this pipe currently reduces to 150mm in diameter for a length of it, and this is a cause of flooding on no. 43. Therefore, the

proposal is to replace the length of 150mm pipe with 300mm, and also divert it so that it runs wholly along Oak Close rather than going onto no. 43.

It is noted that it is accepted that the applicant is choosing to deliver the additional 49 affordable dwellings but this is specifically to assist the Council in meeting its housing need. The cost of delivering these additional affordable dwellings cannot be accommodated as well as the £874,000 of contributions. Therefore, the applicants consider that to pay the contributions requested would render the scheme unviable.

### **Relevant planning history**

9/1198/0635/O: Outline Land at Archers Barn – Approved subject to conditions.

9/2001/1245: The erection of forty two dwellings with access from Oak Close on land at – Reserved Matters – Neighbouring land to the west – Approved subject to conditions – 11th April 2002.

9/2004/0874: The pruning of willow trees protected under South Derbyshire District Council's Tree Preservation Order number 78 at – TPO consent – approved – 31st August 2004.

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

Derbyshire County Council Planning Policy – no objection subject to conditions and planning obligations/financial contributions as follows; Education – 11no. Primary places at Linton School and additional education facilities @ £188,942.49, 14no. Secondary and 6no. post 16 places at The Pingle Academy and additional education facilities @ £530,138.20; Libraries - £4,920 towards 246 stock items directed towards Swadlincote Library; and Monitoring Fees

Derby and Derbyshire CCG has no objection subject to planning obligations - no further comment to make following comments provided July 2020 which states £33,600 contribution (175 patients @ 0.08sqm requirement and cost per sqm of £2400) required to offset requirements generated by the development to be directed to contribute towards the internal reconfiguration and extension of Gresleydale Healthcare Centre premises.

Derbyshire Police have made observation suggesting amendments to pathways, POS management and private frontages arrangements for plots 65, 67, 68 and 70, noted worsened parking arrangement for plots 67/68 in terms of passive surveillance and confusion over tandem routes within the development and requirement for management/maintenance of POS by condition.

Environmental Health have no objection subject to conditions and informatives as follows: construction hours; Prior to commencement dust and noise mitigation then approved scheme executed as agreed; Prior to installation electric vehicle 1 per dwelling details submission then execution on site prior to occupation, prior to commencement sands density, alluvium investigation (to south west plots nearest stream) and ground gas investigation/monitoring are required following on from the results and recommendations for this within the Site Investigation Report R-SI-11282G-1-0 Revision 0 May 2019 prepared by JPP.

The Coal Authority has no objection – should the application be approved standing advice should be attached in the interests of public health and safety as an informative on any decision notice issued.

Environment Agency – no further comments to make to those made January 2019.

Derbyshire Wildlife Trust – no objection previous comments from September 2020 apply subject to planning conditions as follows: prior to commencement updated badger walkover survey with recommendations, mitigations etc; prior to commencement Non-Native Species Protocol submission regarding Japanese Knotweed; prior to commencement Construction Environmental Management Plan; Prior to first occupation of a dwelling Landscape and Ecological Management Plan submission; Bat protection measures as per 5.4.1 of the Ecological Impact Assessment by RammSanderson dated July 2020 and prior to construction above foundations level a scheme of biodiversity enhancement



based on recommendations in section 7 of the Ecological Impact Assessment (EclA).

Natural England – no objection

Lead Local Flood Authority – no objection subject to conditions, informatives and legal agreement/planning obligation covering: prior to commencement detailed surface water strategy for the site and management/maintenance plan encompassing Appendix F of Flood Risk Assessment (Revision B Ref: R-FRA-11285R-01-B. Dated November 2020) the works comprises of diversion of the land drain from the existing pond along the cul-de-sac adjacent to 43 Oak Close and to be connected into existing 1500mm surface water sewer in Oak Close (Fig 2 Appendix F of FRA RFRA-11285R-01-B) and the other supporting documents; prior to commencement surface water run-off during construction phase; attenuation ponds not brought into use until CIRIA SuDS Manual C753 with associated management and maintenance plan agreed with LPA; prior to occupation verification report.

Severn Trent Water – no objection subject to conditions, informatives and legal agreement/planning obligation covering: accept the sw flows into the public sewer from the new development at a further reduced rate of 2.5 l/sec, subject to overall there being no increase in overland flow from the pond/field etc by directing the existing land drainage flows from the 150mm dia pipe located in the private garden to a new sw connection to be laid by the Council in Oaks Close. The flows from the new connection should not be higher than the existing discharge from the 150mm dia pipe at its design limit before the flooding flows occur, anything over that limit needs to be attenuated. They are satisfied with the drainage/attenuation proposals as revised.

County Highways Authority – no objection subject to conditions and informatives as follows: prior to commencement construction management plan; wheel washing facilities; prior to commencement construction details of estate roads/footways; gradients on estate roads not exceeding 1:20/1:12; carriageways to be constructed as agreed prior to occupation; prior to commencement prevention of water discharge from drives/access/shared drives onto proposed adopted highway; prior to occupation construction of access drives; access drives gradients no more than 1:20 for first 5m from highway and never exceeding 1:10; prior to commencement details of management and maintenance of proposed streets; garages/parking spaces retained for motor vehicle parking provided on prior to occupation basis; no gates within 5m of highway boundary and inward opening only; no part served by private drive until bin storage provided; Prior to occupation Travel Plan

County Highways Authority Travel Plans – no objection subject to the provision of an amended Travel Plan as that provided does not presently meet expected targets etc. This is subject to condition/inclusion in s106.

Landscape Officer – no objection subject to conditions: detailed hard and soft landscaping plans – to include Main Avenue Street Trees to include plots 1 to 16, Second Avenue Street Trees to include plots 40 to 45, rear gardens to have fruit trees, mix of different trees, native species hedgerows, bat/bee friendly plants, proposed walls and close board fencing to be hedgehog friendly, oak tree planting as per government statement; detailed planting plan of the detention basin with plant schedule and planting specification and section through the basin with no more than 1:5 sides; detailed plan of Play Trail; Construction Details of any ground retention or ground modelling; 5 year Landscape and Ecological Management Plan for all new and existing hedgerows and trees and biodiversity enhancement.

Tree Officer – overall no objection to the development following review of application suite however notes that while in agreement broadly with the findings of the Shade Study in respect of plots 21 and 22 it is noted that many residents are unable to cope with even partial shade cover/loss of natural light and this may increase the likelihood that it be requested in the near future that the tree is felled. Conditions to cover AIA, Tree Protection, Tree replacement planting in landscaping plans.

National Forest Company – no objections subject to the use of planning conditions – whilst they note some discrepancies on the Public Open Space and Forestry Planting Plan and Site Plan as to the calculation methods for provision of planting regarding the increased site edged red area, they note

that it is clear with regards to policy INF8 that sufficient woodland at 0.42ha and Public Open Space at 0.58ha in terms of overall green infrastructure to fulfil overall green infrastructure requirements. They welcome provisions of footpaths linking to existing Oak Close to encourage public access though they wish to see footpath to existing area of POS on Oak Close. They welcome use of natural play area with wooden equipment but raise concern over safety provisions due to proximity of detention basins. They seek use of planning conditions as follows: provision of NF planting and POS as per plans provided or as otherwise agreed; rolled gravel provided for footpaths details to be provided/agreed/implemented in accordance with; safety details for LEAP in proximity to detention basins; native broadleaves plantation woodland with transplants at 2m centres spec/quantity/location details; Woodland Management Plan; tree planting to frontages of the development; in plot tree planting; details of wooden materials for inclusion in dwelling external materials treatments.

Forestry Commission – made an observation – encouraged that it would add woodland planting and they have nothing to add above that to which the National Forest Company has already submitted.

Derbyshire County Council Archaeologist – no objection

Castle Gresley Parish Council original consultation 2019 objected to the development summarised as follows:

- a) Request it is seen by planning committee;
- b) Planning history of the site, the reasons an application were turned down in 2017 have not changed;
- c) Highways issues, traffic generation, vehicle access in general are poor. Access via Arthur Street and Bass Crescent would be unsafe and inadequate;
- d) Capacity of infrastructure is not able to take further additional demands from new development. Doctors, school places, drainage roads are already inadequate;
- e) Impact on conservation of biodiversity and geodiversity noting many species already exist on this site;
- f) Flooding is already an issue as existing Oak Close properties sit below the fields and proposed site and the development would only exacerbate the current situation where existing homes are being flooded.

Castle Gresley Parish Council re-consultation 2021 objected to the development summarised as follows:

- a) The development is not required as this would result in development of a greenfield site plus loss of agricultural land and not brownfield as highlighted in the NPPF and Local Plan as being priority;
- b) The development is not required as 103.7% of housing supply has already been delivered in the District and therefore South Derbyshire have exceeded their obligation of the required provision of housing with projects that are due to commence imminently, and those which have commenced/completed since 2018;
- c) The development does not include plans to contribute or provide the necessary infrastructure currently lacking or not existing in the immediate area including the following: doctors, dentists, roads, education etc;
- d) Linton Primary school said 70no. new homes would create 100 plus places requirement and they have already exceeded for this educational year and even after recent extension with current admission numbers the school will struggle for space to accommodate more pupils. Church Gresley Infant and Nursery School have no capacity for a large intake that could be associated with this development;
- e) Rosliston and Overseal surgeries both closed resulting in patients going elsewhere and there is a wait time for general GP appointment of 4 weeks further exacerbated by Covid 19 which can now be up to 6 weeks;
- f) 2.5 people per household calculation is inaccurate and under valued in calculating NHS requirements;
- g) 70no. dwellings proposed is a lot more than 55no. in policy H23J of the Local Plan 2;

- h) Since the evaluation of Mount Pleasant as a local service village many facilities have been lost (post office, doctors, library, pub etc.) and if reassessed under the Local Plan criteria it would be a rural village and thus exempt from the building of more dwellings and certainly would not be classed as a sustainable settlement;
- i) Main point of sites viability in allocation is that it does not have transport impacts on surrounding road network and it is considered that the surrounding highway network due to widths, traffic flows, HGV's/buses and parked cars on existing highway (lack of driveways) to the roads serving the development including Oak Close, Burton Road, Linton Road, Bass Crescent, Arnold Close, Hillside Road etc are already at capacity and have issues which will be worsened by the development;
- j) Pavements connecting to the development are not of adequate width and with mounted cars and poor visibility as a result there are already dangers to pedestrians and road users and therefore the issues need to be addressed to the transport system before it can safely take any further increase in capacity;
- k) It is considered the Transport Statement is not reflective of the true nature of road network, parking and usage in the immediate area and is lower than what the statement predicts additional impacts will be;
- l) The impact of the development on multiple species which will perish or be moved as a result without any knowledge of how this will be mitigated for in the proposals including it being based on old information with some of this redacted;
- m) Japanese Knotweed is identified within the site boundary which is problematic and how will mitigation be put in place to ensure it is mitigated and managed properly to prevent spread further to the village (noting JK already is an issue in other places in the village). Who will be responsible to ensure it will not spread to other areas and what responsibility will SDDC take for it once the site has been completed?
- n) Flooding is a problem in the area already and ten-fold increase in events in the last 5 years predominantly significantly impacting residents on Oak Close.
- o) EMH proposals to divert from the existing pond to mitigate future flood risk and other reasons for improvements there is little evidence of permissions from the pond landowner Greenbelt Energy for this and they are unaware of this. Greenbelt Energy have already confirmed that pond is in their ownership and will not withstand any additional influx and it is not currently fit for purpose;
- p) Little or no consideration has been given to historical pot mining and underground springs on this land and these have an impact on flooding issues within this area.
- q) It is considered the mitigation measures in the plans with regards to current flooding issues are considered will exacerbate the existing issues for existing Oak Close residents potentially increasing the risk of further water retention which will surely only create further problems in the future;
- r) Existing pipework connections to mains water system are noted to be inadequate with residents having issues of blockages and flooding due to size of pipework and installation flows of the pipe system when Oak Close was built, thus we question the suitability of further increase to the water treatment system. Coton Park STW site was already at capacity at 70.5% in 2016 before development at Coton Park, Linton and Rosliston had been completed;
- s) The site provides views of natural landscape towards Linton, Foxley Woods and Linton Heath and if developed on the landscape and natural character would be lost.
- t) Supporting documentation submitted is filled with inaccuracies and future projections made are on flawed statistical assumptions and thus it is considered an objective view of the proposals cannot be taken.
- u) The houses will not be affordable as average house price in Castle Gresley is £150k making housing already located in the village more affordable by national standards.
- v) We already have a high concentration of council and social housing owned properties including those suitable for disability access.

74no. objections from the public have been received during the original consultation period in 2019 raising the following comments:

#### Principle of development:

- a) Allocated in Local Plan Part 2 as a strategic site, however land previously been subject of planning enquiries in 2016 and this was not progressed due to access constraints and highways safety impacts to the village. Why is it now suitable for development?
- b) The site is not required as the housing land supply is already fulfilled for the five-year period at already over 100% from developments already completed and commenced. Housing sites have been completed in Linton, Overseal, Woodville, Newhall, Midway, Repton, Willington and Swadlincote.
- c) There are multiple other brownfield sites that can come forward first as opposed to this agricultural greenfield site.
- d) Building on this land will effectively merge the villages on Linton and Castle Gresley representing urban sprawl.
- e) Development would involve erosion of agricultural land in the heart of the National Forest.
- f) Due to current house prices affordable housing will not be truly affordable due to low incomes.
- g) A fully affordable scheme does not assist in providing affordable vs. market integration noting surrounding houses are private or market properties.
- h) Unsure how a 4/5 bedroom house is affordable.

#### Highways and parking:

- i) Site in poor location due to existing significant strain from heavy goods vehicles uses on Burton Road, Linton Road and Hillside Road and impact additional flow will have on this.
- j) Traffic generated and addition to journey times will be detrimental to an already poor situation with heavy vehicle traffic and local congestion.
- k) Refuse/emergency vehicles as well as cars have issue navigating Bass Crescent and often divert to Arthur Street due to narrow road and parked cars (sometimes on kerbs) as such an additional 70-140 vehicles from the development will add to the existing challenging situation and this may impede highways safety resulting in accidents involving pedestrians in an area with vulnerable people including children.
- l) Existing road layout serving the development, its width and topography already presents manoeuvring and parking issues, particularly in inclement weather conditions, as such adding to this would be detrimental to safety and local character.
- m) Loss of agricultural land. Where will the cattle who graze on this field go and where will those cattle who cross this site to the other pastures beyond be diverted to as the highway would not be feasible.
- n) It is already dangerous for school children crossing A444 from Castle Gresley to reach school buses and this will be worsened as a result of the development.
- o) Pulling out from Bass Crescent is dangerous as there are often parked cars either side, same for Cedar Road and Arthur Street rendering them to be one lane roads.
- p) Construction works from the property will cause deterioration of the highway.
- q) HGV's use this route often at 7.5 tonnes which is already impacting traffic flow and road surfaces as a result without this development adding to it.
- r) Linton Road is a bus route and sometimes it is difficult to get buses to stop due to traffic and parked (sometimes illegally) vehicles.

#### Design, layout and local character:

- s) This development would merge Linton and Castle Gresley which are two distinctly different character villages as this is the land that separates them.
- t) Only semi-detached dwellings proposed when surrounding dwellings are more mixed detached etc.
- u) The dwellings proposed are much smaller than those which surround them.
- v) The dwellings proposed are not laid out in a form similar to the surrounding area.
- w) Too many houses are proposed and it is overly dense.
- x) The development will impact the Conservation Area.

#### Residential amenity:

- y) Including a LEAP/children's play area will result in anti-social behaviour.
- z) Due to land levels the location of the LEAP will result in level views to the first floor bedrooms of existing dwellings on Oak Close.
- aa) There will be a great deal of noise from an additional 70-280 more people in a peaceful hamlet.
- bb) Loss of privacy and overlooking from height.
- cc) Loss of light to side elevations of existing Oak Close properties.
- dd) Construction works will cause disruption from noise, dust, vibration and pollution detrimental to the residential amenity of existing and future occupants of the development and immediate area.
- ee) Oak Close was designed as a cul-de-sac and becoming a thoroughfare will be detrimental to health due to stress and disruption from additional passing vehicles and residents.

#### Trees and Landscape character:

- ff) LEAP/Childrens play area is not required as there is one nearby to the west.
- gg) Whilst green space shown for development this will take years to grow and will not allow for wildlife to flourish.

#### Biodiversity and Geodiversity:

- hh) Loss of wildlife through woodland and tree clearance contrary to Council's policies regarding climate emergency.
- ii) Wildlife would not return to the area and planned green spaces due to disruption caused by construction
- jj) The development does not plan or mitigate or consider impacts on pheasants, partridges, buzzards, woodpeckers, mallards, herons, grouse, butterflies, kites, newts, lizards, frogs, toads, hedgehogs, badgers, foxes, squirrels, hawks, herons, mice, or wild birds.

#### Local Environment and Pollution:

- kk) The development will add to Global warming as a result of building 70no. more houses due to additional cars, boilers etc.
- ll) Additional air pollution from the many additional vehicles accessing and egressing the site.
- mm) As a result of loss of fields and ecology plus construction on site this will have a big carbon footprint.
- nn) Solar panels should be added to help sustainability and reduce energy bills.

#### Flood Risk and Water Management.

- oo) FRA supporting the application doesn't truly reflect the existing situation and previous flooding instances at 41 and 43 Oak Close from blocked pipes or surface water run-off and doesn't reflect the flooding occurred four days before report submitted. The situation doesn't cover the 2019 and 2020 flooding events at Oak Close where it flooded residents homes and sandbags were used.
- pp) The water management and flood risk improvements planned will not relieve existing issues on site and will add to them as its unlikely the pipes are wide enough or that the detention basins will be adequately maintained.
- qq) The foul sewage is already at capacity and the proposed plot is not suitable for land drawing to take in additional surface rain water.
- rr) Most of existing flooding issues come from field management neighbouring existing Oak Close running into Oak Close without attenuation flooding properties with the existing unmanaged pond spilling over and likely that the new pond proposed would not cope either.
- ss) The site currently acts like a sponge to absorb water in a large area where soakaways aren't viable and as such once development happens this will intensify flooding issues.
- tt) Surrounding recent residential developments didn't flood prior to development and now they do, this already floods and therefore will be worsened by the development.



#### Infrastructure and Developer Contributions:

- uu) There is insufficient infrastructure in place for healthcare, schools, post office and other local amenities as a result of the need generated by the development to access such services.
- vv) The nearest school is over a mile away and at capacity due to recent developments in neighbouring villages of Linton and Coton Park.
- ww) The village telecommunications, internet and sewerage infrastructure is dated and insufficient for coping with the development and existing developments with no improvements planned for mitigation.
- xx) Nearest doctors Gresleydale is oversubscribed with no room to extend or amend services, the new development will increase pressure on this service without sufficient mitigation. Overseal doctors is due to be closed and Rosliston has already closed. Gresleydale will get the 1200 patients moving from closure of other doctors and then those from this development, will increase waiting times for patients.
- yy) Withdrawal of Sure Start centre has resulted in shortage of younger children child care facilities.

#### Other issues:

- zz) The development would erode existing residents views from their properties which many had purchased to be adjacent to countryside to enjoy a relaxed and quiet lifestyle, which as a result will impact both mental health and house prices.
- aaa) Affordable housing will encourage anti-social behaviour.

48no. objections from the public have been received during the re-consultation period 2021, raising the following comments:

#### Principle of development:

- a) Since the formation of the Local Plan due to the loss of services such as Post Office, School and Doctors, Castle Gresley is no longer really a 'local service village' and instead would class as a 'rural village' and re-assessment should take place based on current amenity availability and as area is surrounded predominantly by agricultural land and woodland. If it is a rural village then this development would be unsuitable as it would not be sustainable development.
- b) Allocated in Local Plan Part 2 as a strategic site, however land previously been subject of planning enquiries in 2016 and this was not progressed due to access constraints and highways safety impacts to the village. Why is it now suitable for development?
- c) The site is not required as the housing land supply is already fulfilled for the five-year period at already over 100% from developments already completed and commenced.
- d) Changes to bricks, layout and play area do not alter the impact of unnecessary housing in the village.
- e) The Local Plan allocation only seeks the development of 55no. and not 70no. dwellings, thus this represents overdevelopment.
- f) Unclear how 4/5 bedroom houses are classed as affordable.
- g) Where will the cattle who graze on this field go and where will those cattle who cross this site to the other pastures beyond be diverted to as the highway would not be feasible.
- h) 100% affordable homes does not provide ownership diversification and there should be more opportunity for locals to purchase their homes noting 100% affordable development on the rise and would not be a wise move in respect of this site in terms of integration with local inhabitants.
- i) There are multiple other brownfield sites that can come forward first as opposed to this agricultural greenfield site.
- j) It is unlikely that the dwellings will be truly affordable given that house prices in the immediate area are between £200k and £250k, rendering them unaffordable for those on lower income.

#### Highways and parking:

- k) Site in poor location due to existing significant strain from heavy good vehicles uses on Burton Road, Linton Road and Hillside Road and impact additional flow will have on this.

- l) Traffic generated and addition to journey times will be detrimental to an already poor situation with heavy vehicle traffic and local congestion.
- m) The Transport Statement and supporting information does not reflect the real life and up to date situation in the area relating to the villages accessibility or traffic flows/methods of transport. TS only accounts for traffic in the proposed site and not impact of traffic including wider area.
- n) Refuse/emergency vehicles as well as cars have issue navigating Bass Crescent and often divert to Arthur Street due to narrow road and parked cars (sometimes on kerbs) as such an additional 70-140 vehicles from the development will add to the existing challenging situation and this may impede highways safety resulting in accidents involving pedestrians in an area with vulnerable people including children.
- o) Existing road layout serving the development, its width and topography already presents manoeuvring and parking issues, particularly in inclement weather conditions, as such adding to this would be detrimental to safety and local character.
- p) Construction works will erode the surrounding roads due to increase in traffic.
- q) Encouragement of new residents to use cycles/motorcycles through a Travel Plan will not be enough considering methods of travel to employment etc. in the area.
- r) Alternative access roads via Mount Pleasant Road whilst preserving pedestrian and cycle access only from Oak Close for new residents would be more appropriate than that proposed.
- s) There are no visitor spaces proposed for the majority of the development and thus this will result on mounted kerb parking throughout the development rendering the parking allocation plan pointless.
- t) Cycle infrastructure to allow for the sustainable transport uptake referred to is not in place and would be dangerous to attempt particularly for children.
- u) Transport Statement needs to be undertaken when children are in school, COVID situation is over etc. to reflect true on site situation.
- v) Linton Road often unable to have two cars passing due to width and parking issues including from illegal parking.

Design, layout and local character:

- w) The LEAP/park is located between two detention basins without details of how safety of public including children will be ensured.
- x) The LEAP/park is not required as it there is a park nearby to the west and will attract anti-social behaviour and is not sufficiently overlooked to prevent damage to it.
- y) The design and layout of the development is not in keeping with the immediate area heightened by the inappropriate mix of 100% affordable dwellings.
- z) Height of units recommended was 1.5 storeys and this is not what has been proposed in this instance.
- aa) The site is steep and is not appropriate to layout out a successful development.

Residential amenity:

- bb) Due to land levels the location of the LEAP will result in level views to the first-floor bedrooms of existing dwellings on Oak Close.
- cc) Construction works will cause disruption from noise, dust, vibration and pollution detrimental to the residential amenity of existing and future occupants of the development and immediate area.
- dd) Additional dwellings will result in more domestic animals owned by occupants including barking dogs that will disrupt the peace and create noise and additional associated litter.
- ee) Loss of privacy from overlooking and development contrary to the Human Rights Act: Article 8 Right to a private and family life and Human Rights Act Protocol 1, Article 1.
- ff) Construction hours will need to be rigorously enforced and a site route/compound appropriately built and sited to avoid impacts on amenity.

Trees and Landscape character:

- gg) Many trees including TPOs are being removed which will impact character and biodiversity.
- hh) Removed trees require compensatory planting.



- ii) Waste area between new housing to the north and existing dwellings on Mount Pleasant Road, who will be responsible for the upkeep of this area and it appears it cannot be adequately accessed.
- jj) Development will reduce idyllic countryside and opportunities for walking.
- kk) Replacement landscaping will not look natural and will erode existing views of the site from surrounding dwellings.
- ll) Proposed site layout leaves very little opportunity for streetscene planting contrary to the Design Guide SPD.
- mm) Unclear how boundary treatments in places where they adjoining existing neighbouring development will be maintained and prevent hedgerow erosion.

#### Biodiversity and Geodiversity:

- nn) Loss of wildlife through woodland and tree clearance contrary to Council's policies regarding climate emergency.
- oo) Wildlife would not return to the area and planned green spaces due to disruption caused by construction.
- pp) Non-native invasive species Japanese Knotweed is present on site and would require removal by a professional company and management/guarantees to ensure the spread is stopped as this can impact insurance.
- qq) The EclA from RammSanderson in respect of bat presence within the site and immediate area is refuted.
- rr) The development does not plan or mitigate or consider impacts on pheasants, partridges, woodpeckers, grouse, butterflies, , newts, lizards, frogs, toads, hedgehogs, badgers, foxes, squirrels, hawks, herons or wild birds.
- ss) The improvements to the neighbouring pond do not cover protection of fish and ducks that reside there.
- tt) Bats and birds will be discouraged from the area due to the lighting from the houses and external lighting schemes.
- uu) Replacement landscaping will not go far enough to replace loss of countryside and existing biodiversity opportunities offered by the site.

#### Local Environment and Pollution:

- vv) The development will add to global warming as a result of building 70no. more houses due to additional cars, boilers etc.
- ww) Additional air pollution from the many additional vehicles accessing and egressing the site.
- xx) As a result of loss of fields and ecology plus construction on site this will have a big carbon footprint.

#### Flood Risk and Water Management:

- yy) The planned route of drainage water is going to enter neighbouring properties boundaries on Oak Close which residents will not give permission for to be added to either by the addition of another pond/ponds or by amending the existing pond to allow further drainage.
- zz) If three ponds, including one in a gradient are required to prevent flooding of existing neighbouring developments then the land is unsuitable for development.
- aaa) 43 Oak Close is already impacted the most with existing water management issues and will be impacted further by this development.
- bbb) There are no man holes for the drains to be maintained from the current pond where there are turns in the drainage and the pipe itself does not meet building standards.
- ccc) Compensation will be sought by the residents of Oak Close in respect of flooding as a result of this development.
- ddd) Existing pond owners Greenbelt Energy Limited have not allowed any further diversion or discharge into the current pond from the new development or the proposed works to allow 1m bank build up and amendments to pipes which is considered would not mitigate or slow flow of water, detrimentally impacting flood risk to existing Oak Close properties further.

- eee) FRA supporting the application doesn't truly reflect the existing situation and previous flooding instances at 41 and 43 Oak Close from blocked pipes or surface water run-off and doesn't reflect the flooding occurred four days before report submitted. The situation doesn't cover the November 2019 and February 2020 flooding events at Oak Close.
- fff) The water management and flood risk improvements planned will not relieve existing issues on site and will add to them as its unlikely the pipes are wide enough or that the detention basins will be adequately maintained.
- ggg) The foul sewage is already at capacity and the proposed plot is not suitable for land drawing to take in additional surface rain-water.
- hhh) Farmer who owns the land has dug trenches and has residents dig trenches to divert the flood waters to prevent ingress into homes and this will put pressure on these arrangements due to ineffective drainage system in place majority of which is not being replaced.
- iii) Concern at retention of existing pond which no one is managing or taking responsibility for still being shown and uncertainty of who will maintain the new detention ponds on plans for the new site. Noting existing ponds and aspects of drainage are not adopted.
- jjj) The ponds/basins proposed are all on gradient so won't this increase flood risk?
- kkk) Pot mining and underground springs have not been taken into account in the supporting surveys.
- lll) Residents currently have to maintain the pond and pipework for drainage from surface water themselves as the pipes from the pond and running between houses and therefore in private ownership and this will become worse from the development. Trash, footballs etc. easily block the pond as trash screens have been inserted which become easily blocked.
- mmm) Unclear how the existing sewer within the forestry planting area will be moved so the two elements do not conflict.
- nnn) Land was previously a wet meadow and took some run-off catchment from the Castle Gresley brook and there is concern once this is gone the flooding will be worse than predicted in supporting assessments.

#### Infrastructure and Developer Contributions:

- ooo) There is insufficient infrastructure in place for healthcare, schools, post office and other local amenities as a result of the need generated by the development to access such services.
- ppp) The nearest school is over a mile away and at capacity due to recent developments in neighbouring villages of Linton and Coton Park.
- qqq) The village telecommunications, internet and sewerage infrastructure is dated and insufficient for coping with the development and existing developments with no improvements planned for mitigation.
- rrr) Fresh water pump to the immediate area keeps failing to serve existing dwellings in the area and is thus unlikely to cope with additional development.
- sss) Nearest doctors Gresleydale is oversubscribed with no room to extend or amend services, the new development will increase pressure on this service without sufficient mitigation. Overseal doctors closed. Gresleydale will get the 1200 patients moving from closure of other doctors and then those from this development, will increase waiting times for patients.
- ttt) 2.5 people per household calculation is inaccurate and under-valued in calculating NHS requirements.

#### Other issues:

- uuu) The development will negatively impact house prices in the immediate surrounding area due to additional development in an area where the positive of moving to the area was to be close to the countryside.
- vvv) The development will detrimentally impact the security of immediate surrounding properties.
- www) The development and its impacts will result in detrimental impacts on mental health.
- xxx) Residents were not properly consulted on the development with lack of notification.
- yyy) The internet services in the area are outdated and struggle with providing existing properties good levels of service.
- zzz) Additional dog fouling.

1 no. letter of support has been received during the re-consultation period in 2021 as follows:

- a) Hopeful that the build out of land will help prevent flooding of properties in Oak Close and will only be beneficial for the land.

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

The relevant Development Plan policies are:

- South Derbyshire Local Plan Part 1 Adopted 13th June 2016 – LP1- S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H20 (Housing Balance), H21 (Affordable Housing), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), SD6 (Sustainable Energy and Power Generation), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF6 (Community Facilities), INF7 (Green Infrastructure), INF8 (National Forest), INF9 (Open Space, Sport and Recreation)
- South Derbyshire Local Plan Part 2 Adopted – LP2 - SDT1 (Settlement Boundaries and Development), H23 (Non-Strategic Housing Allocations), BNE7 (Trees, Woodland and Hedgerows), BNE8 (Local Green Space), BNE10 (Heritage)

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document November 2017
- Affordable Housing Supplementary Planning Document November 2017
- Section 106 Agreements – A Guide for Developers
- Trees and Development
- Cycling Strategy
- Strategic Housing Market Assessment Executive Summary and Full Report January 2020
- Housing Position Paper January 2021
- The National Forest Strategy 2014-2024
- Sustainable Community Strategy 2009-2029
- Landscape Character of Derbyshire
- Open Space Sport Community Facilities Strategy

The relevant national policy and guidance is:

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Technical housing standards – nationally described space standard (NDSS) 2015

The relevant legislation is:

- Town and Country Planning Act 1990
- The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
- The Town and Country Planning (Development Management Procedure) (England) Order 2015
- Habitat Regulations

### **Planning considerations**

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

- The principle of the development – the erection of 70 no. 100% affordable dwellings.
- Impact of the development on local character

- Impact of the development on highways safety
- Impact of the development on residential amenity
- Impact of the development on trees, hedgerows and landscape character
- Impact of the development on biodiversity and geodiversity
- Impact of the development in respect of coal mining, sub-terranean remains, land stability and pollution
- Impact of the development on flood risk and water management
- Impact of the development on local facilities and organisations considering financial contributions and viability

The following Planning Assessment is based on the revised plans and supporting documents as listed on the Drawings and Document List Updated 29th April 2021, or as otherwise indicated within the coming sections of this report.

## Planning assessment

### The principle of the development – the erection of 70no. 100% affordable dwellings

The development proposes 70no. 100% affordable dwelling split as follows:

- 20no. Type A – 2 bed 4 person Semi-detached houses @71.5sqm
- 2no. Type B – 3 bed 5 person Semi-detached houses @89.4sqm
- 8no. Type C – 2 bed 4 person Semi-detached houses @70sqm
- 14no. Type D – 3 bed 5 person Semi-detached houses @ 85sqm
- 2no. Type E - 4 bed 6 person Semi-detached houses @ 103.2qm
- 10no. Type F – 3 bed 5 person Split Level Semi-detached houses @ 86sqm
- 8no. Type G 1 bed 2 person Flats @ 45.8sqm
- 2no. Type H 2 bed 3 person Semi-detached bungalows @ 60.6sqm
- 2no. Type J – 4 bed 7 person Category 3 Semi-detached Dormer bungalows @ 136.4sqm
- 2no. Type K – 4 bed 6 person Semi-detached house @104.2sqm

This is proposed over a ‘developable’ site area of 5 acres or 2.02ha. In line with the Site Plan provided the total amount of public open space proposed is 1.16 acres/ 0.46ha, total National Forestry Planting 1.17acres/ 0.47ha which combined with the developable site area creating a total site area of 7.6acres or 3.1ha.

The most applicable policies to consider are S1, S2, S4, H1, H20 and H21 of the LP1 and SDT1 and H23 of the LP2. The most applicable guidance to consider are the Strategic Housing Market Assessment Executive Summary and Full Report January 2020 and the Housing Position Paper January 2021.

Policy S1 of the LP1 states ‘South Derbyshire will promote sustainable growth to meet its objectively assessed housing and commercial needs in the plan period 2011-2028. This strategy will be developed through this part of the Local Plan Part 1 – with development allocations made alongside development management policies which will continue into Part 2 of the Local Plan. The two parts of the Local Plan will ensure that the economic, social and environmental objectives set out in this Plan are fully assessed; Over the plan period (2011-2028) at least 12,618 dwellings will be built within South Derbyshire. The housing sites required will be met on a mixture of brownfield and greenfield sites with encouragement given to the re-use of previously developed land.’

Policy S2 of the LP1 states ‘Planning applications received by the Council that accord with the policies in the Local Plan Part 1 and 2 (and where relevant, with policies in neighbourhood plans) will be dealt with positively and without delay, unless material considerations indicate otherwise. Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision, then the Council will grant permission unless material considerations indicate otherwise-taking into account whether:

- any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the national planning policy framework taken as a

whole; or

ii. specific policies in that framework indicate that development should be restricted.'

Policy S4 of the LP1 states 'Provision will be made in this plan for at least 12618 additional dwellings over the plan period. Policy SDT1 of the LP2 states 'Settlement boundaries define the built limits of a settlement. Within settlement boundaries as defined on the policies map and in Appendix A, development will be permitted where it accords with the development plan. Outside of settlement boundaries and allocated sites, within the Rural Areas as defined in Policy H1, development will be limited to that considered acceptable inter alia by Policy BNE5.' Policy SDT1 defines Mount Pleasant (Castle Gresley) as a Local Service Village.

Policy H23 of the LP2 states 'The followings sites are allocated for housing development as shown on the Policies Map and in the site specific maps Policies 23A-N: J – Oak Close, Castle Gresley (S/0239) The site specifics are listed as follows:

- Around 55 dwellings.
- A landscaping buffer to be implemented and enhanced on the south western area of the site.
- No built development to the south-west of the existing tree belt.
- A detailed drainage strategy will be required.
- An appropriate easement to be provided that is free of obstruction along the existing watercourse for maintenance.
- Consideration of topography and use of 1.5 storey dwellings.

Policy BNE5 of the LP2 states 'Outside of settlement boundaries (as defined in policy SDT1) within the Rural Areas of the district planning permission will be granted where the development is:

- i. allocated for by policies H1, H22, E7, INF10, H24, H25, H26, H27 or H28; or
- iii. unavoidable outside settlement boundaries.'

The Council have continuously monitored the housing land supply, including the five-year supply and as per the Housing Position Paper January 2021 a 5.76 year supply could be demonstrated. The Council's housing land supply was evaluated as part of the Inspectorates decision on the Weston Road Appeal APP/F1040W203261872 and whilst the supply was lower than the Position Paper figure, a supply could still be demonstrated. To this end it is still maintained that the Council can demonstrate a five-year housing land supply and with respect to policy S2 of the LP1 and paragraph 11 of the NPPF, the relevant housing and settlement policies are considered to be up to date and a titled balance is not in play. No issue is raised at the demolition of the existing agricultural barn building to the south west of the site.

The area where the housing and highways infrastructure is proposed is contained within the H23J allocation area and thus whilst the number of dwellings is higher than 55no. dwellings specified in the policy, the number quoted within policy H23J is not a limit for the number of dwellings noting the other considerations as listed within that policy which will be considered in the coming sections of this report. Thus, the principle of residential development within the H23J allocation area is considered to be acceptable. As can be seen from the revised Site Plan, following the original submission an additional, extended site edged red area has been added including a wider area of detention basins and water management. To this end the site both covers the H23J site allocation area, in respect of its 'developable' area as indicated in the applicants submission but also includes an area beyond this allocation with reference also to the Castle Gresley (Mount Pleasant) Settlement Boundary, thus part of the site being within a rural area or open countryside. The appropriateness of this will be considered in the 'Impact of the development on flood risk and water management' section of this report.

#### Impact of the development on local character

The most applicable policies to consider are S1, H1, H20, H21 and BNE1 of the LP1 and H23 of the LP2. The most applicable guidance to consider are the South Derbyshire Design Guide Supplementary Planning Document, Affordable Housing Supplementary Planning Document and the Technical housing



standards – nationally described space standard document.

Housing mix, type and tenure: The Strategic Housing Officer also notes that the scheme fully reflects pre-application and other discussions held in respect of the proposals and strategic housing need for the area. They go on to note that the scheme was developed in conjunction with the Council's Strategic Housing Team to meet the Districts objectively identified affordable housing need, in a sustainable location, close to existing shops and facilities and will bridge shortfall in affordable housing delivery in the Swadlincote South sub-market area which has been subject to some viability constraints on nearby sites. The Swadlincote South sub-market area is a location of exceptional affordable housing demand, with  $\frac{3}{4}$  of all applicants on the Council's housing waiting list selecting this area as their preference to live. The scheme proposes a fully affordable housing scheme with 44no. or 63% provided as affordable rent (capped at 80% market rent including service charge) allocated through the Council's housing waiting list and 26no. or 37% provided as shared ownership with the mix as follows as indicated in the applicants Viability Assessment:

Affordable Rented – 18no. House Type A 2 bed house @ 71.5sqm, 2no. House Type B 3bed house @89.4sqm, 8no. House Type D 3 bed house : 85sqm, 2no. House Type E 4 bed house @ 103.2sqm, 4no. House Type G 1 bed flat @45.8sqm, 4no. House Type G 1 bed flat @50sqm, 2no. House Type H 2 bed bungalow @60.6sqm, 2no. House Type J 4 bed dormer bungalow @136.4sqm and 2no. House Type K 4 bed house @104.2sqm.

Shared Ownership – 2no. House Type A 2 bed house @71.5sqm, 8no. House Type C 2 bed house @ 70sqm, 6no. House Type D 3 bed house @ 85sqm and 10no. House Type F 3 bed split level house @ 86sqm.

The Strategic Housing Officer has confirmed they are happy with the split and mix proposed. The use of planning condition will be required to ensure the mix, tenure and type of the units and for a Local Lettings Plan for rented homes allocation is prepared in partnership between the Council and East Midlands Housing to ensure the new community is sustainable in the long term to include a percentage of the homes to be allocated to working households (subject to Equality Act implications).

In accordance with the Affordable Housing SPD, each dwelling benefits from its own front door leading to the outdoors. In line with the Strategic Housing Officers comments, it is proposed to deliver all the homes as M4 (2) Building Regulations homes being accessible and adaptable meaning they will be able to flex and adapt easily to meet ageing and disability needs. In addition to this it is proposed that the 4no. one bedroom ground floor flats House Type G, 2no. two-bedroom bungalows House Type H and 2no. four-bedroom dormer bungalows House Type J will be delivered to M4(3) Building Regulations as wheelchair accessible. These proposed commitments are acknowledged by the Council's Strategic Housing team particularly as the 2no. four-bedroom dormer bungalows house type J does not exist with social housing stock within the District which as a result, families that are in need of a larger accessible homes can have an excessive wait on the Council's waiting list. Subject to conditions, informatives and legal agreement the proposed mix, sizes and tenure are provided at a level expected and are in compliance with the relevant policies and guidance.

Layout and streetscape: The site has varying topography with some steep slopes declining from north to south and rising west to east which is acknowledged would present some constraints to how development may be laid out on site. Notwithstanding the comments from the Designing Out Crime Officer regarding the new western pathway linking the walking loop around the site in respect of issues regarding public/private space separation which is contested, it is considered the amendments to this have improved this aspect of the site design, providing good opportunity for pedestrian infrastructure and encouraging healthier lifestyles. The Designing Out Crime Officer did note the improvements to passive surveillance to the play area and southern pathways as a result of plot amendments and house type changes. During the course of the application the design and layout has been successfully amended to reflect discussions on the use of 'bulbus' projecting boundary treatments and the requirement for new developments to be integrated and interactive to some regard with surrounding development the layout has been fulfilled with the western units to face towards the existing residential development on Oak Close. In addition, whilst indicated generically at this time enhanced street tree

planting and greenery to the primary road and first cul-de-sac off the entrance to the site is planned which will assist in softening the appearance of frontage/side parking and aid in successful placemaking in line with guidance and policy. Landscaping is discussed in more detail in the coming sections of this report.

The Design Guide states that driveways and parking spaces on residential developments should be wide enough to allow the doors on both sides of the car to be opened sufficiently, in order to provide comfort of use for all users. To this end for residential surface parking an absolute minimum dimension of 2.4m (w) x 5.5m (l) per space is expected. Where bound by a wall, fence, hedge, line of trees or other obstructions on one side 0.5m should be added with 1m added to these if bound on both sides. Parking for plots with a shared driveway (excluding frontage parking areas for terraces) should ideally be separated by a 1m landscape strip with hedgerow, ensuring that there is room to manoeuvre around vehicles. Tandem, triple width parking bays (ie. 6 parking spaces) in one location will not be permitted unless each tandem space is separated by a 1m hedgerow. The Council recommends that parking for residential properties is provided on plot, behind the building line, between dwellings and/or on drive through units/car ports so as to enhance the street character and maintain strong building lines and front boundary treatment lines, and avoid parked cars dominating the street. Where frontage parking is proposed this should be limited in number and sensitively located within the development away from primary streets and frontages and softened with landscaping that equals or exceeds that of hard landscaping. The Design Guide goes on to say that off-plot frontage parking for linked units/terraces should be softened and broken up with street trees. It is also encouraged that there is street parking for unallocated visitors and that residents should be able to see their car from their homes. With reference to the Affordable Housing SPD the Council, wherever possible, require affordable homes to have no shared driveway arrangements and whilst there are some within this development, the majority of plots will be serviced by adoptable standard roads with the development to be brought forward by East Midlands Housing. During the course of the application concerns were raised in regards to the amount, layout and design of vehicular parking throughout the site. From viewing the revised Site Plan and sections provided and indicated landscaping these elements have been taken into account and sufficient proportions of hard/soft landscaping are proposed, with mostly side driveways behind the frontage building lines but with the possibility to view their vehicles easily from their homes in relation to parking which will help assist in ensuring that parked vehicles are not the predominant visual focus of the site and rather the architecture and built development is. Specific materials, planting, species and colours etc. for these aspects of the development will be secured via use of planning conditions.

Considering the aesthetic of the dwellings themselves, improvements have been made to their façade treatments following discussion during the course of the application. The elevations mirror the muted style ornamentation seen on residential developments such as the existing Oak Close and subject to agreement of details, specification, colour and materials of windows, doors, external walls, verges etc. via use of planning condition, no objections are raised as to the design of the dwellings. To this end the architectural style of the homes is considered to be 'tenure blind' in comparison to surrounding predominantly private market residential dwellings. In line with the National Forest guidance it will also be sought that wooden porches/canopies/cladding be provided through planning condition.

External amenity areas and bin storage: Noting the varying topography of the site that declines rather steeply from north to south, the external amenity areas or rear gardens development as a whole are of a suitable size commensurate to the size of the property they will be associated with. Taking into account the Affordable Housing SPD, the sizes of the gardens are also comparable with surrounding private residential dwellings in the immediate area, assisting tenure blindness. The first-floor flats in House Type G will have access to a shared rear external amenity area, which for the sake of drying clothes etc, and noting the good provision of public amenity areas, is considered to provide sufficient opportunity for enjoyment of the outdoors and quality of life enhancement at a scale suitable to the size of dwelling proposed. Landscaping is discussed in further detail in the upcoming sections of this report. Due to the need to maintain the level of external amenity space, parking spaces and overall character of the development, permitted development rights for extensions, alterations and outbuildings will be removed throughout the development (noting flats would not benefit from this anyway).

At this time the plans provided other than for the flats demonstrate the method or location for bin



storage both on plot and also where applicable for collection day in the instances where plots are accessed via private driveway. The bin storage presented for the flats does not appear large enough to accommodate the type and number of bins that would be required to service these properties. With respect to the other on plot bin storage and off-plot bin collection areas for private driveways given the layout of the site and individual plots, it is considered that these elements can be accommodated through provision of relevant detail through use of planning conditions. Bin stores will be expected to be attractive, respond to the architecture of the plot and be sited away from public view in the interests of quality place making, with bin collection points clearly marked by use of hard landscaping and appropriate signage.

#### Impact of the development on highways safety

The most applicable policies to consider are S1, S6, BNE1 and INF2 of the LP1 and H23(j) of the LP2 and the guidance with the South Derbyshire Design Guide Supplementary Planning Document, Affordable Housing Supplementary Planning Document and Cycle Strategy SPD.

**Access and manoeuvrability:** The site will be accessed via a new connecting spinal road serving the various cul-de-sacs proposed for the development from Oak Close which itself is accessed via Cedar Road which leads onto Bass's Crescent or Arthur Street both leading onto Linton Road providing access to the wider area, all of which are adopted highways. Oak Close which is a 5.5m, 30mph speed limit, dual flow, single lane highway with pedestrian infrastructure to both sides lit with street lighting and dropped kerbs. Each road within the development is to have pedestrian pavement to the adoptable areas to both sides including serviceable areas around turning heads. No issue has been raised in respect of the impact on the surrounding highways network as a result of the development in regards to trip generation and transport modes following review of the accompanying transport related documents. Following comments from the County Highways Authority (CHA) the applicants have amended the scheme. CHA have reviewed the most revised scheme and do not object to the development following the submission of detailed tracking and vehicle manoeuvring drawings covering all vehicle types likely to service a residential development. CHA to ensure ongoing highways safety and management for the development recommend a series of conditions and informatives to cover maximum gradients of roads/accesses/driveways, construction details with surface water management information for the roads/accesses/driveways, construction method statement and compound information, and a scheme to ensure the ongoing management and maintenance throughout the development for its lifetime.

**Parking provision:** When considering parking numbers the Design Guide SPD strongly encourages that at least 2no. spaces are provided per dwelling and for homes of four bedrooms or more 3no. spaces should be provided. For flats, it is recommended that one unallocated visitor space is provided for every two dwellings (half a space per dwelling). Variations may be considered due to location (such as town centre sites). The Design Guide goes on to say that driveways and parking spaces on residential developments should be wide enough to allow the doors on both sides of the car to be opened sufficiently, in order to provide comfort of use for all users. To this end for residential surface parking an absolute minimum dimension of 2.4m (w) x 5.5m (l) per space is expected though a wider space is expected where serving specialist wheelchair accessible units. Where bound by a wall, fence, hedge, line of trees or other obstructions on one side 0.5m should be added with 1m added to these if bound on both sides. Parking for plots with a shared driveway (excluding frontage parking areas for terraces) should ideally be separated by a 1m landscape strip with hedgerow, ensuring that there is room to manoeuvre around vehicles. Tandem, triple width parking bays (ie. 6 parking spaces) in one location will not be permitted unless each tandem space is separated by a 1m hedgerow.

Following extensive consultation and communication, the revised proposals now for the majority provide a sufficient number of parking with dimensions and landscaping at the minimum standards recommended within the Council's policies covering design, parking and highways accesses. Whilst 2no. vehicular parking spaces and not 3no. have been provided for House Type J a four bedroom house unit, which would represent an under provision against guidance, taking into consideration that this house type would provide a much needed disability accessible dwelling into local stock it is considered that an under provision of 2no. spaces would not result in significant detrimental impacts on highways safety or parking provision on site and as such in this instance on balance is

acceptable. CHA recommend conditions and informatives to secure suitable methods of construction, materials, gradients, PD removal for new access/gates/enclosures and lifelong retention of the parking spaces/car ports throughout the development in the interests of highways safety and sufficient parking provision which will be attached to any approval of the development.

At this time cycle parking has not been indicated on the plans other than for the flats. The cycle parking for flats is usually sought to be designed into the interior of the building to aid security, though less successful alternatives of cycle storage outside can be acceptable subject to this being overlooked, covered, well-lit and secure as per the Design Guide SPD. Whilst the number of cycle parking indicated on the Site Plan is 8no. reflecting the provision of 1no. per flat expected, the placement of this storage is tucked away behind bin storage in the rear amenity area of plots 25-32 which makes passive surveillance of this area even from first floor areas difficult. To this end this arrangement requires further work and as such whilst presently not acceptable, can be adequately sought for further approval through the use of planning conditions to ensure compliance with wider environmental and sustainable transport policies and guidance and to ensure good quality, thoughtful placemaking. Secure cycle parking provision by condition will also be sought for the rest of the development to encourage sustainable transport method uptake near a cycle network and to promote healthy lifestyles. Also to support sustainable transport methods and wider pollution/environmental goals 1no. electric vehicle charging point per dwelling will be sought via use of planning condition.

Travel Plan: The County Highways team have reviewed the Framework Travel Plan for the development and are generally in agreement with it subject to amendments and additional information to be included and clarified as agreeable through the submission of further details via planning conditions/legal agreements. A monitoring fee for the Travel Plan implementation and monitoring etc. is also expected at £5,075.

Taking into account the above the development is considered on balance to be in compliance with the relevant policies and guidance covering highways safety and parking subject to the use of planning conditions/legal agreements and informatives.

#### Impact of the development on residential amenity

The most applicable policies and guidance to consider are SD1 and BNE1 of the LP1 and H23J, Design Guide SPD and Affordable Housing SPD. Between them these policies seek to support development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments. New development should not have an undue adverse effect on privacy and amenity of existing nearby occupiers. Similarly, the occupiers of new development should not be unduly affected by neighbouring land uses.

In line with the Design Guide SPD, within new housing schemes where minimum distances between dwellings are not fully met, the Council will expect such an approach to be justified by a high standard of design incorporating an imaginative use of space, and the provision of attractive areas of open space, to create a feeling of place for future residents. Where new development abuts existing development, the Council will seek to ensure that the privacy and amenity of existing occupiers are respected. The following guidelines will be used as a basis for ensuring this is maintained and will be applied where existing occupiers are affected by proposed development. The guidelines aim to retain a reasonable level of privacy for existing occupiers in terms of both direct overlooking and overbearing.

In respect of the layout of the development and the surrounding existing neighbouring residential properties, due to the distances, provision of rear gardens and orientation it is not thought that there would be detrimental impacts to the existing satisfactory levels of residential amenity presently enjoyed as a result of the development. When considering the site layout alone it would appear that plots 19 and 20 would result in some overlooking of plot 21, however following the provision of levels/sections information during the course of the application it is considered due to the terracing, boundary treatments and landscaping that this would be overcome, subject to the provision of the specification and the future retention of these elements by use of planning condition. To ensure amenity is protected for the lifetime of the development and noting the various levels changes and tree constraints

presented, permitted development rights will be removed accordingly for extensions, alterations, outbuildings, accesses and means of enclosure. During the construction of development construction and delivery hours will be restricted to non-sensitive construction hours for development adjacent to existing residential developments and Construction Management Plan/Method Statement will be attached to any approval of the development, to ensure amenity protection for neighbouring development during the construction period.

### Impact of the development on trees, hedgerows and landscape character

The most applicable policies and guidance to consider in respect of trees, hedgerows and landscape character are policies S1, BNE1, BNE4, INF1, INF7, INF8 and INF9 of the LP1, policies H23J, BNE5 and BNE7 and the Design SPD, Affordable Housing SPD and Trees and Development SPD. Between them these policies seek that for new development adequate assessment works are undertaken to establish the character and quality of trees and landscape and that where detrimental effects on either or removal of tree life is proposed that consideration is given as to appropriate mitigation on site through landscaping or replanting schemes (including management schemes to ensure long term maturity) or in exceptional circumstances financial contributions. Where there are detrimental impacts that cannot be adequately mitigated or where impacts can be avoided refusal may be recommended.

The Tree Officer has reviewed the revised scheme and additional supporting tree documents and overall has no objection to the development following review of application suite of documents. However the Tree Officer notes that while in agreement broadly with the findings of the Shade Study in respect of plots 21 and 22, it is noted that many residents are unable to cope with even partial shade cover/loss of natural light and this may increase the likelihood that it be requested in the near future that the tree is felled. Upon reflection it is considered that there is adequate distance between the dwellings and the tree and that the fencing to this area near this tree can be captured through use of planning condition noting that encouragement to use this as a maintenance pathway may cause compaction of tree routes, also the case for retaining wall etc. features due to the land level works required. Given the quality of the G2 TPO group, no issue is raised at their loss. The use of planning conditions to ensure the provision of an AIA, Tree Protection (requires revision as Site Layout has been updated) and tree replacement planting in landscaping plans with updates to reflect the amended Site Plan and tree works to be conducted in line with the Arboricultural Method Statement provided.

National Forest: As the site is located within the National Forest area policy INF8 and the guidance within the The National Forest Strategy 2014-2024 are relevant. The total site area comprises 7.6acres or 3.1ha and thus as per the requirements of this policy tree planting and landscaping incorporation in line with the National Forest species etc. criteria and area calculations is expected with creation/management of habitats and recreational facilities with a woodland character. For this site 20% of the development area is expected under this policy and guidance to be woodland planting and landscaping. This would therefore equate to a required planting area of 0.62ha.

The Site Plan provided demonstrates the total amount of public open space proposed is 1.16 acres/ 0.46ha, total National Forestry Planting 1.17acres/ 0.47ha which combined with the developable site area creating a total site area of 7.6acres or 3.1ha. In line with the Public Open Space and Forestry Planting plans this plan demonstrates that for a developable site area of 2.05ha or 20549sqm forestry planting @20% amounts to 4267sqm or 0.42ha of National Forestry Planting as shown on this plan, and POS at 0.58ha based on requirement generated considering INF9 of 170no. bedrooms 170no bedrooms @25.4sqm provision per bedroom. This equates to a total green space area of 1ha representing a 32% proportion of the whole site area. Whilst the specified National Forest planting area does not mirror the 20% amount as above, due to the provision of the overall green amenity space, natural play equipment, pathways and other biodiversity aspects of the scheme, the National Forest Company have not raised objection to the development subject to conditions. The conditions requested would cover securing this provision plus: further specific details in respect of materials, planting arrangements and species/age/size within landscaping plans; woodland management scheme; pathway management scheme; frontage street tree planting; safety features for play equipment near attenuation basins and management of these plus the inclusion of wooden aspects and where possible to the external faces of the dwellings. Whilst the Forestry Commission as Forestry Advisors to the

Government can neither support or object to planning applications, they are encouraged by the woodland planting proposed and do not have anything to add above that which the National Forest Company have already stated. The National Forest provision will also form part of any legal agreement entered into in respect to the area required, planting specs and long-term maintenance and management.

Public Open Space: In line with the Public Open Space and Forestry Planting plans the POS requirement generated based on 70no. bedrooms @25.4sqm provision per bedroom a 5874sqm or 0.58ha area would be required, which is as proposed.

In respect of the play area provision the Designing Out Crime Officer highlighted that whilst this is good to provide and that the public benefits far outweigh amenity problems, it is considered sensible that via use of planning condition that the potential replacement and management of these including repairs due to criminal behaviour such as defacement is covered. The National Forest Company similarly seek management plan details for the footpaths and connections provided within and to the area beyond the development so as to encourage safe public access. Some concerns were raised by both these consultees at the provision of wood style play equipment in or close to the detention basins and if these would rot or due to location create safety issues as a result of poor maintenance or lack of public warning to alert to potential presence of water eg. from signage or from appropriate boundary treatments within this area. The applicants responded to the comments in respect of wooden play equipment near a basin area to say 'The proposed LEAP would be designed and specified in accordance with relevant British Standards and guidance (e.g., RoSPA, Child Accident Prevention Trust, Fields in Trust etc.), and subject to a risk assessment. EMH (as the registered landlord) would be responsible for all grounds maintenance in the public realm, including the routine inspection, monitoring and maintenance of the LEAP features and play area as a whole. The timber features would be specified as a moisture tolerant and dense wood, so as to be robust and difficult to burn, without need for chemical treatment. It is noted that the Council's Design SPD states that 'A natural play approach should be adopted to encourage use and exploration of areas of green infrastructure. This could include changes in ground level, fallen trees and boulders to climb on as well as timber play equipment. Play areas should be integrated into the green infrastructure network and not fenced off from it' (page 64). Whilst the detention ponds are designed to attenuate water during storm events, they are generally dry basins; as such they can deliver multiple benefits including environmental enhancements (i.e., green space) and play areas and reference is made to the Local Government Association website on Sustainable Urban Drainage (<https://www.local.gov.uk/topics/severe-weather/flooding/sustainable-drainage-systems>), which specifically notes as a benefit of SUDS 'recreation – multi-purpose SuDS components can not only manage surface water, but also act as sports/play areas'. Various case studies are provided on the Susdrain website (<https://www.susdrain.org/case-studies/>), including the Queen Caroline Estate, London for which it is noted that 'The basins and adjacent landscaping include informal play areas, including bridges, mounds, stepping logs, balance beams and boulders' and at Springhill Cohousing Development, Stroud for which it is noted that the SUDs solution includes '... creating play spaces from storage basins ...' for which the '... dished play area which doubles as a storage basin in the worst rainfall events'. Accordingly, whilst acknowledging the concerns raised, it is considered that as EMH will be responsible for the design, delivery, monitoring and maintenance of the proposed LEAP, and given the benefits and examples available, that matters relating to both safety and maintenance can be appropriately managed. The precise details of the LEAP and attenuation area and the maintenance/management arrangements could be controlled through a suitably worded planning condition.'

Upon consideration of the applicants response, use of planning condition can secure play equipment details of a suitable specification.

Overall Landscaping Comments: Whilst soft/hard landscaping are indicated on the Landscape Masterplan drawing, the specific details of specification types, sizes, ages and location of the planting proposed is not contained in this information. The indication of tree species planting to follow the National Forest guidance is welcomed as is native species planting elsewhere and would form part of any landscaping condition should the application be approved. The Landscape Officer has reviewed the application and does not raise objection subject to conditions to ensure good quality, detailed soft and hard landscaping with appropriate biodiversity enhancements and long-term management. At this



time as the boundary treatments for the site as shown require revision as they have not been updated following the site plan this will be attached as a condition of any approval of the development. In addition, permitted development rights will be removed for the development to ensure that boundary treatments are retained as approved with regards to local/landscape character and also highways safety. Subject to conditions and informatives the development is in compliance with the relevant policies and guidance.

#### Impact of the development on biodiversity and geodiversity

The most applicable policies guidance and legislation to consider are S1, SD1, SD2, SD3, BNE3, BNE4, INF7 and INF8 of the LP1, H23J and BNE7 of the LP2, Trees and Development SPD and the Habitat Regulations. Between them these policies state that the LPA will support development which contributes to the protection, enhancement, management and restoration of biodiversity or geodiversity and delivers net gains in biodiversity where possible. For planning proposals that could have a direct or indirect effect on sites with potential or actual ecological or geological importance they will need to be supported by appropriate surveys or assessments sufficient to allow the Authority to fully understand the likely impacts of the scheme and the mitigation proposed. Where mitigation measures, or exceptionally, compensation cannot sufficiently offset the significant harm resulting from the development and/or where the development can potentially be located on an alternative site that would cause less or no harm, permission will be refused.

The Derbyshire Wildlife Trust Officer has reviewed the submission and confirmed they have no objection to the development subject to the use of planning conditions as previously provided in their historical correspondence dated September 2020. They note that whilst the updated Ecological Impact Assessment version 2 dated July 2020 confirms badgers are still present in the area, no badger setts are currently present on the site. They confirm their overall support of the landscaping and biodiversity enhancement as indicated on Landscape Masterplan 1916-PL1-02 Rev D regarding new areas of woodland planting, wildflower meadows and enhancement of retained hedgerows and that this alongside the implementation of landscaping along with the biodiversity enhancement recommendation outlined in section 7 of the EclA by RammSanderson dated July 2020 should result in the expected new gains for biodiversity as expected for a development of its type and size as required in the NPPF and policy BNE3 of the LP1. Natural England have also confirmed in their feedback they have no objection to make. Natural England note that based on the plans submitted they consider the development will not likely have significant effects on the River Mease Special Area of Conservation (SAC). In respect of the Habitat Regulations there is unlikely to be any significant effect on the River Mease SAC as no harmful foul or surface water from the application site will be discharged into the River Mease SAC or its tributaries, as explained in paragraph 5.21 of the Planning Statement 19062.PSS1.AS18/01/2021. To this end it is not considered the development would damage or destroy the interest features for which the site has been notified and they have no objection. Taking into account the above subject to the conditions sought as prescribed within the consultation responses section of this report, it is considered that overall the development would be in compliance with relevant policies and guidance.

#### Impact of the development in respect of coal mining, sub-terranean remains, land stability and pollution

The site comprises historical agricultural fields presently used as such with stream and areas of woodland etc. and within an area of contaminated land potential. The most applicable policies to consider are S1, S3, SD2, SD3 and SD4 of the LP1. SD4 is the lead policy to consider which states that 'planning permission for development on land which is known to comprise made ground or which is unstable, contaminated or potentially contaminated, will only be granted where the applicant has demonstrated through appropriate investigations, that the scheme will incorporate any necessary remediation measures to protect human health and/or the natural environment'. As previously summarised the application is supported by several ground assessments. It is considered that overall there is low risk to a residential end receptor on this site with regards to potential elements of contamination. The risks that may be present are located to the south west of the site in respect of Alluvium and Ground Gas and subject to prior to commencement style investigatory works, recommendations and mitigation secured via use of planning condition that the development would be

in compliance with the aims of the listed policies. The Environmental Health officer has reviewed the application and raised no objection subject to the use of conditions and informatives as previously summarised. In addition to their recommended conditions as it is likely that soils may be imported to the site for landscaping or for levels works a soil importation condition will also be attached to any approval of the development, plus previously undiscovered contamination and verification report conditions will also be attached.

The site lies within a Coal Mining Low Risk Area and as such the Coal Authority were consulted for comment. They confirmed they have no objections given the low-risk location and therefore seek that should planning permission be granted the Standing Advice is attached as an informative on any decision issued in the interests of public health and safety.

The site lies within an area of subterranean historical environment record potential noted perhaps as having medieval Ridge and furrow earthworks. The most applicable policies in respect of archaeology and sub-terranean remains are S1 and BNE2 of the LP1 and H23J and BNE10 of the LP2. During the course of the application the applicant has provided results of a geophysical survey that suggests the site is of low archaeological potential. This has been reviewed by the Derbyshire County Council Archaeologist who considers the survey work was executed in line with the expected levels of survey and evaluation as stipulated within the NPPF, concurring with the results and that there is no need to place further archaeological conditions should the development be recommended for approval. The development is considered to be in compliance with the aforementioned policies covering archaeology without the need for planning conditions.

#### Impact of the development on flood risk and water management

The most applicable policies to consider are S1, S2, S3, S4, SD2 and SD3 of the LP1 and BNE5 and H23 of the LP2. As the site is located in a Flood Zone 1 a Sequential or Exception Test is not required. The application is supported by several flood risk and water management documents/assessments including a Surface Water Drainage Scheme for the development and an Off-Site Drainage Scheme. During the original consultation period, from pre applications and the allocation policy itself, arrangements for flood risk prevention and mitigation are required noting that whilst in a Flood Zone 1 there have been recent flood events in 2019 and 2020 (original FRA supporting application were produced before these events, though updated documents). These flood events are noted to be as a result of farmland management in the agricultural fields at a higher level than the existing Oak Close properties and that this created some overland flows which breached boundaries and entered homes on Oak Close. It is also noted that the land drain serving this area which flows into the existing Oak Close pond (beyond site edged red) had been poorly maintained, which had lead to trash build up blocking pipes that allowed water to flow from this pond into the Severn Trent sewer under Oak Close highway and due to the pipe work in this area being 150mm connecting into a 300mm pipe further along the system this thusly acted as a throttle surcharging back up to the pond and wider system causing flooding to occur following storms (severe weather events). As noted in the supporting documents for this application this variant in pipework diameters was confirmed by CCTV and survey work conducted during the course of the application.

The original surface water management scheme for the site included a surface water drainage system for the development that enters the developments surface water attenuation basin and utilising outflow pipe to the existing problematic Oak Close pond then into the land drain that flows via no. 43 Oak Close, then heads west to the Severn Trent network via hydrobrake the surface water drainage system. Following discussions during the course of the application and concerns raised by residents on Oak Close this has been amended and the site edged red extended with the proposed surface water drainage system for the site now avoiding the existing off-site pond and pipework system, instead flowing into the on-site surface water attenuation basin then out downhill (gravity system) via a system of adoptable pipework with hydrobrakes to assist in flow control, connecting into the manhole at the turning head of Oak Close and thus into the wider water management network as existing. The existing greenfield runoff rate is calculated as 3.8l/s and it is proposed to restrict flows from the development to 2.5 l/s therefore the post development runoff rate will be reduced and it is at this rate that the surface water will enter Severn Trent sewer network via the proposed method aforementioned. The existing

land drain to the south west of the site entering the existing Oak Close pond (under Greenbelt Land ownership/management) is proposed to be diverted around the developments surface water attenuation basin before entering the existing pond. The combined sewer running to the south west will also be amended to wrap around the sites surface water attenuation basin where beyond the existing Oak Close pond (that it comes near to but does not enter) then exits into a separate foul pipe via the turning head at Oak Close. Due to the works avoiding using the existing Oak Close pond for surface water discharge which is a known flood/water management issue in other ownership, and as the rate of discharge of surface water into the existing Severn Trent system in Oak Close is lower, the arrangement proposed as a result of the development is a betterment of the existing situation providing lower rates of discharge to help address and lessen flood risk as a result of the development and for the surrounding area.

In line with the results of the Flood Risk Assessment, it is noted that overland flows from surrounding agricultural land have been surveyed and are considered to be very low risk, however it is noted from recent flood events that following field cropping and an unusually heavy storm that there was additional overland flow which breached properties, beyond the site edged red. The supporting information shows that an additional mitigation attenuation basin in the field adjacent to the development is proposed within the extended site edged red, which is proposed to help mitigate overland flows that are not resultant of the proposed development from the surrounding agricultural fields. This is to help provide betterment to existing water management and to assist flood risk reduction to both the highway and existing properties, by providing storage capabilities within the additional attenuation basin for the 1 in 30 greenfield volume. It is stated this is achieved by allowing overland flood water to drain to the attenuation basin at the low point of the land and be conducted away from the area via the existing land drain rather than cascading across the field as in the current situation. They note that whilst flood risk cannot be eliminated entirely providing some storage for these water events will reduce the risk that is currently present, especially during more frequent storms. No issue is raised that this would be provided in land outside of the housing allocation H23J area, therefore positioned in a rural area as it would be necessary and essential works to support the delivery of a housing allocation as prescribed in Local Plan policies of an otherwise acceptable form, nature and unavoidable development in the countryside with reference to policy BNE5 of the LP2. Whilst this additional attenuation pond is within the site edged red the ditches and pipeworks to outfall from this pond into the existing Severn Trent network under Oak Close plus the valley works shown on the supporting drawings are not, the works to the banks of the existing Oak Close pond including head wall, maintenance and amended pipework is also outside the red edge all of which are required in combination to assist in existing water/flood management issues and that of the proposed development. It is noted these elements are in differing ownerships. During the course of the application it has been confirmed by the applicants that they and the landowners are willing to enter into an appropriate planning obligation/legal agreement to secure these off-site drainage works as part of the overall development and improvements to the area.

For foul drainage it is proposed that the existing south western running combined 225mm gravity sewer by Severn Trent Water will be diverted slightly to accommodate the proposed development with additional hydraulic modelling required to understand impact of the additional foul flows on the downstream sewer network which will form a condition attached to any approval of the development. Whilst a maintenance strategy for surface and foulds from the development is provided in the FRA this will required to be supplemented by additional specific plans and information to ensure long term maintenance and management of these aspects to ensure good water management for the site. In addition the use of water will be restricted to 110 litres per person per day through condition as per the recommendations for sustainable water use described within the aforementioned policies and guidance.

Severn Trent Water (STW) have reviewed the revised proposals and supporting information and raise no objection subject to the appropriate use of planning conditions, legal agreements and informatives to ensure that the sw flows into the public sewer from the new development at a further reduced rate of 2.5 l/sec, subject to overall there being no increase in overland flow from the pond/field etc by directing the existing land drainage flows from the 150mm dia pipe located in the private garden to a new sw connection to be laid by the Council in Oak Close. STW also seek that the flows from the new connection should not be higher than the existing discharge from the 150mm dia pipe at its design limit



before the flooding flows occur, anything over that limit needs to be attenuated. The LLFA have reviewed the proposals and also raise no objection subject to conditions informatives and legal agreement/planning obligation covering: prior to commencement detailed surface water strategy for the site and management/maintenance plan encompassing Appendix F of Flood Risk Assessment (Revision B Ref: R-FRA-11285R-01-B. Dated November 2020) the works comprises of diversion of the land drain from the existing pond along the cul-de-sac adjacent to 43 Oak Close and to be connected into existing 1500mm surface water sewer in Oak Close (Fig 2 Appendix F of FRA RFRA-11285R-01-B) and the other supporting documents; prior to commencement surface water run-off during construction phase; attenuation ponds not brought into use until CIRIA SuDS Manual C753 with associated management and maintenance plan agreed with LPA; prior to occupation verification report. The revised FRA dated March 2021 rev C will be cited in any conditions/legal agreement wording.

Taking into account the above information subject to the use of planning obligation/legal agreement, conditions and informatives it is considered that the development will provide improvements to water management and flood risk reduction in comparison to the existing situation and thus is in compliance with the relevant policies and guidance.

#### Impact of the development on local facilities and organisations considering financial contributions and viability

The most applicable policies and guidance to consider are S1, S2, S3, S4, H20, H21, SD1, SD2, SD3, INF1, INF2, INF6, INF7, INF8 and INF9 of the LP1; SDT1 and H23J of the LP2 and the Affordable Housing Supplementary Planning Document November 2017 and Section 106 Agreements – A Guide for Developers, Trees and Development, Cycling Strategy, The National Forest Strategy 2014-2024, Sustainable Community Strategy 2009-2029 and Open Space Sport Community Facilities Strategy.

Policy S1 of the LP1 states 'The two parts of the Local Plan will ensure that the economic, social and environmental objectives set out in this Plan are fully assessed:

iii. Provide new infrastructure to support growth across the District. This will include new transport and education provision, and other services and facilities. This will be undertaken through obtaining appropriate planning obligations from future development and working alongside key stakeholders to ensure that existing and future requirements are considered.'

Policy INF1 of the LP1 states 'A. New development that is otherwise in conformity with the Local Plan but generates a requirement for infrastructure will normally be permitted if the necessary on and off-site infrastructure require to support and mitigate the impact of that development is either:

i) already in place, or ii) there is a reliable mechanism in place to ensure that it will be delivered in the right place, at the right time and to the standard required by the Council and its partners. B. The Council will revise its Planning Obligations SPD to cover infrastructure and service requirements, including site-specific infrastructure, to be delivered through s106 Planning Obligations. C. Where appropriate, the Council will permit developers to provide the necessary infrastructure themselves as part of their development proposals, rather than making financial contributions. D. It is expected that development is appropriately supported and its effects mitigated, in the interests of sustainability. The viability of developments will also be considered when determining the extent and priority of developer contributions in line with the Infrastructure Delivery Plan.'

Policy H20 of the LP1 states 'A. The Council will seek to provide a balance of housing that includes a mix of dwelling type, tenure, size and density. The overall mix of housing will take account of the Strategic Housing Market Assessment and Local Housing Needs Study.

D. The viability of a development will be considered through determining a schemes housing mix.

E. The Council will also promote a mix of housing that is suitable and adaptable for different groups of people such as single occupiers, people with disabilities, people wanting to build their own homes and the ageing population of the District.'

Policy H21 of the LP1 states 'A. The Council will seek to secure up to 30% of new housing development as affordable housing as defined in the NPPF on sites of over 15 dwellings. B. Consideration will be given to the: i) the local housing market; ii) the viability of any proposed scheme

which will be assessed through independent viability assessments; iii) the tenure mix and dwelling type on the site will be based on the SHMA or other up to date housing evidence in conjunction with the Council; iv) the phases of development that are being proposed.'

During the course of the following requests for financial contribution due to increased demand on facilities as a result of the development were received which follow on from policies INF1, INF6, INF7, INF8 and INF9 and the S106 guide:

- 11no. primary school places @ £188,942.49 to be directed towards Linton Primary School and additional education facilities.
- 14no. secondary school places and 6no. post-16 places @ £530,138.20 to be directed towards The Pingle Academy and additional education facilities.
- Open Space Provision @ £63,410.00 directed towards White Lady's Spring small scale improvements and interventions to create wildlife/biodiversity improvements and community space.
- Outdoor Sports Facilities @ £37,400.00 directed towards Mount Pleasant Recreation ground play equipment upgrades.
- Built Facilities @ £20,876.00 towards Mount Pleasant Recreation Ground changing rooms.
- NHS Facilities @ £33,600.00 (175 patients @ 0.08sqm requirement and cost per sqm of £2400) towards Gresleydale Healthcare Centre internal reconfiguration and extension.
- County Highways Authority Travel Plan monitoring @ £5,075.00 split £1015.00 per year over a five year period.
- Derbyshire County Council Libraries @ £4,920.00 stock only contribution towards stock at Swadlincote Library.

The applicants have provided the necessary on-site POS including a 10no. play equipment LEAP, plus an area of National Forest planting as such commuted sums for these elements are not requested as they have been provided to a satisfactory level on-site and planning conditions/ s106 legal agreement can be utilised to secure their delivery to a good standard should the application be approved.

The applicants have submitted a Viability Assessment which is summarised at the beginning of this report. In this assessment the applicants conclude that as they will provide a fully affordable housing scheme for local people, beyond the 30% requirement in policy H21, the impact of the other contributions combined with this plus floods/water managements works sought compromises the viability of the scheme, rendering it unviable and as such they seek concession from those sought as listed above, aside from a £123,000 contribution to on site floods/ water management works. The applicants will be utilizing Homes England grant funding to deliver the site, whilst using their own internal funding for the floods/ water management works. The applicants note as part of their viability argument that they are choosing to deliver the additional 49 affordable dwellings but argue that this is specifically to assist the Council in meeting its housing need. It must be noted that during the lifetime of the application that the layout and house types/mix has been amended slightly and as a result of this and the passage of time the contributions sought by Derbyshire County Council for education has changed and in addition they now seek a libraries contribution for the provision of book stocks towards Swadlincote Library. To this end the contribution figures within the Viability Assessment provided no longer reflect the amounts sought as aforesaid though are very similar around £10k difference (estimated less in VA).

The District Valuer Service (DVS) have reviewed this Viability Assessment on behalf of the Council. In their conclusion a few differences between the development period, Gross Development Value, S106 contributions, abnormal costs (to include off site flood works), credit rate, finance amount, legal fees credit rate, construction costs and Benchmark Land Value and the applicant's projections for these are noted. The DVS broadly agree with the applicant's assessment of viability in that to provide the full amount of contributions requested would render the development unviable on a policy compliant basis. Following discussion between the DVS and Bridgehouse (the applicants Viability assessor) a different Benchmark Land Value (BLV) has been agreed for the site, thus differing from the applicants original BLV of £1million, now agreed to be £960,000. To this end following DVS sensitivity testing for the

scheme, it is considered and concluded that a financial contribution of either £24,500.00 can be afforded, paid in full at the commencement of the development or £25,500.00 can be afforded, paid as a 50/50 split between commencement and completion of the scheme which is contrary to the applicant's original claim that none of the requested s106 financial contributions can be made. Taking this into account the 50/50 split for payment of contributions obviously allows for additional contributions to be advanced, though not the full amount requested, noting that the applicants are in agreement to this method of payment structure and that this amount can be afforded to be contributed towards some of the requested contributions.

When considering the under-provision of financial contributions against the planning balance, it is noted that there are several positive elements of the scheme following extensive revisions, amendments and additional investigations. The provision of a 100% affordable housing scheme into stock at this site which is noted as a preferred area for potential residents by the Strategic Housing Officer including the delivery of accessible and adaptable and wheelchair accessible units (M4(2) and M4(3) units) that are not a product in stocks as it stands now, the mix and tenure being acceptable and noted as required as described by the Strategic Housing Officer, are definite benefits of the scheme which carry great weight. Further to this it is noted that the Strategic Housing Officer states that 'The provision of affordable housing has been significantly hampered by viability challenges in this area with several sites recently affected (Acresford Road, Cadley Park, Woodville Regen, Broomy Farm etc) that this fully affordable site goes some way in compensating. We have an affordable rented housing requirement of 326 homes a year and even with full contributions from market sites (30%) we would not be able to meet this without fully affordable sites coming forward so need this to meet our requirements. Castle Gresley is also in an area of housing need for affordable homes and we continue to support the proposal, especially as EMH have worked with the Council to address affordable housing needs, changing the required mix on site to meet housing needs, including the provision of 1 bed flats and 4 bed adapted dormer bungalows.' In addition, following further investigations, discussions and revisions the water management for the site has been extended to ensure overland flows and existing drainage issues are rectified and managed as part of any future development to provide enhanced flood risk mitigation and water management in a suitable manner as agreed by Severn Trent and the LLFA which would provide a betterment to the existing situation on site and in the surrounding area, again elements that carry great weight considering previous recent (last 2 year) localised flooding to existing residents on Oak Close. Whilst it is unfortunate that full contributions towards all those requested and strictly in line with policy are not possible due to the viability implications as confirmed, it is considered that the benefit of the type/mix/tenure/amount of affordable units greatly needed in this area and the volume of floods/water management strategies proposed as part of the development outweigh the contribution deficit in this instance. Notwithstanding this and with regards to the correspondence received during the public consultations for this development due to the acknowledged pressures on education and healthcare provision within this area, it is considered these are a priority for developer contributions that are available from this development in line with Infrastructure Delivery Plan, it is therefore proposed that a 50/50 split of the £25,500.00 contribution that can be afforded from the development is directed towards NHS Estates and Derbyshire County Council Education to fund their projects for expansion and alteration to serve the additional residents and need generated as a result of the development, thus at £12,750.00 each, paid 50% on commencement and 50% on practical completion.

Taking into consideration the above, appropriate planning conditions and legal agreements would be required to ensure the following are provided and to ensure the development is as sustainable as possible noting the viability constraints of the development as assessed and concluded.

- Affordable housing provision and management
- National Forest planting, specification, area and management
- Public Open Space area provision and management
- LEAP provision and management
- Travel Plan provision and management
- NHS Estates contribution £12,750.00 - 50% at commencement and 50% at completion
- DCC Education contribution £12,750.00 – 50% at commencement and 50% at completion

As the off-site flooding works forming part of what makes the flood and water management for the development and wider area acceptable are beyond the site edged red a Unilateral Undertaking will be required to ensure that these works are brought forward as part of this development. The applicants have confirmed their acceptance to the use of Unilateral Undertaking to facilitate this.

### Conclusion

The principle of the development is considered acceptable. Following an independent review of the Viability Appraisal it is considered that whilst full financial contributions requested to be directed towards local facilities to ensure the development is sustainable following increased demand as a result of the development cannot be provided as it would render the development unviable, £25,500 can be provided towards much needed NHS estates and Education facilities, alongside the provision of greatly needed and somewhat specialised affordable housing in an area requiring affordable housing provision and a betterment of flood and water management for the site and immediate surrounding area. Taking this into account and that all other material considerations are acceptable or can be acceptable subject to suitable details to be agreed and approved via use of planning condition and legal agreements, it is recommended in the planning balance that this application is approved.

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

### **Recommendation**

- A. Grant delegated authority to the Head of Planning and Strategic Housing to conclude negotiations on and complete an agreement under section 106 of the Town and Country Planning Act 1990 so to secure the planning obligations as set out in the report; and
- B. Grant delegated authority to the Head of Planning and Strategic Housing to conclude negotiations on and complete a Unilateral Undertaking to secure off-site flooding works as set out in the report; and
- C. Subject to A and B. **Approve** the application subject to the following conditions:
  1. The development hereby approved shall be begun before the expiration of three years from the date of this permission.

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

2. The development hereby permitted shall be carried out in accordance with plans/drawings as listed below 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:
  - 2494-02 B Location Plan as received by the Local Planning Authority on 7th December 2020
  - 2494-13 C POS and Forestry Planting as received by the Local Planning Authority on 7th December 2020
  - 2494-14 E Street Scenes A to C - but not the Site Plan on that drawing as received by the Local Planning Authority on 7th December 2020
  - 2494-19 B Street Scenes D to G but not the Site Plan on that drawing as received by the Local Planning Authority on 7th December 2020
  - 2494-35 A Street Scenes H & J as received by the Local Planning Authority on 7th December 2020



- 2494-18 C Boundary Details as received by the Local Planning Authority on 7th December 2020
- 2494-20 H House Type A – 2 Bed 4 Person Plans and Elevations as received by the Local Planning Authority on 7th December 2020
- 2494-21 F House Type B – 3 Bed 5 Person Plans and Elevations as received by the Local Planning Authority on 7th December 2020
- 2494-22 D House Type C – 2 Bed 4 Person Plans and Elevations as received by the Local Planning Authority on 7th December 2020
- 2494-30 D House Type D – 3 Bed 5 Person Plans and Elevations as received by the Local Planning Authority on 7th December 2020
- 2494-24 F House Type E – 4 Bed 6 Person Plans and Elevations as received by the Local Planning Authority on 7th December 2020
- 2494-25 F House Type F – 3 Bed 5 Person (split level) Plans and Elevations as received by the Local Planning Authority on 7th December 2020
- 2494-26 H House Type G – 1 Bed 2 Person (flats) Plans and Elevations as received by the Local Planning Authority on 7th December 2020
- 2494-28 E House Type J – 4 Bed 7 Person (Cat 3 Bungalow) Plans and Elevations as received by the Local Planning Authority on 7th December 2020
- 2494-34 B House Type K – 4 Bed 6 Person (Plots 65 & 66) Plans and Elevations as received by the Local Planning Authority on 7th December 2020
- 2494-15 D Site Sections A to E \* Amended A to D as received by the Local Planning Authority on 4th February 2021
- 2494-17 B Site Sections F and G \* Amended E to G as received by the Local Planning Authority on 4th February 2021
- 2494-37 Site Section H as received by the Local Planning Authority on 22nd April 2021
- 2494- 33 K Site Layout as received by the Local Planning Authority on 29th April 2021
- 2494-36 B Car Parking Space Sizes as received by the Local Planning Authority on 29th April 2021

The cycle parking and bin store shown for plots 25-32 shown on the Site Layout is not approved nor are the external facing materials on the House Type drawings.

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

3. Prior to their incorporation in to the dwellings 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. These details shall include specification, colour and material type for each external facing material treatment. Where the details will differ on particular house types, associated Site Plan shall also be provided to indicate where the different materials for particular house types will be implemented. The development shall include some external facing timber materials within the development as per design guidance in respect of new developments within the National Forest area. The development shall thereafter be constructed using the approved facing materials.

Reason: In the visual interest of the dwellings and the character of the surrounding area which is within the National Forest.

4. Prior to their incorporation in to the dwellings hereby approved, details of the door, window frame and fascia colours shall be submitted to and approved in writing by the Local Planning Authority. Such details shall be set out on a drawing/plan. The door, window frame and fascia colours shall be installed in accordance with the approved details.

Reason: In the visual interest of the dwellings and local character.

5. Prior to their incorporation in to the dwellings hereby approved, details of the eaves, verges, cills, lintels, chimneys, canopies and porches shall be submitted to and approved in writing by the Local Planning Authority. The details shall include drawings to a minimum scale of 1:10. The eaves, verges, cills, lintels, chimneys, canopies and porches shall be constructed in accordance



with the approved drawings. Timber treatments for some canopies and porches in line with National Forest guidance shall be provided.

Reason: In the visual interest of the dwellings and local character within in the National Forest area.

6. All verges shall be finished in a mortar finish ie. wet verges. There shall be no use of dry verge (cloaking tile) systems.

Reason: In the visual interest of the dwellings and local character.

7. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

Reason: In the visual interest of the dwellings and local character.

8. Prior to the construction of a car port details of the finish of the inside surface of the walls shall be submitted to and approved in writing by the Local Planning Authority. The approved finish shall then be applied prior to first use of the car port and thereafter maintained as such.

Reason: In the visual interest of the dwellings and local character.

9. Prior to the commencement of the development hereby approved details of the proposed external land levels and retaining walls/features shall be submitted to and approved in writing by the Local Planning Authority. The details shall include relevant specifications, sections and materials details. The approved scheme shall be implemented on site on a prior to first occupation basis and retained thereafter for the lifetime of the development.

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

10. Prior to the first occupation of the development hereby approved a scheme for the provision of 1no. secure cycle parking facility per dwelling (including flats) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a plan showing where the secure cycle parking facility will be located and the specification including dimension, material and colour of the secure cycle store. The approved details shall be implemented on site on a prior to first occupation of the dwelling the secure cycle parking would serve and retained thereafter for the lifetime of the development and maintained in good working order.

Reason: In the interests of promoting sustainable transport for the development, supporting healthy lifestyles, pollution reduction and the wider environment.

11. Prior to the first occupation of the development hereby approved a scheme for the provision of 1no. electric vehicle charging point per dwelling shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a Site Plan showing the location of each charging point and its specification/model/colour/mounting. Residential charging points should be provided with an IP65 rated domestic 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. This socket should be located where it can later be changed to a 32amp EVCP. The approved scheme shall be implemented on site on a prior to first occupation of the dwelling that each charging point will serve basis and be retained thereafter for the lifetime of the development and maintained in good working order.

Reason: In the interests of promoting sustainable transport methods and wider environmental and pollution mitigation for the development.

12. Prior to the first occupation of the development hereby approved a scheme for bin storage within each plot (3no. bins per dwelling) shall be submitted to and approved by the Local Planning Authority. The scheme shall include details of secure storage within the plot of each dwelling, or in the case of flats the shared amenity space. The approved scheme shall be implemented on site and the space made available on a prior to first occupation of the respective dwelling basis and retained thereafter.

Reason: In the interests of highways safety, residential amenity, pollution control and local character.

13. Prior to the first occupation of the development hereby approved a scheme for dedicated bin collection points for areas for dwellings not served by adoptable highway shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a plan showing the location of each collection points and the bin collection points shall be provided within private land at the entrance to shared private accesses and/or courtyards, sufficient to accommodate two bins per dwelling served. The bin collection points shall be provided prior to the first occupation of a dwelling to which they serve and shall be retained thereafter free from any impediment to their designated use as such.

Reason: To ensure safe and suitable conditions are maintained on the public highway, in the interests of highway safety, and to ensure appropriate waste/refuse facilities are provided for the occupiers of the development.

14. 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, shall be 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, to protect transport routes from undue illumination impacts or distraction, to minimise light pollution at night and in the interests of biodiversity.

15. Prior to the commencement (including preparatory works) of the development hereby approved an updated walkover shall be undertaken by a suitably qualified ecologist to ensure that there have been no setts created within the site since the date of the badger survey provided in support of the application. The results of this survey work and the scope and timing of any necessary mitigation measures shall be submitted to and approved in writing by the Local Planning Authority prior to any works commencing, with the mitigation measures implemented and retained in accordance with the approved timetable.

Reason: In the interests of nature conservation and biodiversity.

16. Prior to the commencement of the development hereby approved (including preparatory works) an Invasive Non-Native Species Protocol (INNSP) shall be submitted to and approved in writing by the Local Planning Authority. The INNSP shall detail the timing and method of containment, control and removal of Japanese Knotweed on the site. The measures identified in the INNSP shall be carried out strictly in accordance with the approved scheme.

Reason: In the interests of invasive species control, nature conservation, biodiversity and geodiversity.

17. Prior to the commencement of the development hereby approved (including preparatory works) a Construction Environmental Management Plan (CEMP; Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:
  - (a) a risk assessment of potentially damaging construction activities;
  - (b) identification of biodiversity protection zones (e.g. buffers to trees and hedges or to protected wildlife habitat);
  - (c) practical measures (both physical measures and sensitive working practices, such as protective fencing, exclusion barriers and warning signs) to avoid or reduce impacts during construction (particularly in relation to works within canopy and root protection areas for hedgerows or protected trees);
  - (d) the location and timing of sensitive works to avoid harm to biodiversity features (in relation to breeding birds in particular);

- (e) the times during construction when specialist ecologists need to be present on site to oversee works (as required);
- (f) responsible persons and lines of communication; and
- (g) the role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person (as necessary).

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless the ECoW otherwise sets out alternative details which are subsequently agreed by the Local Planning Authority.

Reason: In the interests of nature conservation.

18. Prior to the first occupation of the development hereby approved a five year Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority.

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed;
- b) Ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management;
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a fifteen-year period);
- g) Details of the body or organisation responsible for implementation of the plan, along with funding mechanism(s) for that body or organisation; and
- h) Ongoing monitoring and remedial measures, including where monitoring shows that conservation aims and objectives of the LEMP are not being met.

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

Reason: In the interests of protecting and conserving landscape and local character, nature conservation, tree protection, National Forest planting and public safety.

19. The development shall be carried out in strict accordance with the precautionary measures for roosting and hibernating bats set out in section 5.4.1 of the Ecological Impact Assessment prepared by RammSanderson dated July 2020 Rev 2 8th January 2021 as received by the Local Planning Authority on 8th January 2021.

Reason: In the interest of biodiversity and nature conservation.

20. Prior to any construction above foundations level, a scheme of biodiversity enhancement based upon the recommendations in section 7 of the Ecological Impact Assessment (EclA) prepared by RammSanderson dated July 2020 shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include, as a minimum, the incorporation of integrated (inbuilt) features within the new buildings for roosting bats and nesting swifts along with the creation of wildflower meadows. The enhancement scheme shall be implemented in accordance with the agreed details as construction proceeds and completed prior to the first occupation of the development.

Reason: In the interests of nature conservation and biodiversity.

21. No removal of trees, hedges, shrubs, buildings or structures 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, shrubs, buildings or structures shall be removed between 1st March and 31st August inclusive other than in accordance with the approved bird nesting protection scheme.

Reason: In the interest of nature conservation.

22. During the period of construction, no ground, construction or fitting out works shall take place and no deliveries shall be taken at or dispatched from the site other than between 0730 and 1800 hours Monday to Friday and 0800 and 1300 hours on Saturdays. There shall be no construction works (except for works to address an emergency) or deliveries on Sundays or Public Holidays.

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

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

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

24. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the dwellings hereby permitted shall not be enlarged, extended or altered, and no incidental buildings, gates, walls, fences or other means of enclosure (except as authorised by this permission or allowed by any condition attached thereto) shall be erected on the site without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the proximity to existing features on or adjacent to the site, and the effect upon neighbouring properties and provision of external amenity areas for each dwelling.

25. 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 hard surfacing (except as authorised by this permission or allowed by any condition attached thereto) shall be created on the site without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

Reason: To maintain control in the interests of minimising flood risk and/or water quality and to maintain control of safe parking provision within the site.

26. 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 other means of access to a highway (except as authorised by this permission or allowed by any condition attached thereto) shall be created on the site without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

Reason: In the interests of highways safety, local character and amenity protection.

27. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the dwellings C3 use hereby approved shall not be used as houses of multiple occupation C4 use without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

Reason: To maintain control in the interests of amenity protection and highways safety.

28. Prior to the commencement of the development hereby approved a scheme of dust mitigation measures and for the control of noise emanating from the development during the construction period shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented throughout the construction period.

Reason: In the interests of protecting highways safety and the amenity of the area and adjoining occupiers, recognising that initial preparatory works could cause unacceptable impacts.

29. Prior to the commencement of the development hereby approved additional investigation to confirm density of sands beneath the site to establish the extent of cohesive deposits plus recommendations for mitigation/remediation as per the recommendations within the Site Investigation Report Revision 0: May 2019 R-SI-11282G-1-0 shall be submitted to and approved in writing by the Local Planning Authority. Any methods of mitigation/remediation following this investigation shall be adhered to in line with approved details during the construction of the development.

Reason: To protect the health of the public and the environment from hazards arising from previous uses of the site and/or adjacent land which might be brought to light by development of it, recognising that failure to address such matters prior to development commencing could lead to unacceptable impacts even at the initial stages of works on site.

30. Prior to the commencement of the development hereby approved as per the recommendations within the Site Investigation Report R-SI-11282G-1-0 Rev O an investigation executed to the area to the south west to confirm if alluvium is present beneath the proposed plots with recommendations of additional monitoring/investigation works shall be submitted to and approved in writing by the Local Planning Authority. Any mitigation/remediation recommended as a result of these investigations shall be implemented on site as per the approved details.

Reason: To protect the health of the public and the environment from hazards arising from previous uses of the site and/or adjacent land which might be brought to light by development of it, recognising that failure to address such matters prior to development commencing could lead to unacceptable impacts even at the initial stages of works on site.

31. Prior to the commencement of the development hereby approved following the alluvium investigation should alluvium be found ground gas monitoring should be carried out to confirm the ground gas regime for the site and a scheme submitted to and approved in writing by the Local Planning Authority. Any mitigation/remediation as part of this scheme shall be executed on site in accordance with the approved details.

Reason: To protect the health of the public and the environment from hazards arising from previous uses of the site and/or adjacent land which might be brought to light by development of it, recognising that failure to address such matters prior to development commencing could lead to unacceptable impacts even at the initial stages of works on site.

32. In the event that following the investigations pertaining to the other conditions within this decision notice require mitigation or remediation, a verification report confirming the details and date of the measures installed executed by a relevant professional shall be submitted to and approved in writing by the Local Planning Authority on a prior to occupation basis. The measures thereafter shall be maintained throughout the lifetime of the development.

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

33. 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.



34. In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of Section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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.

35. Prior to the commencement of the development hereby approved a Construction Method Statement/Management Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of space to be provided within the development site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicle with accompanying statement/plans. Details of wheel washing shall also be included in the scheme and all construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway. The Construction Method Statement/Management Plan and compound shall be implemented on site in accordance with the approved details and retained free from any impediment to their designated use throughout the construction period of the development.

Reason: In the interests of highway safety, pollution control, residential amenity and the wider environment.

36. Prior to the commencement of the development hereby approved full construction details of the residential estate roads and footways including layout (generally in accordance with revised application drawings including 11285R-TA04 rev E) including levels, gradients, surfacing and means of surface water drainage, shall be submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter be constructed in accordance with the approved details unless otherwise agree in writing by the Local Planning Authority.

Reason: In the interests of highways safety, flood and water management and visual amenity.

37. The gradients on the new estate streets, ideally, should not exceed 1:20 and shall never exceed 1:12 at any point along the proposed highway.

Reason: In the interests of highways safety and amenity.

38. The carriageways of the proposed estate roads shall be constructed in accordance with Condition 36 above up to and including at least road base level prior to the erection of any dwelling intended to take access from that road. The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surface course within twelve months (or three months in the case of a shared surface road) from the occupation of such dwelling, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highways and public safety.

39. Prior to the commencement of the development hereby approved, details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of water from the drives/accesses/shared drives onto the proposed adopted highway. The approved scheme shall be undertaken and completed prior to the first use of the access and retained as such thereafter.

Reason: In the interests of highways safety and flood/water management.

40. The development hereby permitted shall not be occupied until such time as the access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose

aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

Reason: In the interests of highways safety and visual amenity.

41. The proposed access driveways to the new estate streets shall be no steeper than 1:20 for first 5 from the nearside highway boundary and never exceed 1:10.

Reason: In the interest of highways safety and visual amenity.

42. Prior to the commencement of the development hereby approved details of the proposed arrangements for future management and maintenance of the proposed streets within the development shall be submitted to and approved by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and maintenance company has been established.

Reason: In the interests of highways safety and visual amenity.

43. The car port/parking spaces as shown on the approved plans such as '2494-36 B Car Parking Space Sizes' and '2494-33 K Site Layout' shall be kept available for the parking of motor vehicles at all times. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and/or re-enacting that Order) the garage/car parking space(s) hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property without the grant of further specific planning permission from the Local Planning Authority. The parking spaces throughout the development shall be implemented and available for use prior to the first use of the dwelling they are associated with.

Reason: In the interests of highways safety and sufficient on site parking.

43. Prior to the first occupation of the development hereby approved an amended Travel Plan, which sets out actions and measures with quantifiable outputs and outcome targets has been submitted to and agreed in writing by the Local Planning Authority. Thereafter the agreed Travel Plan shall be implemented in accordance with the approved details.

Reason: In the interests of highways safety, promotion of sustainable transport methods/uptake and promotion of healthy lifestyles initiatives.

44. There shall be no gates or barriers within 5m of the highway boundary and any such gates shall open inwards only.

Reason: In the interests of highways safety.

45. Prior to the first occupation of the development hereby approved a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall generally follow the principles as set out on drawings 'Site Layout (Scheme 4) 2494-33 Revision K' and the 'Landscape Masterplan 1916-PL1-02 Rev D'. The landscaping scheme shall include a communal garden area for the flats to the east of the development, at least 1no. fruit trees to each dwellings external amenity area, bat and bird friendly plants, native species hedgerows and street tree planting in line with the consultation response received from the National Forest Company. Any hard landscaping within RPA's of retained trees shall include construction details suitable to ensure trees are not detrimentally impacted as a result of development considering no-dig solutions. All hard landscaping shall be carried out in accordance with the approved details prior to the first occupation of the development, 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 dwelling 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 interests of landscape character, local character, biodiversity and visual amenity.

46. Prior to the first occupation of the development hereby approved detailed hard and soft landscaping plans including boundary treatments, means of enclosure and gates for the Public Open Space, LEAP and National Forest planting shall be submitted to and approved in writing by the Local Planning Authority. The size of area for the POS, LEAP and National Forest Planting shall follow drawing 'POS and Forestry Planting 2494-13 Rev C'. The footpaths within the POS, LEAP and National Forest area shall include rolled gravel as per National Forest Company guidance unless otherwise agreed in writing with the Local Planning Authority. Any hard landscaping within RPA's of retained trees shall include construction details suitable to ensure trees are not detrimentally impacted as a result of development considering no-dig solutions. The boundary treatments shall include a scheme for safety barriers/fencing as appropriate around the LEAP and detention/attenuation basins. The planting within the National Forest area shall include native broadleaved plantation woodland with transplants planted at 2m centres with planting elsewhere providing trees to mitigate those lost as a result of the built development on site and specific details of species, sizes, age etc. provided. The soft landscaping shall also include bat and bird friendly plants and native species hedgerows. All hard landscaping shall be carried out in accordance with the approved details prior to occupation of development, 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 development 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: To ensure sufficient Public Open Space, LEAP and National Forest planting for a development of its residential use and size and in the interests of landscape character, green spaces, tree loss mitigation, biodiversity and local character.

47. Prior to the first occupation of the development hereby approved a detailed scheme for the LEAP shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include at least 10no. pieces of play equipment, bins, amenity areas eg.seats, boundary treatments and details of the proposed maintenance and management of the LEAP for the lifetime of the development. The LEAP shall be implemented on site prior to the first occupation of the development in accordance with the approved details and shall be retained thereafter for the lifetime of the development in good working order.

Reason: To ensure sufficient opportunity for safe play within the development and in the interests of public safety, residential amenity, visual amenity, landscape character and local character.

48. Prior to the first occupation of the development hereby approved a detailed Management and Maintenance Strategy for Public Open Space and National Forest planting areas shall be submitted to and approved in writing by the Local Planning Authority. This strategy shall also cover the management of footpaths and boundary treatments within these areas. The development shall be managed and maintained in accordance with the approved scheme.

Reason: In the interests of securing future management and maintenance of Public Open Space and National Forest areas to ensure protection of visual and landscape amenity and public safety/residential amenity.

49. Prior to the construction of a boundary wall, fence or gate, details of the position, appearance and materials of such boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the respective dwellings to which they serve 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.

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

50. Prior to the commencement of the development hereby approved an updated Tree Protection Plan shall be submitted to and approved in writing by the Local Planning Authority. The Tree Protection Plan shall be based on the information within the Arboricultural Impact Assessment, Method Statement and Tree Protection Plan RSE\_3151\_TPP Rev V2. The development shall be executed in accordance with the approved details.

Reason: In the interests of tree protection and landscape character.

51. Prior to the commencement of the development hereby approved a Local Lettings Plan that describes how the rented dwellings will be allocated which is to be agreed between the Council and Registered Provider, shall be submitted to and approved in writing by the Local Planning Authority. The Local Lettings Plan shall be executed in accordance with the approved details or as otherwise agreed with the Local Planning Authority.

Reason: To ensure the new community is sustainable in the long term and securing the provision and suitable allocation of affordable rented dwellings within the site in line with strategic housing policies and guidance.

52. The affordable housing scheme hereby approved shall be implemented on site as per the below unless otherwise agreed first prior to implementation and occupation on site in writing with the Local Planning Authority:

- 44no. or 63% Affordable Rent (capped at 80% market rent including service charge) to be allocated through the Council's housing waiting list.
- 26no. or 37% provided as Shared Ownership

The Affordable Rent dwellings split/mix shall be as follows: 18no. House Type A 2 bed house @ 71.5sqm, 2no. House Type B 3bed house @89.4sqm, 8no. House Type D 3 bed house : 85sqm, 2no. House Type E 4 bed house @ 103.2sqm, 4no. House Type G 1 bed flat @45.8sqm, 4no. House Type G 1 bed flat @50sqm, 2no. House Type H 2 bed bungalow @60.6sqm, 2no. House Type J 4 bed dormer bungalow @136.4sqm and 2no. House Type K 4 bed house @104.2sqm.

The Shared Ownership dwellings split/mix shall be as follows:2no. House Type A 2 bed house @71.5sqm, 8no. House Type C 2 bed house @ 70sqm, 6no. House Type D 3 bed house @ 85sqm and 10no. House Type F 3 bed split level house @ 86sqm.

Reason: In the interests of sustainable development and to ensure an appropriate affordable housing mix, tenure and type in line with strategic housing policies and guidance.

53. All the dwellings part of the development hereby approved shall be M4(2) accessible and adaptable with the 4no. one bedroom ground floor flats House Type G, 2no. two bedroom bungalows House Type H and 2no. four bedroom dormer bungalows House Type J will be delivered to M4(3) Building Regulations as wheelchair accessible to allow homes to flex and adapt easily to meet ageing and disability needs, unless otherwise first agreed and approved in writing with the Local Planning Authority.

Reason: In the interests of sustainable development and to meet specific affordable housing needs in this area and the wider South Derbyshire District Council.

54. Prior to the commencement of the development hereby approved a detailed design and associated management and maintenance plan of the surface water drainage for the site in accordance with the principles/designs and information outlined within the following shall be submitted to and approved in writing by the Local Planning Authority:
- a. Flood Risk Assessment Revision C Ref No: R-FRA-11285R-01-C. Dated March 2021 by JPP Consulting Ltd (in particular the Proposed Surface Water Drainage Strategy FRA03 Rev C, Off

Site Flooding Report 11185/R/WA/002A dated 12th December 2020 by JPP Consulting Ltd and Flood Risk and Water Management Query Responses 11185-R-WA-003 by JPP Consulting and 'including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team'.

B. and DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015).

The scheme shall include the additional proposed works as stated in Appendix F of Flood Risk Assessment (Revision C Ref: R-FRA-11285R-01-C. Dated November 2020) the works comprises of diversion of the land drain from the existing pond along the cul-de-sac adjacent to 43 Oak Close and to be connected into existing 1500mm surface water sewer in Oak Close (Fig 2 Appendix F of FRA R-FRA-11285R-01-C) and the off-site drainage scheme works.

Reason: In the interests of flood risk and water management and to ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided to the Local Planning Authority.

55. Prior to commencement of the development hereby approved, a scheme detailing how additional surface water run-off from the site will be avoided during the construction phase, shall be 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 system shall be operating to the satisfaction of the Local Planning Authority, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.

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 and in the interests of overall water management.

56. The attenuation ponds should not be brought into use until such a time as it is fully designed and constructed in line with CIRIA SuDS manual C753 with associated management and maintenance plan, in line with CIRIA SuDS Manual C753 is submitted to and approved in writing by the Local Planning Authority on a prior to first use basis.

Reason: To ensure that the proposed attenuation ponds do not increase flood risk, that the principles of sustainable drainage are incorporated into the proposal, the system is operational prior to first use and that maintenance and management of the sustainable drainage systems is secured for the future.

57. Prior to the commencement of the development hereby approved a scheme for the drainage of foul water from the site including a management and maintenance plan/strategy shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the approved details prior to the first occupation of the development hereby approved.

Reason: In the interests of minimising the likelihood of flooding incidents and pollution of the environment.

58. Prior to the first occupation of the development hereby approved, a Verification Report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed schemes (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

Reason: To ensure that the drainage system is constructed to the national Non-statutory technical standards for sustainable drainage and CIRIA standards C753 and in the interests of flood risk protection and water management.



59. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the window hereby approved serving the following House Types shall be glazed in obscure glass and non-opening (except in an emergency) and permanently maintained thereafter as such:

- House Type A - ground and first floor side elevation windows
- House Type B - ground and first floor side elevation windows
- House Type C - ground and first floor side elevation windows
- House Type D - first floor side window serving secondary window to Bedroom 1
- House Type E - first floor side elevation window serving the bathroom
- House Type F - ground and first floor side elevation windows
- House Type J - ground floor side window serving the wet room

Reason: To maintain control in the interest of the effect upon neighbouring properties.

Informatives:

- a. Where development is proposed, the developer is responsible for ensuring that development is safe and suitable for use for the purpose for which it is intended. The developer is thus responsible for determining whether land is suitable for a particular development or can be made so by remedial action. In particular, the developer should carry out an adequate investigation to inform a risk assessment to determine:
  - whether the land in question is already affected by contamination through source > pathway > receptor pollutant linkages and how those linkages are represented in a conceptual model;
  - whether the development proposed will create new linkages (e.g. new pathways by which existing contaminants might reach existing or proposed receptors and whether it will introduce new vulnerable receptors); and
  - what action is needed to break those linkages and avoid new ones, deal with any unacceptable risks and enable safe development and future occupancy of the site and neighbouring land.A potential developer will need to satisfy the local authority that unacceptable risk from contamination will be successfully addressed through remediation without undue environmental impact during and following the development. In doing so, a developer should be aware that actions or omissions on his part could lead to liability being incurred under Part IIA of the Environmental Protection Act 1990 (e.g. where development fails to address an existing unacceptable risk or creates such a risk by introducing a new receptor or pathway) or, when it is implemented, under the Environmental Liability Directive (2004/35/EC). Where an agreed remediation scheme includes future monitoring and maintenance schemes, arrangements will need to be made to ensure that any subsequent owner is fully aware of these requirements and assumes ongoing responsibilities that run with the land.
- b. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. Further information is also available on The Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority). Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com).
- c. Where development is proposed over areas of coal and past coal workings at shallow depth, The Coal Authority is of the opinion that applicants should consider wherever possible removing the remnant shallow coal. This will enable the land to be stabilised and treated by a more sustainable method; rather than by attempting to grout fill any voids and consequently unnecessarily sterilising the nation's asset. Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from the Coal Authority's website at: [www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property](http://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property).
- d. The responsibility and subsequent liability for safe development and secure occupancy of the site rests with the developer and/or landowner. This grant of planning permission does not give a warranty of ground support or stability; neither does it necessarily imply that the requirements of any other controlling authority would be satisfied.

- e. 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.
- f. This permission is the subject of a unilateral undertaking(s) or agreement(s) under Section 106 of the Town and Country Planning Act 1990. All formal submissions to discharge obligations of the undertaking or agreement, or queries relating to such matters, must be made in writing to [s106@southderbyshire.gov.uk](mailto:s106@southderbyshire.gov.uk) with the application reference included in correspondence.
- g. The developer is encouraged to install a sprinkler system to reduce the risk of danger from fire to future occupants and property.
- h. A licence from Natural England may be required in regards to any temporary closure of badger setts prior to commencing works which are only licensable between 1st July and 1st December inclusive outside breeding season.
- i. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway, measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
- j. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- k. Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Executive Director Economy, Transport and Environment at County Hall, Matlock (tel: 01629 538658).
- l. Pursuant to Sections 219/220 of the Highways Act 1980, relating to the Advance Payments Code, where development takes place fronting new estate streets the Highway Authority is obliged to serve notice on the developer, under the provisions of the Act, to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980.
- m. The Strategic Housing Manager welcomes further dialogue to ensure M4(2) accessible and adaptable with the 4no. one bedroom ground floor flats House Type G, 2no. two bedroom bungalows House Type H and 2no. four bedroom dormer bungalows House Type J will be delivered to M4(3) Building Regulations as wheelchair accessible, meet these required standards to allow homes to flex and adapt easily to meet ageing and disability needs.
- n. Severn Trent seek that there shall be no increase in overland flow from the pond/field etc by directing the existing land drainage flows from the 150mm dia pipe located in the private garden to a new sw connection to be laid in Oaks Close. Severn Trent also seek that the flows from the new connection should not be higher than the existing discharge from the 150mm dia pipe at its design limit before the flooding flows occur, anything over that limit needs to be attenuated.
- o. For surface and foul water drainage schemes including those for the construction period please refer to the informatives and notes within the consultation response available on the South Derbyshire District Council website from Derbyshire County Council Lead Local Flood Authority Officer SDDC/2021/14 dated 29th April 2021.

**Item No.** 1.2

**Ref. No.** [DMPA/2019/1460](#)

**Valid date:** 15/01/2020

**Applicant:** James Hardwick **Agent:** JMI Planning

**Proposal:** **The erection of 10 dwellings with access and associated works at 23 York Road, Church Gresley, Swadlincote, DE11 9QG**

**Ward:** Church Gresley

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

The proposed development would conflict with comments made by a Statutory Consultee.

#### **Site Description**

The site is located within Church Gresley and the Swadlincote Urban area. The site is set back from the road with an existing access and dense tree coverage which significantly screens the site from the highway and the wider public area. The site abuts neighbouring residential properties on all sides of the site.

#### **The proposal**

Consent is sought for the erection of 10 proposed dwellings with landscaping and parking. The application is a re-submission of planning application 9/2017/0244 which granted outline consent for the erection of 10 dwellings on the site. There is an existing access to the development that would be utilised as part of the proposed development and resurfaced.

#### **Relevant planning history**

9/2009/0157: Outline application (all matters except means of access to be reserved) for the residential development, Granted 26/10/2009.

9/2013/0534: Outline application (all matters except for access to be reserved) for the residential development, Withdrawn.

9/2017/0244: Outline application (all matters except for access to be reserved) for the residential development of up to 10 dwellings – Approved with conditions – 01/09/2017.

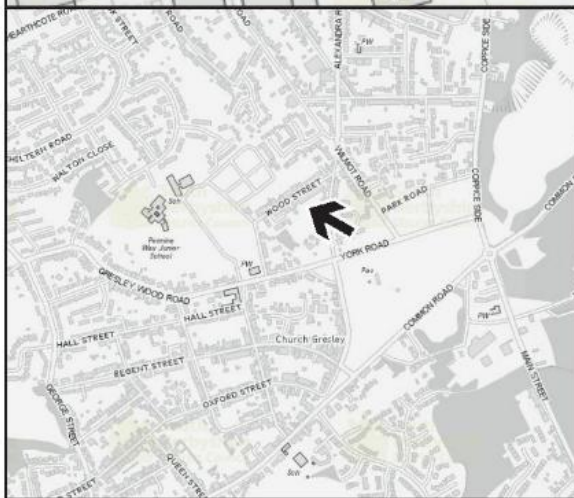
#### **Responses to consultations and publicity**

County Highway Authority – No objections subject to conditions that the proposed parking and manoeuvring area is laid out in accordance with the approved plans and that the access is modified prior to the first occupation of the first dwelling.

Environmental Health – No objections subject to conditions relating to the hours of construction. Details of dust mitigation at the site have been submitted and the Environmental Health Officer stipulates that these details are suitable and the construction works should be carried out in accordance with the submitted details. Details of ground contamination and preventative measures have also been submitted, these details have been assessed by the Environmental Health Officer and are suitable and would need to be implemented in accordance with the submitted details.

Lead Local Flood Authority – No objections subject to conditions relating to the removal of additional surface water drainage and a surface water Management Plan.

DMPA/2019/1460 - 23 York Road, Church Gresley, Swadlincote DE11 9QG



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South Derbyshire District Council. LA 100019461.2017



Seven Trent Water – No objections subject to conditions for details of surface water and foul water drainage.

County Council (Section 106) - Mitigation based on the County's analysis indicates that there would be a need to mitigate the impact of the proposed development on school places in order to make the development acceptable in planning terms as the normal area junior and secondary schools would not have sufficient capacity to accommodate the additional pupils generated by the proposed development. The County Council therefore requests financial contributions of £16,812.24 towards additional education facilities at Pennine Way Junior Academy and £78,139.81 towards additional education facilities at The Pingle Academy.

Derbyshire Police – No objections to the application proposed.

Tree Officer - The site is covered by two Tree Preservation Orders (TPO) 113 and 462 which primarily affect the access and access road into the site. TPO 113 does extend to the north east of the site but the root protection areas are free of development and would be positioned within the rear gardens of the proposed dwellings. The driveway would run through the Root Protection Area's (RPA's) but would be retained in situ and remain intact until the occupation of the new dwellings where it would be laid. A Tree Protection Plan and Arboricultural Method Statement have been submitted which stipulates the methodology for the protection of the trees during the construction period and when the driveway is re-laid which has been considered suitable by the Tree Officer and a condition has been attached that the works must be carried out in accordance with these details.

There have been two letters of objection received, raising the following points:

- a) The site location plan is showing that trees are going to be planted in front of 21 York Road, they appear to be tall trees which will block out the sun light and the garden is South facing towards York Road.
- b) Car parking spaces are shown to the side of an existing neighbouring property, this will be too close to the boundary of this property and will invade the occupier's privacy and concerned that cars will be driving up the side of the property.
- c) During the process of the construction and completion of the building work there will be noise pollution, neighbours work shifts and this will not be acceptable.
- d) Ideally there needs to be a wall built around the perimeter of the existing property for safety and security reasons, which has not been taken into consideration respectfully.
- e) Residents have discussed having two parking spaces at the front of their property and having a gate way to access their property with the present site owner, this is not proposed on the proposed application.
- f) Immediate neighbours feel they have been kept out of the loop on the plans and would like to request more details on the planning and its development in the near future
- g) The proposed development will devalue existing neighbouring properties, with their properties facing ten new buildings to the south which will create less light and more noise.

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

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 Design Excellence), BNE3 (Biodiversity), INF2 (Sustainable Transport), INF8 (The National Forest) and INF9 (Open Space, Sport and Recreation).
- 2017 Local Plan 2: SDT1 (Settlement Boundaries and Development) and BNE7 (Trees, Woodland and Hedgerows).

National Guidance

- National Planning Policy Framework (NPPF)



- Planning Practice Guidance (PPG)

#### Local Guidance

- South Derbyshire Design Guide SPD

#### **Planning considerations**

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

- Principle of development and Common Land;
- Section 106 agreement and contributions;
- Residential amenity and layout;
- Appearance of proposed dwellings and development;
- Tree protection; and
- Highways issues.

#### **Planning assessment**

##### Principle of development and Common Land

The site is located within the urban area of Swadlincote as defined under policies H1 and SDT1 of the Local Plan and the development of the site for housing is considered appropriate in this location, provided that the proposed development would not have a harmful visual impact or result in a harmful impact to the amenity of local residents or raise issues of highway safety.

Outline permission was granted under application 9/2009/0157 for up to eight dwellings on the site and a further application was submitted under application 9/2017/0244 for outline permission for up to ten dwellings which was subsequently approved. Therefore, given the established planning history at the site, the principle of residential development for up to ten residential properties at the site is acceptable and in accordance with policies H1 and SDT1 of the Local Plan.

The land either side of the access to the front of the site falls under Common Land. The area of land between the front boundary wall of No.23 York Road and the road itself has been identified as registered common land. Common land is defined in the Commons Registration Act 1965 as: '.. meaning either land subject to rights of common (as defined by the Act) or waste land of a manor not subject to rights of common, but as not including town or village green or any land which forms part of a highway.'

Rights of common can include: Grazing sheep or cattle (herbage); Taking peat or turf (turbary); Taking wood, gorse or furze (estovers); Taking of fish (piscary); and Eating acorns or beechmast by pigs (pannage).

The purpose of Common Land is to be kept open to allow these functions and practices. In this particular case, the access is existing and currently runs through the Common Land to provide access to the site and the existing buildings. The proposed works seek to use the existing access and upgrade it and each property in this area of York Road has a vehicle access which crosses over this area of common land. In light of legislation and case law, this proposal would not cause harm to the common or seek permission for works to alter the Common Land or its ability to allow any of the above functions. The proposed development to the rear of the site would occur outside of the Common Land and the proposed works would therefore, be acceptable and would not require permission from the Planning Inspectorate in order to facilitate the development.

##### Section 106 agreement and contributions

Following consultation with the County Council, they have responded and confirmed that contributions

would need to be made to education provision within the area to mitigate the effects of the proposed development. However, it has been noted that outline consent was granted under application 9/2017/0244 without a subsequent S106 Agreement to ensure that the commuted sums would be paid by the developer. At the time of the assessment of application 9/2017/0244, there would have been no requirement for a development of ten or more dwellings to enter into a Section 106 Agreement for matters relating to Education, Health or Open Space.

Application 9/2017/0244 is still be a live application until 1st May 2021 under the Planning and Business Act 2020 and with a reserved matters application having been submitted, would continue to be a live, alternative scheme to the current application which could be implemented with no need to enter into a Section 106 Agreement for the sums of education or open space. Application 9/2017/0244 expired after the 19th August 2020 and before 31st December 2020 and automatically is extended until 1st May 2021 without the need for Additional Environmental Approval (EAE) to be submitted.

Upon request of the sums made by the County Council, the applicant pointed out that there is currently an implementable permission by way of application 9/2017/0244 that could be implemented instead of the current application without entering into contributions. This alternative, live application presents a parallel scheme to the current application and another implementable scheme that could be carried out without a requirement for an education or open space contribution with only the need for small amendments as part of a variation of condition application (under section 73), as the principle has already been assessed at outline site. Therefore, whilst the proposed development would not accord with the requirements that the County Council are seeking, it is acknowledged that the extant application presents a reasonable fallback position which would outweigh these requirements, where the current scheme would be assessed against the parameters of the previously approved application.

The current application differs to application 9/2017/0244 in that a small additional section of land is incorporated to the north of the site. However, this change would not trigger the need for a new application and could be achieved by adapting the previous scheme by way of a variation of conditions application to the approved plans for application 9/2017/0244 and provides more room within the site that results in a more suitable layout. This would, therefore, not alter the previous levels of contributions that were required under the previous application. On the basis of this, the previous application represents a suitable and reasonable fallback position and the current application would not be subject to education or open space contributions to provide mitigation in the same way that they were not sought for application 9/2017/0244. The changes to the red line allows a better layout which adds value to the scheme.

#### Residential amenity and layout

Policies SD1 and BNE1 of the Local Plan requires that developments do not lead to adverse impacts on the amenity of existing and future occupiers and seeks to ensure a good level of amenity for existing and future occupiers.

The nearest existing residential properties to the site are numbers 19, 21, 27 and 29 York Road. The proposed layout plan demonstrates that the proposed layout could accommodate a minimum of 21m separation between proposed and existing windows and would fully accord with the Council's Design Guide.

The proposed layout would accommodate up to two spaces per dwelling which would fully accord with the parking requirements set out within the Councils Design Guide. In addition, there have been no objections raised by the County Highway Authority subject to the inclusion of conditions for parking to be laid out in accordance with the approved plans. The proposed development would utilise an existing access and would provide an access with sufficient width for two cars to pass to avoid cars reversing out onto the road. The proposed layout would provide a safe and suitable access with adequate manoeuvring space within the site and would fully accord with the principles of policy INF2 of the Local Plan.

Concerns have been raised by local residents with regard to the position of residents parking adjacent to neighbouring properties and its impact in terms of noise to local residents. There have been no objections raised by the Councils Environmental Health Officer owing to noise pollution, and the incorporation of parking adjacent to neighbouring habitable rooms where it can be overlooked provides a good source of natural surveillance and is supported within the Councils Design Guide as a way to reduce crime through design.

### Appearance of proposed dwellings and development

The site is heavily screened from public views by existing neighbouring dwellings and tree cover from protected trees to the front of the site and affords very little views into the site. The proposed dwellings would be predominantly two storey in height with plots 4, 8 and 9 being a two and a half storey dwellings and plot 10 being a one and half storey dwelling. The site consists of two pairs of semi-detached dwellings (plots 1, 2, 3, 4, 5 and 6) with plots 7, 8, 9 and 10 being detached dwellings.

The proposed house types provide a good mix across the site and respond well to the proportions and forms of the neighbouring, existing dwellings which vary from substantial detached dwellings to traditional terraced properties. The proposed works would have a minimal visual impact when viewed from the public area and would accord with the principles of policy BNE1 of the Local Plan and the principles within the Councils Design Guide.

### Tree protection

There are three protected trees within the application site, a Lime in the south eastern corner (Tree Preservation Order (TPO) 462), a Horse Chestnut adjacent to the western boundary (TPO 113) and a Silver Birch on the north eastern boundary (TPO 462). Whilst the root protection (RPA's) of the trees are predominantly away from the proposed dwellings, they do run through the existing access road. Details have been provided that stipulate that the access road would not be brought up or altered until the proposed dwellings have been constructed and therefore, the RPA of the protected trees would remain unaffected by the development until works commenced on the relaying of the access road. A condition shall be attached that the RPA's of the trees on the site shall be carried out in accordance with the submitted Arboricultural Survey but prior to works commencing to relay the access road, a suitable and robust methodology shall be provided to demonstrate that the proposed works would not harm the RPA's of the protected trees. It has been demonstrated sufficiently that an access can be constructed using a cellular confinement system and therefore, the proposed condition would adequately control the works and would accord with policy BNE7 of the Local Plan.

### Highways issues

The application seeks to utilise an existing access that already provides access into the site. The access crosses over common land, however, owing to the historic and established use of the access, the principle of the access has already been established and this would not need to be assessed by the Planning Inspectorate. However, it is necessary to assess whether the existing access is suitable to accommodate the proposed dwellings. Policy INF2 of the Local Plan requires appropriate provision for safe and suitable access to and within a development. The access and driveway through the site would allow for two cars to pass one another in order for vehicles to leave and enter the site in a forward gear. There have been no objections raised by the County Highway Authority subject to the inclusion of planning conditions and the proposal would accord with the principles of policy INF2 of the Local Plan.

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

## Recommendation

**Approve** subject to conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with plan(s)/drawing(s) ref. 218-57-02B, 218-57-03-p1-2, 218-57-03-p3-4, 218-57-03p-5-6, 218-57-03-p7, 218-57-03-p8-9, 218-57-03-p10 and 218-57-04; unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. Except in an emergency, no demolition, site clearance, construction, site works or fitting out shall take place other than between 7:30am and 6:00pm Mondays to Fridays, however no noisy operations should be undertaken between 07:30 and 08:00. Between 8:00am and 1:30pm on Saturdays. There shall be no such activities whatsoever on Sundays, public holidays and bank holidays.

Reason: To protect the amenity of neighbouring residents and occupiers from noise pollution through the construction period.

4. Prior to commencement of the development, the applicant shall submit for approval to the LPA details indicating how additional surface water run-off from the site will be avoided during the construction phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the LPA, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.

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.

5. No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 reference ID: 7-080-20150323 of the planning practice guidance.

Reason: To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

- into the ground (infiltration);
- to a surface water body;
- to a surface water sewer, highway drain, or another drainage system;
- to a combined sewer.

6. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:

a. Drainage Strategy Plan DWG No: E20-11-ds DATED June 2020, Calcs-York Road- 04062020 Ref: 1591263766637 dated 04 June 2020 'including any subsequent amendments or updates to

those documents as approved by the Flood Risk Management Team'

b. Applicant to follow recommendations provided under section 10.0 of the phase I and II of the GEO ENVIRONMENTAL Assessment for the land at York Road

c. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided to the Local Planning Authority, in advance of full planning consent being granted.

7. 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.

8. The proposed works shall be carried out in accordance with the root protection areas and protective fencing details as shown in the submitted Method Statement, Trees Survey and Site Plan. However, no works shall be carried out to the access road until a full Arboricultural Method Statement, which shall be based on best practice as set out in BS 5837:2012 is submitted to and approved in writing by the Local Planning Authority, demonstrating how the access road shall be taken up and relaid without causing harm to the trees on the site as well as at the same time, demonstrating how the trees covered by a Tree Preservation Order at the site would be enhanced.

Reason: To protect trees and their root protection areas at the site throughout the construction phase.

9. Prior to the occupation of each dwelling a validation report or certificate shall be provided to the Local Planning Authority which demonstrates that the land within its curtilage is not contaminated and that appropriate remediation and mitigation has taken place, as outlined in report reference EAL.98.20 submitted in support of the application.

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.

10. Before any other operations are commenced (excluding demolition/ site clearance), space shall be provided within the site curtilage for storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives and visitors vehicles, laid out and constructed in accordance with the submitted Compound Plan (drawing/plan: 218-57.02) and the additional Site Compound Details, received on 18th January 2021. Unless prior to any other operations commencing, alternative details of plant/materials storage, site accommodation, loading and unloading of good vehicles, parking and manoeuvring of site operatives and visitors vehicles are first submitted in advance to the Local Planning Authority for written approval. The works shall be carried out in accordance with the approved details and maintained throughout the contract period free from any impediment to its designated use.

Reason: In the interest of highway safety and to ensure that materials and the development would not over spill onto the highway during the construction period.



11. Prior to the first occupation of the first dwelling, a speed ramp shall be provided within the site boundary in accordance with plans first submitted to and approved in writing by the Local Planning Authority. Once approved the ramp shall be installed in accordance with the approved plans and maintained in perpetuity.

Reason: In the interest of highway safety.

12. The development shall be constructed in accordance with the requirements and measures outlined within the submitted Dust Mitigation Strategy unless prior to the construction phase commencing, an alternative dust mitigation scheme is first submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To protect the amenity of local residents and occupiers from dust pollution during the construction phase.

13. The finished floor levels of the proposed buildings shall be constructed in accordance with plan/drawing: LS-218-57.99c. Unless prior to the laying out of drainage and services at the site, alternative details of the finished floor levels of the buildings hereby approved are first 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 appearance of the area generally, recognising that site levels across the site as a whole are crucial to establishing infrastructure routing/positions.

14. The external walls of the building shall be constructed in Fortera Clumber Red bricks and the roof shall be tiled in Marley Ashmore and/or Forticrete Gemini roof tiles in a Slate Grey colour. Unless prior to their incorporation in to the buildings hereby approved, details and/or samples of alternative facing materials 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: To protect the visual character of the area.

15. The eaves, verges, cills and lintel details shall be constructed in accordance with plans/drawings: C2, H3F and ED-218-57.99a unless prior to their incorporation into the development, alternative details are first submitted to an approved in writing by the Local Planning Authority. The eaves, verges, cills and lintel details shall be constructed in accordance with the approved details.

Reason: To protect the visual character of the area.

16. All verges shall be finished in a mortar finish. There shall be no use of dry verge (cloaking tile) systems.

Reason: To protect the visual character of the area.

17. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

Reason: To protect the visual character of the area.

18. Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

Reason: To ensure that the drainage system is constructed to the national Non-statutory technical standards for sustainable drainage and CIRIA standards C753.

19. Prior to the first occupation of the first dwelling at the site, a new vehicular and pedestrian access shall be formed to York Road, located, designed, laid out, constructed and provided with 2.4m x 43m visibility splays in both direction, all as agreed in writing with the Local Planning Authority, the area in advance of the sightlines being maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

Reason: In the interest of highway safety.

20. The premises, the subject of the application, shall not be occupied until space has been provided within the site curtilage for the parking and manoeuvring of residents and service and delivery vehicles, located, designed, laid out and constructed all as agreed in writing with the Local Planning Authority and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interest of highway safety.

21. The proposed boundary treatment shall be constructed in accordance with the details as shown on plan/drawing: LS-218-57.99C unless prior to the construction of a boundary wall, fence or gate, alternative details of the position, appearance and materials of such boundary treatments shall be first submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the respective dwellings to which they serve 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.

Reason: In the interests of the character and appearance of the area, in particular to maintain the character of public realm as secured under the plans hereby approved.

22. Prior to the occupation of a dwelling all details of hard and soft landscaping shall be laid out and planted in accordance with the details as shown on plan/drawing: LS-218-57.99c unless prior to the occupation of a dwelling on site, an alternative scheme of proposed hard and soft landscaping is first 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 dwelling, 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 dwelling 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: To ensure no net loss of biodiversity and in the interest of the character and appearance of the surrounding area.

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

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

24. There shall be no gates or other barriers within 5m of the nearside highway boundary and any gates shall open inwards only.

Reason: In the interest of highway safety.

## Informatives:

- a. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport & Communities at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website [http://www.derbyshire.gov.uk/transport\\_roads/roads\\_traffic/development\\_control/vehicular\\_access/default.asp](http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp), email [ETENetmanadmin@derbyshire.gov.uk](mailto:ETENetmanadmin@derbyshire.gov.uk) or telephone Call Derbyshire on 01629 533190.
- b. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the householder.
- c. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- d. The application site is affected by a Public Right of Way (Footpath/ Bridleway number 110 [Swadlincote] on the Derbyshire Definitive Map). The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 01629 533262.
- e. Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.
- f. The applicants are advised to note the following recommendations;
  - Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination.
  - Refer to our Guiding principles for land contamination for the type of information that we require in order to assess risks to controlled waters from the site. The local authority can advise on risk to other receptors, such as human health.
  - Consider using the National Quality Mark Scheme for Land Contamination Management which involves the use of competent persons to ensure that land contamination risks are appropriately managed.
  - Refer to the contaminated land pages on GOV.UK for more information. NGW I 05 'The Environment Agency's approach to groundwater protection' We would like to refer the applicant to our groundwater position statements in 'The Environment Agency's approach to groundwater protection', available from [gov.uk](http://gov.uk). This publication sets out our position for a wide range of activities and developments, including:
    - Waste management
    - Discharge of liquid effluents
    - Land contamination
    - Ground source heat pumps
    - Drainage
- g. 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.

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).

No part of the proposed development shall be constructed within 5-8m 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.

The applicant should be mindful to obtain all the relevant information pertaining to proposed discharge in land that is not within their control, which is fundamental to allow the drainage of the proposed development

site.

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.

The County Council would prefer the applicant to utilise existing landform to manage surface water in mini/sub-catchments. The applicant is advised to contact the County Council's Flood Risk Management team should any guidance on the drainage strategy for the proposed development be required.

The applicant should provide a flood evacuation plan which outlines:

- The flood warning procedure
- A safe point of extraction
- How users can safely evacuate the site upon receipt of a flood warning
- The areas of responsibility for those participating in the plan
- The procedures for implementing the plan
- How users will be made aware of flood risk
- How users will be made aware of flood resilience
- Who will be responsible for the update of the flood evacuation plan

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.

Surface water drainage plans should include the following:

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

On Site Surface Water Management;

- The site is required to accommodate rainfall volumes up to the 1% probability annual rainfall event (plus climate change) whilst ensuring no flooding to buildings or adjacent land.
- 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. In addition, an appropriate allowance should be made for urban creep throughout the lifetime of the development as per 'BS 8582:2013 Code of Practice for Surface Water Management for Developed Sites' (to be agreed with the LLFA).
- Production of a plan showing above ground flood pathways (where relevant) for events in excess of the 1% probability annual rainfall event, to ensure exceedance routes can be safely managed.
- A plan detailing the impermeable area attributed to each drainage asset (pipes, swales, etc).

Peak Flow Control;

- For greenfield developments, the peak run-off rate from the development to any highway drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100 year rainfall event, should never exceed the peak greenfield run-off rate for the same event.
- For developments which were previously developed, the peak run-off rate from the development to any drain, sewer or surface water body for the 100% probability annual rainfall event and the 1% probability annual 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;

- For greenfield developments, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must not exceed the greenfield runoff volume for the same event.
- For developments which have been previously developed, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual 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.

Note:- If the greenfield run-off for a site is calculated at less than 2 l/s, then a minimum of 2 l/s could be used (subject to approval from the LLFA).

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.

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

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

- Ground percolation tests to BRE 365.
- 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.
- Volume design calculations to 1% probability annual rainfall event + 40% climate change standard. An appropriate factor of safety should be applied to the design in accordance with CIRIA C753 – Table 25.2.
- 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.
- Drawing details including sizes and material.
- 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 BREDigest 365.

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



**Item No.** 1.3

**Ref. No.** [DMPA/2021/0201](#)

**Valid date:** 04/02/2021

**Applicant:** A Golding

**Agent:** Janet Hodson

**Proposal:** **Change of use of agricultural land for the extension of existing hard standing for external storage (B8) on Land near Brandons Poultry Farm, Unnamed Road From Cote Bottom Lane to Bent Lane, Heathtop, Derby, DE65 5AY**

**Ward:** Hilton

### **Reason for committee determination**

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

### **Site Description**

The site is land adjacent the existing employment site, part of the runway at the former RAF Church Broughton Airfield. The application site is within the former airfield and the proposed area to be surfaced formed part of the apron to the runway. Although more recently used for agriculture, the site has not been fully assimilated back into agricultural use being poor quality agricultural land and largely open in character. A hedgerow exists adjacent to the highway but the south eastern boundary is predominantly demarcated by post and wire fencing.

### **The proposal**

The proposal is for the expansion of the current hardstanding, part of the former runway, to the south east on land formerly runway apron, but more recently used for agriculture. The hardstanding is to provide additional space for the business to store equipment as part of their future expansion.

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

The Agent's Planning statement sets out the proposal, the planning history and the policy context noting the proposals compliance with planning policy and stating that there are no material considerations that should prevent this proposal from receiving consent.

### **Relevant planning history**

9/2018/0441: The erection of a building to form 3 employment units (Use Classes B1(c), B2 &/or B8) - Granted 25/07/2018.

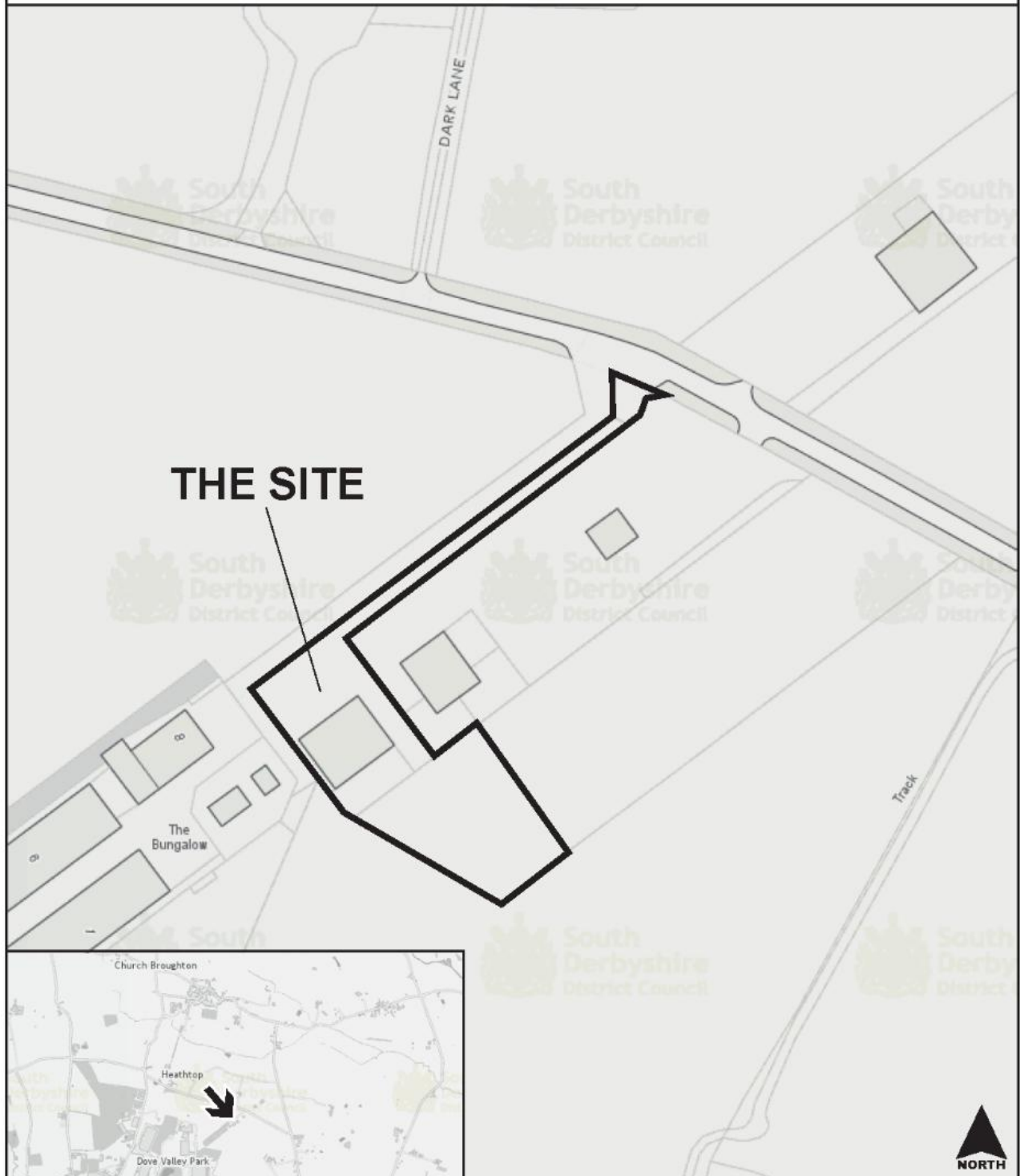
9/2018/0382: Change of use of former operational area of composting site for use as contractors compound for vehicle/plant storage, including stationing of a portacabin office and two storage containers (sui-generis use) - Approved 13/06/2018.

9/2017/1087: The change of use from storage unit to dog day care facility with internal alterations and metal fencing enclosing entire area - Approved 19/12/2017.

9/2017/1082: Proposed temporary change of use of composting site for use for lorry parking and for the stationing of a portacabin office, Granted 17/1/18 (temporary 2 year period).

9/2017/0571: Change of use of former composting building to form B1c/B2/B8 employment units, Granted 25/7/17 (adjacent site).

**DMPA/2021/0201 - Land near Brandons Poultry Farm, Unnamed Road from Cote Bottom Lane to Bent Lane, Heathtop, Derby DE65 5AY**



**THE SITE**



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**South Derbyshire District Council. LA 100019461.2017**

9/2017/0573: The erection of 310 m of green security fencing and gates front a highway and private way, Granted 24/7/17.

9/2010/0954: The Change of use from B1/B8 use to agricultural / Turkey Rearing, Withdrawn 30/11/10 (adjacent site).

9/2005/0931: The use of the site for B1/B8 (light industry and warehousing), granted 7/3/06 (adjacent site)

Condition 2 required access improvements to the junction of Heath Top with Woodyard Lane /Cote Bottom Lane secured through a Unilateral Undertaking.

9/2004/0877: The change of use of premises from agricultural to storage (B8), Granted 25/2/05 (adjacent site) - Condition 2 required access improvements to the junction of Heath Top with Woodyard Lane /Cote Bottom Lane secured through a Unilateral Undertaking.

9/2004/0840: The retention of a portable building, Granted 23/8/04

9/2003/1320: The change of use from agricultural to light industrial B1 and storage B8, Granted 5/1/04 (adjacent site).

9/1998/0769: The erection of a cold store and a replacement workshop building at the premises of Brandons Poultry Limited, Granted 18/3/99 (adjacent site).

9/0889/0594: Retention of eight 10m high floodlights on boundaries of premises of Agronomics Ltd, Granted 2/3/1990 (applicant stated use of land – compost- agricultural).

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

County Highway Authority has no objections subject to a condition being included in any consent requiring the existing parking and manoeuvring space associated with the site to be maintained throughout any construction works and the life of the development free from any impediment to its designated use.

Church Broughton Parish Council has no objections to this proposal.

Twenty three objections have been received, raising the following comments:

- a) Standing water on highway a regular problem.
- b) Road surface along Woodyard Lane is in poor condition, damaged by large vehicles and dangerous for other road users.
- c) Lorries speed on the unnamed road to the site.
- d) Appropriate signage is required to ensure large vehicles do not use Bent Lane.
- e) Commercial development should not be viewed as more important than established residential communities.
- f) A lot of work has already been done - this should be a retrospective application.
- g) This application intrudes into agricultural land - a change of use is required.
- h) A new access appears to have been created.
- i) Road not suitable for heavy lorries.
- j) Additional noise from more traffic.
- k) Should be protecting green space.
- l) More development leads to more litter.
- m) No new jobs as a result of this application.
- n) Incorrect statements in the planning statement relating to road name, location of proposed hardstanding and planning history.
- o) Statement refers to landscaping - this is a small number of very sparse saplings hardly constitutes existing landscaping.

- p) The site was previously refused permission for a car boot sale area.
- q) The proposal does not comply with SDDC policies.
- r) Not compliant with NPPF.
- s) There are other more locationally appropriate sites.
- t) Will harm local wildlife.
- u) Proposal in no way enhances the area.
- v) If any new jobs are created, they will not be for locals.
- w) No site notice was posted.
- x) The land is greenbelt and should be protected.
- y) Creeping of industrial units to the east in appropriate.
- z) Why should we believe that the applicant will comply with the permission.
- aa) Floodlights are currently left on all night.

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

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), E2 (Other Industrial and Business Development), SD1 (Amenity and Environmental Quality), E7 (Rural Development), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport)
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development), 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**

Taking into account the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issue(s) central to the determination of this application is/are:

- Principle;
- Landscape impact;
- Amenity impact; and
- Highway safety

### **Planning assessment**

#### Principle

LP1 Policy E2 states that development of land for uses classes B1(b), B1(c), B2 and B8 will be permitted where ii) 'the proposal is for the expansion of an existing business;' and that the proposal is 'in scale with the existing built development and would not give rise to undue impacts on the local landscape natural environment or cultural heritage assets.' The previous established land use, albeit in agricultural use for many years, is a former airfield which is a sui-generis use and would not be usually described as industrial or business, however, whether previously developed or not, Policy E2 does not differentiate between previously developed or greenfield land.

Industrial uses have been granted for the existing farm in 2005, the existing composting building in July 2017, the frontage site for lorry parking in January 2018 (9/2017/1082) and construction compound

(9/2018/0382). The land to the north west is allocated for employment uses and committee were minded to approve outline permission for four B2/B8 buildings subject to a S106 in May 2018. The application site is therefore set within the context of large scale employment buildings and thus would be in scale with existing buildings and the landscape impact is considered to be limited. On the basis of the former use and industrial character of the site it is considered that the proposal complies with this Policy.

The site is located within the countryside (albeit surrounded on two sides by the employment allocation in LP1 Policy E5) and as such LP1 Policy E7 and LP2 Policy BNE5 are relevant. Policy E7 supports development proposals which diversify and expand the range of sustainable employment activities on land outside settlement boundaries provided they support the social and economic needs of rural communities within the district. The Policy goes on to state that proposals for the re-use, conversion and replacement of existing buildings and development of new buildings will be supported where they meet criteria in terms of a sound business case, highway impact, impacts on neighbouring land, design and scale and visual intrusion.

LP2 Policy BNE5 states that outside settlement boundaries planning permission will be granted where the development is allowed by policies H1, H22, E7, INF10, H24, H25, H26, H27 or H28, otherwise essential to a rural based activity, unavoidable outside settlement boundaries, infill of dwellings and will not unduly impact on landscape character and quality, biodiversity, best and most versatile agricultural land, and heritage assets.

The proposal involves the expansion of an existing employment site adjacent to an allocated employment site and the proposal is considered to be a sustainable development as the local highway network is capable of accommodating the traffic generated, neighbouring land is industrial on two sides, the adjacent uses are similar and as such would have limited impact on the on the character of the locality and would be partially screened by these uses. In general terms the proposal is considered to comply with the overarching aim of this policy.

#### Landscape impact

LP1 Policy BNE4 states that the character, local distinctiveness, and quality of the district's landscape will be protected and enhanced through careful design and sensitive implementation of new development and development that will have a unacceptable impact on landscape character, visual amenity and sensitivity cannot be satisfactorily mitigated will not be permitted. It is acknowledged that the site is open and flat with little natural screening, however, the harm on the surrounding landscape is considered to be limited due to the site's existing character and context. It would be viewed in context with the large industrial buildings to the south west. A previous permission did require some planting to be implemented on the south eastern boundary but this would have little effect in substantially obscuring the open storage. Additional landscaping would help and is added as a condition, details of which would be required prior to first use of the additional hardstanding. With such additional landscaping in place the proposal is considered to comply with criterion v) of E7 and BNE4.

#### Amenity impact

LP1 Policy SD1 supports development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments. LP1 Policy BNE1 h) requires that new development should not have an undue adverse effect on the privacy and amenity of existing nearby occupiers. The proposed hardstanding is a modest extension to the existing business that will not change the way that the current occupier works but merely provide additional capacity enabling the storage of more equipment. On the basis of the incremental increase in external storage space, it is considered that it would be difficult to demonstrate that the impact was 'significant adverse' in terms of the NPPF paragraph 180 and the Noise Policy Statement for England. A condition in respect of hours of use already controls the operation of the business and it is considered necessary to repeat this to ensure that all parts of the operation are controlled by this.



## Highway safety

The applicants Planning Statement states that the expansion of the existing hardstanding is to provide additional storage space. The access remains unchanged being from within the established 'business park'. As such the Highway Authority has no objection to the proposal subject to a condition being included in any consent requiring the existing parking and manoeuvring space associated with the site to be maintained throughout any construction works and the life of the development free from any impediment to its designated use. The proposal is therefore considered to comply with INF2 of the Local Plan.

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

## **Recommendation**

**Approve** subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with drawing refs. 852-01 (Location Plan); 852-01 (Block and Location Plan); unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. Heavy goods vehicles shall not operate from the site outside of 0600 to 1800 hours Monday to Saturday, nor at any time on Sundays, Bank or Public Holidays

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

4. Prior to the first use of the new hardstanding hereby permitted the existing parking and maneuvering area shall be retained and maintained as laid out in accordance with previously 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 any construction works and 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.

5. Prior to the first use of the new hardstanding an enhanced scheme of hedgerow and tree planting shall be submitted to and agreed in writing by the Local Planning Authority. In the first planting season following the formation of the hardstanding, a new enhanced mixed native species hedgerow, including native hedgerow trees, as set out in the approved scheme shall be planted on the southwest and southeast boundaries of the site extending back towards the highway 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.

6. Notwithstanding the submission of the boundary hedge details required in Condition 4 above, prior to the construction of a boundary wall, fence or gate, details of the position, appearance and materials of such boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the enlarged hardstanding to which they serve is first brought into use or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

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

**Item No.** 1.4  
**Ref. No.** [DMPA/2021/0295](#)  
**Valid date:** 19/02/2021  
**Applicant:** Reid **Agent:** Making Plans Architecture  
**Proposal:** The erection of a two storey rear extension at 7 Hall Park, Barrow On Trent, Derby, DE73 7HD  
**Ward:** Aston

### **Reason for committee determination**

This item is presented to the Committee at the discretion of the Head of Planning and Strategic Housing due the proposal being conflict with the Design Guide Supplementary Planning Document.

### **Site Description**

The property is a semi-detached chalet bungalow in a cul-de-sac of similar properties dating from the early 1960s. It has been extended at the front by a roof enlargement. The rear elevation has a small dormer window set well back from the eaves.

### **The proposal**

The proposal has two main components, a single storey extension to the rear and a roof extension (dormer) which would connect with the single storey element.

The part of the site affected by the proposal is in Flood Zone 3.

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

The combined volume of the existing front roof enlargement and the proposed dormer would amount to less than 50 cubic metres, which subject to other conditions, including the use of matching materials, would be 'permitted' under the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

### **Relevant planning history**

9/380/346: Front extension (including roof enlargement). Approved 15th May 1980.

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

There have been no comments received in response to the consultations undertaken on the application.

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

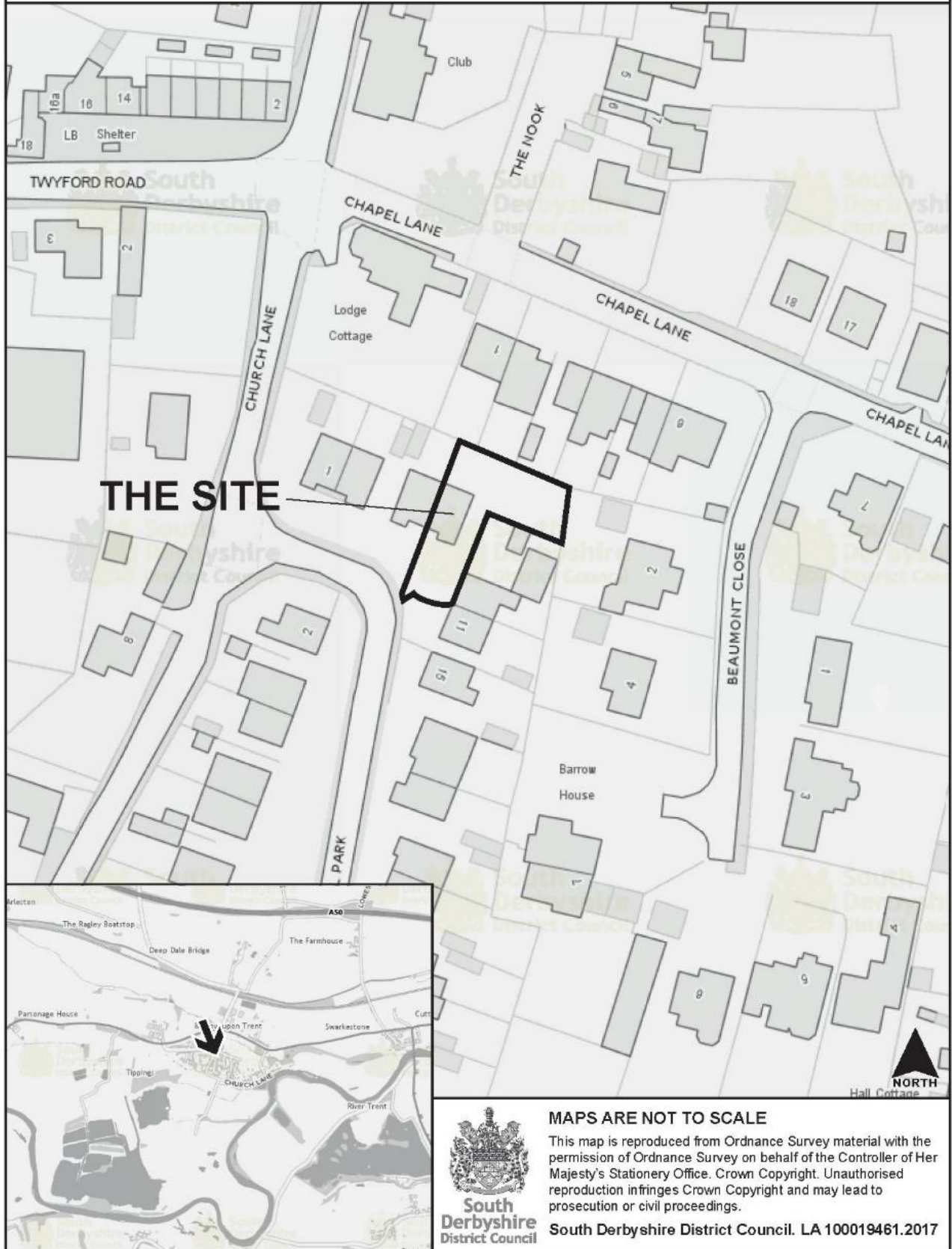
The relevant Development Plan policies are:

- Local Plan Part 1 (LP1): SD1 (Amenity and Environmental Quality), SD2(Flood Risk), BNE1 (Design Excellence), INF2 (Sustainable Transport)
- Local Plan Part 2 (LP2): H27 (Residential Extensions and Other Householder Development), BNE10 (Heritage)

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)

**DMPA/2021/0295 - 7 Hall Park, Barrow on Trent, Derby DE73 7HD**



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The relevant national policy and guidance is:

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

### **Planning considerations**

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

- Design;
- Amenity;
- Parking provision; and
- Flood risk.

### **Planning assessment**

#### Design

The proposals take a more contemporary form than the existing dwelling, with a flat roof and oversailing enlarged barge boards and a roof lantern to the single storey element, which will be rendered. The dormer has a flat roof and will be externally faced in grey aluminium cladding and with grey aluminium window/door frames. Being located to the rear the extensions would have negligible impact on the public realm, and there would thus be no harm to the general character of the area, in accordance with Policies BNE1 & H27.

#### Amenity

Having regard to the proximity of the adjoining neighbours' (5 Hall Park) main and secondary windows and existing boundary treatment the single storey element would be compliant with SPD separation guidelines and Policies SD1 & H27. It is not considered that dormer window would have any overbearing impact on the occupants of this neighbouring property and is thus also compliant with the relevant parts of the design guide and Local Plan Policy.

No 2 Chapel Lane, which adjoins the site to the rear has a single storey extension. The proposed bedroom windows would be situated approximately 17.5 metres away from the rear face of the extension at No 2 Chapel Lane. This falls short of the minimum SPD guideline distance of 21 metres. However a dormer of the size and position proposed could be constructed under permitted development rights, if undertaken as stand alone building operation. In these circumstances, notwithstanding the failure to meet guidelines as a continuous operation with the single storey extension, it is considered that the proposal is acceptable in respect of impacts on neighbours' living conditions.

#### Parking provision

The proposal would result in an additional bedroom. There is presently a single full sized parking space clear of the driveway shared with No. 9 Hall Park. In these circumstances it would be reasonable to secure an additional space within the curtilage of the dwellinghouse and this could be secured by condition, in accordance with Policy INF2.

#### Flood risk

The proposal, being 'householder' is for 'minor development'. The NPPG states that no sequential or exception tests are necessary for such development. The guidance also states that in general such types of development are unlikely to raise significant flood risk issues. Environment Agency Standing advice offers guidance on how to protect the subject dwelling from increased risk of flood, notably by ensuring that floor levels are either no lower than existing floor levels or 300 millimetres (mm) above



the estimated flood level. In this case a suitably worded condition would ensure that the new floor levels are no lower than as existing, to secure compliance with Policy SD2.

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

## **Recommendation**

**Approve** permission subject to the following conditions

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

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

2. The development hereby permitted shall be carried out in accordance with drawing No. J3191-04 Rev A; unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. All external materials used in the development shall be as described in the application unless, prior to their incorporation into the development hereby approved, alternative details are first submitted to and approved in writing by the Local Planning Authority pursuant to an application made in that regard, whereafter the approved alternative details shall be incorporated into the development.

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

4. Before the development is brought into use an additional parking space, measuring a minimum of 5.5metres x 2.5 metres, shall be provided within the curtilage of the dwellinghouse and shall be retained available for parking thereafter.

Reason: To ensure adequate parking commensurate with the increased number of bedrooms.

5. The development hereby permitted shall, as a minimum, have (a) floor levels set no lower than existing levels and (b) flood proofing incorporated where appropriate and practicable.

Reason: To minimise the risk of flood.

**Item No.** 1.5

**Ref. No.** [DMPA/2021/0487](#)

**Valid date:** 19/03/2021

**Applicant:** Stephen Hollingsworth **Agent:**

**Proposal:** **The formation of pedestrian access to car park at Melbourne Sports Pavilion, Cockshut Lane, Melbourne, Derby, DE73 8DG**

**Ward:** **Melbourne**

### **Reason for committee determination**

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

### **Site Description**

The application proposal lies at the northern edge of the recently extended parking area adjacent to the all-weather pitch at the playing fields.

### **The proposal**

The proposal would involve the creation of a five metre path and a metre wide gap in the roadside hedge in order to facilitate pedestrian access to and from the car park. A gate would be fitted to the new opening.

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

The applicants consider the path and gate necessary due to the grass connecting the car park to the Sports Pavilion becoming boggy in winter which is a deterrent to parking on the recently constructed car park. The ability to use the surfaced footway will encourage use of the car park rather than the highway for parking.

### **Relevant planning history**

Redevelopment of the playing fields was permitted under planning permission 9/2011/0910 (amended by 9/2013/0458).

9/2018/1378: The creation of 3no. artificial grass tennis courts with 3m high perimeter fencing. Approved 18/11/20.

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

The County Highway Authority has no objection.

Melbourne Parish Council has no objection subject to the work not being done during the bird nesting season.

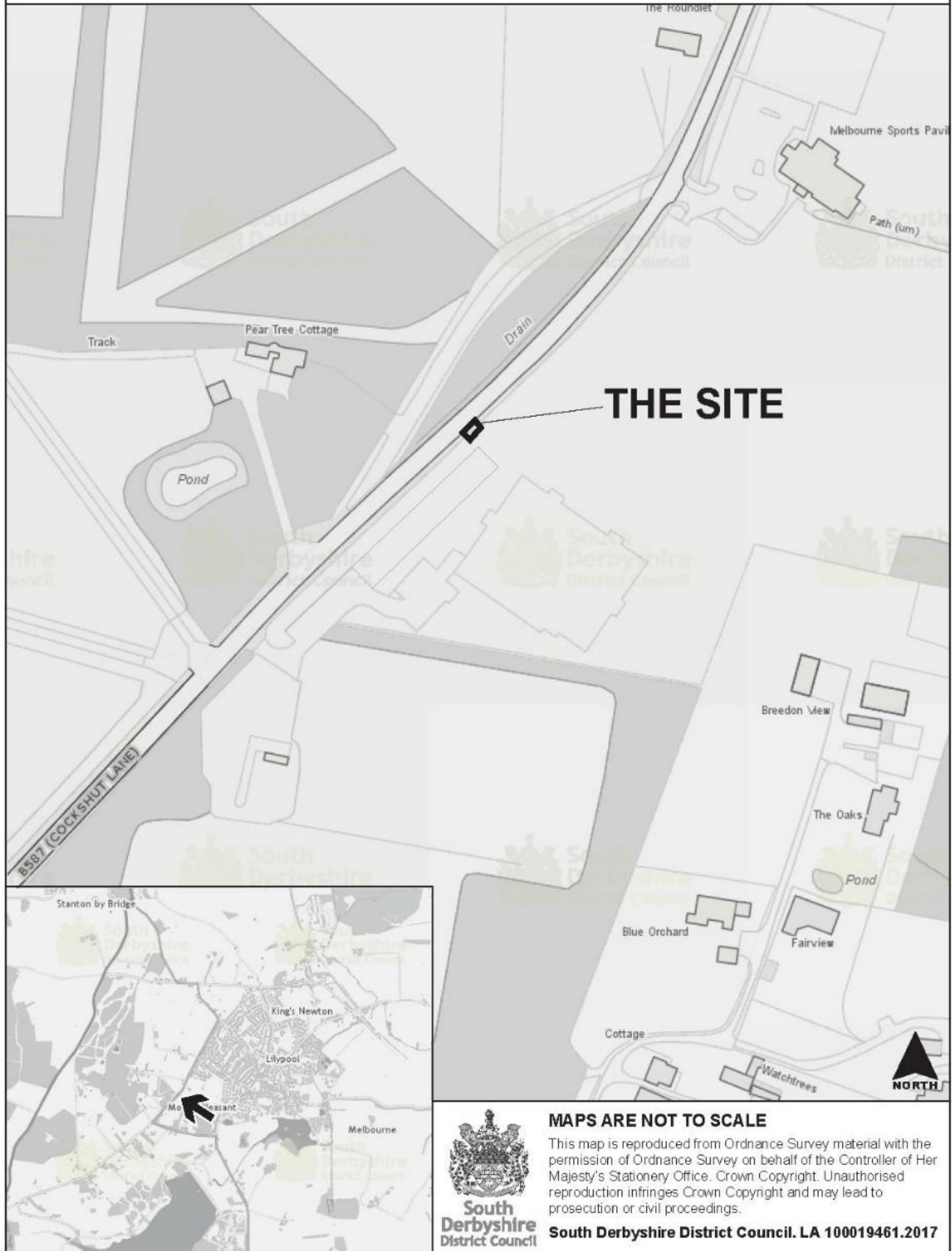
Melbourne Civic Society has no objection.

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

The relevant policies are:

- Local Plan Part 1 2016 (LP1): BNE1 (Design) BNE4 (Landscape) S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity) INF2 (Highway Safety and parking) and INF9 (Open Space, Sport and Recreation).

**DMPA/2021/0487 - Melbourne Sports Pavilion, Cockshut Lane, Melbourne, Derby DE73 8DG**



## Emerging Policies

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

## National Guidance

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

## Planning considerations

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

- Impact on the amenities of neighbours;
- Visual impact; and
- Highway safety.

## Planning assessment

### Impact on the amenities of neighbours

The access would be some distance away from the nearest residential property, such that no undue disturbance would occur, and Policy SD1 is thus satisfied.

### Visual impact

The small breach in the hedge would not adversely affect its character as attractive roadside boundary feature, in accordance with Policies BNE1 & BNE4.

### Highway safety

On the advice of the Highway Authority there would be no harm to highway safety interests, in compliance with Policy INF2. Indeed the proposal would allow for safe all weather access around the site.

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

## Recommendation

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

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

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

2. The development hereby permitted shall be carried out in accordance with the submitted plans and drawings; unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. The new pedestrian gate shall open inwards.

Reason: In the interest of highway safety.

Informatives:

- a. The applicant/developer is reminded that it is an offence to damage or destroy species protected under separate legislation, which includes, but is not limited to, nesting birds which may be present in hedgerows, trees or ground habitats on the site. Planning permission for a development does not provide a defence against prosecution under wildlife protection legislation. You are advised that it may be necessary, shortly before development commences, to commission an ecological survey from suitably qualified and experienced professionals to determine the presence or otherwise of such protected species. If protected species are found to be present, reference should be made to Natural England's standing advice and/or the Derbyshire Wildlife Trust should be consulted for advice.



**Item No.** 1.6

**Ref. No.** [DMPA/2020/0773](#)

**Valid date:** 13/07/2020

**Applicant:** N Panglin

**Agent:** Nigel Booth

**Proposal:** **Construction of proposed new agricultural road on Land at SK3528 8771, Barrow Lane, Swarkestone, Derby**

**Ward:** Aston

### **Reason for committee determination**

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

### **Site Description**

The site is a 6.1 hectare field located on the north side of Swarkestone Road and immediately to the east of a ribbon of housing. The Weston on Trent Branch Railway runs adjacent to the north boundary of the field. There is an existing field access at the south eastern corner of the field.

### **The proposal**

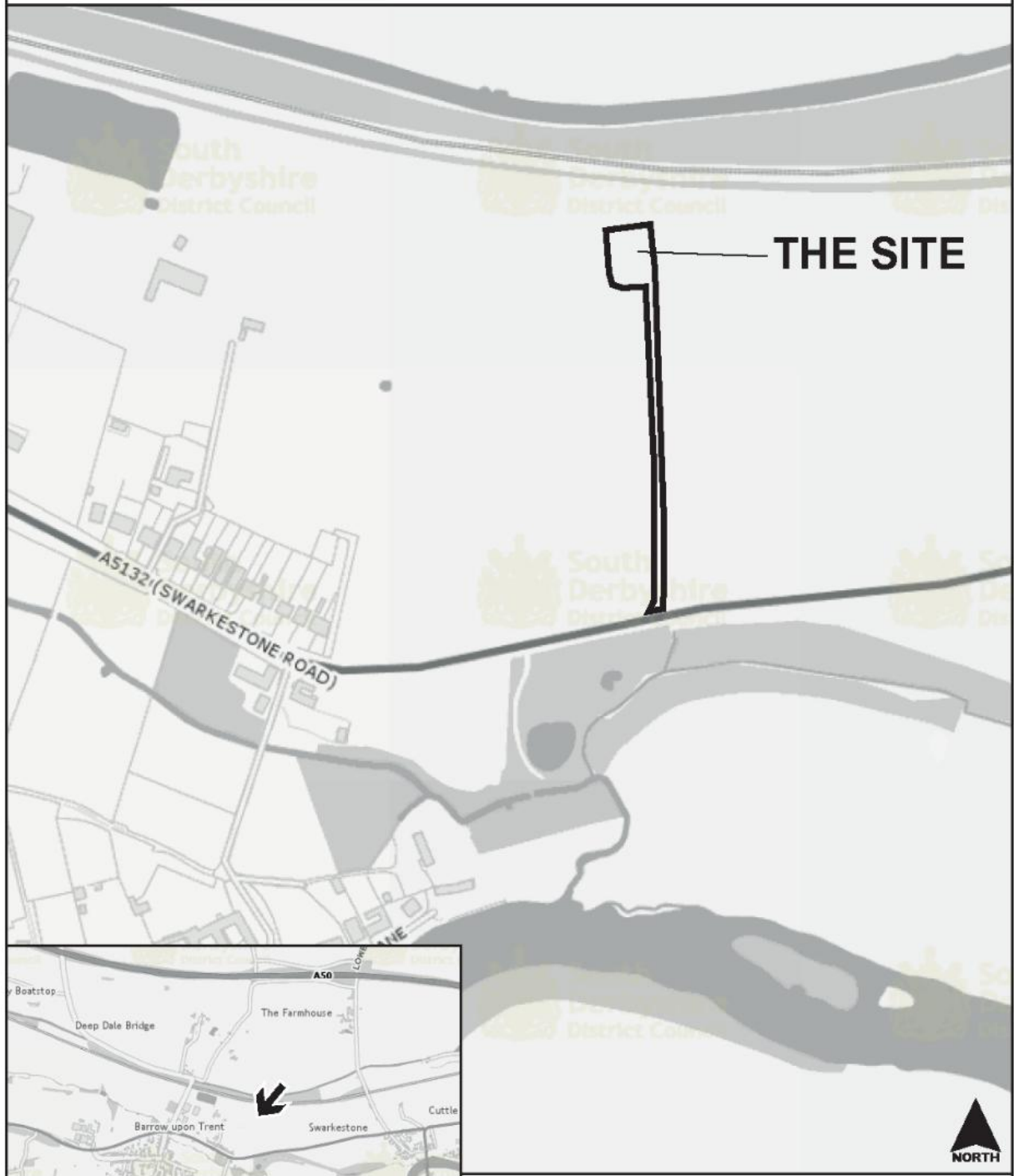
The application seeks to connect the existing field access to a proposed agricultural building at the north east corner, by the laying of a hard surfaced track. It would run parallel to and adjacent to the eastern boundary hedge.

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

The Design & Access Statement and further supporting information set out the following;

- The proposal would provide safe access from Barrow Lane to the building site during construction (DMPN/2020/0344), and also to create a clean access and egress from/to Barrow Lane throughout the agricultural year.
- The proposal would reduce the risk of dirt and mud migration onto Barrow Lane throughout the agricultural seasons from this holding.
- The existing road access would not be altered.
- The proposal would be unobtrusive, located alongside the existing hedgerow.
- The approved building is for on-site storage for produce and agricultural implements.
- Currently the agricultural implements are kept off site on a neighbouring farm and are brought to site as and when required. Any routine scheduled and reactive maintenance is also carried out off site. Any fertilizers have to be delivered off site as they cannot be left outside and are brought to site as and when required.
- Currently the harvest is taken off site and stored in rented buildings. This means the overall cost of the harvest is increased. It currently takes nearly ten tractor and trailer loads to transport the grain/crated potatoes to the off site storage facility.
- For grain the field is ploughed with tractor and plough. A combination drill is utilised to 'flatten' the furrows and plant the seeds. Crop spraying is carried out by a contractor. The grain is harvested utilising a combine harvester, tractors and trailers and tele-handler with grain bucket to heap and ultimately load grain. Storage is required for combine plus the head, two tractors, two trailers, plough, seed drill, tele-handler and bucket. Storage is also required for 8 No. seed bags, 14 No. fertilizer bags and the contractors fertilizer spreader. Storage is required for harvested grain awaiting sale time.

**DMPA/2020/0773 - Land at SK3528 8771, Barrow Lane, Swarkestone, Derby (DE73 7HF)**



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**South Derbyshire District Council. LA 100019461.2017**

- For potatoes the field is ploughed with tractor and plough. The field is de-stoned with tractor and de-stoner. The field is fertilized. The seed potatoes are planted and sprayed as and when required. Potatoes are harvested and crated then dry stored utilising potato harvester, flat bed trailers and tractors and tele-handler. Storage is required for tractors, plough, de-stoner, fertilizer and spreader, 14 tonne of seed potatoes, potato harvester, flat trailers, tele-handler and storage of 280 No. potato crates prior to harvest and then awaiting collection when filled.
- As most of the implements, whichever product is being grown, are generally utilised for one month out of the agricultural year the building will also provide 'out of season' storage and the track will provide an 'all year around' clean and safe access and egress off Barrow Lane.
- The access track will reduce the overall 'comings and goings' dramatically. The carbon footprint will be drastically reduced, the chance of 'mud on the road' will almost be eradicated and hopefully afford a greater margin for profit from the harvest once the building can be utilised to its full potential from the permission for this proposed access track
- Between 1981 and 1990 the applicant's family worked for a Hatton based company around Melbourne as an introduction and to gain skills and experience in arable and vegetable/salad agricultural farming practices and procedures.
- Having gained experience a family venture was set up on the application field, along with a further 150 acres locally (which included buildings for storage and processing). All the land at that time was rented.
- The rented holding at this time produced lettuce, broccoli, kidney bean and beetroot as a contractor/supplier to Trent Valley Growers for over 20 years. The entire venture including all labour and produce was supplied and organised by the applicant's family from the rented ground mentioned. It did prove to be fairly profitable for some time. The produce had to be taken to rented facilities for processing and packing at Barrow-on-Trent and Aston-on-Trent. Unfortunately Trent Valley Growers collapsed and the bigger company based in Lichfield that took over the contracts for supplying this produce to proved to be a very different set up altogether and as such this farming venture ended.
- Diversifying into other areas over the interim allowed the applicant to buy this parcel of land when it came for sale some years ago in 2008.
- This parcel of land is most productive when root vegetables are grown, although cereal has also been grown from time to time. The footprint of the building is almost completely covered when growing and harvesting root vegetables, not so much with cereal.
- The applicant wishes to carry on the farming practices that have now been a family tradition for nearly 40 years. All agricultural activities will be done safely and with the consideration of the neighbouring properties and the local highways, which is all subject to this access track being approved.
- When buying this land it was not the intention for this to necessarily be a financial or commercially viable agricultural business. It was purchased with a duty of care for the land and surrounding area to continue farming it with a certain amount of affection as this is where the farming started nearly 40 years ago. The applicant considers this not as a hobby farm or smallholding but more as a Lifestyle Farmer with a passion for this area, farming and in particular this parcel of land.
- Strategically the future plans and desires are to consider this parcel of land with its building and road access as the epicentre of the holding. As other parcels of land locally become available for either rent or purchase these will be considered for suitability and may be added to the overall holding and agricultural venture.
- This access track forms a key element in the desirable development of this parcel of land, along side the building. It is intended to be exactly what it is suggested to be - an agricultural holding, with a building of a suitable size that hopefully will future proof any further development all with a safe clean access and egress track to and from Barrow Lane.

### **Relevant planning history**

DMPN/2020/0344 - Prior Notification (permitted development) for the erection of a steel framed agricultural general purpose storage building. Prior approval not required April 2020.

## Responses to consultations and publicity

Barrow upon Trent Parish Council objects due to the location of the access in relation to a bend in the road. If large machines are slowing down to turn into this sight just after/before a blind bend it will cause a major hazard. Currently access is very minimal just at Harvest & Sowing times. There is concern that construction of this roadway would mean a lot more traffic in and out of this site. The Parish Council is quite concerned that the applicant will not be using this for purposes stated. It is one field that will not require daily husbandry as stated in the design and access statement. The Parish Council is concerned that the applicant may begin trading from this location hence the need for a substantial roadway to the new construction. If the main need for the roadway is to allow access to construction traffic and building materials then a temporary track could be installed and removed after construction, leaving the current track as it is current state. The Parish Council points out that this field sits very wet and is prone to flooding and would be concerned that any loose materials end up being washed away during flooding.

The County Highway Authority has no objections to the proposal from the highway point of view on the grounds that there is an existing field access at the location indicated on the submitted drawings and the barn has consent. As such, it is not considered that approval of the proposal would alter existing highway conditions as the barn could be constructed/accessed without the track with a likelihood of mud and debris being dragged onto the highway. Conditions and informatives are recommended.

## Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality) INF2 (Sustainable Transport) and BNE4 (Landscape Character and Local Distinctiveness)
- Local Plan Part 2 (LP2): BNE5 (Development in the Countryside) and BNE6 (Agricultural Development)

The relevant national policy and guidance is:

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

## Planning considerations

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

- The principle;
- Impact on the landscape;
- Highway safety; and
- Implications for cessation of agricultural use.

## Planning assessment

### The principle

Policies BNE5 & BNE6 are generally permissive of agricultural development, this being a rural based activity by its nature and unavoidable outside settlement boundaries.

Nevertheless the necessity of the proposed access track is associated with the building that was subject to prior notification (DMPN/2020/0344) for permitted development under Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 6, Class A (the GPDO) this process deals with specific matters of siting, design and external appearance only.

The details submitted with the notice showed the building to be located away from neighbours and the highway and there was no other apparent location within the field where a building of the size proposed could be reasonably accommodated so as to reduce visual impact.

It remains a requirement that the building must satisfy the limitations and conditions of the GPDO; in particular, the building must be reasonably necessary for the purposes of agriculture within that unit. The applicant has supplied a considerable amount of information in respect of his aspirations for the land and building and this amounts to sufficient evidence that building is reasonably necessary. That being the case the track, clearly associated with the building and necessary to its function, would also be essential to a rural based activity and thus supported in principle by Policies BNE5 & BNE6.

#### Impact on the landscape

Being located alongside a substantial existing hedgerow the impact on the landscape character area would not be harmful, in accordance with Policies BNE4, BNE5 & BNE6.

#### Highway safety

Subject to the recommended conditions of the Highway Authority there would be no increased adverse highway safety impacts, in accordance with Policy INF2. This is taking in to consideration the fact that an existing field access exists.

#### Implications for cessation of agricultural use

The deemed permission for the building under the GPDO is conditional. If the use of the building for the purposes of agriculture within the unit permanently ceases within 10 years from the date on which it was completed; and planning permission has not been granted on an application, or has not been deemed to be granted for development for purposes other than agriculture, within 3 years from the date on which the use of the building or extension for the purposes of agriculture within the unit permanently ceased; then, unless the Local Planning Authority has otherwise agreed in writing, the building must be removed from the land and the land must, so far as is practicable, be restored to its condition before the development took place, or to such condition as may have been agreed in writing between the local planning authority and the developer.

In the event that it is necessary to remove the building under the conditional requirements of the GPDO the access track would effectively be redundant. However there would be no clear environmental or safety gain in removal of the track in these circumstances and therefore it is not reasonable to seek to do so by condition.

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

#### **Recommendation**

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

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

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



2. The development hereby permitted shall be carried out in accordance with drawing No. NM/0620/577/001; unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. A vehicular crossover, constructed in accordance with Derbyshire County Council's standards, shall be provided from the rear of the footway to the site boundary before the new agricultural road is brought into use.

Reason: In the interest of highway safety.

4. No gates shall be located within 12 metres of the highway boundary and any gates shall shall open inwards only.

Reason: In the interest of highway safety.

Informatives:

- a. 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 & Environment at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website <http://www.derbyshire.gov.uk>, email [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk) or telephone Call Derbyshire on 01629 533190.
- b. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
- c. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

**Item No.** 1.7  
**Ref. No.** [DMPA/2021/0510](#)  
**Valid date:** 15/04/2021  
**Applicant:** David Shepherd  
**Proposal:** **The rebuilding of the rear garden wall at The Firs, 11 High Street, Ticknall, Derby, DE73 7JH**  
**Ward:** Repton

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

This application is presented to the Committee as the applicant is an elected Ward member for Stenson.

#### **Site Description**

The host property is a Grade II listed early 19th Century detached house located within the key service village and conservation area of Ticknall. The building is 2-storey with a symmetrical 2-bay street frontage elevation and is built of rendered brick with a hipped Welsh slate roof. The site is enclosed by stone walls with gates and railings to the frontage of High Street and red brick walls to the rear boundaries.

There are other listed buildings nearby including the Staff of Life PH to the north (Grade II) and a K6 telephone kiosk opposite to the west (Grade II).

#### **The proposal**

The application seeks planning permission for the rebuilding of a 9m section of an existing rear boundary brick wall that has collapsed.

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

The applicant has submitted a Design, Access and Heritage Statement advising that the section of rear garden wall was blown over as a result of recent stormy weather.

Prior to the rebuild, the remaining course of the collapsed wall will be removed to a good sub-base and the existing bricks and copings will be salvaged and cleaned to enable re-use. The garden wall will be rebuilt to its original height and bond pattern and will be repointed in lime mortar to match the adjoining section of wall.

#### **Relevant planning history**

There have been numerous applications for works to trees within the site that are subject to Tree Preservation Orders and, although not relevant to the current proposal, there have been applications (9/2015/0996/FH and 9/2015/0849/L) to erect a dry stone wall, new gates within a demolished section of wall, block paving to the driveway and a new greenhouse on land to the side of the house, both approved on 16th December 2015.

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

The Conservation Officer does not object to the proposal and has advised that a site visit has been carried out in connection with other matters and he is familiar with the property and its environs. A condition that the wall be rebuilt using the existing bricks insofar as is possible, to the same height and bond pattern utilising a lime based mortar, as is stated in the submission documents, should be imposed.

**DMPA/2021/0510 - The Firs, 11 High Street, Ticknall, Derby D£73 7JH**



It should be noted that the statutory consultation period does not expire until 21st May 2021 and any additional comments received prior to this date (while the agenda is being processed and distributed) will be verbally reported at committee.

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

The relevant Development Plan policies are:

- 2016 Local Plan Part 1 (LP1): Policy S2 (Presumption In Favour of Sustainable Development), Policy SD1 (Amenity & Environmental Quality), Policy BNE1 (Design Excellence), Policy BNE2 (Heritage Assets)
- 2017 Local Plan Part 2 (LP2): H27 (Residential extensions and other householder development), BNE10 (Heritage)

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)
- Ticknall Conservation Area Character Statement 2014 (CACS)
- Ticknall Article 4 Direction (SPG) – 24th November 1983

The relevant national policy and guidance is:

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

### **Planning considerations**

Taking into account the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issue(s) central to the determination of this application is/are:

- The Article 4 Direction and the need for planning permission; and
- The impact on the setting of the host listed building and the character and appearance of the conservation area.

### **Planning assessment**

#### The Article 4 Direction and the need for planning permission

The property is covered by the Ticknall Article 4 Direction which seeks to protect any surviving historic or architectural features within the conservation area by means of removing permitted development (PD) rights for external alterations, extensions and other additions to the dwellinghouse (Class A of Part 1 of Schedule 2 of the General Permitted Development Order (GPDO) 2015) and the construction of porches (Class D of afore-mentioned Order) which would not normally require planning permission.

The proposed development would not be covered by the Article 4 Direction and requires planning permission only by virtue of being works that would involve development within the curtilage of, or to a gate, fence, wall or other means of enclosure surrounding, a listed building (Condition A.1(d) of Class A of Part 2 of the 2015 GPDO).

The proposed rebuilding of the existing boundary wall would have no impact on the amenities of the surrounding neighbours nor would it impact on the character of the existing street scene or general area given its location to the rear of the property.

#### The impact on the setting of the host listed building and the character and appearance of the conservation area

The proposed works would not include the alteration of the existing wall as it would be reinstated using salvaged material and to its original height and footprint. This section of rear wall is of bricks likely

dating to the mid-20th century with a tile creasing and brick on edge coping such that it is not old enough to be protected as part of the listed building such that listed building consent would not be required for the proposed works.

The application concerns rebuilding and repair of a rear boundary wall at the southeast (rear) corner of the site. A section of this wall was blown over in recent storms, necessitating the works. The section is also behind the existing detached garage when viewed from the High Street frontage and shielded by trees in the gap between the house and the garage. There is a public right of way (Ticknall Public Footpath 13) running east-west to the south of the site from which the rear of the property can be seen at a distance of some 40 metres.

Given the proposed re-use of existing material and the rebuilding of the wall back to its former height, the proposal would not harm the setting of the listed building, the neighbouring listed buildings or the special architectural and historic character and appearance of the conservation area and would thus achieve the desirable objectives described in Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. As such, the proposal would conform to the requirements of the NPPF and with Policy BNE2 of the LP1 and Policy BNE10 of the LP2 in that the significance of the heritage assets (listed buildings and conservation area) would not be harmed.

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

The proposal would conform to the requirements of the NPPF and the NPPG and with Policy S2 of the LP1 in that planning applications received by the Council that accord with the policies in the Local Plan Part 1 (and where relevant, with policies in neighbourhood plans) will be dealt with positively and without delay unless material considerations indicate otherwise.

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

## **Recommendation**

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

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

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

2. The development hereby permitted shall be carried out in accordance with the submitted plans and documents, received on 23rd March 2021 and made valid on 15th April 2021; 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.

3. The wall shall be rebuilt using the existing bricks insofar as is possible, and to the same height and bond pattern utilising a lime based mortar, as is stated in the approved submission documents. Any additional bricks that need to be sourced shall match those used in the existing wall in size, colour, coursing and texture.



Reason: In the visual interest of the building(s), the significance of the heritage asset(s) and the surrounding area.