

**North East Derbyshire District Council**

**Planning Committee**

**2 October 2018**

**Development Management Applications**

**Report No PM/11/18-19/AK of the Planning Manager – Development Management**

This report is public

**Schedule of Planning and Other Applications under the Town and Country Planning (General Development Procedure) Order 2015, the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and the Town and Country Planning (Tree Preservation) (England) Regulations 2012**

**FOR THE INFORMATION OF MEMBERS**

**Legal and Financial Implications**

Members are advised that there may be legal and financial implications arising from determination of planning and other applications and the authorisation of enforcement action.

There is a right of appeal against a refusal of planning permission or the imposition of conditions on a planning approval, which may attract an award of costs against the Council. Preparation of the District Council's case in such appeals may necessitate expenditure on legal advice or Counsel.

Breaches of planning control, such as unauthorised development or the unauthorised use of buildings and land, or failure to comply with conditions may be redressed by the District Council's powers to take enforcement action. Such action may lead to possible further action in the Magistrates' or Crown Courts which may involve expenditure on legal advice and costs.

There is a right of appeal against the service of an enforcement notice. If any appeal is upheld it may attract costs against the Council.

**Human Rights Act 1998**

The reports consider decisions by the Council which may affect property rights of the owner (Article 8 and Article 1 may be relevant). Under the Human Rights Act 1998 the Council must be in a position to show:

- its action is in accordance with clearly established law
- the objective is sufficiently important to justify the action taken
- the decisions taken are objective and not irrational or arbitrary
- the methods used are no more than are necessary to accomplish the legitimate objective
- the interference impairs as little as possible the right or freedom

All action taken in considering applications, consents, and enforcement is the lawful duty of this Authority as Local Planning Authority. Decisions are objective and proportional being based on consideration of the National Planning Policy Framework and the policies contained in the North East Derbyshire Local Plan and all other material considerations.

There is a right of appeal against all decisions made by the Council.

### **Environmental Considerations**

There are environmental implications arising from the determination of planning applications and the authorisation of enforcement action. The consideration of the development of any site seeks to take into account the need to safeguard the environment, and the relevant issues are dealt with in each case in the Planning Assessment and Summary.

### **Community Safety Implications**

Members are advised that there are Community Safety Implications arising from the determination of planning applications.

Crime prevention is capable of being a material consideration in the determination of planning applications as set out in the National Planning Policy Framework. Where relevant these matters are addressed in each case in the Planning Assessment and Summary.

The safety of development sites is the responsibility of the site's operative and enforced by specialist agencies.

Issues with regard to highway safety are relevant to the determination of planning applications. These issues where relevant are addressed in each case in the Planning Assessment and Summary with the relevant advice of the Highway Authority incorporated in the report.

### **Background Papers**

The background papers relating to each application are the application forms, plans, representations received and replies to consultations, contained in the application file, the reference of which is given at the head of each report.

### **With reference to applications made for works to Protected Trees**

#### **Financial Implications**

The prescribed format when a Tree Preservation Order is made includes a section which makes provision for the payment by the Local Planning Authority, subject to such exceptions and conditions as may be specified in the Order, of compensation in respect of loss or damage caused or incurred in consequence of:-

- (a) the refusal of any consent required under the Order; or
- (b) the grant of any such consent subject to conditions.

Liability for compensation may be avoided by the Local Planning Authority in relation to trees which are subject to a Tree Preservation Order made prior to 2<sup>nd</sup> August 1999, and incorporating the appropriate wording, where in refusing consent or imposing conditions on an approval the Local Planning Authority are satisfied that their decision is in the interest of good forestry or that the tree(s) has/have an “outstanding” or “special” amenity value, unless the Council’s assessment of the amenity value of the Tree(s) is successfully challenged.

### **Legal Aspects**

Once an Order is made, applications for consent are required in respect of any proposed cutting down, topping, lopping or uprooting of any trees. There is a right of appeal to the Secretary of State against the decision of the Council to either refuse consent or grant permission for works subject to condition.

### **Environmental Considerations**

The making of a Tree Preservation Order, and the subsequent control of works to trees covered by Orders are likely to benefit the local environment through the contribution of the protected tree(s) to visual amenity and the retention of their ecological value. The assessment of all applications for consent for works balances this with the need for the works proposed.

### **Trees (Community Safety Implications)**

The health of a protected tree and its safety remain the responsibility of the tree’s owner, even where the tree is covered by a Tree Preservation Order. If a tree is dead, dying or dangerous, works to rectify the danger may be undertaken without the consent of the District Council.

The safety and health of a tree covered by a Tree Preservation Order is a material consideration in the determination of any application to undertake work to a protected tree. However, this has to be balanced against all other material factors when considering any particular submission.

## **DEVELOPMENT MANAGEMENT APPLICATIONS INDEX**

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MORTON	NED/18/00359/FL	Erection of timber drying facility and change of use of agricultural building for associated storage purposes with improvements to access track (Amended Details) Averill Farm Evershill Lane Morton Alfreton DE55 6HB.	<b>11 - 25</b>
BRAMPTON	NED/17/00874/FL	Full application for the use of a redundant quarry for clay pigeon shooting purposes for no more than 28 days in any calendar year and including creation of car parking area for use by participants (amended title) on land south of Quarry Farm, Freebirch, East Moor for Mr P Pollard.	<b>26 - 33</b>
DRONFIELD	NED/18/00685/FL	Proposal of a new single storey 3 bed dwelling to the rear garden of 17 Green Lea with associated landscape and access - 17 Green Lea Dronfield Woodhouse Dronfield S18 8YA.	<b>34 - 43</b>
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**PLANNING COMMITTEE:** 2<sup>nd</sup> October 2018

**PARISH:** Dronfield

18/00554/FLH

**APPLICATION:** The construction of a first floor gabled side extension with rear facing dormer windows to provide an additional bedroom in the roofspace at 29 Hilltop Road, Dronfield for Mr Ben Dowle.

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Members will recall that this application was first considered by the Planning Committee when it met on 4<sup>th</sup> September 2018. This followed a site visit by the Site Inspection Group.

The application was deferred to enable Officers to discuss possible alternatives with the applicant. Discussions have taken place with the applicant and it has been confirmed by them that they would like the originally submitted scheme to be formally considered and determined by the Council.

In particular the applicants consider that Members did not take into account vital evidence regarding the street scene and the proximity to No. 27. In addition, the applicant contends that the photos from the site visit only gave the view from the point of view of the residents at No. 27 and so exaggerated the size of the applicants own development. They would like to have photos from their own property displayed too which they believe show the impact development at No. 27 has on their property.

The applicants have been invited to submit any further evidence they wish to be considered and if this involves photographs they will be displayed for Members consideration.

Otherwise the application is returned to Planning Committee for formal consideration and determination by the Committee.

**1.0 SITE DESCRIPTION:**

- 1.1 The application property is a brick built semi-detached two-storey dwelling with hipped roof and an existing wrap-around front, side and rear single-storey extension.
- 1.2 The property is located near to the junction with Hollins Spring Road and positioned at an angle to the highway behind a small open green space.
- 1.3 The other properties in the vicinity are a mixture of similar semi-detached dwellings, detached two-storey dwellings and detached bungalows; some with hipped roofs and some gabled.

**2.0 PROPOSAL:**

- 2.1 The application seeks planning permission for the construction of a side extension with gabled roof to provide an additional bedroom at first floor level with rear facing dormer windows to create a fourth bedroom with ensuite bathroom in the roofspace.

### **3.0 PLANNING HISTORY:**

- 3.1 04/00914/FL - demolition of existing garage and construction of a single-storey extension to side, front and rear – approved 23/08/04

### **4.0 DEVELOPMENT PLAN CONSIDERATIONS:**

- 4.1 The North East Derbyshire Local Plan (adopted November 2005) forms the current Development Plan for the area.
- 4.2 The Local Plan policies most relevant to the proposal are:  
BE1 - General Design Principles  
GS5 – Development within Settlement Development Limits  
H5 - Domestic Extensions
- 4.3 The Emerging North East Derbyshire District Local Plan has now reached its publication draft stage and no further alterations to the plan are envisaged at this stage prior to its submission to the Secretary of State for examination. In accordance with Annex 1 of the NPPF, the Public Draft is considered to carry some weight at this stage.
- 4.4 The Emerging Plan Policies most relevant to the proposal are:  
SS7 - Settlement Development Limits.  
LC5 - Domestic Extensions.
- 4.5 The guidance set out in “Successful Places” is also a material consideration.
- 4.6 The Dronfield Neighbourhood Plan is out for consultation and can therefore be attributed limited weight.
- 4.7 The overarching aims of the revised National Planning Policy Framework (NPPF) are also material in the assessment of this application.

### **5.0 HIGHWAY CONSIDERATIONS:**

- 5.1 There are no highways considerations.

### **6.0 CONSULTATIONS AND REPRESENTATIONS:**

- 6.1 A **Ward Member** has made the following comments and requested that the application be considered by the Planning Committee:
- The extension would not fit in with surrounding properties;
  - The extension would be too close to the adjacent property and would result in a loss of natural light;
  - The dormer windows would impact on the privacy of neighbouring residents.
- 6.2 Seven **letters of representation** has been received from four neighbouring residents which can be summarised as follows:
- The proposed extension would result in an overly prominent dwelling not in keeping with the adjacent properties or the surrounding streetscene;
  - The extension would result in a reduction in the visual gap between adjacent properties to give a more densely developed appearance;

- The extension would be too close to the adjacent dwelling at number 29 resulting in a loss of natural light to side facing windows and the rear conservatory;
- The rear dormer windows in the roofspace would result in additional overlooking of neighbouring properties with loss of privacy.

6.3 In addition eight **letters of support** have been received from Dronfield residents which can be summarised as follows:

- There are many other properties in Dronfield which have had similar extensions;
- The dormer windows would result in no additional overlooking when compared to the existing views from first floor windows;
- Growing families should be encouraged to extend their properties rather than move out of the area;
- One of the attractions of Hilltop Road is the diversity of properties present which adds to the character of the area.

6.4 The **Parish Council** raised objections to the application with the following concerns:

- The proposed design does not fit in with the rest of the streetscene;
- The extension would result in overlooking;
- The extension would be too close to the adjacent property.

## **7.0 PLANNING CONSIDERATIONS:**

7.1 The planning considerations for this application are the impact of the proposal on the character and appearance of the site and its impact upon the privacy and amenity of neighbouring occupiers.

## **8.0 PLANNING ASSESSMENT AND SUMMARY:**

8.1 The application site is situated within the Settlement Development Limit for Dronfield and, as such, Local Plan Policies GS5 and H5 indicate that the general principle of development is acceptable provided that (a) it would not be detrimental to the character and appearance of the site and its surrounding environment; and (b) it would not have a detrimental impact on the amenities of neighbouring occupiers and uses.

8.2 Although the other dwellings immediately adjacent to the application property feature hipped roofs, rather than the gabled extension now proposed, there is an eclectic mix of different house types along Hilltop Road and the adjacent streets which do make a positive contribution to the varied character of this part of Dronfield. It is not considered, therefore, that the gabled extension now proposed, although more prominent than the existing dwelling, would be significantly harmful to the character and appearance of the surrounding area.

8.3 The proposed first floor side extension would be closer to the existing side facing bedroom windows at the adjacent detached dwelling, number 27, than the existing side elevation but these are secondary windows, with larger windows serving the bedrooms to the front and the rear. The direct impact on these side facing windows is not considered by Officers to carry any significant weight therefore.

- 8.4 The adjoining property, No. 27, has been extended in the form of a conservatory to the rear. The rear facing windows to that room extend beyond the plain of the extension and so will not be directly adversely impacted by the proposed extension although it is accepted the clear roof to the conservatory will be further shadowed by the extension.
- 8.5 The upper storey has a rear facing bedroom window in the original rear facing plain of the dwelling. However, the extension would not breach the 45 degree rule set out in "Successful Places" and so the impact on this window is also considered acceptable.
- 8.6 Although the extension now proposed would result in some additional overshadowing of the adjacent property and its garden, it is not considered that this would be demonstrably harmful nor result in a significant loss of amenity for the neighbouring residents.
- 8.7 The proposed two rear facing dormer windows serving a bedroom would have the potential for views over the gardens of the adjacent properties but it is not considered that this would result in any significant additional harm when compared to the current situation, with views possible from existing first floor windows.
- 8.8 The addition of a gabled first floor side extension would result in a reduction in the visual gap between the application property and the adjacent property but it is not considered that this would be significantly harmful nor out of keeping with the diverse character of the surrounding area.

### Conclusion

- 8.9 Overall, it is considered that the proposed scheme represents acceptable development that is neither harmful to the character of the host property, the amenity of neighbouring residents or the character of the surrounding area and therefore complies with the requirements of the relevant Local Plan Policies.
- 8.10 The revised National Planning Policy Framework has also been taken into account in assessing this scheme.

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## **9.0 SUMMARY OF CONSULTATIONS:**

<u>County Highways:</u>	N/A
<u>County Planning:</u>	N/A
<u>Environmental Health:</u>	N/A
<u>Drainage:</u>	N/A
<u>Access Officer:</u>	N/A
<u>Footpath:</u>	N/A
<u>Neighbour:</u>	Comments received.
<u>Others:</u>	Letters of support from Dronfield residents.
<u>Ward Member:</u>	Comments received.
<u>Parish Council:</u>	Comments received.

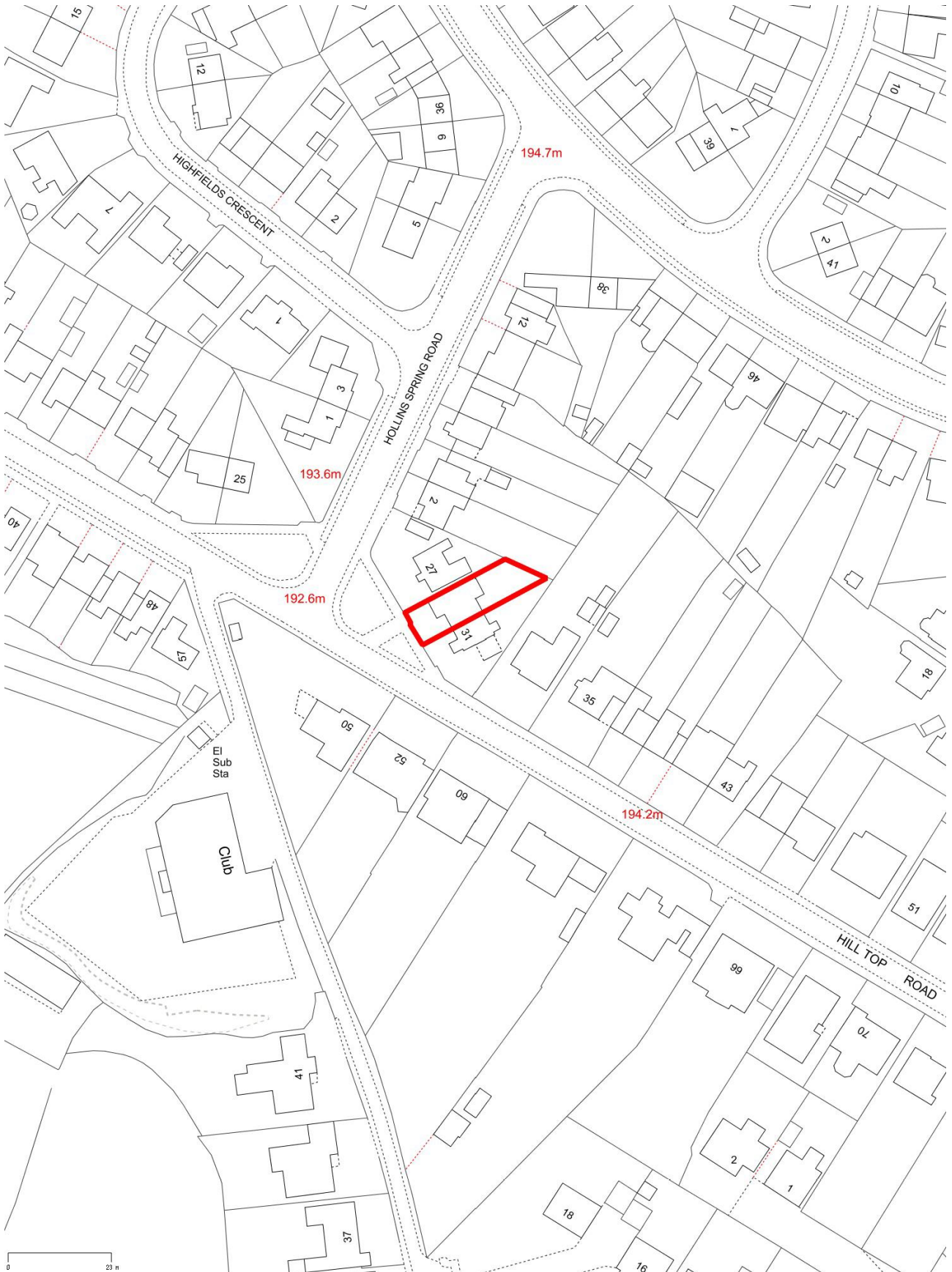
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## **10.0 RECOMMENDATION:**

GRANT Planning permission subject to the following conditions, final wording to be delegated to the Planning Manager:

- 1      1.1 (Standard Full)
- 2      The development hereby approved shall be carried out in accordance with the submitted drawings received 29/05/2018; unless otherwise subsequently agreed through a formal submission under the Non Material Amendment procedures and unless otherwise required by any condition contained in this decision notice.
3.      5\_2 – Matching Materials



NED/18/00554/FLH

**PLANNING COMMITTEE:** 2<sup>nd</sup> October 2018

**PARISH:** Morton

NED/18/00359/FL

**APPLICATION:** Erection of timber drying facility and change of use of agricultural building for associated storage purposes with improvements to access track (Amended Details)  
Averill Farm Evershill Lane Morton Alfreton DE55 6HB

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The Site Inspection Group is to visit the site to view the impact of the proposals on the character of the open countryside, highways and residential amenity.

## **1.0 SITE DESCRIPTION:**

- 1.1 The application site is Averill Farm which is located wholly within the open countryside outside of the Settlement Development Limits for Morton. It is a working farm with a holding of over 230 acres. On site there is the farm house and an array of farm buildings of various construction and scale.
- 1.2 Access to the site is via a track from Stretton Road.
- 1.3 To the north of the site is a solar farm which is unrelated to this application.

## **2.0 PROPOSAL:**

- 2.1 Planning permission is sought for the erection of a timber drying facility and change of use of an agricultural building for associated storage purposes. It requires the demolition of one of the larger agricultural buildings to the east of the site and modifications to a further building to the west to allow it to be used for the wood chipping operation in order to attenuate/mitigate any noise as a result of the proposed use.
- 2.2 The operations are not related to the farming practice and the purpose of the facility is to support Midlands Biomass Solutions facility in Derby, where dried timber undergoes torrefaction (a thermal process to convert biomass into a coal-like material) producing an end product that is of a much better fuel quality for combustion and gasification applications.
- 2.3 The application site is to be used for the chipping and drying of virgin FSC certified wood ready for transportation to Derby. The 6MW biomass boiler will be housed in the proposed boiler house which has a footprint of 22.6m x 22.6m. It will have a mono pitch roof with heights of 9.7m to the eaves and 12m to the ridge. It will have a chimney with a maximum height of 14.5m.
- 2.4 The drying plant will sit to the north of the boiler house and will have the appearance of a row of shipping containers. The drying plant will have an overall footprint of 26.5m x 12m and a height of 3.7 metres. There are four flues set apart at equal distances which will each have an overall height of 4.2 metres.
- 2.5 An external area for the storage of wood prior to drying is also proposed to the northeast of the proposed new buildings in the location of the existing slurry pit which will be filled in. Any temporary storage of the dried wood will take place in the buildings to the west which are currently in agricultural use.

- 2.6 The proposal provides improvements to the vehicular access track from Stretton Road in the form of the addition of two passing places. Within the site 15no. staff parking spaces are to be provided along the eastern boundary of the site and turning and parking for the LGV's.
- 2.7 The application is supported with a Noise Impact and Ecological Assessment along with information on the emissions from the boiler advising that there will be a need to apply for an Environmental Permit once installed. The submitted information has been independently reviewed by the Council's Environmental Health Officer.
- 2.8 A Screening Opinion has been carried out in accordance with Regulation 5(1) of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 ("The 2011 Regulations") and accordingly the development is not considered to be EIA development within the meaning of the Regulations.

### **3.0 PLANNING HISTORY:**

- 3.1 94/00643/AGD | GDO Schedule 2 Part 6 and 7 determination for Agricultural Permitted Development - Erection of extension to agricultural building. Status: No objection
- 3.2 94/00644/AGD | GDO Schedule 2, Part 6 and 7 Determination for Agricultural Permitted Development - Erection of extension to agricultural building. Status: No objection.
- 3.3 15/00307/FL | Installation and operation of a 5MW solar farm and associated infrastructure, including photovoltaic panels, mounting frames, inverters, transformers, substations, communications building, access tracks, fencing and pole-mounted CCTV cameras. Status: Conditionally Approved
- 3.4 15/00751/FL | Development comprising ground mounted photovoltaic (PV) solar energy generation system (up to 5.0 MW) with ancillary buildings security fencing CCTV, access tracks and landscaping on land (Major Development). Status: Conditionally Approved
- 3.5 15/01046/DISCON | Application to discharge conditions 5, 7, 8, 12 and 14 of application 15/00307/FL for erection of solar farm. Status: Approved
- 3.6 15/01116/DISCON | Application to discharge conditions 2 and 9 of application 15/00751/FL. Status: Conditions Discharged
- 3.7 15/01274/AMEND | Non material amendment relating to 15/00751/FL to alter site access track, inverter and panel configurations and changes to the structural dimensions. Status: Approved
- 3.8 16/00758/FL | Application to vary condition 3 of application 15/00307/FL (Major Development). Status: Conditionally Approved

### **4.0 DEVELOPMENT PLAN POLICIES:**

- 4.1 The Development Plan comprises of the saved policies of the North East Derbyshire Local Plan (adopted November 2005) and the Publication Draft Local Plan 2014-2034. The Council is now at an advanced stage in the production of a new Local Plan which reflects national guidance in the NPPF and provides for the development needs of the district for the period 2014 – 2034. The Plan was submitted to the Secretary of State for examination at the end of May 2018. This document has been subject to extensive consultation and sets out clearly the Council's strategy for sustainable development and should be afforded weight in decision making.
- 4.2 North East Derbyshire Local Plan (2005)

- GS1: Sustainable Development
- GS6: New Development in the Countryside
- GS7: Change of Use and Conversions
- BE1: General Design Principles
- NE1: Landscape Character
- E9: Employment Development in the Countryside
- T2: Highway Access and the Impact of New Development
- T9: Parking Provision for Development
- CSU7: Renewable Energy

#### 4.3 North East Derbyshire Local Plan: Publication Draft (PD) 2014-2034:

- SS1: Sustainable Development
- SS2: Spatial Strategy and the Distribution of Development
- SS9: Development in the Countryside
- SDC1: Re-use of Building in the Green Belt and Countryside
- SDC3: Landscape Character
- SDC4: Biodiversity and Geodiversity
- SDC10: Decentralised, Renewable and Low Carbon Energy Generation
- SDC13: Environmental Quality
- ID3: Sustainable Travel

#### 4.4 Additional Council Publications:-

The Landscape Character of Derbyshire (published by DCC)

### **NPPF 2018**

- 4.5 The revised National Planning Policy Framework was published on 24 July 2018 and sets out the government's planning policies for England and how these are expected to be applied. This revised Framework replaces the previous National Planning Policy Framework published in July 2012. At the heart of the NPPF is a presumption in favour of sustainable development. There are three dimensions to sustainable development that give rise to the need for the planning system to perform a number of roles; which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives) which include supporting economic, social and environmental objectives.
- 4.6 To promote sustainable development, the NPPF advises that these are objectives that should be delivered through Development Plans and the Framework. They are not criteria's to adjudge planning applications against, that is the role of development plan policies which should play an active role in guiding development towards sustainable solutions taking into account local circumstances, to reflect the character, needs and opportunities of each area.
- 4.7 Paragraph 154 advises that when determining planning applications for renewable and low carbon development, local planning authorities should:
  - a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and

b) approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.

- 4.8 Paragraph 213 advises that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

## **5.0 CONSULTATIONS AND REPRESENTATIONS:**

- 5.1 **Ward Councillors:** Cllr Butler requested that the application is presented to the Planning Committee with a site visit.

- 5.2 **Parish Council:** It was unanimously resolved that Morton Parish Council would object to the application on the following several grounds:

The application involves changing the use of Averill farm into a log drying plant which means 50/60 lorry's arriving throughout the day. The dried wood is then shipped to Derby for further processing further adding to traffic issues.

The following are major concerns for a plant of this size and should be considered during the planning process.

- Movement of traffic into and out of the village
- Poor access road that runs alongside Morton Grange with no pedestrian causeway
- Noise traffic impact on the village.
- Operation of the plant 12 hours/day 7 days /week and disturbance this will cause
- Other brown field sites are more suitable nearer the main plant in Derby thereby reducing traffic movements
- Environmental issues including noise, smoke, fumes and contamination from the plant

- 5.3 **Environment Health:** Initially objections were raised as insufficient information had been provide on noise and air quality as a result of the proposal. The applicant submitted a noise assessment and gave further details on air quality. The information has been reviewed and no objections are raised to the proposal.

**Noise** - The Acoustic report provided in support of this application demonstrate that the proposed development will not give rise to significant adverse aural impacts for local residents under all operating conditions. The report is subject to a number of works being implemented which include a change to the daytime operational hours. As the acoustician is advising that in order to achieve compliance with their findings that all of the works will be necessary. It is considered necessary to condition the mitigation measures as outlined in the report should approval be granted.

**Air Quality** - The boiler is designed to meet the EU Directive (EU) 2015/2193 of the European Parliament and the Council of 25 November 2015 on the limitation of emissions of certain pollutants into the air from medium combustion plants ([Medium Combustion Plant \(MCP\) Directive](#)). It regulates pollutant emissions from the combustion of fuels in plants with a rated thermal input equal to or greater than 1

megawatt (MWth) and less than 50 MWth. It regulates emissions of SO<sub>2</sub>, NO<sub>x</sub> and dust into the air with the aim of reducing those emissions and the risks to human health and the environment they may cause. It also lays down rules to monitor emissions of carbon monoxide (CO). The drying plant installation will be constructed to meet stringent guidelines set out under the ofgem Renewable Heat Incentive (RHI).

The Agent has indicated the MCP will not be put into use until after 20<sup>th</sup> December 2018 therefore it will require an environmental permit regulated by the Environment Agency. The permit will regulate emissions from the MCP (and ancillary activities) which the Environment Health Officer consider will be the main source of emissions to air at the site. Given the requirement for an environmental permit and the scale of the associated activities including traffic which is understood will be in the region of 2 HGV movements per hour during day time operational hours (08:00 to 18:00) it is considered that it cannot substantiate a recommendation for refusal of the current application on the basis of a lack of information on potential air quality impacts, particularly as the site is not located in an area with known air quality issues.

**5.4 Derbyshire Highways Authority:** The applicant wishes to change the use of the existing agricultural site to a timber drying facility. The proposal includes the formation of passing places on the access road from Stretton Road (B6014) to Averhill Farm. While the proposal may yield a potentially significant increase in vehicular activity having considered the supporting information provided by the applicant the Highways Authority are of the view that there is no basis upon which to sustain an objection on highway grounds. With this in mind it is recommend that conditions are imposed to secure sufficient parking within the site and the passing bays are installed prior to first use of the site.

**5.5 Derbyshire Wildlife Trust:** It is noted that a data consultation was not undertaken with the Local Record Centre as part of the Ecological Assessment, which does not comply with best practice. However, the rest of the report provides a detailed description of the habitats and species interests within and adjacent to the application area. The building proposed for demolition is not considered suitable for roosting bats and ecological constraints are limited to an offsite badger sett and foraging bats.

The Ecological Assessment report details mitigation measures, including the creation of a 5 metre wildflower buffer strip around the margins of the improved grassland field, which will also ensure that boundary hedgerows and trees are protected and that the offsite badger sett is somewhat buffered. Given that the field will be used for storage of materials only and the sett is located offsite at the other side of fencing, no further work in relation to badgers is considered necessary. It also details hedge planting along suitable boundaries and gapping up of existing hedgerows. Bat and bird boxes are also suggested. The Trust welcome these measures and advise that they are likely to result in a net gain for biodiversity, in accordance with the NPPF 2018.

**5.6 Coal Board:** The application site falls partly within the defined Development High Risk Area; the existing access route to the main site falls within the boundaries of a wider site from which coal has been extracted by surface (opencast) methods. However, the specific part of the site where new development is proposed actually falls outside the defined Development High Risk Area.

Nevertheless, the Coal Authority notes that the applicant has submitted a Coal Mining Risk Assessment Report (20 February 2018, prepared by GRM Development Solutions Ltd) in support of their planning application. Based upon a review of

appropriate sources of coal mining and geological information, this report concludes that coal mining legacy poses a negligible risk to the proposed development. As such, no remedial or mitigatory measures are proposed.

On the basis of the information submitted and the conclusions reached by the report author, the Coal Authority wishes to raise **no objection** to the proposed development.

**5.7 Interested Third Parties:** Three residents have objected to the proposal and a Planning Consultant representing Inverhome Ltd, owners of Morton Grange Nursing home. The objections are summarised below:

- Impact from noise, dust and emissions
- Higher levels of pollutions will be experienced by residents
- Insufficient details provided on the operations and fuel being burned
- Intensification of the use of the lane – previously its just been the milk container and minimal farm traffic
- Imprecise information provided on the number of vehicles proposed and the traffic movement/direction
- Inadequate period used for the traffic survey
- The Transport Statement does not base findings on the actual traffic movements at Morton Grange and is generalised
- The access from Stretton Road along Morton Road lacks footways and is unlit
- Dangers to pedestrians
- Incorrectly states that no accidents have occurred at the access – There have been a number of accidents since June 2017 to the present day
- Impacts upon the residents at Morton Grange – volume of heavy vehicles and noise
- The 12 metre high boiler house will have a negative impact upon the surrounding area

## **6.0 PLANNING CONSIDERATIONS:**

6.1 The planning considerations for this application, are the suitability of the proposal in this location in policy terms, its effect on the character of the site and the surrounding area, the amenity of neighbouring uses and highway safety issues.

## **7.0 PLANNING ASSESSMENT AND SUMMARY:**

### **Principle**

- 7.1 The proposal is to be considered against the Development Plan policies as a whole and is required to comply with North East Derbyshire local plan (2005) policies GS1, GS6, GS7, BE1, E9, T2, T3, T5, CSU7 and the policies contained within the Publication Draft Local Plan 2014-2034 policies SS1, SS2, SS9, SDC1, SDC3, SDC4, SDC10, SDC13 and ID3 and the relevant policies of the NPPF 2018.
- 7.2 The proposal relates to the reuse of redundant farm site/buildings, inclusion of an energy installation in the form of a 6MW biomass boiler to operate a timber drying facility on a commercial scale. The site is wholly within the countryside designation.
- 7.3 The operations will provide employment opportunities in the area with the creation of 12-15 full time equivalent positions. A 12 hour working shift working system will operation between 07:00-19:00 hrs over 7 days a week.
- 7.4 This facility would support the wider operations of the business located at Victory Road Industrial Park in Derby. It is stated that a sequential approach to site assessments has been undertaken whereas this site was the most preferable



location, meeting all the operational requirements of the business. (Information not provided).

- 7.5 It is considered that the principles for determining this proposal is its suitability and compatibility with the countryside location, impact upon residential amenity through noise impacts and air quality resulting from the commercial activity, and the impact upon highway safety with an increase in activity on the site.
- 7.6 The reuse of buildings that are of permanent and substantial construction are permissible under LP 2005 policy and eLP 2014-2034 policy SDC1 providing the development would not have a detrimental impact upon its surroundings.
- 7.7 The buildings to be retained are permanent but will require some modification to allow its new use. In order to meet appropriate noise levels for the wood chipping the open sides would need to be filled in. The submitted plans follow the advice contained in the *Mitigation* section of the *Noise Assessment* and will be modified to have concrete block walls to the end elevations to the height of 3m from ground level, with the remainder of the façade and roof being constructed of composite sheet. Where the building sides are open a barrier of hay bales is proposed which will attenuate any noise from the chipper. It is considered that the works involved would not have a detrimental impact upon the character of the area given its location within the heart of the site. Furthermore the building is shielded from the south, west and north by existing buildings which are to be retained. The proposed boiler house will screen the building from the east.
- 7.8 LP 2005 policy GS6 supports new development in the countryside providing; amongst other criteria, that the use is compatible with the countryside location, it would cause minimal disturbance and loss of agricultural land, minimal problems of noise, disturbance and pollution or represents a prominent intrusion to the countryside location. The eLP 2014-2034 policy SS9 supports the reuse of buildings and their replacement providing they are in the same use and not significantly larger than the building it replaces.
- 7.9 The countryside location has been sought for the timber drying facility. The site is large enough to accommodate the transportation lorries and employee parking which can all be contained within the confines of the site. Given that there will be noise associated with the industrial process the remoteness of the site ensures that amenity is not adversely affected. (Addressed elsewhere in the report). The proposal reuses a redundant dairy farm site and would not impact upon the agricultural land which will remain in agricultural use by tenants.
- 7.10 It is considered that whilst moving from agriculture to industrial the proposed use would be appropriate in this location and more suitable than within a built up area. The proposal is, therefore, considered to comply with pertinent development plan policies.
- 7.11 The proposed biomass boiler is a form of renewable energy and LP 2005 policy CSU7 supports such installations providing the impact upon the environment is acceptable and sufficient measures can be put in place to reduce any visual or noise disturbance. The biomass boiler is an essential component for the timber drying facility and recycles the heat and the water leading to an efficient energy installation. It will have a capacity to generate 6 megawatts of power to run the drying facility and will burn virgin wood.

#### **Impact upon the Character of the Area**

- 7.12 The proposal seeks to demolish a large agricultural building and replace with a purpose built boiler house and timber drying facility which takes the form of large

shipping containers. There would be a net reduction in floor space from the existing arrangement however the boiler house would be approximately 5 metres higher than the highest building on site and contains a chimney which would protrude a further 2 metres above the highest ridge point on the boiler house.

- 7.13 The topography of the site is fairly flat with the village of Morton lying to the south. There are woodlands to the west, north and east which restrict the long distance views of the site.
- 7.14 The site lies within the landscape character area of Nottinghamshire, Derbyshire and South Yorkshire Coalfields in an area denoted as Coalfield Village Farmlands. The key characteristics of the LCA is gently undulating landform, dairy farming with pasture and localised arable cropping, relic ancient semi-natural woodland, copses and linear tree-belts, dense watercourses trees and scattered hedgerow trees, towns and villages on ridge lines surrounded by remnant medieval strip fields, network of small irregular lanes between larger urban roads and small villages.
- 7.15 The application site shows these characteristics. The proposal is not considered to have any significant or demonstrable impacts upon the character of the area due to being situated amongst other farm buildings, which aid the screening of the facility from outside of the confines of the site. Furthermore, woodland areas beyond the site confines would restrict long range views. Whilst the proposed boiler house would be the highest building on the site given that it would be read as part of the overall complex it would not appear isolated or incongruous.
- 7.16 The proposal is considered to comply with the relevant policies of the development plan and supports the Government's commitment to addressing climate change through supporting a green technology for power and heating.

#### **Impact upon Highway Safety**

- 7.17 The proposal has been supported with a Transport Statement prepared by Bancroft Consulting which has been independently reviewed by Derbyshire Highways Authority. No objections has been raised despite objections having been received by interested third parties.
- 7.18 The objective of the Transport Statement is to establish whether the proposed development could be served by the existing access and how the change in traffic conditions should not cause an adverse impact along the existing access track or Stretton Road. A site visit was undertaken on Wednesday 7 February 2018, between 1345 and 1630 hours, when the weather conditions were fine and dry. During the site visit, a manual radar speed survey was conducted between 1349 and 1520 hours at the existing site access, and measurements of the highway features in the surrounding area were taken.
- 7.19 The development is expected to create up to 64 two-way daily movements, in which there could be maximum of 16 off peak movements and 4 movements in the network peak period. The Highways Authority raise no objection given that the increase in traffic associated with the proposed development, which would be in line with the NPPF paragraph 109 as it would not cause a "severe residual cumulative impact".

#### **Impact upon Neighbouring Properties**

- 7.20 Morton Grange Nursing Home is situated along Stretton Lane and fronts on to the lane which gives access to the application site. Apart from the farm dwelling on site this is the nearest residential institute/dwelling that would be affected by the transport/vehicle movements.

- 7.21 Morton Grange Nursing Home have submitted objections to the proposal based on highway impacts. The results of the survey reports are questioned and the capacity of the lane to accommodate the large vehicles is also of concern. It is considered that assumptions have been made to the vehicle trips associated with Morton Grange and a true reflection of traffic movement is not reported. Concerns have also been raised in regards to the suitability of the lane as there are sections that are unlit and have no pavements. It is stated that some employees at the nursing home and visitors live locally and therefore walk to Morton Grange. An increase in heavy goods vehicles, particular in the darker months will cause pedestrian safety issues.
- 7.22 The applicant's Transport Consultant has submitted a response to the objector. It is confirmed that the surveys (and speed survey) undertaken was to establish the suitability of the access and impact of the proposed development traffic upon the highway network. It was conducted in accordance with guidance and during 'free flow' conditions and outside of peak times to ensure accurate speed readings were taken.
- 7.23 It is advised that the focus of the site visit (between 1345 and 1630 hours in its entirety) was not to assess peak period activity associated with the Morton Grange Nursing Home. However whilst on site, the auditor undertook a high level overview assessment of activity at the Nursing Home in order to understand how the site operated within a 'snapshot' of a typical day.
- 7.24 This was not to be used as a basis for assessing likely peak period vehicle activity associated with the Nursing Home. Instead, in accordance with current best practice, a TRICS based analysis was undertaken to determine the likely level of traffic associated with the Nursing Home during the network peak periods. The results of this analysis identified typical activity associated with similar sites generates 137 two-way daily traffic movements throughout the day. The above daily vehicle movements are considered to accord well with the comments raised by the objector – that an average of 90 staff are employed on site.
- 7.25 The Highways Authority have not raised any objection to the proposal. The access until recently was used to serve the dairy farming business and could be more intensely used for agriculture.

### **Noise**

- 7.26 The operation requires the use of a wood chipper which will be noise generating. A noise assessment has been provided and the Environment Health Officer has reviewed the assessment and the proposed mitigation and does not object to the proposal.
- 7.27 The existing dwelling on site is to be occupied by the site manager/employee and a condition is required restricting the occupation to someone with a vested interest in the site as the noise levels have not been assessed. The mitigation proposed ensures that there would be no adverse impact upon nearby residents providing the mitigation measures are fully implemented which restricts the use of the chipper and number of vehicle trips to two per hour during 08:00 and 18:00. The vehicle movements associated with the proposed use generates a significant contribution to overall site noise and so it is reasonable to scale the activities commensurately with the operations as advised.

### **Conclusion**

- 7.28 The proposal relates to the reuse of existing agricultural buildings for the purpose of a timber drying planting involving the installation of a 6MW bio mass boiler. The proposal is part of the bigger process for the production of fuel to support green

energy systems. The site at Averill Farm is principally for the chipping and drying of the wood which will be transported to the larger site in Derby where the torrefaction process will take place to form for the end product.

- 7.29 The proposal has been assessed and it is considered that noise impacts can be controlled through the imposition of conditions and therefore noise associated with the facility would not have a significant or demonstrable impact upon the rural location or settlement. The remote location, away from residential properties provides sufficient separation so that residential amenity will not be adversely affected.
- 7.30 The highway impacts are not considered to be severe and no objection has arisen from the Highway Authority. There has been no evidence provided to counteract that supplied by the applicant's consultant.
- 7.31 The construction of the boiler house; and inclusion of the chimney, whilst higher than the existing buildings on site is not considered to represent an incongruous addition given it will be seen in context of the whole site and not as a standalone building. Long range views are restricted due to the undulating topography and wooded landscape.
- 7.32 The proposal provides benefit to the economy and creates employment opportunities for the borough. The proposal is considered to comply with the North East Derbyshire Local Plan policies GS1, GS6, GS7, BE1, NE1, E9, T2, T9 and CSU7; and Publication Draft Local Plan policies SS1, SS2, SS9, SDC1, SDC3, SDC4, SDC10, SDC13 and ID3 and the Framework when taken as a whole and there is no reason to depart from the Development Plan. Accordingly the application is recommended for approval subject to conditions.

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## 8.0 **SUMMARY OF CONSULTATIONS:**

<u>County Highways:</u>	No objection, subject to conditions
<u>County Planning:</u>	N/A
<u>Environmental Health:</u>	No objection, subject to conditions
<u>Drainage:</u>	N/A
<u>Access Officer:</u>	N/A
<u>Footpath:</u>	N/A
<u>Neighbour:</u>	4 objections
<u>Others:</u>	
<u>Parish Council:</u>	Object

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## 9.0 **RECOMMENDATION:**

GRANT Planning permission and subject to the following conditions, the final wording of which is delegated to the Planning Manager:

### **CONDITIONS**

1. The development hereby permitted shall be started within three years from the date of this permission.

Reason: To comply with the provision of Section 91 (as amended) of the Town and Country Planning Act 1990.

2. The development hereby approved shall be carried out in accordance with the amended plans referenced 2044-101A, 2044-003C, 2044-007A, 2044-08, 2044-009A unless otherwise specifically agreed in writing by the Local Planning Authority or otherwise required by any other condition in this decision notice.

Reason: For clarity and the avoidance of doubt.

3. The development shall be constructed in accordance with the materials detailed within the application form Section 9: Materials; and the submitted drawings as listed in condition 2.

Reason: In the interests of the appearance of the area and in accordance with Policies GS6, GS7 and BE1 of the North East Derbyshire Local Plan.

4. The existing dwelling house on site shall only be occupied by a person associated with the running of the site.

Reason: The noise associated with the operation of the site makes the dwelling undesirable and not practicable for occupation as a market dwelling.

5. Before the unit is brought into use, the area shown on the approved plans as reserved for parking, garaging, circulation and standing of vehicles shall be provided in accordance with the approved details. Thereafter the area shall be used for those purposes only and maintained free from any impediment to its designated use.

Reason: In the interest of highway safety and in accordance with North East Local Plan policy T9

6. Before the site is brought into use the passing places shall be constructed on Evershill Lane (Private Street) in accordance with the application drawings, and shall be maintained for the life of the development free from any impediment to their designated use.

Reason: Reason: In the interest of highway safety and in accordance with North East Local Plan policy T2.

7. Prior to use commencing, a Biodiversity Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall detail the wildflower buffer strip, hedgerow planting and bat/bird boxes, as described in the Ecological Assessment (Turnstone Ecology, April 2018). Species mixes, management prescriptions, and bat box types and locations shall be detailed on the Plan, which shall be implemented in full.

Reason: In the interest of safeguarding ecology and in accordance with North East Derbyshire Local Plan policy NE6.

8. Prior to above ground works commencing, a detailed lighting strategy shall be submitted to and approved in writing by the Local Planning Authority to safeguard bats. This should provide details of the type of lighting proposed and any mitigating features such as shields, hoods, timers etc. Guidelines can be found in Bats and Lighting in the UK (BCT, 2009). Such approved measures will be implemented in full.

Reason: In the interest of safeguarding ecology and in accordance with North East Derbyshire Local Plan policy NE6.

9. All excavations should be covered overnight or else have an escape ramp to prevent entrapment of badgers, hedgehogs and other wildlife. All pipework greater than 150 mm should be blanked off at the end of the day and chemicals should be stored securely.

Reason: In the interest of safeguarding ecology and in accordance with North East Derbyshire Local Plan policy NE6.

10. Prior to the use commencing, a Delivery Management Plan shall be submitted to and approved in writing by the Local Planning Authority. It shall as a minimum identify vehicle speeds and hours when deliveries will be undertaken. The Delivery Management Plan as approved shall be implemented in full thereafter whilst the site is operational.

Reason: In the interest of residential amenity as greater movements would have adverse impact as a result of noise associated with the HGV's passing in front of Morton Grange Care Home in accordance with North East Derbyshire Local Plan policies GS6, GS7 and CSU7

11. All HGV loading and unloading should take place in the area shown on the site plan drawing number 2044-003C.

Reason: In the interest of residential amenity and in accordance with North East Derbyshire Local Plan policies GS6, GS7 and CSU7.

12. The proposed chipping shed shall be modified in accordance with the details submitted on plan drawing number 2044-009A, constructed of 3m 100mm concrete block course from ground level with the remainder of the façade and roof being constructed of composite sheet with a minimum sound reduction of 25 dB Rw.

The wood chipper shall not exceed a noise Level of 100 dB at 1m and should operate within the chipping shed as shown in appendix D of the noise assessment (ref: report of Nova Acoustics 2417RP – Final). A 3.5m acoustic barrier as shown on Appendix D shall be installed along the open sides of the chipping shed when the chipper is in operation in accordance with the details as shown on the plan.

13. No wood chipping shall take place outside the hours of 09:00 – 17:00.

Reason: In the interest of residential amenity and in accordance with North East Derbyshire Local Plan policies GS6, GS7 and CSU7.

14. The boiler house façade and roof shall be constructed of composite sheet and provided a minimum of 25 dB Rw attenuation. Whilst the bio mass boiler is in operation all doors and windows shall remain fully closed.

Reason: In the interest of residential amenity and in accordance with North East Derbyshire Local Plan policies GS6, GS7 and CSU7.

15. Prior to first use of the bio mass boiler, the exhaust shall be fitted with a silencer providing a minimum 29 dB attenuation and shall not exceed a level of 53 dBA at 1m.

Reason: In the interest of residential amenity and in accordance with North East Derbyshire Local Plan policies GS6, GS7 and CSU7.

16. The Dryer façade and roof structure shall be installed to provide a minimum 23 dB Rw attenuation. Whilst the dryer is in operation all doors and windows shall remain fully closed.

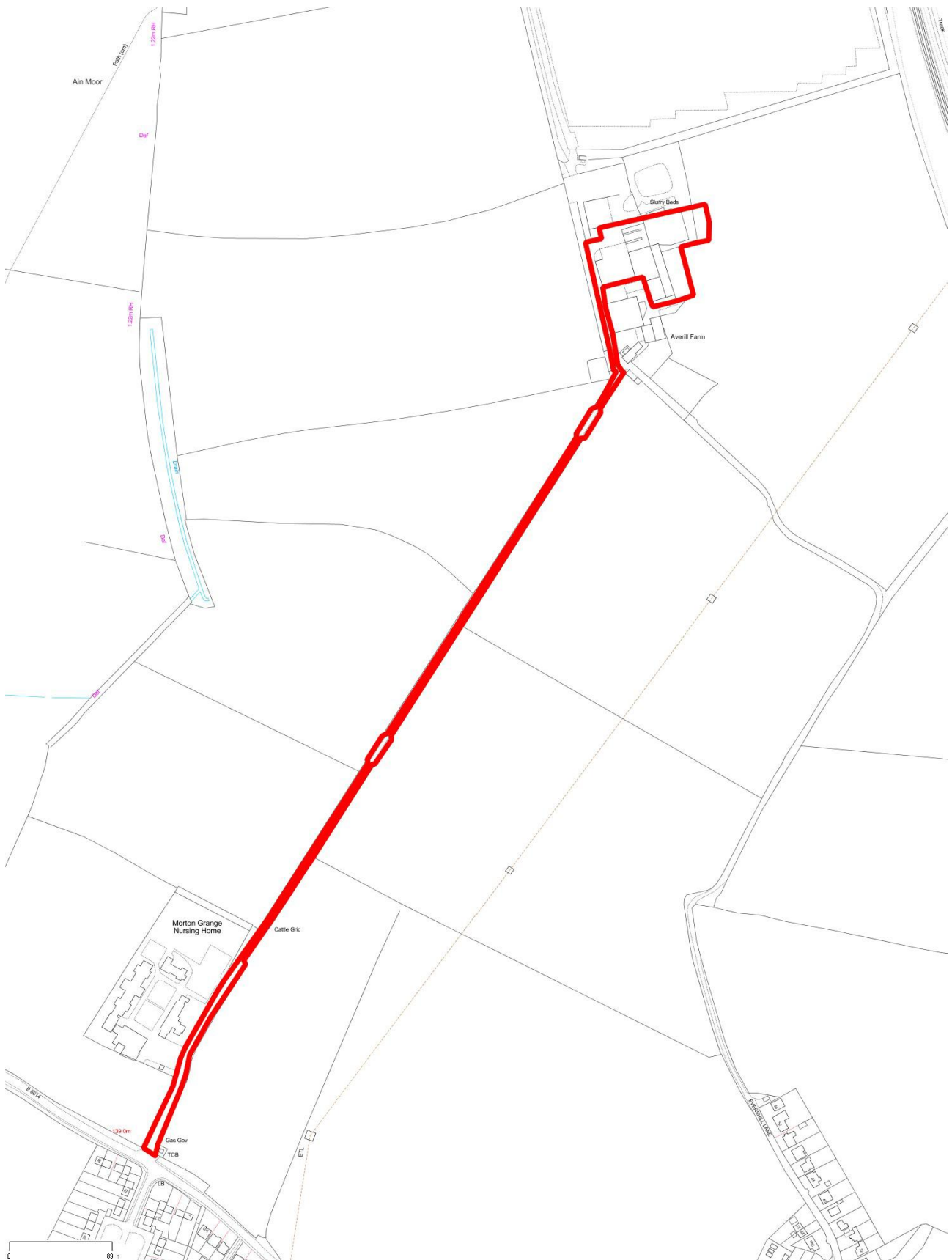
17. Prior to first use of the timber drier facility the Dryer outlets along the eastern facade shall be fitted with a silencer providing a minimum 29 dB attenuation and shall not exceed a level of 60 dBA at 1m.

Reason: In the interest of residential amenity and in accordance with North East Derbyshire Local Plan policies GS6, GS7 and CSU7.

18. Prior to first use of the timber drier facility the ventilation ducts situated along the roof of the dryer should be fitted with a silencer providing a minimum 20 dB attenuation and shall not exceed a noise level of 55 dBA at 1m.

Reason: In the interest of residential amenity and in accordance with North East Derbyshire Local Plan policies GS6, GS7 and CSU7.

19. Not later than 6 months from operation of the development commencing, a validation report to demonstrate compliance with noise levels, as outlined in the report of Nova Acoustics 2417RP – Final, shall be submitted to and approved in writing by the Local Planning Authority. The validation report shall be completed by a suitably qualified organisation/individual and, thereafter, the mitigation as approved shall be retained thereafter.







**PARISH:** Brampton

NED/17/00874/FL

**APPLICATION:** - Full application for the use of a redundant quarry for clay pigeon shooting purposes for no more than 28 days in any calendar year and including creation of car parking area for use by participants (amended title) on land south of Quarry Farm, Freeburch, East Moor for Mr P Pollard

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The Site Inspection Group is to visit the site to view the access and the relationship of the site with nearby dwellings

### **1.0 SITE DESCRIPTION:**

- 1.1 The application site comprises of a disused quarry positioned at the southern end of a single lane access track which also serves a small number of dwellings. The access track is also the line of a public footpath with other paths going either side of the quarry site. The quarry has remained relatively unaltered since it became inactive but has also reverted to nature to a large degree with extensive shrubs and bushes on the area. The southern part of the quarry is a designated wildlife site. The land is within the North East Derbyshire Green Belt and lies outside of any settlement development limits.
- 1.2 Beyond the boundaries of the application site to the north east and south west there are a number of fields used for agriculture whilst to the south there is a further area of trees and vegetation.
- 1.3 The car park and the shooting area are generally set at a lower level than the surrounding land particularly that to the north and west. The new car park area is formed of existing quarried waste with some imported scalplings on top. The new area is accessed down a slope from the main access. Land levels have been changed and in places the new car park area is approx 2m above the previous land levels. The area is mainly bounded by post and wire fencing.

### **2.0 PROPOSAL:**

- 2.1 The application seeks consent for the use of the disused quarry for clay pigeon shooting for no more than 28 days in any one year together with the retention of a car park area which has been created within the quarry area.
- 2.2 The car park area has been formed by the moving around of materials already in the quarry and their surfacing with tarmac scalplings for the surface. The slope down to the car park area has also been regraded to allow easier access.

### **3.0 PLANNING HISTORY:**

- 3.1 There have been no applications for development on the land in question.

#### **4.0 PERTINENT PLANNING POLICIES:**

##### **North East Derbyshire Local Plan**

4.1 The North East Derbyshire Local Plan (adopted November 2005) forms the development plan and pertinent policies are drafted below.

- GS1 – Sustainable Development
- GS2 – Development in the Greenbelt
- GS6 – New Development in the Countryside
- NE1 – Landscape Character
- NE5 – Other sites of importance to Nature Conservation
- BE1 – General Design Principles
- T2 – Highway Access and the Impact of New Development
- T9 – Parking provision
- R8 Specialist and Noise Generating Recreational Activities

4.2 North east Derbyshire Local Plan 2014-2034 Publication Draft

SS9 Development in the Countryside  
SDC3 Landscape Character  
SDC13 Environmental Quality

4.3 Given the emerging Local Plan is at a now at Publication Draft stage and has been submitted for examination it is afforded weight in the decision making process.

##### **National Planning Policy Framework (NPPF)**

4.4 Paragraph 83 of the National Planning Policy Framework identifies planning as supporting a prosperous rural economy.

Paragraph 145 states that the provision of appropriate facilities for outdoor sport is not inappropriate in the Green Belt provided it maintains the openness of the Green Belt.

Paragraph 180 states that decisions should ensure that new development is appropriate for its location taking into account likely effects of pollution on health, living conditions and the natural environment. It goes on to state on doing so they should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development.

#### **5.0 CONSULTATIONS AND REPRESENTATIONS:**

5.1 The **Highway Authority** has no objections subject to no changes to the existing access.

5.2 **Environmental Protection** - Environmental Health have noted the conclusion of the submitted noise report and have expressed concerns over the potential for noise nuisance. They note that the report, if correct, would mean that the site does not meet the relevant guidelines for noise control.

As a result of this they have been in discussions with the applicant to change shoot positions and introduce mitigation measures to achieve satisfactory levels. Those discussions and changes are still ongoing.

Three complaints (one in 2010 and 2 in 2012) has been previously received by Environmental Health regarding noise from the site. The complaints were not substantiated and no actions was taken. .

- 5.3 **Ramblers Association** – The site plan does not clearly show the existence of Brampton FP58 on the Western boundary, FP59 to the North, and FP59 & 64 to the North East. The proposed direction of 'fire' is not indicated, nor any proposed opening times. They need to ensure that the site has the required minimum safety zone to which there is no public access as detailed by the Clay Pigeon Shooting Association Guidance.
- 5.4 **Derbyshire Wildlife Trust** – Initially expressed concerns over the development and requested further ecological information. Following contact from the agent they made a site visit together with the applicant. Following this site visit they have made further comments stating that they no longer require any further ecological information provided there is no further scrub clearance. (the application is for the retention and the works had already taken place ) They did note the presence of Japanese Knotweed in one small area of the access slope and gave advice to the applicant regarding its control. Following the submission of photos from a third party they have further requested that an area which was used to take materials from the car park be allowed to revegetate naturally.
- 5.5 **Brampton Parish Council** objects to the application commenting that “The information provided on the application was felt to be rather vague and therefore it was resolved to ask for further clarification on the proximity of the footpaths that circumnavigate this site, including the safety of walkers whilst shooting is taking place, the effect on wildlife and the natural environment, the proximity of neighbouring properties and the effects on these residents, the suitability of the track for the amount of proposed vehicles and the proposed size of and the materials to be used for the car park.”
- 5.6 **Derbyshire Police** have commented and note that their records show the shoot to have taken place since 2009 and that it holds an exemption certificate allowing those without a firearms license to participate. They do confirm that they have no records of any complaints regarding the use of the land for the shoots. Nevertheless given the concerns of neighbours they suggest a condition requiring compliance with guidance produced by the Clay Pigeon Shooting Association
- 5.7 As a result of **public consultation** involving three neighbour notification, a site notice and a press advertisement, letters of objection have been received from 12 parties. Some of the representations were from relatives of local neighbours whilst others are anonymous. A summary of their observations are reproduced below;
- Car Park will encourage further use of the site
  - Increased risk of accidents for incoming and outgoing vehicles/pedestrians
  - Access off the main road not safe
  - Noise nuisance from the use
  - Use is a menace to local wildlife and persons using footpath
  - Shooting area has become overcrowded
  - Safety concerns over the shoot
  - Should not allow retrospective applications
  - Allows for industrialisation of this land.
  - No need for another shoot in the area
  - No sanitary facilities
  - No direct benefit to local economy
  - More than 30 cars accessing the site

- The shooting does not meet the requirements of the guidance on the control of noise relevant to Clay target shooting published by the Chartered Institute of Environmental Health in 2003
- The site is of insufficient size for a shoot
- No details of drainage of the car park Materials of tarmac could potentially lead to contamination of watercourses
- No details of how the parking is to be laid out
- Japanese Knotweed has been disturbed by the development
- No details regarding flood risk
- Permitted development rights for the use should be removed.
- If the Council were minded to approve the application suggested conditions are as follows:

A requirement that the car park can only be used with the approved clay pigeon shoot use (and therefore to use the car park the shoot has to be operating under the planning permission and is therefore restricted by the conditions on the permission – and not operated under PD);

That the car park be constructed such that it's capacity shall not exceed 30 vehicles

Specifying the Operating Hours;

That the guidance set out in "Guidance on the Control of Noise relevant to Clay Target Shooting" will be adhered to;

That a Management Plan be prepared and submitted for approval to the Council;

That a plan showing defined areas where no shooting, with regards to the public footpaths and residential properties, shall be prepared and submitted to and approved by the Council;

That residents will be informed of the calendar of shoots and any additional meetings or changes to this calendar with reasonable notice;

That marshals will be positioned along the lane to ensure traffic passes at a safe speed and residents property is not used to facilitate vehicles passing and turning around;

That oil separation proposals be considered as required as part of the surface drainage strategy – details of which are to be submitted to the Council;

That there is to be no lighting of the car park.

## **6.0 PLANNING CONSIDERATIONS:**

- 6.1 The primary planning considerations for this application, the impact on the character of the area; impact on wildlife, and highway considerations.

## **7.0 PLANNING ASSESSMENT AND SUMMARY:**

### **The use of the site**

- 7.1 The current application follows receipt of an enforcement complaint regarding the creation of a hardstanding area within the disused quarry.
- 7.2 The site has been in use for approx. nine years for a clay pigeon shoot and this has been undertaken under permitted development rights allowing the use of the land as such for 28 days. However as there is now development (i.e. the car park area) taking place on the land to be used in connection with the ongoing shooting use that use cannot continue to operate under the temporary use permitted development rights.

- 7.3 It should be noted however that even if this application was to be refused the use could still take place under the permitted developments rights for up to 28 days in any one year provided the car park area was removed.
- 7.4 It should also be noted that this use has been undertaken since 2009 and there is no records of any complaints regarding the shoot being submitted to the Planning Department.
- 7.5 Notwithstanding the lack of previous complaints the current application has received a number of representations regarding the use and in particular nuisance from it. To this end a noise report has been submitted by the neighbouring properties which states that there is a noise nuisance from the use. Environmental Health have noted the conclusion of the report and expressed concerns over the potential for noise nuisance.
- 7.6 As a result Environmental Health has now been working for some time to address the potential noise nuisance issues. To this end they have had several meetings with the applicant on site and also attended some shoots as observers. They continue to work with the applicant to address the concerns of the neighbours but at the time of writing the report the investigations have not been finally concluded.
- 7.7 Whilst the concerns of the neighbours are noted the current shoot is the same operation, in terms as has existed since 2009 and consent is not sought to extend it. In any case noise nuisance is a matter under the control of separate legislation and can be addressed whether the use continues through a granting of permission or under permitted developments rights. Consequently it is not considered as reasonable to refuse the current application on this issue.
- 7.8 Policy R8 of the adopted Local Plan does give some guidance on noise generating uses such as clay pigeon shooting and that disused quarries may be suitable sites for such activities. However, notwithstanding this, it is considered that a permanent uncontrolled use of the site over and above that which would be allowed under permitted development rights is unlikely to be acceptable. For this reason, Officers contend that permission should be restricted to the level available under permitted development rights which in this case is the fall back position.
- 7.9 The car park itself is an engineering operation within the Green Belt which is not an inappropriate operation in the Green Belt providing it has no greater impact on the openness of the Green Belt. The car park is set down within the quarry and has a very limited visibility unless viewed from close range. The car parking area itself is not easily viewed from the neighbouring dwellings and it is considered that the car park has little impact on the openness of the green belt and is acceptable in that regard.

### **Highways**

- 7.10 Access to the site is via the existing single lane track from the main highway to the site of approx.450m long. This is the same access which has been used whilst the shoot has been operating under permitted development rights. The only difference is that in the past the land used for car parking was an area to the right of the quarry which is now in separate ownership and so no longer available for such a use, hence the use of land within the quarry to park vehicles..
- 7.11 The Highway Authority (HA) has no objections to the proposal provided the existing access was not changed. In highway terms the car park is a necessity to ensure that cars are parked off the main highway and a scheme which provides adequate parking is acceptable.

- 7.12 Whilst the concerns of neighbours regarding a vehicles accessing the site via the track are noted no evidence has been provided showing that there is no right of access. In any case this would be a civil matter to be dealt with outside of the planning system. As before it is also noted that the access and its use has taken place for the last nine years.

### **Ecology**

- 7.13 Derbyshire Wildlife Trust have looked at the plans and also made a site visit to the area. Whilst they originally had concerns over potential impacts they no longer have any concerns and did not require any conditions. Since then it has been pointed out that one area not used by the car park area should be allowed to revegetate and they have requested a condition to this effect.
- 7.14 They also noted that there was a small area of Japanese knotweed on the site. Whilst this is not a planning consideration it is noted that the applicant has been given advice by Derbyshire Wildlife Trust on this issue.

### **Other considerations**

- 7.15 The objections request that permitted development rights be removed from the land so prohibiting its use for shooting.
- 7.16 This could not, however, be done through the current application but only through an Article 4 direction which is a separate legal process. If this was a possibility the implications of using such powers would need proper and full consideration. Issues have been raised with concerns over the safety of users of nearby footpaths. Whilst this is a matter for the police they have confirmed they (at the time of their response) has no records of any complaints regarding the site since the start of its use in 2009. Nevertheless it is considered that conditions should be imposed re shooting positions and mitigation measures, if consent is granted.

### **Conclusion**

- 7.17 Given that the use could continue lawfully if the car park area was removed and the fact that such removal is likely to create issues of parking on the lane or highway, it is not considered as reasonable to refuse the application.
- 7.18 The car park itself has no significant impact on the green belt and is acceptable to serve the use. As permission is now required conditions can be imposed to prohibit lighting, limit hours of activity and produce a mitigation plan all of which would not be possible to achieve if the use recommenced under permitted development rights.
- 7.19 For these reasons it is considered that the application should be approved with recommended conditions.

## **8.0 SUMMARY OF CONSULTATIONS**

<u>County Highways:</u>	No objection
<u>Environmental Health:</u>	See above report
<u>Derbyshire Wildlife Trust:</u>	No objection
<u>Neighbour:</u>	Letters of objection from 12 different parties
<u>Parish Council:</u>	Object to the application

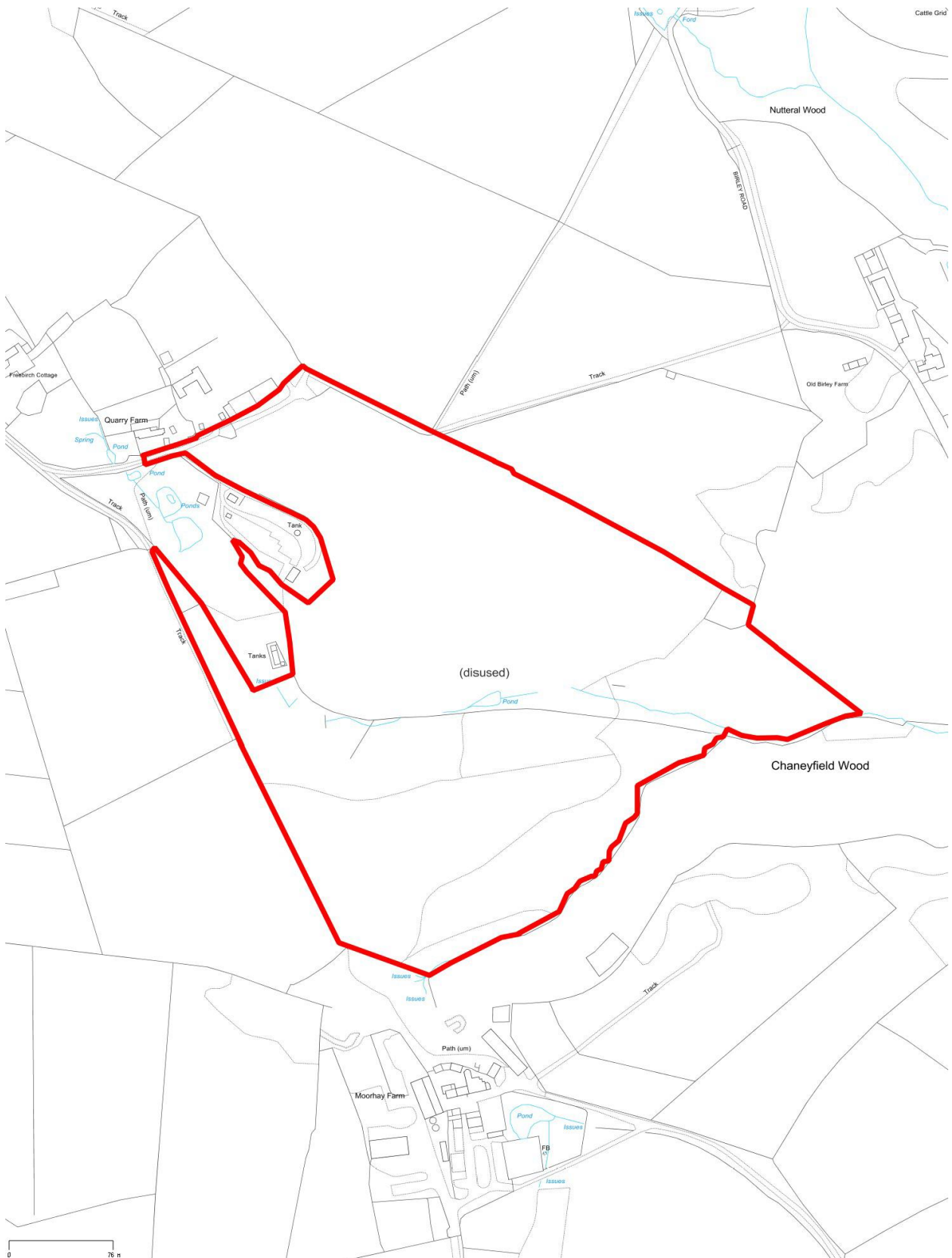
## **9.0 RECOMMENDATION**

Approve subject to the following conditions given in precis form to be finalised under delegated powers by the Planning Manager (Development Management)

- 1) Use of site for clay pigeon shooting for up to 28 days in any calendar year
- 2) Car Park to be used only in connection with up to 28 days shooting use and for no other purpose.
- 3) Shooting only between 9am and 5pm on any day
- 4) No lighting in the car park area
- 5) Plan to be submitted and agreed showing final shooting positions together with a and shoot management and mitigation plan following discussions with Environmental Health
- 6) Submission of a revegetation scheme to revegetate areas not covered by car park but where materials have been moved to create the car park (As shown on Derbyshire Wildlife Trust plan shown in their response dated 9<sup>th</sup> November)

Note re Japanese Knotweed and need for control in accordance with Environment Agency requirements





NED/17-00874/FL

**PARISH:** Dronfield

NED/18/00685/FL

**APPLICATION:** Proposal of a new single storey 3 bed dwelling to the rear garden of 17 Green Lea with associated landscape and access - 17 Green Lea Dronfield Woodhouse Dronfield S18 8YA

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The Site Inspection Group is to visit the site to view the impact of the proposals on the character of the area and residential amenity.

**1.0 SITE DESCRIPTION:**

- 1.1 The application site is located at number 17 Green Lea which is a bungalow situated on a large corner plot within the settlement development limits for Dronfield.
- 1.2 Green Lea is a cul-de-sac comprising of detached single storey dwellings constructed from brick and stone with low front boundary walls enclosing private amenity space.
- 1.3 The general character of the area is open with properties benefiting from front amenity area, parking and garaging.
- 1.4 Modifications to the host building are currently under construction (ref: 18/00684/FLH). This involves blocking up of rear windows and insertion of patio doors on the side elevation, garden shed and creation of a new patio seating area within the side garden. Fencing has been erected which will separate the plot and a Laurel hedge has been planted around the perimeter bound by the pavement.

**2.0 PROPOSAL:**

- 2.1 The proposal seeks full planning permission for subdivision of the plot for the construction of a three bedroom bungalow to the rear of the host dwelling.
- 2.5 The proposed bungalow would sit alongside number 19 and would be consistent with the distinct building line leading up to the head of the cul-de-sac. It would be gable end on to the street, having a side entrance doorway which is typical of the character of the area.
- 2.6 The bungalow is shown to be rendered with tiled roof.
- 2.7 Parking would be provided to the front of the proposed bungalow for 2 no. vehicles and a small amenity area provided.

**3.0 PLANNING HISTORY:**

- 3.1 Ref. No: 18/00684/FLH - Demolition of existing garage and construction of single-storey side and front extensions and erection of garden shed to side. Status: Conditionally Approved

#### **4.0 DEVELOPMENT PLAN POLICIES:**

4.1 The Development Plan comprises of the saved policies of the North East Derbyshire Local Plan (adopted November 2005) and the Publication Draft Local Plan 2014-2034. The Council is now at an advanced stage in the production of a new Local Plan which reflects national guidance in the NPPF and provides for the development needs of the district for the period 2014 – 2034. The Plan was submitted to the Secretary of State for examination at the end of May 2018. This document has been subject to extensive consultation and sets out clearly the Council's strategy for sustainable development and should be afforded weight in decision making.

4.2 Local Plan (2005) saved policies:

- GS1: Sustainable Development
- GS5: Settlement Development Limits
- BE1: General Design Principles
- H12: Design and Layout of new House
- T2: Highway Access and the Impact of New Development
- T9: Parking Provision for Development

4.3 North East Derbyshire Local Plan: Publication Draft (PD) 2014-2034:

- SS1: Sustainable Development
- SS2: Spatial Strategy and the Distribution of Development
- SS7: Development on Unallocated Land within Settlements with defined Settlement Development Limits
- LC4: Type and Mix of Housing
- SP1: Dronfield
- SDC12: High quality Design and Place-Making
- ID3: Sustainable Travel

4.4 **Additional Council Policies:-**

- Successful Places SPG

#### **NPPF 2018**

4.5 The revised National Planning Policy Framework was published on 24 July 2018 and sets out the government's planning policies for England and how these are expected to be applied. This revised Framework replaces the previous National Planning Policy Framework published in July 2012. At the heart of the NPPF is a presumption in favour of sustainable development. There are three dimensions to sustainable development that give rise to the need for the planning system to perform a number of roles; which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives) which include support economic, social and environmental objectives.

4.6 To promote sustainable development, the NPPF advises that these are objectives that should be delivered through Development Plans and the Framework. They are not criteria's to adjudge planning applications against, that is the role of development plan policies which should play an active role in guiding development towards

sustainable solutions taking into account local circumstances, to reflect the character, needs and opportunities of each area.

- 4.7 Paragraph 213 advises that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

## **5.0 CONSULTATIONS AND REPRESENTATIONS:**

- 5.1 **Ward Councillors:** Councillor Hall has called in the application to be determined by the Planning Committee.
- 5.2 **Dronfield Town Council:** No comments received.
- 5.3 **Derbyshire Highways Authority:** No objection subject to conditions to secure visibility splays and parking.
- 5.4 **Yorkshire Water Authority:** No comments received.
- 5.5 **Third Party Representations:** Eleven objections have been received objecting to the proposal. The objections are summarised below:

- Out of keeping with the character and layout of the estate
- Amounts to 'garden grabbing'
- Over development
- Erosion of green space
- On street parking (visitors) will cause issues for other home owners exiting their driveways
- The design of the proposed dwelling is out of keeping
- It has no garage
- Car parking provision is inadequate for a three bedroom property
- The newly planted Laurels will obstruct visibility causing a danger on the highway
- Covenant for the estate restricts boundary fencing – it's an open plan estate
- The road is not extremely 'light and quiet' as claimed. There is a high number of pedestrians using the FP 17 PRow linking to Northern Common
- The waste collection vehicle has to reverse up the street as parking makes it impossible to turn
- The installation of new fencing has already blocked views
- Loss of light to habitable windows of number 19
- Too close to number 19, resulting in over shadowing and loss of privacy

## **6.0 PLANNING CONSIDERATIONS:**

- 6.1 The planning considerations for this application, are the suitability of the proposal in this location in policy terms, its effect on the character of the site and the surrounding area, the amenity of neighbouring uses and highway safety issues.

## **7.0 PLANNING ASSESSMENT AND SUMMARY:**

### Principle

- 7.1 The site lies within the Settlement Development Limits (SDL) for Dronfield which is considered as a sustainable settlement due to the high level of services available. Under local plan (2005) policies GS1, GS5 and H12 and the Publication Draft Local Plan 2014-2034 policies SS1, SS2 and SS7 there is a presumption in favour of development subject to other policies in the local plan being satisfied, which relate to amenity, character of the area and highway safety. Publication Draft Local Plan 2014-2034 policy SP1 support proposals that would maintain Dronfield's role as a social and economic focus for development.

### Impact upon the Character of the Area.

- 7.2 Policy GS5 and BE1 of the adopted Local Plan and eLP SS2, SS7 and SDC12 seeks to ensure that proposals within settlements are in keeping with the character of the area seeks to ensure that the design, scale and massing of development is in keeping with the surrounding character.
- 7.3 The proposal presents a single storey dwelling to the rear of number 17 Green Lea and would be adjacent number 19 Green Lea. The garden area to number 17 wraps around the corner plot presenting front, side and rear amenity space. The proposal is seeking to sub divide the plot at the rear which will allow for one building plot whilst still retaining amenity space for the host building.
- 7.4 Objections have been raised in regards to the subdivision citing it as 'garden grabbing', representing an over development of the plot that would not be in keeping with the general character and layout of the estate. Green Lea comprises of all bungalows with gables presented to the street and entrance doors on the side elevations, all have front gardens with parking available. The proposal mimics this arrangement.
- 7.5 A plan has been provided which shows the level of amenity space to be provided for both the host building and the proposed dwelling. Whilst the rear amenity space for number 17 will be reduced in size the large side garden area would retain sufficient amenity land for the host building that equates to 432 square metres overall. The proposed dwelling would have some amenity land to the front and a modest rear garden which equates to 290 square metres of amenity land. This is well in excess of the Council's design guidance 'Successful Places' which seeks to provide 70 square metres for a three bedroom dwelling. It could not be concluded that the proposal would represent over development of the site.
- 7.6 The proposal would be read alongside number 19 being sited along the established building line. The plot width would be marginally narrower than number 19 but not to a degree that it would have a detrimental impact upon the general character of the estate.
- 7.7 Parking would be provided to the front of the dwelling and no garaging is proposed. Objectors have commented that all properties on the estates have garages and therefore the proposal is out of character. It is noted that some properties have integral garages and some have garages sited to the rear. On both design types parking is still available on the frontage. The absence of a garage is not considered

to raise concerns in relation to character of the area. Furthermore some of the garages along the street have been converted to habitable space.

- 7.8 Objections have also been raised in regards to the construction and proposed materials for the proposal. It is considered that the rendered finish would not be in keeping with the building types on the estate which are brick and stone built. As part of the modification and extension of the host building the use of render and stone has been agreed therefore render would not be out of keeping but it is considered that there should be some replication of stone work on the front elevation of the proposed bungalow and this can be conditioned.
- 7.9 It is considered development of one dwelling in this location is capable of complying with NED LP 2005 policies GS1, GS5, BE1 and H12 and the PDLP 2014-2034 policies SS1, SS2, SS7 and SDC12.

#### Impact upon Residential Amenity

- 7.10 LP 2005 Policy GS5 (b) and eLP 2014-2034 policy SDC12 (e) states that proposals will only be permitted providing it would not have a detrimental effect on the amenities of neighbouring occupiers and uses. The Council's adopted SPG 'Successful Places' is a design guidance that seeks to ensure that development proposals respond positively without having a detrimental impact upon existing land uses. It promotes different levels of separation distances that relate to different situations (orientation, layout, design) to ensure overlooking, loss of privacy and light is avoided.
- 7.11 The proposal would be situated to the rear of number 17 Green Lea and adjacent to number 19 Green Lea. Both properties have the potential to be affected by the proposal.
- 7.12 Number 17 is in the process of being modified and extended and has taken into account the subdivision of the garden area for potential redevelopment. New patio doors are to be inserted on the side elevation for the living room and the old ones bricked up. The former bedroom window is to be altered to patio doors to serve the relocated dining room and the garage is to be demolished in favour of a kitchen extension with window facing out towards the proposal.
- 7.13 The proposed dwelling would be located to the rear of number 17 which is marginally lower down than the application site. A 1.8 metre boundary fence is to be erected. The proposed dwelling would be further forward to the street than number 17 and the design of the proposal has taken into account the positioning of windows/door openings to prevent direct overlooking. The proposal would be within approximately 3.8 metres of number 17 which is below the recommended separation distance promoted within the SPG however the living room doors of the proposal would open out on to amenity land and be offset from number 17, as will the proposed entrance door and bedroom window. It is not considered that overlooking would be created and therefore no appreciable loss of amenity as a result of loss of privacy would occur. Furthermore given the single storey nature and that the boundary fence would be 1.8 metres high it is considered that the arrangement would be acceptable for reasons set out above.

- 7.14 There is a potential for the proposal to have an overbearing impact upon number 17, the low eaves height of 2.6 metre and given that the roof pitch slopes away having an overall height of 4.4 metres ensures that the proposal would not have an unduly detrimental or dominant impact upon the outlook.
- 7.15 Number 19 Green Lea has a walkway running along the boundary of the application site, giving access to the rear of the bungalow and entrance door. The boundary treatment is currently a low open design timber fence. Contained on the side elevation are three windows at higher level than normal, two are obscurely glazed and it is not known what room the furthest rear windows serves. It is assumed that it would be a habitable room given it is of clear glass (possibly a bedroom given the height of the window and location). The neighbour has objected citing the closeness of the building to their property as a reason that would result in issues with maintenance and damp, overbearingness causing loss of light and invasion of privacy.
- 7.16 The proposed bungalow would be within 2 metres of number 19 and run along the boundary by 14.7 metres, falling short of the rear elevation. It would however be in close proximity of the side windows, one of which could be serving a habitable room. However given the size of the window, its position and that it faces over residential amenity land of number 17 it is not considered to offer an outlook but installed to allow light to an internal room, such as a bedroom.
- 7.17 There are two high level windows proposed, one to serve the kitchen and the other to the en-suite, they would be bottom opening windows for ventilation only and could be conditioned to be obscurely glazed however given the height of the windows it would be difficult to look out from them and therefore loss of privacy would not be an issue as overlooking would not materialise.
- 7.18 Number 19 would experience some loss of light to the windows with the building being within approximately 2 metres. Nonetheless these windows are on a north facing elevation and currently only benefit from late afternoon/evening sun light. A two metre high boundary treatment could be erected in front of these windows which would reduce light levels to a degree, in spite of this, the building is proposed at a height of approximately 4.4 metres and thus its massing would create overshadowing of the windows but would not totally obliterate any day light from filtering through.
- 7.19 Whilst there would be a degree of loss of day light to a habitable room it is not considered that the proposal would render number 19 as an unattractive place to live, and consequentially it is considered that the residential amenity would not be significantly reduced and the proposal is considered to comply with the development plan policies. It is noted that there are other bungalows on the same street with a similar distance of separation.

#### Highway Safety

- 7.20 The proposal is seeking to create a separate vehicle entrance to the south of the bend and provide two parking spaces within the site. The Highways Authority have commented and raise no objection to the proposal.
- 7.21 Objections have been raised in regards to impact upon the street from parked vehicles however there are no parking restrictions in the area which prevents this

from occurring now, and the addition of one dwelling is not considered to amount to severe impacts upon the highway network. Furthermore Green Lea is a cul-de-sac and not a through route and the level of traffic is mainly as a result of occupiers and visitors of the properties. It is considered to be lightly trafficked.

- 7.22 It is considered that the proposal conforms to the local plan 2005 policies T2 and T9 and the eLP 2014-2034 policy SDC12 and ID3.

### Conclusion

- 7.23 The proposal seeks to subdivide a residential plot in favour of construction of a single storey three bedroom dwelling. The location is considered to be sustainable and there is a presumption in favour of development under the development plan policies being located with the Settlement Development Limits. The design of the dwelling is considered to not have a detrimental or significant impact upon the character of the area or appreciable loss of residential amenity for either existing or future occupiers. Matters relating to highway safety have been satisfactorily address. On balance therefore the application is recommended for approval subject to conditions.

## **8.0 SUMMARY OF CONSULTATIONS:**

<u>County Highways:</u>	No objection subject to conditions
<u>County Planning:</u>	N/A
<u>Environmental Health:</u>	N/A
<u>Drainage:</u>	N/A
<u>Access Officer:</u>	N/A
<u>Footpath:</u>	N/A
<u>Neighbour:</u>	Eleven objectors
<u>Others:</u>	
<u>Ward Councillor:</u>	Called in by Councillor Hall
<u>Town Council:</u>	No comments

- 9.0 RECOMMENDATION:** Approve; subject to the following conditions, with the final wording delegated to the Planning Manager.

1. The development hereby permitted shall be started within three years from the date of this permission.

Reason - To comply with the provision of Section 91 (as amended) of the Town and Country Planning Act 1990.

2. The development hereby approved shall be carried out in accordance with the submitted plan drawing numbers 073.002 Rev 001 and 073.003 Rev 01 dated 20/06/18, unless otherwise specifically agreed in writing by the Local Planning Authority or otherwise required by any other condition in this decision notice.

Reason - For clarity and the avoidance of doubt.

3. Notwithstanding the submitted plans a revised drawing showing an element of stonework on the front elevation shall be submitted to and approved in writing by the Local Planning Authority. The front elevation shall then be built in accordance with the approved plan.

Reason: In the interests of the appearance of the area and in accordance with policies GS1, BE1 and H12 of the North East Derbyshire Local Plan; and policy SDC12 of the Publication Draft Local Plan 2014-2034.



- 4 Notwithstanding the submitted details before any above ground works are commenced, precise specifications (including the manufacturer, range and colour details where applicable) or samples of the walling and roofing materials to be used, shall be made available on site for inspection, and subsequent written approval, by the Local Planning Authority. The development shall then be carried out in accordance with the approved details. Unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the area and in accordance with policies GS1, BE1 and H12 of the North East Derbyshire Local Plan; and policy SDC12 of the Publication Draft Local Plan 2014-2034.

5. Before first occupation of the dwelling, the following shall be submitted to and approved in writing by the Local Planning Authority:
- a) a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land,
  - b) the details of any trees and hedgerows to be retained, together with measures for their protection during development,
  - c) a schedule of proposed plant species, size and density and planting locations and
  - d) an implementation programme.

Reason: In the interests of the appearance of the area and in accordance with policies GS1, BE1 and H12 of the North East Derbyshire Local Plan; and policy SDC12 of the Publication Draft Local Plan 2014-2034.

6. All planting, seeding or turfing in the approved scheme of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the appearance of the area and in accordance with policies GS1, BE1 and H12 of the North East Derbyshire Local Plan; and policy SDC12 of the Publication Draft Local Plan 2014-2034.

7. Notwithstanding any submitted details, before development starts a plan to show the positions, design, materials, height and type of boundary treatments to be erected and/or retained shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full before the occupation of the dwelling hereby approved and it shall be retained as approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the area and in accordance with policies GS1, BE1 and H12 of the North East Derbyshire Local Plan; and policy SDC12 of the Publication Draft Local Plan 2014-2034.

8. Before development starts, details of the existing ground levels, proposed finished floor levels of the dwelling and the proposed finished ground levels of the site including cross sectional drawings, all relative to a datum point which is to remain undisturbed during the development, shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details and the levels shall be retained as such thereafter.

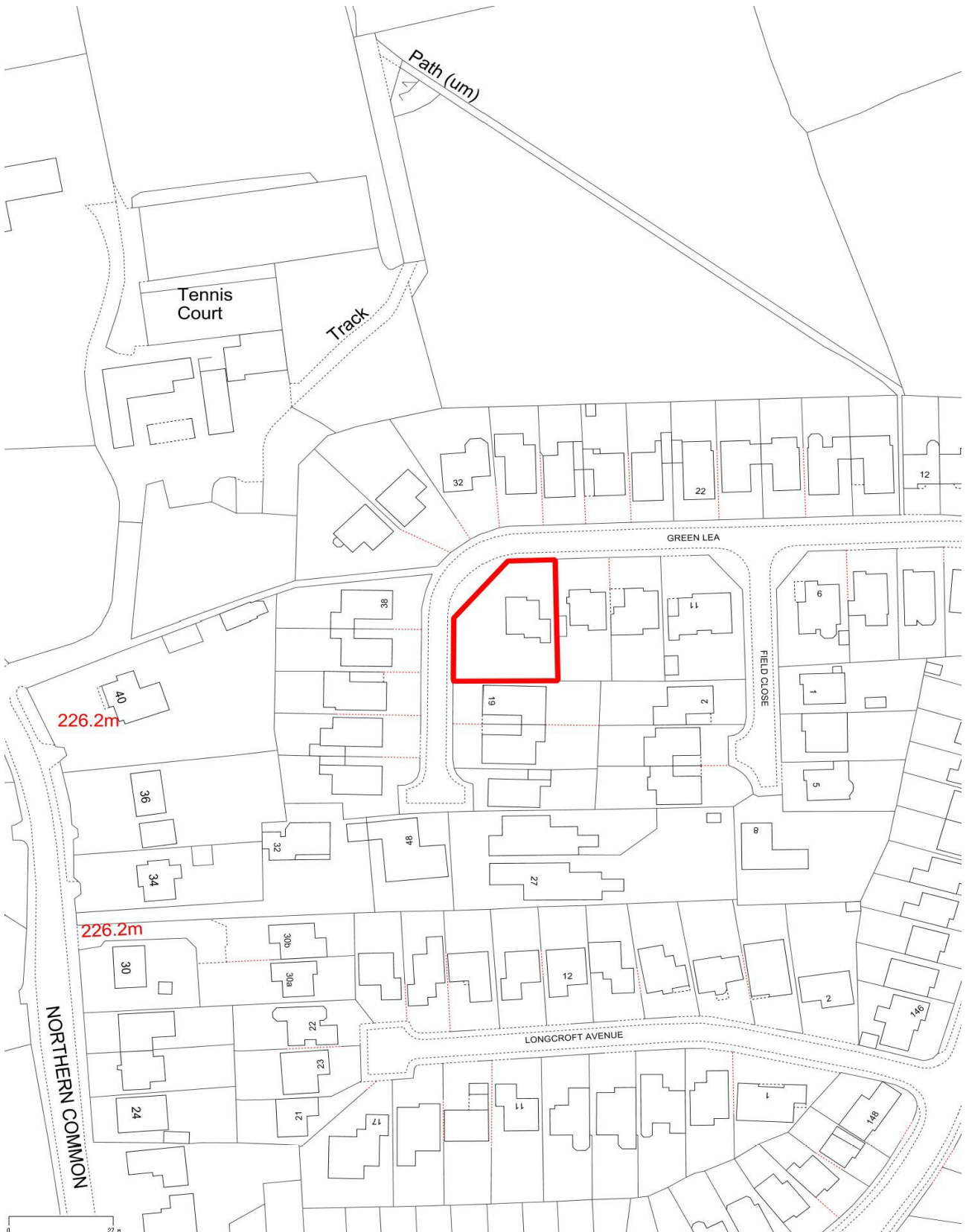
Reason: To protect the amenity of neighbouring users and in accordance with Policies GS1, BE1 and H12 of the North East Derbyshire Local Plan; and policy SDC12 of the Publication Draft Local Plan 2014-2034.

9. Before any other operations are commenced a new vehicular and pedestrian access shall be created to Green Lea (NC) in accordance with the application drawings, laid out, constructed and maintained in perpetuity free from any impediment to its designated use.

Reason: In the interest of highway safety and in accordance with policy T2 of the North East Derbyshire Local Plan; and policy SDC12 of the Publication Draft Local Plan 2014-2034.

10. Prior to occupation, the area shown on the approved plans as reserved for parking, garaging, circulation and standing of vehicles shall be provided in accordance with the approved details. Thereafter the area shall be used for those purposes only and maintained free from any impediment to its designated use.

Reason: In the interest of highway safety and in accordance with policy T2 of the North East Derbyshire Local Plan; and policy SDC12 of the Publication Draft Local Plan 2014-2034



NED/18-00685/FL

**PLANNING COMMITTEE:** 2<sup>nd</sup> October 2018

**PARISH:** Shirland and Higham

NED/18/00589/FL

**APPLICATION:** Change of use of field to equestrian, moving indoor arena from Building 2 to building 4 at Lower Delves Farm Pit Lane Shirland Alfreton DE55 6AU

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The Site Inspection Group is to visit the site to view the impact of the proposals on the character of the open countryside.

### **1.0 SITE DESCRIPTION:**

- 1.1 Lower Delves Farm is located in a rural location at the southern end of Pit Lane, Shirland. The lane provides access to a number of other properties including Shirland Golf Course. A bridleway (Shirland and Higham BW 38) runs along the lane, linking to Public Right of Way FP 37 which runs along the western boundary of the site linking to FP 35 and FP42.
- 1.2 The site is situated wholly within the open countryside being located outside of the Settlement Development Limits for Shirland. The farm group comprises of two dwellings and a barn which has planning permission to be converted to residential property and four large modern agricultural buildings.
- 1.3 The site is in equestrian use, benefiting from planning permission to run a livery business and riding school for the disabled. Planning permission has been granted for the use of one of the large agricultural barns to be used for an indoor exercise area but has not been implemented.
- 1.4 To the south west the land is used for grazing of horses associated with the livery yard.

### **2.0 PROPOSAL:**

- 2.1 The proposal is seeking a change of use of an agricultural field situated to the northeast of the complex to be used as further equestrian grazing and for a change in building to operate the indoor exercise area for disabled riders as approved under planning reference 16/00957/FL.
- 2.2 The description of development has been amended and the footpath diversion for part of FP 37 has been removed and no longer forms part of the consideration for this application.

### **3.0 PLANNING HISTORY:**

- 3.1 Ref. No: 75/00893/FL | Change of use from cowshed to riding school. Status: Conditionally Approved  
Ref. No: 12/01097/FL | Change of use of barn to two residential units and construction of two detached garages (Private Drainage System) Status: Application Withdrawn
- 3.2 Ref. No: 13/00808/FL | Change of use of barn to two residential units and construction of detached double garage (Private Drainage System) Status: Conditionally Approved

- 3.3 Ref. No: 14/00524/FL | Change of Use of barn to residential unit and construction of a detached garage/ancillary accommodation with bat roost over (Revised Scheme of 13/00808/FL) (Private Drainage System) Status: Conditionally Approved.
- 3.4 Ref. No: 15/00955/DISCON | Application to discharge condition no 4 (specifications/samples of walling and roofing materials) of 14/00524/FL Status: Conditions Discharged
- 3.5 Ref. No: 15/01192/FL | Construction of outdoor equestrian arena. Status: Conditionally Approved
- 3.6 Ref. No: 16/00957/FL | Change of use of site to mixed equestrian use including full livery and riding school. Status: Conditionally Approved
- 3.7 Ref. No: 17/00171/FL | Application to amend glazing on west elevation of the barn and to retain elevation alterations and siting of the approved garage/ancillary accommodation with a proposed change of use to a holiday let (amended title). Status: Conditionally Approved/P.D. Removed

#### **4.0 DEVELOPMENT PLAN POLICIES:**

- 4.1 The Development Plan comprises of the saved policies of the North East Derbyshire Local Plan (adopted November 2005) and the Publication Draft Local Plan 2014-2034. The draft plan has now reached its publication draft stage and no further alterations to the plan are envisaged at this stage. In accordance with Annex 1 of the NPPF, the PD is considered to carry some weight at this stage.
- 4.2 In relation to this application the most relevant saved policies of the Local Plan include the following:
  - GS1: Sustainable Development
  - GS6: New Development in the Countryside
  - GS7: Change of Use and Conversions
  - R9: Equestrian Development
  - T2: Highway Access and the Impact of New Development
  - T9: Parking Provision for Development

North East Derbyshire Local Plan: Publication Draft (PD):

- SS1: Sustainable Development
- SS2: Spatial Strategy and the Distribution of Development
- SS6: Development in the Open Countryside
- ID3: Sustainable Travel

#### **NPPF 2018**

- 4.3 The revised National Planning Policy Framework was published on 24 July 2018 and sets out the government's planning policies for England and how these are expected to be applied. This revised Framework replaces the previous National Planning Policy Framework published in July 2012. At the heart of the NPPF is a presumption in favour of sustainable development. There are three dimensions to sustainable development that give rise to the need for the planning system to perform a number of roles; which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives) which include support economic, social and environmental objectives.

- 4.4 To promote sustainable development, the NPPF advises that these are objectives that should be delivered through Development Plans and the Framework. They are not criteria's to adjudge planning applications against, that is the role of development plan policies which should play an active role in guiding development towards sustainable solutions taking into account local circumstances, to reflect the character, needs and opportunities of each area.

## **5.0 CONSULTATIONS AND REPRESENTATIONS:**

- 5.1 **Ward Councillors:** Councillor Cupit has requested that the application be heard by the Planning Committee
- 5.2 **Parish Council:** Object to the proposal.
- 5.3 **Derbyshire Highways Authority:** No comments received.
- 5.4 **Derbyshire Rights of Way:** Commented that the proposal would leave Shirland and Higham Public Footpath 35 as a cul-de-sac and this would need addressing before the County Council can offer comment.
- 5.5 **Ramblers Society:** No comments received.
- 5.6 **Peak and Northern Footpaths Society:** Objects. The criteria for diverting or stopping a public right of way as a consequence of planning consent are very specific. The diversion must be NECESSARY to allow the development to take place - i.e. the development could not go ahead without the diversion or stopping up of the right of way. That is necessary in the ordinary meaning of that word - not desirable or expedient for the applicant. The diversion of FP37 as proposed would also leave FP35 as a dead end, rendering it useless for walkers. This cannot be allowed to happen.
- 5.7 **Third Party Representation:** There has been 37 pro-forma letters of objection signed by individuals objecting to the footpath diversion received; and 1 further objection from a neighbour objecting to the change of use of land for equestrian.
- 5.8 *NB. The application description has been amended and the footpath diversion is no longer part of the consideration for this planning application. Planning Permission is not required for a footpath diversion. No further comments have been received following notification of the amended description.*

## **6.0 PLANNING CONSIDERATIONS:**

- 6.1 The planning considerations for this application, are the suitability of the proposal in this location in policy terms, its effect on the character of the site and the surrounding area, the amenity of neighbouring uses and highway safety issues.

## **7.0 PLANNING ASSESSMENT AND SUMMARY:**

### **Principle**

- 7.1 The application site is currently operating as an established equestrian site for private and commercial use. A riding school was granted planning permission in 1975 and the outdoor riding arena approved in 2015. In 2017 planning permission was granted for use of an agricultural building for stabling and an indoor riding arena for riders with special needs. Therefore the principle of the equestrian use has been accepted by the Council.

### **Impact upon the Character of the Area**

- 7.2 Local Plan (2005) policy GS6 of the Local Plan is permissive of new development in the countryside subject to its consideration against the six policy criteria. The use of the development is an appropriate use for a countryside location (a). It causes minimal disturbance to farming, minimising the loss of agricultural land particularly that of the best and most versatile quality, and new infrastructure is not required (c & d). Publication Draft Local Plan 2014-2034 policy SS9 supports recreational based proposals providing that the use is small scale and would not have a detrimental impact upon the countryside location.
- 7.3 The change of use of agricultural land for grazing of horses has no visual impact on the wider countryside and does not prohibit the land for agricultural use in the future. Its change of use is considered to not have adverse impacts upon the countryside character and is an acceptable use associated with the established equestrian facility. It is noted that the land is shown as Grade 4 (ie relatively poor) quality land on the Classification maps produced by Natural England.
- 7.4 There are a number of large agricultural buildings on site which have permission to be used for stabling of horses, private and commercial; and more recently to operate an indoor riding school for disabled riders. This current application is seeking to swap over the use as indoor riding arena from building 2 to 4 on the submitted plan. Building 2 will remain in use for stabling which contains 6 internal stables, with a further 6 granted under permission 16/00957/FL.
- 7.5 Local Plan policy GS7 and eLP 2014-2034 policy SDC1 supports change of use of buildings providing that they are permanent and substantial construction and do not impact upon the character of the countryside. The building is a large agricultural shed and therefore permanent and of sound construction. There are no changes required to the external appearance of the building other than to make it water tight. The building is located within a group of buildings and is read as part of the site and would not impact upon the countryside location. The reuse of the redundant farm building for indoor riding use is considered to be compliant with Local Plan (2005) policy GS7 and eLP 2014-2034 policy SDC1.
- 7.6 Local Plan (2005) Policy R9 – Equestrian Development states that new equestrian development will be permitted if the development does not detract from the open character of the countryside and is well located to a nearby bridleway network. The principle of equestrian development on this site has already been accepted by the previous approval and the proposed riding arena involves minimal changes to the external appearance of the barn which will not detract from the character of the area. It is considered necessary to control the scale of development through a condition prohibiting the use for further stabling given that building 2 has permission for a further 6 stables.

- 7.7 The proposal is therefore compliant with North East Derbyshire Local Plan (2005) policies GS6, GS7 and R9 of the local plan, and Publication Draft Local Plan 2014-2034 policies SS9 and SDC1.

### **Impact upon Highway Safety**

- 7.8 Pit Lane does not form part of the publicly maintainable highway but it does carry the route of a Public Right of Way (FP37 Shirland & Higham on the Derbyshire Definitive Map). The applicant has a right to use the lane for vehicles.
- 7.9 The lane gives access to the golf course and a number of properties. The Highways Authority have not commented on the proposal however they raised no objection to the previous application for use of building 2 as an indoor riding arena and additional stabling given that sufficient parking can be provided within the site. It is considered necessary to restrict the use of building 2 for stabling and building 4 for indoor riding arena in order to control the scale of development in the interest of controlling the use in the interest of highway safety.
- 7.10 It is also considered necessary to require a condition secure parking within the site to prevent obstruction of the PRoW FP 37 which runs along the drive.

### **Impact upon Neighbouring Properties**

- 7.11 The properties at the site are occupied by the applicant and the former owner of the farm whose property is located to the west of the farm buildings. Given the existing use of the site it is considered that the proposal would not give rise to any appreciable loss of residential amenity given that there is an established use already taking place on site.

### **Other Consideration**

- 7.12 There has been a letter of representation received in regards to the change of use of the field to the west. It is stated that the field is part of the agricultural holding of which the tenancy has passed down to them as the third generation following the death of a parent. No copy of the tenancy has been provided but it is stated that this is being pursued legally. This is a civil matter and is not a matter for the planning process. The correct ownership certificates have been provided. It should be noted that in any case any civil or legal rights would not be overruled by the granting of planning permission.

### **Conclusion**

- 7.13 The proposal relates to change of use of an agricultural field and change of use of a redundant agricultural building to support the existing equestrian livery and riding school. It is considered that the proposal is acceptable in this countryside location and would not have any significant or adverse impacts upon the countryside location or highway safety. The proposal is not seeking to increase the use of the site but to swap from one building to another and this can be controlled by condition.



- 7.14 Whilst there has been a number of objections submitted for the proposal these related to the diversion of part of footpath FP37 which is not supported given that neither change of use necessities the need for the diversion; a consideration under S257 Town and Country Planning Act 1990.
- 7.15 A separate application to the Highway Authority would be required under s.119 of the Highways Act 1980 should the applicant wish to pursue the diversion of the PRow.
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## **8.0 SUMMARY OF CONSULTATIONS:**

County Highways: No comments received

County Planning: N/A

Environmental Health: N/A

Drainage: N/A

Access Officer: Objected to the inclusion of the diversion of the footpath.

Footpath: Ramblers and North Peak Footpath Society objected to the diversion of the footpath

Neighbour: 37 objections received, (36 objecting to the diversion of the footpath)

Others: Councillor Cupit called in the application to Planning Committee

Parish Council: Objects.

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## **9.0 RECOMMENDATION:**

GRANT Planning permission and subject to the following conditions, with the final wording delegated to the Planning Manager.

### **CONDITIONS**

1. The development hereby permitted shall be started within three years from the date of this permission.

Reason - To comply with the provision of Section 91 (as amended) of the Town and Country Planning Act 1990.

2. The development hereby approved shall be carried out in accordance with the submitted plans received 27 September 2016, unless otherwise specifically agreed in writing by the Local Planning Authority or otherwise required by any other condition in this decision notice.

For clarity and the avoidance of doubt.

3. Before any operations are commenced, space shall be provided within the site curtilage for site accommodation, storage of plant and materials, parking and manoeuvring of site operative's and visitor's vehicles together with the loading / unloading and manoeuvring of goods vehicles, designed, laid out and constructed all as may be agreed with the Local Planning Authority in advance of construction work commencing and maintained free from impediment throughout the duration of construction works.

Reason - In the interests of highway safety and in accordance with Policies T2 of the North East Derbyshire Local Plan.

4. The premises, the subject of the application, shall not be occupied until the on-site parking spaces (each measuring a minimum of 2.4m x 4.8m) have been provided laid out and constructed as may be agreed with the Local Planning Authority and maintained thereafter free from any impediment to designated use.

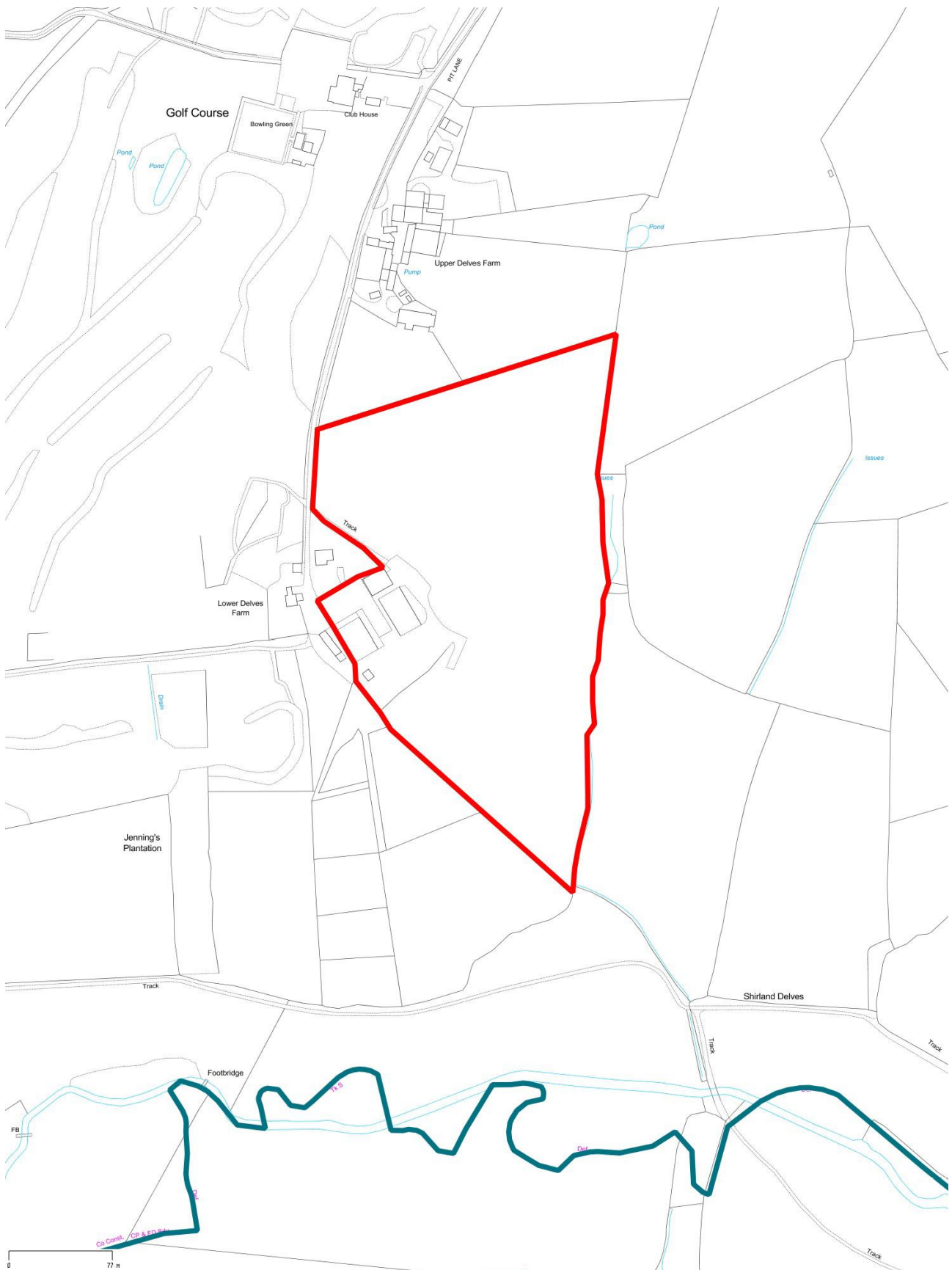
Reason - In the interests of highway safety and in accordance with Policies T2 of the North East Derbyshire Local Plan.

5. No vehicle(s), trailers, horse boxes or other storage buildings shall be located, parked or stored on the site unless otherwise expressly agreed in writing by the Local Planning Authority

Reason - In the interests of highway safety and in accordance with Policies T2 of the North East Derbyshire Local Plan.

6. In accordance with the submitted details there shall be no stabling of horses permitted in building 4 or indoor arena use permitted in building 2.

Reason: In order to control the scale of development in the interest of preserving the countryside location and highway safety in accordance with North East Derbyshire Local Plan policies R9 and T2; and Publication Draft Local Plan policy SS9.



NED/18/00589/FL