

# Public Document Pack



**North East  
Derbyshire**  
District Council

Our Ref: AM/MD  
Contact: Alan Maher  
Tel: 01246 217391  
Email: [Alan.maher@ne-derbyshire.gov.uk](mailto:Alan.maher@ne-derbyshire.gov.uk)  
Date: 1 July 2019

To: **Members of the Planning Committee**

Please attend a meeting of the Planning Committee to be held on **Tuesday, 9 July 2019 at 2.00 pm in the Council Chamber**, District Council Offices, 2013 Mill Lane, Wingerworth, Chesterfield S42 6NG.

**A number of parking spaces will be reserved for Member use on the day of the meeting.**

Yours sincerely

A handwritten signature in black ink that reads "Sarah Steuberg".

Joint Head of Corporate Governance and Monitoring Officer

## **Members of the Committee**

Conservative Group	Labour Group
Councillor Diana Ruff Councillor Pat Antcliff Councillor William Armitage Councillor Stephen Clough Councillor Peter Elliott Councillor Roger Hall Councillor Carol Huckerby Councillor Heather Liggett Councillor Maureen Potts Councillor Alan Powell	Councillor Jayne Barry Councillor Bette Hill Councillor Clive Hunt Councillor Tracy Reader Councillor Jacqueline Ridgway Councillor Kathy Rouse
Liberal Democrat Group	Independent Group
Councillor David Hancock	Councillor Andrew Cooper

**Any other Member can be requested to act as a substitute for this meeting.**

**All substitutions to be made in writing to the Governance Team by 12 Noon on the day of the Committee meeting.**

**For further information about this meeting please contact: Alan Maher**

# AGENDA

## **1 Apologies for Absence and Substitutions**

To receive any apologies for absence and notices of substitutions from Members.

## **2 Declarations of Interest**

Members are requested to declare the existence and nature of any disclosable pecuniary interests and/or other interests, not already on their register of interests, in any item on the agenda and withdraw from the meeting at the appropriate time.

## **3 Minutes of Last Meeting (Pages 4 - 10)**

To approve as a correct record and the Chair to sign the Minutes of Planning Committee held on 4 June 2019.

## **4 Reports of the Planning Manager - Development Management (Pages 11 - 77)**

(a) Report No PM/4/19-20 – Development Management Applications

(b) Report No PM/5/19-20 – Planning Appeals – Lodged and Determined

## **5 Matters of Urgency**

To consider any other matter which the Chair is of the opinion should be considered as a matter of urgency.



North East  
Derbyshire  
District Council

***We speak  
your language***

**Polish**

***Mówimy Twoim językiem***

**French**

***Nous parlons votre langue***

**Spanish**

***Hablamos su  
idioma***

**Slovak**

***Rozprávame Vaším  
jazykom***

**Chinese**

**我们会说你的语言**

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If you require an adjustment to enable you to participate in or access the meeting please contact the Governance Team at least 72 hours before the meeting starts.

## PLANNING COMMITTEE

### MINUTES OF MEETING HELD ON 4 JUNE 2019

#### I N D E X

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6	25	Section 106 (Legal) Agreements Update
6	26	Urgent Business – Open Session

## PLANNING COMMITTEE

### MINUTES OF MEETING HELD ON 4 JUNE 2019

#### **Present:**

Councillor D Ruff .....	Chair
Councillor P Antcliff .....	Vice-Chair
Councillor W Armitage	Councillor H Liggett
“ S Clough	“ M Potts
“ A Cooper	“ A Powell
“ P Elliott	“ T Reader
“ D Hancock	“ K Rouse
“ E Hill	

#### Substitutes Present:

- Councillor J Birkin - acted as substitute for Councillor J Barry
- Councillor M Foster - acted as substitute for Councillor R Hall
- Councillor M Jones - acted as substitute for Councillor J Ridgway

#### Also Present:

- Richard Purcell - Head of Planning
- Nigel Bryan - Principal Planning Officer
- Jim Fieldsend - Team Leader Solicitor (non contentious)
- Alan Maher - Senior Governance Officer

#### **20 Apologies for Absence and Substitutions**

Apologies for absence were received from Councillors J Barry, R Hall, C Huckerby, J Ridgway

The meeting was advised that Councillors J Birkin and M Foster and M Jones would act as substitutes for Members who had given apologies.

#### **21 Declarations of Interest**

Members were requested to declare the existence and nature of any disclosable pecuniary interests and/or other interests, not already on their register of interests, in any item on the agenda and withdraw from the meeting at the appropriate time.

No declarations were made at the meeting.

#### **22 Minutes of Last Meeting**

RESOLVED – That the Minutes of the last meeting of the Planning Committee held on 9 April 2019 be approved as a correct record and signed by the Chair.

**23 Development Management Applications**

The Committee considered Report No PM/1/19-20/AK of the Planning Manager – Development Management together with visual presentations for each of the following applications.

**NED/19/00154/FL**

Change of use of existing domestic garage to provide pre-school playroom facility and erection of canopy to form covered play area at 7 Fern Lea, Shirland, Alfreton for Mrs Isabel Alvey.

The Committee was directed to the recent late comments/update report which had been issued the afternoon prior to the meeting and were advised of further late comments which was circulated on the day of the meeting.

One objector exercised their right to attend the meeting and spoke against the application.

One supporter exercised their right to attend the meeting and spoke in favour of the application.

The applicant exercised their right to attend the meeting and spoke in support of the application.

Members considered the application having regard to whether or not the principle of commercial development was supported in the location having regard to the policies within the extant Local Plan and the Publication Draft Local Plan (PDLP), and guidance within the NPPF. Thereafter, whether or not the development would respect the character of the area and residential amenity, along with highway considerations.

**RESOLVED** – That application number NED/19/00154/FL be refused for the reasons specified in the report.

- 1 No adequate provision is included in the application proposals for the parking and manoeuvring of vehicles clear of the public highway, which would be likely to result in a significant increase in on-street parking on Fern Lea causing obstructions, or parking on the shared driveway leading to obstructions and onerous manoeuvres to and from the public highway. Either scenario is against the best interests of highway safety and is likely to lead to potential danger and inconvenience to other highway users and interfere with the safe and efficient movement of traffic on the adjoining highway. The proposal is, therefore, considered contrary to policies GS5, E8, T2 and T9 of the North East Derbyshire Local Plan.
- 2 The proposed use of the building and construction of the canopy, due to its design and siting, is not considered acceptable for the use as proposed and would materially alter the nature of the residential character of the area and cause harm to residential amenity as a result of noise and disturbance. In particular, the residents of no.5, Fern Lea would be adversely affected due to the close relationship with the site of both the property and residential curtilage. The

proposal is considered contrary to policies GS5, BE1 and E8 of the North East Derbyshire Local Plan.

**NED/19/00208/FL**

Conversion of existing outbuilding to a 3 bedroom, single storey dwelling (Conservation Area) at View House, Snowdon Lane, Troway, Marsh Lane, Sheffield S21 5RT for Mr K Lewis.

The Committee was directed to the recent late comments/update report which had been issued the afternoon prior to the meeting and were advised of further late comments which was circulated on the day of the meeting/were read out at the meeting.

The agent exercised their right to attend the meeting and spoke in support of the application.

Members considered the application having regard the key policy considerations of protection of the Green Belt, safeguarding the character of the area, highway safety, safeguarding residential amenity; and the character of the Conservation Area. The planning history for the site was also a material consideration. Whilst the planning permission granted had lapsed, the principle of conversion in the Green Belt had been accepted and was still pertinent to the current Green Belt policies, both nationally and locally.

**RESOLVED** – That application number NED/19/00208/FL be approved with the final wording of conditions delegated to the Planning Manager.

- 1 The development hereby permitted shall be started within three years from the date of this permission.
- 2 The development hereby approved shall be carried out in accordance with the drawings listed below:

325/00 rev A – Location plan  
325/10 rev A – Site plan  
325/11 rev A – Ground floor plan  
325/12 rev A - Elevations  
325/31 – Construction detail, floor plan  
325/33 – Construction detail, elevation plan

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 The proposed walling materials shall match those of the existing building as closely as possible.
- 4 The roof shall be covered with natural slates to match the host dwelling. All fixings shall be corrosion resistant.

- 5 Windows and doors shall be set back 100mm from the face of the stonework and shall be constructed in painted timber and retained as such thereafter.
- 6 Prior to any above ground works commence, 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.
- 7 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.
- 8 Notwithstanding any submitted details, before completion of the conversion works 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.
- 9 Before occupation of the proposed dwelling, the proposed vehicular access to Snowdon Lane (B6056) shall be created in accordance with the application drawings, laid out, constructed and maintained in perpetuity free from any impediment to its designated use.
- 10 There shall be no gates or other barriers within 5m of the nearside highway boundary and any gates shall open inwards only.
- 11 Before 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.
- 12 Notwithstanding the provisions of Article 3(1) of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking and re-enacting that Order) no extensions (Part 1 Class A), dormer windows (Part 1 Class B) alterations to the roof (Part 1 Class C) and curtilage buildings (Part 1 Class E) shall be erected/constructed without first obtaining planning permission.
- 13 Notwithstanding the provisions of Article 3(1) of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking and re-



enacting that Order), no doors or windows shall be installed in the building other than those shown on the approved application drawings.

- 14 The works shall be carried out strictly in accordance with the recommendations contained in the structural appraisal report produced by Freeman Design and Surveying Consultancy Limited dated 1st May 2019. In particular, the areas of demolition and rebuilding shall be limited to those set out in the structural survey and as shown on the approved drawings.

**24 Planning Appeals Lodged and Determined**

The Committee considered Report No PM/2/19-20/AK of the Planning Manager – Development Management.

The following appeal had been lodged:-

Mr Chris Sinclair- Change of use from Public House to Residential dwelling with alterations to openings and new glass balustrade to front (revised scheme of 18/00690/FL) (Amended Plans) at The Barrack Hotel, Barrack Road, Apperknowle (18/01006/FL)

The following appeals had been allowed:-

Mr and Mrs Elliott – Application for 3 bedroom dwelling (Conservation area) at Ivydene, Palterton Lane, Sutton Scarsdale (18/00603/FL)

Mr Terry Rogers – Construction of a detached double garage (revised scheme of 18/00472/FLH) (Conservation Area) at South View, Main Road, West Handley (18/00979/FLH)

Mr and Mrs John Pritchard– Application for a Lawful Development Certificate for a Camp site for the siting of tents associated with leisure and recreation (for educational authorities) at Overton Park Camp, Coach Road, Overton, Ashover (18/00433/LDC)

The following appeals had been dismissed :-

Mr M P Nightingale – Proposed change of use and conversion of former reservoir structure to a single dwelling at Land Opposite Barn Close House, Matlock Road, Walton (18/00781/FL)

Mr and Mrs Sheldon– Proposed single storey rear extension (Conservation Area) at 4 Ridgeway Courtyard, Main Road, Ridgeway (18/00716/FLH)

Mr Jeremy White– Proposed demolition of garden centre buildings and the erection of one dwellinghouse (Revised scheme of 16/00398/FL)(Conservation Area) at Land To The Rear Of The Fieldings Greenway Northridge And Four Winds, High Lane, Ridgeway (17/00081/FL)

Mrs Margaret Simpson– Outline application with all matters reserved for the construction of 1no 3bed dwelling (Revised scheme of 17/01325/OL) at Land West Of Stables And Smithy Brook Farm, Smithy Moor, Stretton (18/00466/OL)

No appeals have been withdrawn.

RESOLVED – That the report setting out the appeals lodged and determined within the previous month be noted.

**25 Section 106 (Legal) Agreements Update**

The Committee considered Report No PM/3/19-20/AK concerning Section 106 Legal Agreements.

RESOLVED – That the report be noted.

**26 Urgent Business**

There was no urgent business considered at the meeting.

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PLAN MINS(0604)/MD

**North East Derbyshire District Council**

**Planning Committee**

**9 July 2019**

**Development Management Applications**

**Report No PM/4/19-20/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

PARISH	APPLICATION NUMBER	TITLE	PAGE NUMBER
SHIRLAND & HIGHAM	NED/19/00056/OL	Outline application (all matters other than access reserved for further approval) for the erection of 24 dwellings, new access and provision of open space (revised scheme of NED/17/01234/OL) (Major development) (Departure from Development Plan) (affecting setting of Listed Building/Conservation Area)(Amended Plans/Amended Title) land north of Chesterfield Road, Shirland for Green4 Development Limited.	<b>5 - 31</b>
ASHOVER	NED/19/00368/RM	Submission of reserved matters details for the layout, scale and appearance of the dwelling, the means of access and the landscaping of the site, including the scheme for mitigating climate change, levels plans and access and parking details as required under conditions 2, 3, 5, 8 and 9 of outline permission 17/00030/OL at land 50metres west of 1 and 2 Overton Lodge, Jetting Street, Milltown, Ashover for Mr P Barltrop – Stenfold Resources Ltd.	<b>32 - 40</b>
ASHOVER	NED/19/00385/FL	Application for retention of existing canvas and timber frame tent at Press Manor Fishing Lakes, Birkin Lane, Ashover, Chesterfield for Press Manor Fisheries.	<b>41 - 52</b>
ASHOVER	NED/19/00391/FL	Change of use of paddock for the keeping of one horse and the retention of a chicken coop (Amended Title) at Cherry Tree Cottage, Alton Hill, Alton, Chesterfield S42 6AW for Mr & Mrs Leyland.	<b>53 - 59</b>
DRONFIELD	NED/00370/FLH	Change of use of part of woodland to domestic garden for retention of a summerhouse at 4 Highdale Fold, Dronfield S18 1TA for Mr Frazer Allen.	<b>60 - 64</b>

**APPLICATION NO.** 19/00056/OL

**APPLICATION** Outline application (all matters other than access reserved for further approval) for the erection of 24 dwellings, new access and provision of open space (revised scheme of NED/17/01243/OL) (Major development) (Departure from Development Plan) (affecting setting of Listed Building/Conservation Area)(Amended Plans/Amended Title)

**LOCATION** Land north of Chesterfield Road, Shirland

**APPLICANT** Green4 Developments Limited

**CASE OFFICER** Phil Slater

**DATE RECEIVED** 21 January 2019

DELEGATED APPLICATION REFERRED TO COMMITTEE BY: Cllr Cupit

REASON: Detrimental impact on the rural landscape, adverse wildlife and ecological impact and highway issues.

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**The Site Inspection Group is to visit the site to view the relationship of the site with neighbouring properties and the impact of the development on the character of the area and access arrangements.**

## **1.0 SITE DESCRIPTION**

1.1 The application site lies outside the defined settlement development limit (SDL) for Shirland and within an area designated as open countryside in the Local Plan. The site is 4.3 hectares in area and located to the east of Higham and north of Shirland. To the North West is the village of Higham itself incorporating the Higham Conservation Area and a number of listed buildings.

1.2 The site comprises an irregular shaped area of land formed by two fields with boundaries delineated by hedgerows and some trees. A drainage ditch bisects the two fields running north to south.

1.3 The site is bounded by trees to its boundaries and on the eastern site boundary with Common Lane there are 2 trees protected by a Tree Preservation Order (TPO) located in the south east corner.

## **2.0 PROPOSAL**

2.1 This application is a revised scheme of NED/17/01243/OL which was for 77 dwellings to be constructed on both fields. It was refused in June 2018.

2.2 This current application is made in outline with means of access not reserved. The application as originally submitted was for 30 dwellings to be constructed in the south eastern field only, with the north western field being undeveloped and including a footpath route through to Chesterfield Road in the north west corner of the application site.

- 2.3 A mix of 2, 3, 4 and 5 bedroom houses is shown on the indicative layout which accompanied the application along with a commitment to provide 20% affordable housing provision.
- 2.4 Access to the site would be via Common Lane to the east with trees retained along the eastern boundary.

### **3.0 AMENDMENTS**

- 3.1 Following discussions with officers and comments received from the Council's landscape consultant the application has been amended with the number of units proposed reduced to 24.
- 3.2 The agent has submitted a revised indicative layout which proposes that the northern boundary of the built development would not project further north than the boundary with No.92 Chesterfield Road. The area in advance of that projecting northwards would be landscaped public open space.
- 3.3 The indicative layout has omitted the formal footpath link to Chesterfield Road, and instead now proposes an informal, unsurfaced rural footpath. The agent has confirmed that the north western field would remain undeveloped as agricultural land but that 20% on-site affordable housing would be provided.
- 3.4 An updated Transport Assessment, and a revised drawing indicating the visibility splay have been submitted.

### **4.0 PLANNING HISTORY**

- 4.1 NED/17/01243/OL - Outline application (all matters other than access reserved for further approval) for the erection of 77 dwellings, new accesses and provision of open space. The application was refused in June 2018 due to its impact on the character of the area, harm to the landscape and impact on the setting of Higham and its conservation area.

### **5.0 PLANNING POLICY CONSIDERATIONS**

- 5.1 The Development Plan comprises the **North East Derbyshire Local Plan**. The relevant policies from that Plan pertinent to the determination of this application are as follows:

- GS1 Sustainable Development
- GS6 New Development in the Countryside
- GS9 Planning Obligations
- GS10 Crime Prevention
- BE1 General Design Principles
- BE11 Development within and Adjoining Conservation Areas
- H3 New Housing outside Settlement Development Limits
- H7 Affordable Housing Provision in the Settlements with a population of 3000 or fewer
- H12 Design and Layout of New Housing
- T2 Highway Access and the Impact on New Development
- T4 Travel Plans
- T5 Walking and Cycling
- T9 Car Parking Provision



R5 Providing for Children's Play Space through New Development  
CSU2 Purpose Built Community Facilities  
CSU4 Surface and Foul Water Drainage  
CSU6 Contaminated Land

5.2 Other relevant policy documents include the Successful Places Design Guide.

5.3 The evolving **Local Plan (Publication Draft) (2014-2034)** is also material to the determination of this application, and Higham is identified in that Plan as a Level 3 settlement within the settlement hierarchy as the village is considered to have a limited level of sustainability. The Council is at an advanced stage in the production of this new Local Plan which seeks to provide for the development needs of the district for the period 2014 – 2034. The Plan was submitted to the Secretary of State at the end of May 2018 and is currently under examination. The Plan has been subject to extensive consultation and sets out the Council's strategy for sustainable development and it should be afforded weight in decision making.

5.4 The following policies are considered material to this application:

SS1 – Sustainable Development  
SS2 – Spatial Strategy and Distribution of Development  
SS10 – North East Derbyshire Green Belt  
LC1 – Housing Allocations  
LC2 – Affordable Housing  
LC4 – Type and Mix of Housing  
SDC11 – Flood Risk and Drainage  
SDC12 – High Quality Design and Place-Making  
ID1 – Infrastructure Delivery and Developer Contributions  
ID2 – Provision and Safeguarding of Transport Infrastructure  
ID3 – Sustainable Travel

#### National Planning Policy Framework

5.5 The National Planning Policy Framework (NPPF) is relevant in the determination of the application. The NPPF states that decisions should apply a presumption in favour of sustainable development which means approving development proposals that accord with an up-to-date development plan without delay or where the policies which are most important for determining the application are out of date granting permission unless policies in the framework that protect areas or assets of particular importance provides a clear reason for refusal or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the framework taken as a whole.

5.6 In particular, the NPPF seeks to significantly boost the supply of homes (para 59) whilst protecting and enhancing the natural environment (para.8) and recognising the intrinsic character and beauty of the countryside (para 170).

## **6.0 PUBLICITY, CONSULTATIONS AND REPRESENTATIONS**

6.1 The application was validated on the 21 January 2019 with a determination date of 22 April 2019. An extension of time has been agreed until the end of July 2019. Site notices were posted on both Common Lane and Chesterfield Road, and consultation letters were sent to all properties which adjoined the application site.

6.2 One **Ward Member** has commented with regards to the original submission:-

- Strongly object to this proposed development, as it would be an inappropriate and unsustainable expansion into a strategically vital separation area, which also serves as an irreplaceable historic setting. This application is clearly against local wishes, and rightly so, as it would cause irreparable damage to one of the area's last green buffer zones, merge two distinct settlements, and overload the already stretched rural infrastructure in this part of my ward.
- This revised application has not overcome either of the strong environmental reasons that led to the clear refusal of the previous development proposed on this site.
- The proposals for the 30 new dwellings on the lower field of the site would still result in a significant encroachment into what is currently noticeably open countryside and would comprise a visible and dense development completely conflicting with the surrounding linear housing pattern in the local area.
- This application would lead to the devastating loss of open agricultural land; this land is currently instrumental in illustrating the medieval fossilised strip field pattern, which underwrites the preservation of the conservation area and its contributing surrounding landscape. The slope and topography of the land mean the proposed new dwellings would be clearly visible, leading to the destruction of the character and setting of Higham Conservation Area, as well as the listed buildings and heritage assets within it. As this application would fail to enhance, or (crucially) even preserve, any of these important historic assets, it remains contrary to both national and local planning policies.
- Higham is recognised by this Council as a settlement with limited sustainability and so has no major development allocations, whilst Shirland has already produced and approved new housing above its calculated need. Cumulatively, 60% more houses than Shirland is allocated in the draft Local Plan - and than any of this Council's plans or assessments think the area can sustainably cope with - have been already been approved.
- These fields and surrounding lanes regularly experience flooding and drainage issues, and the proposed access point onto Common Lane would cause severe highway issues. This is a narrow lane that leads onto several dangerous junctions, and is unsuitable for even a small increase in traffic; this immediate transport network would therefore be unable to cope with the significant increase in cars as a result of this development (this is demonstrated by the application form's inclusion of 90 parking spaces which is a clear signal of predicted regular vehicle movements).
- It is particularly notable that the most invasive development plans are proposed for the part of the site where the applicant's own biodiversity survey recorded the species of highest conservation concern. The mitigation measures proposed fail to justify this.
- Strongly urge the refusal of this latest application.
- Request a site visit by the Planning Committee to highlight to members the important surrounding streetscene, lack of supporting infrastructure and therefore the unsuitability of this site for housing.

6.3 The **Ward Member** has commented with regards to the revised plans:-

- Continue to strongly object to this application, and I maintain the points made in my earlier objection.
- This application remains a clear and unsustainable extension into rural countryside and into the gap between Shirland and Higham. The development

would still be clearly beyond the current settlement development limit on Common Lane, and would set a dangerous precedent for future expansion down Common Lane, and on the fields on the other side.

- The landscape harm this application would cause is still definable and devastating due to the slope, open nature and topography of the land, and the demarcation this development would be from the currently clear housing line and encompassing rural area.
- I also don't believe the amended application solves any of the objections on the original amended application, in terms of the adverse wildlife and ecological impact, rural highways issues, or the unsustainable effect this development would have on the surrounding rural infrastructure.

6.4 The **Parish Council** objected on the following grounds to both the original submission and the revised scheme:-

- The total area of proposed hardscaping needs querying.
- Although the number of properties has been reduced larger properties are proposed which are likely to be occupied by larger families with children. This will mean a larger impact on doctor's surgeries and schools.
- The amount of privacy screening appears to be inadequate. No screening is proposed to the properties on Well Lane.
- The application states that all trees are to be retained however there are two mature trees at the proposed entrance to the site which are likely to require felling.
- A recent traffic census showed significant problems with vehicles exceeding the speed limit and the development is likely to cause queuing traffic at busy times. The vehicle movements to and from this proposed development would further contribute to an already choked A61. At peak times traffic movement along this road is a slow procession all the way to Chesterfield, and when the M1 is closed and traffic diverted, becomes a totally clogged main arterial route within the county's road network. This proposed development, when combined with traffic from the developments that are already underway at Wingerworth will generate flows of traffic that the A61 is not designed to accommodate.
- The western field of the site is currently sown to a cereal crop, and therefore will certainly act as a food source for farmland birds. Indeed, it is the only arable field in the area for some distance and would be a loss to wildlife including badgers and bats and we would request that thorough wildlife/breeding bird surveys be carried out.
- Drainage and the potential for flood both on and in the vicinity of the site is still a major concern and we as a Parish Council rely on the Local Planning Authority to obtain all information pertinent to the discharge in land not within the control of the applicant, which is fundamental to allow the drainage of the proposed development site and would request that the local authority satisfies itself of the good condition of the watercourses and infrastructure outside and downstream of the developable area prior to outline planning consideration.
- This proposed development sits on land adjacent to Higham Conservation Area. The setting and views into and out of the area contribute to village character and appearance as described in NEDDC's own Character Statement publication of May 2000. Preservation of these aspects is a cornerstone of a Conservation Area.
- The proposed development would close the settlement gap between the villages and mean the loss of green fields.

- Common Lane which is the access point to the development is an unlit, rural road with no footways.
- 6.5 The **County Highway Authority (HA)** commented on the original scheme raising a query regarding the calculations undertaken in order to determine the visibility splays which were inadequate for the measured speeds quoted. The HA commented that access to the development site is proposed via a new priority junction from Common Lane only, and the HA are satisfied that the junction would work satisfactorily.
  - 6.6 The agent has submitted a revised plan demonstrating the visibility splays from the new access off Common Lane and which show an emerging visibility splay of 2.4m x 203m to the left of the site when exiting onto the highway. The drawing indicates that part of the splay runs directly abutting the hedge-line, however this is due to the radius kerb at the end of the splay, and the HA are satisfied adequate visibility exists for motorists emerging from, or approaching the site from, this direction. The HA have commented that they have *no objections* subject to conditions.
  - 6.7 The **Derbyshire County Council Flood Team** is the Lead Local Flood Authority (LLFA) initially raised an objection due to the lack of information submitted with the application.
  - 6.8 The agent has submitted a revised Flood Risk Assessment (revision D) dated April 2019. The LLFA has provided further comments and has confirmed that *no objections* are raised subject to conditions relating to the detailed design, management and maintenance of surface water drainage for the site, a detailed investigation to demonstrate the proposed destination for surface water and a scheme to avoid surface water run-off during construction.
  - 6.9 **NEDDC Engineers** have raised no comments.
  - 6.10 The **Derbyshire Wildlife Trust (DWT)** commented on the original submission that the Ecological Appraisal has been updated to reflect the current development proposals, however it is still based on the site visits in September and October 2017. As such, DWT advise that an update site visit should be undertaken. This is also important to check the status of the known badger setts and to record any new setts created in the last 18 months.
  - 6.11 Breeding bird surveys have been undertaken, further to DWT advice on the previous application. No ground-nesting species were recorded during the surveys. Most species recorded are typical of rural areas with scrub and hedgerow habitat. As hedgerows and trees will be retained, the majority of nesting habitat will be maintained on site and is likely to still be used by the majority of species recorded (although some species such as yellowhammer and willow warbler are unlikely to use habitat immediately adjacent to housing).
  - 6.12 In both the Ecological Appraisal and the Breeding Bird Survey report, there is no specific reference to the plans for the western field and how these will impact on species present. DWT welcome proposals to leave this field undeveloped, however it is labelled as Public Green Space and has a footpath around the southern boundaries. As there is no housing proposed in this field, it would be a needless loss of habitat for foraging rural bird species and disturbance to resident badgers, if

this were to be altered to ornamental/heavily managed POS. DWT advise that given the ecological interest in this western field, an additional level of detail should be provided at this stage.

- 6.13 The agent has submitted a revised indicative plan omitting the formal footpath and confirming that the western field will remain in agricultural use. DWT have commented that they welcome the change of proposal to not develop the western field as green space/POS and would encourage the LPA to secure this and safeguard the land for the future i.e. there should be a presumption against future applications in the western field.
- 6.14 DWT still do not particularly support a footpath through this field as any level of use will increase disturbance to wildlife. If a footpath is to be included, it should be an informal, unsurfaced, rural footpath to create as little disturbance and change in the field as possible. If the green area shown to the north of the dwellings is to form POS, we would encourage a landscaping scheme that increases site biodiversity. No objections are raised subject to conditions.
- 6.15 The **Environmental Health Officer** has not raised an objection in respect of land contamination issues and potential sound impacts and has recommended a number of conditions should planning permission be granted.
- 6.16 **Severn Trent Water** has not commented however it raised no objections to the previous application in 2018 subject to the inclusion of a condition relating to disposal of foul and surface water.
- 6.17 The **Designing Out Crime Officer** has raised no objection to residential development in principle.
- 6.18 **Derbyshire County Council Community Infrastructure** have commented with regard to the revised scheme and have requested £84,061.20 for the provision of 5 primary places at Shirland Primary School and £156,279.62 for the provision of 4 secondary places and 2 post 16 places at David Nieper Academy.
- 6.19 DCC have provided (**County Council**) **Local Member** comments which state that the principle of poorly located, speculative and inappropriate development that impacts upon the setting of a significantly local Conservation Area still applies. It lies within a critical area of green space that provides clear delineation between settlements and is close to the Higham Conservation Area, threatening the integrity of that designation and altering the character of the locally unique scenery. The impact on the green field area here would be significant, as would the additional impact upon already overstretched local amenities and infrastructure. I therefore oppose what would be a significant intrusion into the local greenspace.
- 6.20 **NEDDC Housing Officer** has commented that affordable housing should be required to meet policy requirements and this should be in the form of affordable rented or social rented and proposed 2 and three bed houses would be acceptable.
- 6.21 **NHS Hardwick Group** have been consulted and have not requested any s.106 contributions towards health provision.

- 6.22 **NEDDC Streetscene** have raised no objections and commented that access is required for a Refuse Collection Vehicle which will not cross un-adopted roads unless an alternative solution is proposed by the developer.
- 6.23 The **Coal Authority** concurs with the recommendations of the Phase 1 Site Investigation Report that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy. A condition is recommended.
- 6.24 The **County Council Archaeologist** has commented with regards to the original submission that concerns on the previous application were expressed in relation to the impact on the setting of Higham Conservation Area, the survival of the medieval ribbon form of the village with historic strip fields beyond, and the important open spaces and views identified in the Conservation Area Character Statement.
- 6.25 The current proposals address these concerns through the omission of the western field, adjacent to the Conservation Area, from the development footprint, shown as 'public green space' on the submitted plans. DCC suggest however that the setting of the Conservation Area would be better addressed by omitting this part of the site from the development boundary altogether and retaining it in agricultural use. Creation of recreational space here risks an incremental loss of landscape character and a creeping urbanisation which could over time result in harm to the setting. The Character Statement places importance upon views of 'open countryside' and 'open fields' from within the Conservation Area and this sense should be conserved.
- 6.26 In relation to below-ground archaeology, a geophysical survey was submitted as part of the previous application. This showed archaeological potential in the area east of Higham village, and attracted a recommendation for a conditioned scheme of work in line with NPPF para 199. The eastern field has been partially opencast and contained no archaeological targets on the geophysics. Provided the landscaping of the western field is not overly intrusive and avoids significant ground impacts, the revised scheme does not require any further archaeological work.
- 6.27 **NEDDC Parks Officers** have commented the development would attract s.106 contributions of £22,360.31 with a 10 year maintenance fee of £6,566.64 towards the Shirland Village Hall play area.
- 6.28 Clarification is requested regarding whether the public green spaces will be controlled by a management company.
- 6.29 With regards to the existing trees it is noted that the Tree Survey (revision C) acknowledges that the trees identified as T1 and T2 are protected by Tree Preservation Orders. It is recommended that a tree protection plan is established to protect trees and minimise damage to roots. It is also recommended that the tree constraints plan be reviewed to ensure that the appropriate root protection can be achieved without impacting on the TPO trees.

6.30 **56 objections** have been received which can be summarised as follows:-

*Amended Plans*

- Photographs submitted showing the fields with standing water.
- Makes little regard to key social, environmental, historic, heritage or economic factors
- Leaves no agricultural land and completely alters the setting of Higham Conservation Area
- Loss of ancient historic field pattern
- Any change of use in either of the two fields will be intrusive and result in substantial harm to the landscape
- Clear extension beyond the Settlement Development Limit on Common Lane and is not infill.
- Aggressive and damaging extension into rural countryside and into the important green gap between settlements of Shirland and Higham
- Application is unsustainable – local primary school is oversubscribed and local GP practice cannot cope with additional patients.
- Drainage around the proposed development is poor and subject to frequent flooding and development will exacerbate that situation.
- Shirland has already experienced substantial housing development changing semi-rural nature of our two villages
- Will result in additional traffic, congestion and erosion of local roads and verges.
- Many single vehicle accidents already occur which will inevitably increase
- Acute congestion issue on the A61
- The applicants landscape appraisal contains errors, omissions and basic errors in methodology
- Mitigating statements in the addendum of the final landscape report should be rejected.
- Residents of Shirland and Higham clearly do not want this development.
- Development would further increase the tendency for coalescence of settlements of Higham and Shirland
- Concerns regarding heavy construction traffic to use narrow country lanes.
- No need for additional housing
- Development will be on natural Green Belt and will join two villages (*officer note: the application is not in the Green Belt*)
- Massive negative impact on wildlife
- Noise and disruption
- Site boundary is the same as the refused application.
- A later application will be submitted for the other field (*officer note: not a material planning consideration as any future application will be assessed at that time*)
- Amount of new and planned housing in Shirland and Higham is significant.
- Junction of Common Lane and Goose Lane is a dangerous and problematic one
- No demand for new houses
- How can land be considered for development without it having an impact on the ancient hedgerows and trees.
- Light pollution and Local Authority has a duty to protect night time environments and the heritage of dark skies.
- Well Lane has at least 3 external wells alongside or close to the lane which highlights the nature of the surrounding land and drainage

- Lower eastern field is quality grazing land and not derelict land as stated by the applicant.
- References to the Localism Act 2011.

### Original submission

#### *Principle*

- Enough ongoing housing developments within Shirland, Higham and Stretton, many have not been sold.
- More housing is not required
- Would lead towards the integration of Shirland and Higham
- Proposal would be outside of the development limits and is significantly more than Shirland is allocated in the draft Local Plan.
- Is contrary to the Interim Housing Policy.
- Clear departure from the development plan and is outside the Settlement Development Limit for Shirland and Higham.

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#### *Conservation Area*

- Development will have a detrimental effect on the Conservation Area.
- Would result in the loss of important visual amenity in regards to outlook of the historic settlement of Higham.
- Significant detrimental impact on the setting of the Higham Conservation Area and several listed buildings and no amount of screening will reduce this negative impact.

#### *Highways*

- Common Lane is single width with no road markings is used by people walking dogs, pushing prams and families
- Concerns regarding additional traffic
- A61 is already a very busy road.
- Common lane is completely unsuitable to be used as an entrance to the proposed estate due to its width and narrow verges.
- Will generate significant traffic
- There is enough pressure on the current road network as it stands. In winter Common Lane and Goose lane are not gritted.
- Speeding is a major problem particularly on the A61
- 45 car parking spaces is inadequate for the number of 3 and 4 bed houses.

#### *Drainage*

- Fields get flooded during autumn and winter due to lack of drainage
- Land unsuitable for housing due to drainage problems
- Flood risk assessment states that majority of the site is at very low risk of surface water flooding however this is not representative of the actual site conditions.
- Surface water drainage not possible via soakaways and existing drainage network would have to bear the brunt of the additional run-off.

#### *Infrastructure*

- Local doctors are already stretched to capacity
- Ward does not have necessary health and education infrastructure
- More demands on infrastructure including sewers, water, gas and electricity



### Ecology

- Development would cause damage to local wildlife and greenspace.
- Development will disturb birds, insects bats and badgers
- Clearly bats nesting nearby
- Fields are not disused agricultural land
- The land has a number of oak trees along the eastern side (2 with TPOS on them)
- Ancient hedges and trees which form boundaries are extremely important in sustaining local wildlife and cannot be damaged or destroyed.

### *Privacy and amenity*

- Noise, traffic and disruption of unwanted developments.
- Adjacent properties have short rear gardens and overlook open fields, new houses will result in loss of privacy.

### Miscellaneous

- Plans set aside higher field as open space and remove a hurdle to any future application.
- Lack of suitable recreation facilities.
- What will the western field change from agriculture to?
- Seeks to close up a settlement gap (*officer note: the site does not fall in an area designated as a settlement gap under the Emerging Local Plan*)
- Removes the barrier between Shirland and Higham
- The site has not been identified as being required to deliver housing needs within the Emerging Local Plan and impacts cannot be justified.
- A smaller development of 9 properties has been approved next to this field which blends into the area the established housing whereas this development would not.
- House prices devalued (*officer note: not a material planning consideration*)
- New housing would not be in keeping with local houses
- Houses on Well Lane have been ignored in the visual assessments even though they are in close proximity to the proposals.

## **7.0 PLANNING CONSIDERATIONS**

7.1 The primary 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 Higham Conservation Area, the amenity of neighbouring uses and highway safety issues.

## **8.0 PLANNING ASSESSMENT**

8.1 This application is submitted in outline and proposes the construction of up to 24 dwellings. All matters other than the access are reserved for further approval, and a single access is proposed on the eastern edge of the site onto Common Lane.

8.2 A revised indicative layout has been submitted, along with revised plans showing the visibility splays from the new access onto Common Lane and in relation to the existing trees along the eastern site boundary. The revised indicative layout now proposes that the northern boundary of the built development would not project

further north than the boundary with No.92 Chesterfield Road. The area in advance of this would be landscaped public open space. Whilst a guide to potential development, as the application is submitted in outline, the indicative layout should only be used as an indication to the quantum and layout that may result subsequent to any outline permission granted.

- 8.3 The indicative layout has also omitted the formal footpath link to Chesterfield Road, and instead proposes an informal, unsurfaced rural footpath. The agent has confirmed that the north western field would remain as agricultural land and that 20% on-site affordable housing would be provided.
- 8.4 This application is a revised scheme to NED/17/01243/OL which sought consent for up to 77 dwellings with development on both fields and which was refused in 2018.

### **Principle of Development**

- 8.5 The application site is a green field site located outside of, although adjacent to, the settlement development limits for Higham which is a level 3 settlement within the settlement hierarchy (as identified in the evolving Local Plan) and so considered to have limited sustainability. The development of the site would therefore conflict with the saved North East Derbyshire Local Plan policies GS1 and H3 where they generally seek to restrict new housing outside of defined settlement development limits.
- 8.6 The National Planning Policy Framework (NPPF) confirms the legal position that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 11 of the NPPF states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 8.7 The settlement development limits set out in the Local Plan were based on a strategy that ran until 2011. Officers consider, in line with recent planning appeal decisions, that the settlement development limits set out in that Plan and so which constrain new housing development do not address the housing needs of the District as of 2019 and are therefore not considered by officers to be up-to-date. Therefore, the principle of new housing development on the application site need not be unacceptable and the provision of new housing needs to be weighed against any harmful impacts arising from the development, such as the landscape impacts as set out in Local Plan policies GS1, GS6 and NE1.
- 8.8 Based on the latest published assessment of the Council's housing supply of deliverable sites, the Council has sufficient supply for at least 7 years. Therefore, this, in itself, does not make the housing policies set out in the Development Plan out of date and reduces weight that may be given to the issue of increasing the supply of housing.
- 8.9 The Council is now at an advanced stage in the production of a new Local Plan (LPPD) which would provide for the development needs of the district for the period 2014 – 2034. The Plan was submitted to the Secretary of State at the end of May

2018 and is currently under examination. This document has been subject to extensive consultation and sets out the Council's strategy for sustainable development and should be afforded weight in decision making.

- 8.10 In circumstances such as these the NPPF establishes a framework on which to assess whether development is sustainable development or not establishing three overarching objectives which are economic, social and environmental objectives. These issues are addressed as follows:-
- 8.11 In the short term there would be **economic benefits** from the build phase of the development and in the longer term, whilst there would be no direct employment provision on the site, there would be economic benefits to existing services within the nearby villages. The development would also contribute to the Council's Growth Agenda through the provision of Council tax receipts and New Homes Bonus which weighs in favour of the scheme.
- 8.12 There would be a number of **social benefits** from the grant of permission in that it would provide a limited number of additional new houses and their occupiers would support local services and increase the customer base for existing businesses. The scheme would provide a commuted sum towards affordable housing and financial contributions towards social infrastructure. The contributions to education are, however, required in order to mitigate the impacts of the development itself and are therefore of neutral benefit. The social benefits do however weigh in favour of the scheme.
- 8.13 With regards to the **environmental impacts** of the development, these require careful consideration in line with the relevant Development Plan policies.
- 8.14 The applicant has submitted a Landscape and Visual Impact Assessment which concludes that the development would not have a demonstrable detrimental impact on landscape character and visual amenity. The scheme has also been revised to limit the extent of built development no further north than the boundary with No. 92 Chesterfield Road and confirmation has been given that the western field will remain in agriculture.
- 8.15 Officers have sought the Council's own landscape assessment. Whilst concerns were raised in respect of the original submission the revised indicative layout has addressed a number of concerns initially raised.
- 8.16 The revised layout is now considered to represent an infill development between 92 Chesterfield Road and Common Lane and fits in more sympathetically with the adjacent Fern Lea development and the residential development under construction at 58 Chesterfield Road. Development would be constrained within a notional line drawn from the eastern boundary of 92 Chesterfield Road and Common lane thereby providing a respectful buffer to the sensitive Higham ridgeline and Higham Conservation Area to the north.
- 8.17 In terms of visual impact it is considered that the proposed green corridor along the northern boundary on the revised layout is more sensitive to views towards the setting of the Higham Conservation Area and will also buffer views of the development as experienced from the northern section of Common Lane as well as

Well Lane and thereby mitigate the potential for the new built form to be seen within the setting of the Conservation Area.

- 8.18 Overall, the effects are considered to be minor reduced to minor/negligible adverse after 15 years post completion if mitigation is successful along the north western section of the site.
- 8.19 The revised scheme will alleviate the localised impact upon Common Lane to a degree and its effects in this respect is moderate adverse, but it is considered that any potential detrimental effect of highway infrastructure upon its rural character can be addressed at the reserved matters stage.
- 8.20 Officers conclude that the revised layout affords a greater buffer to the sensitive Higham ridgeline and the setting of the Higham Conservation Area and substantial green infrastructure providing good levels of mitigation along the site's northern and western section. Officers consider that the effects of the development will now be moderate falling to minor to moderate adverse if mitigation is successful.
- 8.21 In weighing these matters in the planning balance, officers consider that there would be some social and economic benefits arising from the scheme and that the environmental harm is both localised and limited. The development of the site is, therefore, considered to be broadly sustainable as set out in the NPPF and not contrary to the relevant Local Plan policies which seek to ensure new development in the countryside is neither a prominent intrusion nor out of keeping with the character of the countryside.

### **Impact on Heritage Assets**

- 8.22 The application site lies adjacent to the Higham Conservation Area, and the County Council Archaeologist has commented that concerns expressed on the previously refused application were made in relation to the impact of it on the setting of Higham Conservation Area, the survival of the medieval ribbon form of the village with historic strip fields beyond, and the important open spaces and views identified in the Conservation Area Character Statement.
- 8.23 Officers consider, in line with the comments made by consultees, that the current proposals address these concerns through the omission of the western field, which is directly adjacent to the Conservation Area, from the development footprint, (and the revised plans further address this by retaining this field in agricultural use) and that this would better address the Conservation Area.
- 8.24 The creation of any formalised recreational space here would also risk an incremental loss of landscape character and a creeping urbanisation which could over time result in harm to the setting. The Character Statement places importance upon views of 'open countryside' and 'open fields' from within the Conservation Area and this sense should be conserved. Officers consider that the retention of the western field for agriculture and the development of only parts of the eastern field would address this issue.
- 8.25 In assessing this matter Officers consider that the proposal would result in less than substantial harm being caused to the designated heritage assets of the Higham Conservation Area and the various constituent listed buildings. However, in view of

the distance of any built development from the Conservation Area, the very limited intervisibility between the new housing and the heritage assets and the retention of the intervening field for agriculture mitigates the harm to the lower end of “less than substantial” and that the public benefits arising from the provision of up to 24 houses, including some affordable units, outweighs that harm in this case in line with the Council’s own Development Plan policies and NPPF paras 195 and 196 and that the proposals would preserve the character of the Conservation Area.

### **Infrastructure**

- 8.26 The agent has confirmed that they will meet all the requested infrastructure requirements requested by the various consultees. The requested s.106 contributions are £84,061.20 for the provision of 5 primary places at Shirland Primary School and £156,279.62 for the provision of 4 secondary places and 2 post 16 places at David Nieper Academy. In addition £22,360.31 with a 10 year maintenance fee of £6,566.64 towards the Shirland Village Hall play area has been requested. These provisions are considered neutral in the planning balance

### **Affordable Housing**

- 8.27 The agent is offering 20% affordable housing in this case. The Council’s Housing Strategy Officer has commented that whilst there is an outstanding need for affordable housing in the district this isn’t a favoured location for its future development. However if permission is granted then affordable housing should be provided to meet policy requirements.
- 8.28 Officers consider that the affordable housing offer is acceptable and meets the requirements of the Publication Draft Local Plan and the most up to date evidence contained in the Strategic Housing Market Area Assessment (SHMAA).

### **Highways**

- 8.29 The application is made in outline, with all matters except access reserved for subsequent approval. The issue of access needs to be resolved at this stage therefore.
- 8.30 The Highway Authority had requested further information from the agent in respect of achievable visibility splays. This was submitted and shows the proposed access off Common Lane with the requested visibility splays of 2.4m x 203 metres to the North West and 2.4m x 127m to the south east. These can be achieved without the loss of trees on the site frontage. The Highway Authority (HA) are now satisfied that adequate visibility exists for motorists emerging from or approaching the site and there are no highway objections subject to conditions.
- 8.31 Concern has been raised by local residents regarding the highway implications of the development, the volume of traffic using Common Lane, the narrowness of the lane and verges, the speed of traffic, the number of unreported accidents, and the volume of traffic using the A61.
- 8.32 The NPPF is clear in that it states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Officers do not consider that the 24 additional dwellings would result in demonstrable harm to highway safety and that the highway issues can be satisfactorily addressed by the imposition of appropriate conditions and have no reason to conclude that the transport impacts of this development would be severe.

- 8.33 Therefore, in considering all the issues pertaining to highway safety the comments of the HA are clear in stating that the scheme is wholly acceptable from a highway safety point of view. Officers concur with that view.

### **Design and Layout**

- 8.34 The agent has submitted a revised indicative masterplan which shows how up to 24 dwellings could be accommodated on the site. The masterplan has deficiencies, primarily in that the scheme is not outward facing to the north, but does generally show the retention of existing trees and provides for an informal pedestrian linkage to Chesterfield Road.
- 8.35 The Parish Council has asked for clarification regarding the amount of hardstanding proposed, and raised concerns regarding the size of the properties along with screening from Well Lane; however the layout is indicative only and all such matters could be addressed at any reserved matters stage.
- 8.36 This is an outline application, and therefore the layout is indicative only at this stage. As set out above Officers have concerns the northern extent of development turns its back on the open countryside, and would wish to see a development that is outward facing. However in view of the fact that this is an outline application, Officers consider these deficiencies could be addressed at any reserved matters stage and this is not in itself reason to refuse the application.

### **Impact on Neighbours**

- 8.37 The development lies adjacent to residential properties south east of the site and the eastern boundary with no.92 Chesterfield Road's garden.
- 8.38 Concern has been raised regarding the short rear gardens of existing properties on Fern Lea however the indicative layout shows that acceptable separation distances between houses and existing dwellings could be achieved. This would be addressed at any subsequent stage and Officers conclude that the development is unlikely to have any unacceptable impact upon the amenity of existing residential properties and their occupiers.
- 8.39 Access to the site would be via Common Lane, however it is not considered that traffic movements would have a significant detrimental impact upon the amenity of any neighbours. The construction works associated with the development has the potential to cause some level of disturbance to existing residents, however Officers consider that this issue could be addressed by a condition restricting hours of construction work.

### **Archaeology, ground stability and drainage**

- 8.40 The DCC Archaeologist has commented that the applicant submitted an archaeological desk based study and geophysical survey which suggest that there

may be archaeological features within the site as part of the previous planning application. The eastern field has been partially opencast and contained no archaeological targets on the geophysics. Provided the landscaping of the western field is not overly intrusive and avoids significant ground impacts, the revised scheme does not require any further archaeological work.

- 8.41 The DCC Flood Team raise no objection subject to conditions relating to the detailed design, management and maintenance of surface water drainage for the site, a detailed investigation to demonstrate the proposed destination for surface water and a scheme to avoid surface water run-off during construction. Officers consider that such detail is not required at the outline stage and can be adequately addressed through conditions and at reserved matters should this application be approved.
- 8.42 The Parish Council has requested that the local authority satisfies itself of the good condition of the watercourses and infrastructure outside and downstream of the developable area. Officers note the comments of the Parish Council, however the DCC Flood Team as Lead Local Flood Authority have not requested that this information be provided prior to determination, and recommend conditions that would need to be complied with prior to any development starting. In this instance officers consider that sufficient information has been submitted at this stage and the suggested conditions would ensure satisfactory drainage of the site.
- 8.43 The water authority, and NEDDC drainage engineers have raised no comments, however conditions are proposed with respect to foul drainage works. It should be noted that the water authority has previously not raised an objection to the earlier planning application.
- 8.44 The Coal Authority concurs with the recommendations of the Phase 1 Site Investigation and has no objection subject to a condition relating to intrusive site investigation works being carried out prior to development commencing.
- 8.45 The Council's Environmental Health Officer has raised no objections subject to conditions relating to land contamination and potential sound issues due to the proximity of dwellings to the A61 Chesterfield Road.
- 8.46 Concerns have been raised by local residents with regards to existing flooding issues, and photographs have been submitted showing the field containing standing water. However in this case the statutory consultees advise that there is no technical objections to the approval of the application, and that the site can be adequately drained. This, in Officer's opinion, can be controlled by conditions as set out above.
- 8.47 Overall, Officers consider that in view of the above, and subject to the necessary conditions the development would be acceptable from archaeological, drainage, environmental health and ground stability perspectives.

### **Impact on Ecology**

- 8.48 The Derbyshire Wildlife Trust (DWT) initially requested that an update site visit should be undertaken to check the status of the known badger setts and to record any new setts created in the last 18 months. Breeding bird surveys have also been

undertaken, further to DWT advice on the previous application. No ground-nesting species were recorded during the surveys. Most species recorded are typical of rural areas with scrub and hedgerow habitat. As hedgerows and trees will be retained, the majority of nesting habitat will be maintained on site and is likely to still be used by the majority of species recorded.

- 8.49 The agent has submitted a revised indicative plan omitting the formal footpath and confirming that the western field will remain in agricultural use. DWT have commented that they welcome these changes and would encourage the LPA to secure this and safeguard the land for the future i.e. there should be a presumption against future applications in the western field. DWT do not particularly support a footpath through this field as any level of use will increase disturbance to wildlife. If a footpath is to be included, it should be an informal, unsurfaced, rural footpath to create as little disturbance and change in the field as possible. If the green area shown to the north of the dwellings is to form POS, DWT would encourage a landscaping scheme that increases site biodiversity.
- 8.50 Officers note the comments of the DWT and in particular that they do not raise an objection to the proposals. Officers are of the view that the suggested conditions from DWT would ensure that the development would not have a significant detrimental impact on ecological interests.

### **Conclusion**

- 8.51 The application site falls outside of the Settlement Development Limit for Higham as identified in the adopted Local Plan and residential development of the site is contrary to the saved policies of the Development Plan.
- 8.52 However, as set out above, the Local Plan covered a period to 2011 and so pre-dated the NPPF and, therefore, in respect of its restriction on housing through the drawing of settlement development limits it is considered out of date making provision for housing up to 2011 only.
- 8.53 There are social and economic benefits arising from the development and any landscape harm is considered to be localised and limited as the site retains the western field for agriculture and the development would partly infill an area between existing housing to the south on Fern Lea and no 92 to the east.
- 8.54 In this respect the development is considered compatible with development plan policies which seek to protect the countryside from unacceptable development.
- 8.55 Therefore, the development is considered to be generally sustainable and there are no adverse impacts which would significantly and demonstrably outweigh the benefits of the scheme.
- 8.56 The revised scheme is considered to preserve the character and setting of the Higham Conservation Area.
- 8.57 The proposed development is in outline only and has the potential to offer good design that would be in keeping with the character and appearance of the surrounding area. Furthermore the proposal would not result in a detrimental impact upon the privacy or amenity of neighbouring residents. There are no technical



issues weighing against the scheme and it would not have a detrimental impact upon highway safety.

- 8.58 In concluding it is considered that the proposal in its revised form is acceptable and it is recommended that subject to the completion of a section 106 agreement and imposition of conditions that planning permission should be granted.

## 9.0 SUMMARY OF CONSULTATIONS

<u>County Highways:</u>	No objections subject to conditions
<u>Environmental Health:</u>	No objections subject to conditions
<u>DCC Flood Team:</u>	No objections subject to conditions
<u>Water Authority:</u>	No comments received
<u>DCC Archaeologist</u>	No objections subject to conditions
<u>DWT</u>	No objections subject to conditions
<u>Neighbour:</u>	Objections received
<u>Ward Member:</u>	Objections received and request for committee determination and site visit
<u>Parish Council:</u>	Objections received

## 10.0 RECOMMENDATION

- 10.1 That Planning Permission is APPROVED subject to the prior completion of a section 106 (legal) agreement in accordance with the Heads of Terms set out below and conditions, the final wording of which is delegated to the Planning Manager (Development Management),

### Section 106 Heads of Terms

Education Primary	£84,061.20
Education Secondary	£156,279.62
Off-site Open space	£22,360.31 with a 10 year maintenance fee of £6,566.64

### Conditions

#### Time Limit

1. Applications for approval of reserved matters are required before development can start and shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be started within two years from the date of the approval of the last of the reserved matters to be approved.
2. Approval of the details of the layout, scale and appearance of the building(s) and the landscaping of the site (called “the reserved matters”) shall be obtained from the Local Planning Authority in writing before any development is started.
3. The application site shall be developed with a maximum of 24 dwellings
4. The development hereby approved shall be carried out in accordance with the details shown on the following plans and documents:-
  - Visibility Splays – Common Lane Access 02 Rev D

- Transport Assessment & Travel Plan Revision F 17.06.19
- Flood Risk Assessment Revision D – April 2019
- Tree Survey Report Revision C – March 2019
- Breeding Bird Survey Final Report revision A - December 2018
- Ecological Appraisal Revision B – December 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.

### **Affordable Housing**

5. The details to be submitted to and approved in writing by the Local Planning Authority as part of the reserved matters shall include a scheme for the provision of 20% affordable housing.

The affordable housing shall be provided in full in accordance with the approved scheme and timetable and shall meet the definition of affordable housing in the National Planning Policy Framework or any future guidance or policy that replaces it. The scheme shall include:

- i. the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 20% of the housing units (or figure to be agreed with the Local Planning Authority)
- ii. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- iii. the arrangements for the transfer of the affordable housing to an affordable housing provider (or the management of the affordable housing if there is no affordable housing provider) ;
- iv. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

### **Employment and Training**

6. Before development hereby approved starts a scheme for the recruitment of employees for both the construction periods and post occupation of the development hereby approved, including a timetable for their implementation shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme shall be operated as part of the development in accordance with the approved details.

### **On site Public Open Space**

7. The details to be submitted to and approved in writing by the Local Planning Authority as part of the reserved matters shall include a scheme for the delivery and future maintenance of all on site public open space, including a Landscape Management Plan and a timetable for implementation relative to the completion of dwellings hereby approved. Thereafter any approved scheme of open space shall

be implemented in full in accordance with the approved timetable and shall be maintained in accordance with the approved scheme thereafter.

8. The western field as shown on the indicative masterplan shall be retained in agricultural use and shall not form part of the formal or informal public open space. Notwithstanding the provisions of Article 3(1) of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order) no hard surfaces (Part 1 Class F) or means of enclosure (Part 2 Class A) shall be erected without first obtaining planning permission.

### **Design, Character and Appearance**

9. The details to be submitted to and approved in writing by the Local Planning Authority shall restrict any built development within the eastern field as shown on the indicative masterplan drawing A-003 received by email on the 03.05.2019. The area in advance of the northern boundary of 92 Chesterfield Road shall form a landscaped buffer or public open space and not part of any residential curtilages.
10. The details to be submitted to and approved in writing by the Local Planning Authority as part of the reserved matters shall include a scheme for mitigating climate change through sustainable design and construction of the dwellings. Thereafter the approved climate change scheme shall be implemented in full and retained as such thereafter.
11. The details to be submitted to and approved in writing by the Local Planning Authority as part of the reserved matters shall include an assessment of the reserved matters scheme against the Building for Life 12 Criteria. Thereafter the details submitted as part of the BfL 12 assessment shall be implemented in full and retained as such thereafter.
12. Before development starts, details of the existing ground levels, proposed finished floor levels of the dwellings and the proposed finished ground levels of the site, relative to a datum point which is to remain undisturbed during 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.
13. Before any above ground works commence details of the proposed boundary treatments throughout the site shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments scheme shall include a timetable for implementation relative to the occupation of plot numbers. The scheme shall be implemented in full in accordance with the approved timetable and shall be retained as such thereafter.
14. Before any above ground works commence precise specifications of the roofing and walling materials shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full and retained as such thereafter.
15. Before any above ground works commence a scheme for the provision of public art on the site including a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority. The public art shall be

implemented in full in accordance with the approved timetable and retained as such thereafter.

## **Ecology**

- 16 No works of any kind, including preparatory site clearance or installation of the proposed footpath, shall begin until a scheme of badger mitigation has been submitted to the Local Planning Authority for approval. This shall include the results of a recent survey of both the eastern and western field to update the Confidential Badger Annex (Encon Associates Ltd., 2017) and a Method Statement for works, including best practice working measures, timings, fencing and any requirement for licensing. All works shall proceed in accordance with the approved scheme of mitigation.
- 17 No vegetation clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.
- 18 Prior to the commencement of development, an invasive non-native species protocol shall be submitted to and approved by the local planning authority, detailing the containment, control and removal of Japanese Knotweed on site. The measures shall be carried out strictly in accordance with the approved scheme.
19. Prior to building works commencing above foundation level, a Biodiversity Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority to achieve a net gain in biodiversity in accordance with the NPPF 2019. Such approved measures shall be implemented in full and maintained thereafter, with photographs of the measures in situ submitted to the LPA to fully discharge the condition. Measures shall include (but are not limited to):
  - details of integrated bat boxes in 25% of dwellings will be clearly shown on a plan (positions/specification/numbers).
  - details of bird boxes (including swift boxes) in 25% of dwellings will be clearly shown on a plan (positions/specification/numbers).
  - details of insect bricks in 10% of dwellings will be clearly shown on a plan (positions/specification/numbers).
  - measures to maintain connectivity for hedgehogs shall be clearly shown on a plan (fencing gaps 130 mm x 130 mm and/or railings and/or hedgerows).
  - summary of ecologically beneficial landscaping (full details to be provided in Landscape Plans).
20. Prior to building works commencing above foundation level, a detailed lighting strategy for any POS shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires and any mitigating features such as dimmers, PIR sensors and timers. A lux contour plan may be required to demonstrate acceptable levels of lightspill to any sensitive ecological zones/features and adjacent habitats. Guidelines can be found in Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP, 2018). Such approved measures will be implemented in full and retained as such thereafter.

## **Drainage**

21. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in full accordance with the approved details before the development is first brought into use and retained as such thereafter.
22. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:
  - a. Flood Risk Assessment, Proposed Residential Development, Land on to the north-east of the A61 Chesterfield Road, Higham, Derbyshire DE55 6BN by Encon Associates Limited (Ref: A3476 – Revision D (08.04.19) )“including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team”
  - b. And DEFRA’s Non-statutory technical standards for sustainable drainage systems (March 2015),  
have been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design, prior to the use of the building commencing.
23. No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 of the planning practice guidance.
24. Prior to commencement of the development, the applicant shall submit for approval to the LPA, details indicating how additional surface water run-off from the site will be avoided during the construction phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the LPA, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.

## **Amenity**

25. Construction works on site and deliveries to the site shall be undertaken only between the hours of 7:30am to 6pm Monday to Friday and 7:30am to 12pm on Saturday. There shall be no work undertaken on site or deliveries to the site undertaken on Sundays or public holidays.
26. Prior to the first occupation of the dwellings hereby approved a scheme of sound insulation shall be submitted to and approved in writing the Local Planning Authority. The scheme shall be designed following the completion of a sound survey undertaken by a competent person. The scheme shall take account of the need to provide adequate ventilation, which will be by mechanical means where an open window would not achieve the following criteria. The scheme shall be designed to achieve the following criteria with the ventilation operating:

Bedrooms 30 dB LAeq (15 Minutes) (2300 hrs – 0700 hrs)  
Living/Bedrooms 35 dB LAeq (15 Minutes) (0700 hrs – 2300 hrs)  
All Other Habitable Rooms 40 dB LAeq (15 Minutes) (0700 hrs – 2300 hrs)

All Habitable Rooms 45 dB LAmax to occur no more than 6 times per hour  
Any outdoor amenity areas 55 dB LAeq (1 hour) (0700 hrs – 2300 hrs)

Prior to the first occupation of the dwellings the approved scheme shall be validated by a competent person and a validation report submitted to and approved in writing by the local planning authority.

## **Highways**

27. Before development starts (excluding site clearance), a scheme shall be submitted to and approved in writing by the Local Planning Authority with details of the site compound. The scheme shall include details of construction workers accommodation, storage of plant and materials, parking and manoeuvring areas for site operatives' and visitors' vehicles, loading/unloading and maneuvering areas for goods vehicles. Thereafter, before any operations are commenced the scheme shall be implemented in accordance with the approved details, and retained as such for the duration of the works.
28. Before any other operations are commenced (excluding condition 26 above) a new estate street junction shall be formed to Common Lane and provided with visibility sightlines extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the access, for a distance of 203 metres to the north west and 127 metres to the south east, generally in accordance with the application drawings but more specifically in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority. The area in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.
29. Prior to first occupation of any dwelling a details of the arrangements for storage of bins and collection of waste shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the facilities retained for the designated purposes at all times thereafter.
30. Throughout the period of construction, wheel washing facilities shall be provided within the site in accordance with a scheme that shall have been first submitted to and approved in writing by the LPA.

## **Ground Conditions**

31. Prior to or concurrent with the submission of Reserved matters a scheme for intrusive site investigations shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the submission of a report of findings arising from the intrusive site investigations and the submission of a scheme of remedial works. The approved scheme and any remedial works shall be implemented in full and retained as such thereafter.

32. Before the commencement of the development hereby approved the further works as identified in the Phase 1 report (Encon Associates Ltd 'Phase 1 Site Investigation Proposed Residential Development Land on North East of the A61 Chesterfield Road Higham Derbyshire (Report Ref: A3476 Revision A; dated 17th December 2018)) submitted with the application shall be undertaken to investigate the preliminary conceptual site model and assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and subsequent risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority

Where the site investigation identifies unacceptable levels of contamination, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall have regard to CLR 11 and other relevant current guidance. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

The developer shall give at least 14 days notice to the Local Planning Authority (Environmental Health Division) prior to commencing works in connection with the remediation scheme.

33. The dwellings hereby approved shall not be occupied until the approved remediation works required by 31 above have been carried out in full in compliance with the approved methodology and best practice.

If during the construction works associated with the development hereby approved any suspected areas of contamination are discovered, then all works shall be suspended until the nature and extent of the contamination is assessed and a report submitted and approved in writing by the local planning authority and the local planning authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated through the process described in the Phase I report submitted with the application and through the process described in 1 above and,

Upon completion of the remediation works required by 31 above a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has achieved the approved remediation standard, together with the necessary waste management documentation shall be included.

34. No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the local planning authority in writing, and until any pre-start element of the approved scheme has

been completed to the written satisfaction of the local planning authority. The scheme shall include an assessment of significance and research questions; and

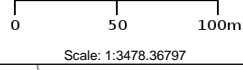
1. The programme and methodology of site investigation and recording
2. The programme for post investigation assessment
3. Provision to be made for analysis of the site investigation and recording
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
5. Provision to be made for archive deposition of the analysis and records of the site investigation
6. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation"

35. No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition 34.
36. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under condition 34 and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

### **Trees**

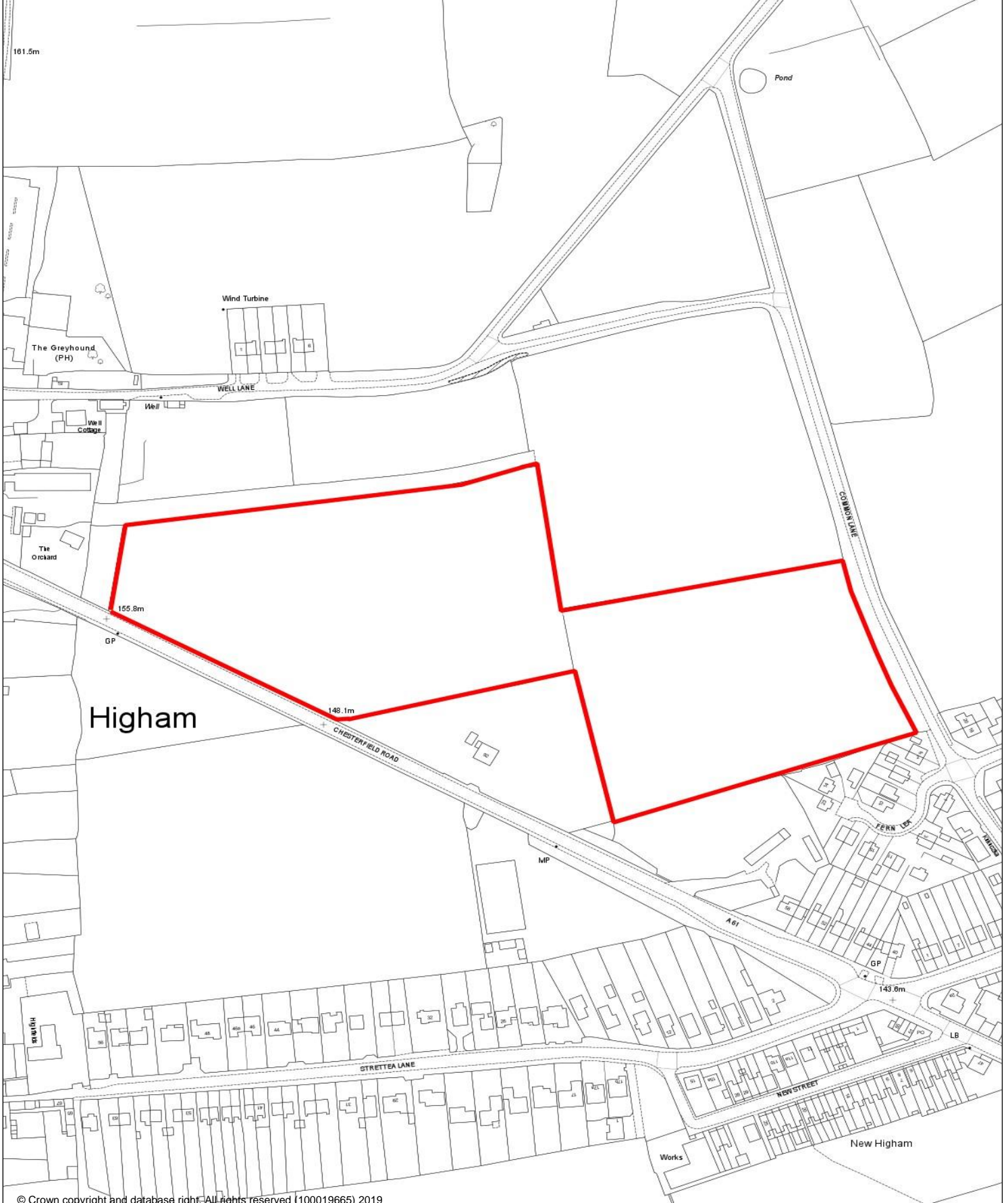
37. Notwithstanding the submitted details before development starts, a detailed Tree Protection Plan showing the positions, species and crown spread of trees to be retained within the application site, together with details of measures for their protection for the duration of the works shall be submitted to and approved in writing by the Local Planning Authority. The means of protection shall be installed in accordance with the approved scheme before any other works commence on site and retained in position until all the building works hereby approved have been completed. The area within the fenced/protected area shall not be used for storage or the parking of machinery or vehicles and the ground levels shall not be altered.





Author: C. Cooke

Date: 26/06/2019 10:17:52



**APPLICATION NO.** 19/00368/RM

**APPLICATION** Submission of reserved matters details for the layout, scale and appearance of the dwelling, the means of access and the landscaping of the site, including the scheme for mitigating climate change, levels plans and access and parking details as required under conditions 2, 3, 5, 8 and 9 of outline permission 17/00030/OL

**LOCATION** Land 50 Metres West of 1 and 2 Overton Lodge, Jetting Street, Milltown, Ashover

**APPLICANT** Mr P Barltrop - Stenfold Resources Ltd

**CASE OFFICER** Graeme Cooper

**DATE RECEIVED** 3<sup>rd</sup> April 2019

DELEGATED APPLICATION REFERRED TO COMMITTEE BY: Planning Manager (Development Management)

REASON: This application is being considered by members of planning committee due to the applicant being related to a member of staff.

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**The Site Inspection Group is to visit the site to assess the impact of the design of the new dwelling on the area.**

## **1.0 SITE DESCRIPTION**

- 1.1 The application site forms a level plot on land to the south of Jetting Street, within the parish of Ashover close to the hamlet of Fallgate. Originally the site would have formed part of Milltown Quarry, which is located to the south west.
- 1.2 Access to the site is taken from Jetting Street which is a narrow road which serves several properties located to the south and south east, along with Demonsdale Farm to the west.
- 1.3 There is clear evidence of the former quarrying use in and around the application site, with the line of the old railway running into the site from along Jetting Street. An old quarry building sits above the site to the south and within the southern extent of the site are the surviving walls of the former rail loading facility for Milltown Quarry and clearly visible is a former lime kiln.
- 1.4 To the north of the application site is Jetting Street which runs east to west, with land levels dropping towards the river to the north. This route doubles as a Public Right of Way (PRoW 136). The banks of the river are heavily wooded and an informal footpath runs to the north across the river to the north east of the site.
- 1.5 Land levels to the west and south rise sharply into the former Milltown Quarry which is now heavily overgrown with tree planting which forms TPO 217 (W2).
- 1.6 To the east of the application site is a steep, narrow drive which leads to Common Bank Cottage and Commonbank House, both of which are Grade 2 Listed Buildings. On the opposite side of this drive is an area of land which has been cleared of any landscaping and has planning permission for a single dwelling (reference 17/01359/OL).

1.7 The site is within a designated wildlife site, in the form of Stars Wood and Milltown Quarry. It is within open countryside which is designated as a Special Landscape Area.

## 2.0 PROPOSAL

2.1 The proposal seeks approval for the layout, scale and appearance of the building, the means of access and the landscaping of the site.

2.2 The proposed dwelling would be a traditional natural stone cottage, with stonework detailing, located at an angle to Jetting Street. Parking would be provided to the site frontage and a small lawn garden provided to the south east.

2.3 In design terms, the dwelling would have a small porch and two storey extension fronting the roadside. Accommodation is provided across both levels, with sitting, lounge dining room and kitchen all open plan and a hallway, cloakroom and study provided at ground floor. At first floor 3 bedrooms would be provided with a large family bathroom and en-suite.

2.4 Detailed landscaping and boundary treatment details have also been submitted for consideration.

## 3.0 AMENDMENTS

3.1 *None.*

## 4.0 PLANNING HISTORY

4.1 19/00203/DISCON - Application to discharge condition 15 (Written Scheme of Investigation) of planning application 17/00030/OL (**Further Discharge Required**)

4.2 19/00192/DISCON - Application to discharge conditions 12 (Phase 1 Contaminated Land Assessment), 13 (Remediation Scheme) (**Conditions Discharged**)

4.3 17/00030/OL - Outline application with all matters reserved for the erection of one detached dwelling (**Conditionally Approved**)

## 5.0 DEVELOPMENT PLAN POLICIES

5.1 The most relevant policies of the Local Plan are:-

GS1 Sustainable Development

GS6 Open Countryside

H3 Housing Development Outside SDL

H12 Design and Layout of New Housing

NE1 Landscape Character

NE2 Special Landscape Area

NE3 Protecting and Managing Features of Importance to Wild Flora and Fauna

NE6 Development Affecting Nationally Rare Species

NE7 Protection of Trees and Hedgerows

BE1 General Design Principles

BE6 Archaeology

T2 Highway Access and the Impact of New Development

T5 Walking and Cycling

T6 Public Transport

T9 Parking Provision

CSU4 Surface and Foul Water Drainage

CSU6 Contamination Land

5.2 The Council is now at an advanced stage in the production of a new **Local Plan (Publication Draft)** (LPPD) which reflects national guidance in the NPPF and would provide for the development needs of the district for the period 2014 – 2034. The Plan was submitted to the Secretary of State at the end of May 2018 and undertook examination earlier this year. The document sets out the Council's strategy for sustainable development and should be afforded weight in decision making.

5.3 The most relevant policies contained in the Local Plan (Publication Draft) include:

SS1	Sustainable Development
SS9	Development in Countryside
SDC3	Landscape Character
SDC6	Development Affecting Listed Building
SDC11	Flood Risk and Drainage
SDC12	High Quality Design and Place making
SDC14	Land Potentially affected by Contamination or Instability
ID3	Sustainable Travel

5.4 The Ashover Neighbourhood Plan 2016-2033 (Adopted November 2017) covers the application site and the following policies are a material consideration:

AP2	Development Proposals Outside the Limits to Development
AP11	Design
AP12	Listed Buildings
AP13	Landscape Character
AP19	Dark Skies
AP20	Traffic

5.5 The overarching aims of the National Planning Policy Framework (NPPF) are a significant material consideration and include a strong presumption in favour of sustainable development.

## 6.0 PUBLICITY, CONSULTATIONS AND REPRESENTATIONS

6.1 The application was validated 3<sup>rd</sup> May 2019 and was due to expire on 28<sup>th</sup> May however an extension of time was agreed until 12<sup>th</sup> July to allow the application to be heard at planning committee. A site visit was undertaken by the case officer on 10<sup>th</sup> April and a site notice was placed close to the application site on a nearby telegraph pole which expired on the 6<sup>th</sup> May.

6.2 The **Parish Council** raised no comments to the proposed development.

6.3 The **Local Ward Member** raised no comments to the proposed development.

6.4 The **County Highways Authority** were satisfied with the submitted details and raised no objection subject to a number of conditions.

6.5 The **Councils Environmental Health Officer** (EHO) raised no comments to the proposed development.

6.6 The **Footpaths Society** raised no comments to the proposed development.

6.7 **Yorkshire Water** raised no comments to the proposed development.

6.8 **DCC Archaeologist** raised no comments to the proposed development.

6.9 **Derbyshire Wildlife Trust** (DWT) welcomed the native tree planting and shrub mix on site and noted conditions included on the outline permission.

## **7.0 PLANNING CONSIDERATIONS**

7.1 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 countryside, the special landscape character, the amenity of neighbouring residents and land uses, its ecological impact on a designated wildlife site, archaeological matters and highway safety issues.

## **8.0 PLANNING ASSESSMENT AND SUMMARY**

### **Principle of Development**

8.1 The principle of development has already been established through the granting of the outline permission 17/00030/OL, which was approved with all matters reserved.

8.2 Since the outline application was approved in May 2017, the Ashover Neighbourhood Plan (2016-2033) has been adopted. Policies AP11, AP13 and AP19 are most relevant to this application and are considered in the report below. The Plan supports good design, protecting the landscape character and has a policy which seeks to limit light pollution in dark sky locations.

8.3 In view of the above, the principle of development is considered to be acceptable.

### **Landscape Considerations**

8.4 The proposed dwelling would be a modest two storey, constructed from reclaimed sandstone sourced from Yorkshire and natural blue slate. The lintel, sill and jamb detailing will also be of a natural stone finish. No details have been provided as to the finished materials of the windows and doors. The finished appearance of the rainwater goods and mortar mix have been submitted with the application. Parking to the front of the site is detailed to be constructed from self-binding gravel. A grassed garden area would be provided to the rear of the property and this would be framed by a timber post and rail fence. A simple scheme of landscaping is proposed, including tree and shrub planting to the east and a grassed lawn. A patio would be provided around the dwelling.

8.5 The surrounding area is made up of traditional sandstone buildings with slate roofing. Two listed buildings sit to the south of the site and are constructed from traditional stone features, however the proposed dwelling would not be seen in the same context as these two properties. A small barn is located to the south of the application site and this is also constructed from natural stone with traditional features.

8.6 The application site will be highly visible from Jetting Street as it fronts directly onto the highway and also includes a traditional kiln feature. The rear garden of the site would remain open to public views and the kiln clear of any obstruction. The proposed dwelling would be seen in close context to other traditional buildings and would be framed by traditional post and rail fencing. The applicant has proposed the use of natural sandstone and slate, along with appropriate rainwater goods and mortar mix. It is therefore considered that the proposed dwelling would complement the character and appearance of the site and the surrounding street scene and not have an adverse impact upon the setting of the nearby listed building.

8.7 In view of the special character of the site and the surrounding area, along with the built traditions of the area it is considered that the permitted development rights should be removed so that the Council has more control over future

extensions, dormer windows, alterations to the roof, curtilage buildings and means of enclosure. Further openings in the dwelling should also be restricted to control the character and appearance of the dwelling.

- 8.8 A detailed levels plan has been submitted illustrating that the proposed dwelling would be slightly elevated in the site above the height of Jetting Street to the north. It would be seen against the face of the quarry and be in keeping with the character and appearance of the area and not have a detrimental impact on neighbouring residents.
- 8.9 In view of the above, it is considered that the proposed dwelling would be of a scale, appearance and siting that respects the character of site and the surrounding Special Landscape Area.

### **Residential and Neighbouring Land Uses Impact**

- 8.10 The proposal sits to the south of Jetting Street, on a level parcel of land which used to form the entrance to Milltown Quarry. A small quarry outbuilding, which has permission to be converted into a single dwelling (18/01212/FL), sits on a ledge above the application site.
- 8.11 As a conversion, the building to the south includes two north facing windows which face north east, across the southern extent of the application site. The principle view from these windows is elevated and down towards Jetting Street, with only angled views back towards the application site achievable. However it is not considered that this relationship would be detrimental to the privacy and amenity of each property.
- 8.12 The proposed dwelling includes ground and first floor windows that would face towards the converted outbuilding to the south, however these would be from a ground floor patio door and a first floor en suite. Any views from these windows would be back towards a blank gable on the outbuilding conversion and into the garden of the application site.
- 8.13 Opposite the application site, on the far side of an access track which leads to Common Bank Cottage and Commonbank. Planning permission has been granted for a single dwelling (reference 17/01359/OL); however, no details have been approved as to the scale and appearance of a dwelling on this site. There is a good separation distance between the two sites and any future dwelling on the site to the east could be appropriately designed to take into account privacy and amenity.
- 8.14 Other dwellings along Jetting Street may be affected by the increase in vehicular movements into the site, however these matters were considered at the outline stage. This application is being considered purely on the detailed design of the access.
- 8.15 Consideration should also be made to the provision of outdoor amenity space. The proposed dwelling would have a grassed lawn measuring approx. 108sqm. The Councils Successful Places Interim Planning Guidance states that a three bedroom dwelling should have a minimum 70sqm of outdoor amenity space. Therefore the proposed dwelling would comfortably be in accordance with this guidance.

### **Ecological Considerations**

- 8.16 The Derbyshire Wildlife Trust was consulted on the proposed development and welcomed the planting of three native trees and a native shrub mix on site as part of the site landscaping.

8.17 The outline permission includes a condition requiring the applicant to submit a survey for bats before development starts. The applicant notes that he intends to deal with this as part of a future discharge of conditions application.

### **Highway Safety Considerations**

8.18 The proposed development includes an area for the parking of two vehicles clear of Jetting Street. This area would be constructed of self-binding gravel.

8.19 The County Highways Department was consulted on the submitted details and note that the plans indicate a parallel visibility splay of 2.4m and 2 off street parking spaces. Therefore the County Highways Authority are satisfied with the submitted details and raised no objection subject to a number of conditions.

8.20 The outline permission included conditions requiring the submission of a site accommodation plan and details to prevent the discharge of water onto the public highway, however the applicant has confirmed that these details will be discharged at a later date.

### **Environmental Health Considerations**

8.21 The Councils Environmental Health Officer (EHO) was consulted on the proposed development and raised no comments.

8.22 The outline permission included a number of land contamination conditions which have been discharged under application reference 19/00192/DISCON.

### **Archaeological Considerations**

8.23 DCC Archaeologist was consulted on the proposed development and raised no comments in relation to this reserved matters application, however the pre-start conditions attached to the outline permission are noted.

8.24 The outline included 3 archaeology conditions, with condition 15 already addressed by a discharge of conditions application (reference 19/00203/DISCON). Condition 17 of the outline permission requires the applicant to submit results of the written scheme of investigation to the County Council. This is noted by the applicant.

### **Other Material Considerations**

8.25 The site lies within a Zone 1 Flood Zone, which has a low probability of flooding.

8.26 The outline permission included a condition requiring the submission of foul and surface water drainage. The applicant has confirmed that these details will be submitted as a future discharge of conditions application.

8.27 The outline permission included a condition requiring the applicant to submit a scheme for mitigating climate change as part of a reserved matters application. The applicant has submitted a Sustainability Statement, produced by Goodrich Cutler and this considers surface water drainage, permeable paving, waste management and the use of construction materials. I consider these details to be acceptable to allow the discharge of this condition.

### **Conclusion**

8.28 Having taken into account all the material considerations, it is considered that the proposed development would be of a scale, appearance and siting that respects the character of site and the surrounding Special Landscape Area.

- 8.29 The proposal development would not have an adverse detrimental impact upon the privacy and amenity of nearby residential properties or neighbouring land uses, nor would it lead to an adverse impact upon highway safety.
- 8.30 Matters relating to environmental health, ecology and archaeology are addressed under the conditions attached to the outline permission.
- 8.31 It is therefore considered that the proposed development would be in line with the saved policies of the Council and the overarching aims of the NPPF, therefore the proposal should be granted subject to conditions.
- 

## 9.0 SUMMARY OF CONSULTATIONS

<u>County Highways:</u>	No objection subject to a conditions
<u>Environmental Health:</u>	No comments
<u>Derbyshire Wildlife Trust:</u>	Comments
<u>Yorkshire Water:</u>	No comments
<u>DCC Archaeologist:</u>	No comments
<u>Footpaths Society:</u>	No comments
<u>Neighbours:</u>	No comments
<u>Parish Council:</u>	No comments
<u>Ward Member:</u>	No comments

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## 10.0 RECOMMENDATION

That planning permission is **APPROVED** in accordance with officer recommendation, with the final wording of the conditions delegated to the Planning Manager:-

### CONDITIONS

#### General

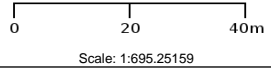
1. The development hereby approved shall be carried out in accordance with the details shown on the following drawings unless otherwise subsequently agreed through a formal submission under the Non Material Amendment procedures and unless otherwise required by any condition contained in this decision notice:
  - 19-007-P-001 Rev B (Site Location Plan)
  - 19-007-P-002 Rev B (Proposed Site Plan)
  - 19-007-P-003 Rev A (Proposed Plans)
  - 19-007-P-004 Rev B (Proposed Elevations)
  - 19-007-P-005 Rev A (Proposed Levels Section)
  - 0805.001 (Planting Plan)
  - 19-007-D-001 (Flush Eaves Detail)
  - Sustainability statement
2. The dwelling hereby approved shall be constructed from reclaimed sandstone and natural blue slate, in accordance with the details provided on the email from Charlotte Stainton, dated 21<sup>st</sup> June 2019 and to match the samples provided to the Council offices on 24<sup>th</sup> June 2019.



3. The lintels, sills and jamb detailing shall be finished in natural sandstone, all in accordance with the approved plans and details provided in the email from Charlotte Stainton dated 24<sup>th</sup> June 2019.
4. The mortar mix to be used on the development hereby approved shall be in accordance with the details provided on the email from Charlotte Stainton, dated 21<sup>st</sup> June 2019.
5. Windows and doors shall be set back 100mm from the face of the stonework and shall be constructed in painted timber and maintained as such thereafter.
6. The rainwater goods to be used on the development hereby approved shall be in accordance with the details provided on the email from Charlotte Stainton, dated 21<sup>st</sup> June 2019 and in accordance with drawings 19-007-D-001 and 19-007-P-004 Rev B.
7. With exception of the windows shown on the approved plans and notwithstanding the provisions of Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any Order revoking and re-enacting that Order), no further openings shall be installed in the dwelling.
8. Notwithstanding the provisions of Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any Order revoking and re-enacting that Order) no extensions (Part 1, Class A), dormer windows (Part 1, Class B), alterations to the roof (Part 1, Class C), curtilage buildings (Part 1, Class E), means of enclosure (Part 2, Class A) shall be erected without first obtaining planning permission.

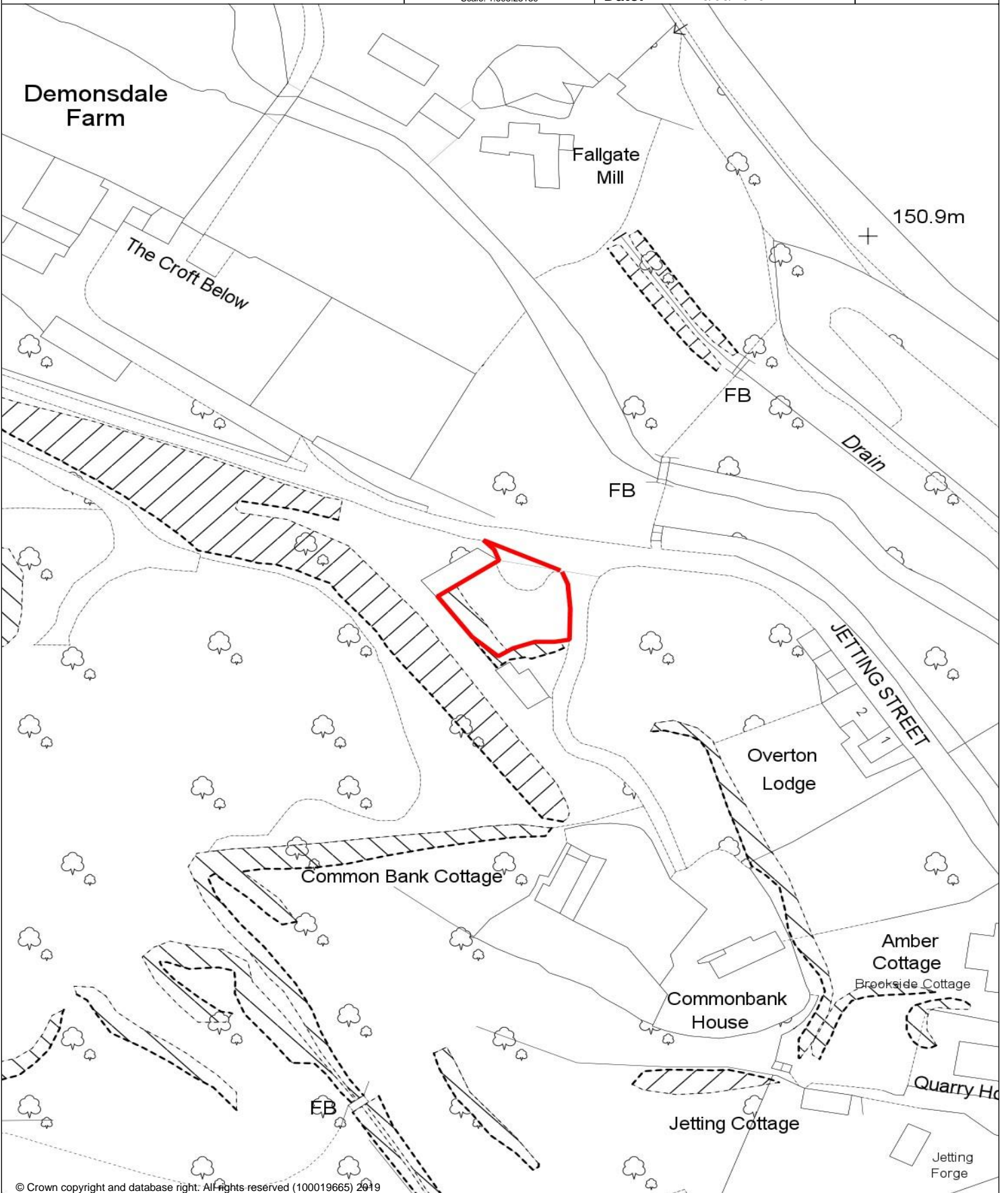
### **Highways**

9. Before the dwelling hereby approved is first occupied, the area shown on the approved plans as reserved for parking, 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.
10. Before the dwelling hereby approved is first occupied, the existing vehicular access onto Jetting Street shall be provided with a 2.4m parallel visibility sightline across the entire application site frontage with Jetting Street in accordance with the approved drawings, the area in advance of the sightlines being kept clear, in perpetuity, of any obstructions in excess of 1m, measured above the adjacent carriageway channel.



Author: K. Spelman

Date: 26/06/2019



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**APPLICATION NO.** 19/00385/FL

**APPLICATION** Application for retention of existing canvas and timber frame tent

**LOCATION** Press Manor Fishing Lakes, Birkin Lane, Ashover, Chesterfield

**APPLICANT** Press Manor Fisheries

**CASE OFFICER** Graeme Cooper

**DATE RECEIVED** 5<sup>th</sup> April 2019

DELEGATED APPLICATION REFERRED TO COMMITTEE BY: Cllr Armitage

REASON: This application has been called into planning committee due to the visual impact, noise impact and concern relating to the design and appearance of the structure.

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**The Site Inspection Group is to visit the site to assess the impact of the proposal on the character of the area.**

### **1.0 SITE DESCRIPTION**

- 1.1 The application site forms a fisheries, with on-site fisherman's lodge which doubles as an informal place for anglers to meet and take on refreshments, along with manager's accommodation. Access to this lodge and the main reservoir car park is taken from Birkin Lane to the west.
- 1.2 The manager's accommodation sits to the north of Press Manor Reservoirs and is served by a secondary access which runs along the northern banks of Reservoir Number 3 and is provided from Birkin Lane.
- 1.3 The proposed safari tent is located on a grassland meadow area to the east of the manager's accommodation. The grassland is closely mown and gently slopes south, down towards the reservoir. Land levels rise up to the north and fall away to the east into the valley.
- 1.4 The site is edged by mature hedgerow and tree planting along the north and eastern boundary. To the south, a group of trees edge the reservoir.
- 1.5 A narrow gravelled track enters the site from the west which also serves the manager's accommodation. Access is taken from Birkin Lane further to the west.
- 1.6 Agricultural fields surround the site the north and south east. These fields are intersected by mature hedgerow and tree planting.
- 1.7 The nearest residential property to the site is Toll Bar Cottage, over 300m from the site to the north west. Other properties are located to the east (Reservoir House), north west (The Manor House) and south (Northedge Hall Farm and Northedge House Farm).
- 1.8 The site is located in open countryside and the site is designated as a wildlife site (NE301) called Press Reservoirs. It was designated in 1984 and includes standing open water, protected species and semi improved acid grassland.

## 2.0 PROPOSAL

- 2.1 The proposal is for the retention of a safari tent style tourist accommodation which is located on sloping grassland. The accommodation is constructed on a timber frame with a timber deck area to the east. The structure is constructed of green canvas and would measure internally 7m by 5.5m with an overall height of 3.5m, however the structure would have a maximum height of 4.2m from ground level.
- 2.2 The application is accompanied by an Ecological Survey and Assessment (dated 2013) along with a number of site photos.

## 3.0 AMENDMENTS

- 3.1 A revised plan has been submitted illustrating a scheme of boundary treatments to restrict users of the building from being able to enter the area of designated grassland to the east of the building.

## 4.0 PLANNING HISTORY

- 4.1 95/00914/FL - Proposed change of use of land and reservoirs to Leisure Angling facility, the construction of a new vehicular access and car parking and the erection of toilet facilities (**Conditionally Approved**)
- 4.2 97/00015/OL - Erection of a single dwelling (**Refused**)
- 4.3 12/00685/FL - Construction of a fishing lodge to replace existing static caravan and installation of a private drainage system (Private Drainage System) (**Conditionally Approved**)
- 4.4 13/00025/DISCON - Application to discharge conditions attached to planning approval 12/00685/FL for construction of a fishing lodge and installation of a private drainage system (**Conditions Discharged**)
- 4.5 13/00711/FL - Addition of a toilet extension to previously approved fishing lodge (revised scheme of 12/00685/FL) (Private Drainage System) (**Conditionally Approved**)
- 4.6 13/00784/FL - Construction of a new vehicular access road formation of 4 No additional stock rearing ponds and associated service infrastructure (**Conditionally Approved**)
- 4.7 15/00063/FL - Construction of a fishery managers dwelling with detached garage (Private Drainage System) (Amended Plans) (**Conditionally Approved**)
- 4.8 16/00422/DISCON - Application to discharge condition 4 (Materials), condition 5 (Landscaping), condition 7 (Boundary Treatments), condition 8 (Levels), condition 10 (Surface Water Drainage), condition 13 (Climate Change Mitigation) and condition 14 (Site Investigation) relating to planning approval 15/00063/FL for the construction of a fishery managers dwelling with detached garage (**Conditions Discharged**)

- 4.9 16/00488/AMEND - Application for non-material amendment to planning approval 15/00063/FL to add in roof PV panels, amend retaining wall, amend window and door design and omit timber windows and use higher spec aluminium composite window (RAL7016 - Dark Grey) (**Application Approved**)

## 5.0 DEVELOPMENT PLAN POLICIES

- 5.1 The most relevant policies of the Local Plan are:-

GS1	Sustainable Development
GS6	Development within Open Countryside
BE1	General Design Principles
NE1	Landscape Character
NE5	Other sites of Importance for Nature Conservation
NE6	Development Affecting Nationally Rare Species
E11	Tourist Accommodation
T2	Highway Access and Impact of New Development
T9	Car Parking Provision
CSU4	Surface and Foul Water Drainage
CSU6	Contaminated Land

- 5.2 The Council is now at an advanced stage in the production of a new **Local Plan (Publication Draft)** (LPPD) which reflects national guidance in the NPPF and would provide for the development needs of the district for the period 2014 – 2034. The Plan was submitted to the Secretary of State at the end of May 2018 and undertook examination earlier this year. The document sets out the Council's strategy for sustainable development and should be afforded weight in decision making.

- 5.3 The most relevant policies contained in the Local Plan (Publication Draft) include:

SS1	Sustainable Development
SS9	Development in the Countryside
SDC2	Trees, Woodland and Hedgerows
SDC3	Landscape Character
SDC4	Biodiversity and Geodiversity
SDC11	Flood Risk and Drainage
SDC12	High Quality Design and Place making
SDC14	Land Potentially affected by Contamination or Instability
WC7	Tourist Accommodation in the Countryside
ID3	Sustainable Travel

- 5.4 The Ashover Neighbourhood Plan 2016-2033 (Adopted November 2017) covers the application site and the following policies are a material consideration:

AP2	Development Outside Settlement Development Limits
AP7	New Small Scale Employment
AP11	Design
AP13	Landscape Character
AP19	Dark Skies
AP20	Traffic

- 5.5 The overarching aims of the National Planning Policy Framework (NPPF) are a significant material consideration and include a strong presumption in favour of sustainable development.

## 6.0 PUBLICITY, CONSULTATIONS AND REPRESENTATIONS

- 6.1 The application was validated 8<sup>th</sup> April 2019 and was due to expire on 30<sup>th</sup> May however an extension of time was agreed until 12<sup>th</sup> July to allow the application to be heard at planning committee. A number of site visits were undertaken by the case officer including an initial visit on 7<sup>th</sup> May and a site notice was already in situ on the gate to the application site, which expired on the 13<sup>th</sup> May. A second visit was undertaken by the case officer on 14<sup>th</sup> May to walk the local area.
- 6.2 The **Parish Council** raised no comments to the proposed development.
- 6.3 The **Local Ward Member** requested that the application be considered by members of planning committee due to the visual impact of the proposal, noise issues from the proposed use and its overall design and appearance being out of keeping with the countryside.
- 6.4 The **County Highways Authority** was consulted on the proposed development and raised no objection, subject to a holiday occupation being included on any decision.
- 6.5 The **Councils Environmental Health Officer (EHO)** was consulted on the proposed development and raised no objections, subject to the inclusion of a note on any decision.
- 6.6 The **Coal Authority** was consulted on the proposed development and note that it lies outside of the defined High Risk Area, as such no objection is made by the Coal Authority.
- 6.7 **Derbyshire Wildlife Trust (DWT)** was consulted on the proposed development and visited the site on 16<sup>th</sup> May to survey habitats and to assess the impact of the proposed development. It is noted that the tent is positioned in an area of grassland that is not species rich, however its construction appears that have resulted in some habitat loss. Providing sympathetic habitat management is implemented, the DWT considers that the impacts of the construction of the tent and its future use within the local wildlife site can be mitigated. The DWT consider that fencing should be introduced and/or mowing limited to reduce encroachment into the meadow. This should be secured by condition on any decision issued by the Local Planning Authority.
- 6.8 **One objection** was received in relation to the proposed development from a local resident, raising the following material comments:
- The structure is large and has the appearance of a permanent building
  - Harmful to amenity of The Manor House and other nearby residential properties as a result of noise nuisance
  - Detrimental impact upon the character of the valley, by virtue of its prominent positioning and appearance
  - Harmful to protected species
  - Building should be relocated to the west of the site and controls put in place with regards to its occupancy
  - The surrounding valley is an exceptionally quiet environment, the proposal would lead to noise pollution and loss of amenity
  - Movement of vehicles into the site would cause noise disturbance at all hours of day and night

- Viewing platform included in scheme would allow views towards neighbouring residential properties, including Reservoir House and Northedge
- Building is elevated in landscape and can be seen from all around
- Close to and visible from nearby footpaths
- Lighting on proposal would be harmful to character of countryside and wildlife

## **7.0 PLANNING CONSIDERATIONS**

7.1 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 countryside, the amenity of neighbouring residents and land uses, its ecological impact on a designated wildlife site and highway safety issues.

## **8.0 PLANNING ASSESSMENT AND SUMMARY**

### **Principle of Development**

- 8.1 The application site is located in open countryside, where the Councils Local Plan states that proposals for new tourist accommodation will be permitted where they involve the re-use and conversion of existing buildings or extension of existing tourist facilities only. The proposal would therefore be contrary to the current Local Plan, however this is out of date and does not align with National and emerging Council policies which are considered below.
- 8.2 Policies WC6 and WC7 of the Emerging Local Plan considers District wide visitor economy and tourist accommodation in the countryside. Proposals will be supported where they can demonstrate that a rural location is appropriate, is easily accessible, is appropriate to the site in terms of its scale, design or materials; and respects the character and appearance of the open countryside. Proposals must not have a significant adverse impact on any environmental designation.
- 8.3 New visitor accommodation will be permitted where it is not used for permanent residential occupation and supports future business viability or is in accordance with countryside policies. New chalets, will be permitted where they are adequately screened all year round, laid out in a manner which would not adversely affect the character of the area, the materials and colour along with any infrastructure is appropriately designed to reduce the visual impact of the proposed development and does not significantly adversely affect the amenity of local residents.
- 8.4 The Ashover Neighbourhood Plan supports new small scale employment related development where it complies with Policy AP2 (Development Proposals Outside the Limits to Development) providing it will not generate unacceptable noise, respects and is compatible with the local character and uses, would not be harmful to living conditions of neighbouring residents or cause serious harm in terms of highway safety or the free flow of traffic.
- 8.5 Paragraphs 83 and 84 of the National Planning Policy Framework (NPPF) states that decisions should enable the sustainable growth and expansion of all types of business in rural areas through well designed buildings and the development and diversification of land based businesses. The NPPF also states that it is important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads.

- 8.6 The NPPF also states that decisions should enable sustainable rural tourism developments which respect the character of the countryside. Paragraph 84 goes on to state that in rural areas it is important to ensure that development is sensitive to its surroundings and does not have an unacceptable impact on local roads.
- 8.7 In view of the above, it is considered that the principle of the development may be acceptable, subject to assessing its visual and ecological impact, as well as that on residential amenity.

### **Landscape Considerations**

- 8.8 The application site is located in open countryside, approximately 300m east of Birkin Lane. The site sits in a valley, with Press Reservoirs to the south. These reservoirs are used for private fishing and a small car park with log cabin is provided close to the entrance of the site off Birkin Lane. Manager's accommodation is located a short distance to the west from the application site. The site is framed by native hedgerow and tree planting framed by agricultural fields. Public footpaths criss cross the surrounding area to the south and east, crossing the wider Press fisheries site to the east of the application site.
- 8.9 The application site is located within a defined Local Wildlife Site, known as Press Reservoirs, with the site containing standing open water, lowland swamp and semi improved hay meadow. The site forms part of the wider Derbyshire Peak Fringe and Lower Derwent. The hay meadow forming the application site has been closely mown and appears to have been maintained in this manner for some years.
- 8.10 The proposal is for the retention of a safari tent style tourist accommodation located on a timber frame with a large area raised deck, which grades down to ground level. The materials of construction include a green canvas, with timber supports, timber decking and guide ropes.
- 8.11 Due to the sloping nature of the site the structure has been built up using a timber frame, with land levels dropping to the south towards the reservoir. Land levels rise to the north, with the site framed by native hedgerow and scrub/tree planting. An agricultural field lies to the east of the application site.
- 8.12 Concern has been raised by a local resident stating that the structure is large in scale and located in an elevated, prominent position which is highly visible from the surrounding countryside and harmful to the rural character of the valley.
- 8.13 The site is located on a south sloping part of the site, which is visible from viewpoints along Birkin Lane to the west and from a number of public footpaths in the area.
- 8.14 Birkin Lane to the west, is a country lane with no formal footway and is subject to a 60mph speed limit. When approaching the site along Birkin Lane views of the proposed structure are achievable, but the green canvas is soft in its appearance and blends somewhat with the rural nature of the site.
- 8.15 Close up views of the structure are not easily achievable due to the native planting to the south of the reservoirs, but as users of the footpaths head south towards Northedge glimpsing views of the canvas roof are achievable. Views from the footpath to the east of the application site are well screened by native planting and views from the footpath to the north and north east of the site are difficult to achieve due to the topography of the surrounding countryside. The footpath continues up close to The Manor House and heads west along a track. Views from this section of the path are limited to a few openings in the



hedgerow, which allow views of the canvas roof. In view of this, it is not considered that the structure is easily visible from the surrounding countryside. In fact, when the structure is visible from public viewpoints, those being from localised parts of the local public footpath network and from a short section of Birkin Lane, it is mainly of the canvas roof, which blends with the character of the countryside. Stark features included in the proposal, such as the deck area, are not visible from wider public viewpoints due to the level of native screening framing the application site.

- 8.16 In view of the above, it is not considered that the proposal would be prominent from views along Birkin Lane and the surrounding footpaths, furthermore the siting, design and appearance of the structure would be in keeping with the character of the countryside and the wider landscape.

### **Ecological Considerations**

- 8.17 The application site lies entirely within a designated Local Wildlife Site (NE301), called Press Reservoir. It was designated in 1984 and covers an area of approx. 8ha. The site contains standing open water, lowland swamp and semi improved hay meadow. The site forms part of the wider Derbyshire Peak Fringe and Lower Derwent.
- 8.18 A canvas safari tent has been installed on land which forms part of the hay meadow, with the area having been mown over the years.
- 8.19 Concern has been raised by a local resident as to the impact of the proposed development on protected species and the impact on the countryside from noise and light pollution.
- 8.20 Derbyshire Wildlife Trust (DWT) was consulted on the proposed development and visited the site on 16<sup>th</sup> May to survey the wider habitat of the site and to assess the impact of the proposal. The tent is located in an area of grassland that was not particularly species rich, however development has resulted in the loss of some habitat and will clearly impact the future of the site. Providing sympathetic habitat management is implemented, DWT considers that the impact of development and its future use can be mitigated. It is requested that the majority of the grassland/meadow should be fenced off from the tent to limit encroachment. Mowing of the site should also be limited to that around the tent.
- 8.21 In discussions with the DWT, the applicant has confirmed that he would be willing to manage the grassland more sympathetically in a manner with traditional meadow management. DWT request that these matters should be controlled by condition.
- 8.22 The proposal makes no reference to the inclusion of any artificial lighting, but given the rural nature of the site and it being a designated dark sky area in the Ashover Neighbourhood Plan, it is considered that any lighting should be appropriately controlled. The DWT also consider that any artificial lighting should be kept to a minimum to safeguard nocturnal mammals and the character of the area.
- 8.23 No concern was raised by the DWT as to the loss of habitats as a result of the proposed development. Local Plan Policy states that development affecting sites of nature conservation, including wildlife sites should be adequately mitigated. The applicant has submitted an amended plan restricting the level of outdoor space with the accommodation, this should in turn prevent unwanted access onto the meadow to the east of the building. DWT considered this plan and were satisfied with the details provided.

8.24 In view of the above, it is considered that subject to a suitable scheme of fencing and grassland restoration and management being agreed, the proposed development has an opportunity to mitigate any harm and in fact enhance the biodiversity of the site and safeguard it moving forward.

### **Residential and Neighbouring Land Uses Impact**

8.25 The application site is located in a peaceful, rural setting, with the nearest residential properties being the applicants property a short distance away to the east, Toll Bar Cottage (300m) and Rykneld House (365m) to the west, Birkin Lane Farm (380m) to the north west, properties at Northedge (500m) to the south, Reservoir House (400m) to the east and The Manor House, a Grade II Listed Building (450m) to the north east.

8.26 A number of public footpaths cross to the south, east and north of the site. None of these are cross the application site itself. The site is also framed to the north and east by agricultural land. It is considered that the proposal would not be detrimental to neighbouring land uses or nearby public footpaths.

8.27 Concern was raised by a local resident that the surrounding valley is an exceptionally quiet environment and that potential noise nuisance could be detrimental to nearby residential properties and there being potential for overlooking from the raised deck towards Reservoir House and properties at Northedge. The additional vehicle movements into and out of the site at all hours of the day could be harmful to the general amenity of the area.

8.28 The Councils Environmental Health Officer was asked to comment on the potential for noise disturbance on neighbouring residents given the peaceful rural setting and objections received. The Officer has no objection to the proposed development but advises that an informative note be included on any decision to advise the applicant of the importance of ensuring that the facility is managed in an appropriate manner as not to cause nuisance to any nearby noise sensitive premises. Any complaints in relation to a potential nuisance will be investigated by the Council under the Environmental Protection Act 1990. If a statutory nuisance is found, then action will be taken by the Council.

8.29 The proposal is a modest safari tent that would be occupied mostly during the summer months by visitors. It is appreciated that users of the site will have to use a motor vehicle to access nearby places of interest and services, with users of the site enjoying the grounds associated with the accommodation. This may include using the outdoor grass area to entertain, however this accommodation is located close to the applicants property and a private fisheries, where undue noise disturbance will be unwelcome by regular users of the site and it is expected that any unwanted noise will be self-regulated by the applicant. In the unlikely event of any unchecked noise nuisance, this could be controlled by the Councils Environmental Health Officer, under environmental legislation.

8.30 Any overlooking from the holiday accommodation is across the reservoir and surrounding fields. Given the distance from neighbouring residents and intervening landscape screening, it is not considered that there would be any loss of privacy to neighbouring residents.

8.31 In view of the above, it is considered that the proposed development would not result in an adverse detrimental impact upon the privacy and amenity of nearby residential properties or neighbouring land uses.

### **Highway Safety Considerations**

- 8.32 The proposed development would involve the retention of a canvas safari tent that would be used for holiday let purposes. Amended plans have been submitted illustrating an area for the parking of vehicles. Access is taken from Birkin Lane to the west and any users of the site would have to navigate a narrow, rough track which also serves the applicant dwelling.
- 8.33 The County Highways Authority was consulted on the proposed development and raised no objection, subject to a restrictive condition being included on any decision preventing it from being permanently occupied.
- 8.34 In view of the above, it is considered that the proposed development would not lead to an adverse impact upon highway safety.

### **Environmental Health Considerations**

- 8.35 The Councils Environmental Health Officer (EHO) was consulted on the proposed development and provided comments in relation to noise nuisance, which are considered in the residential amenity section of this report. No comments were made in relation to land contamination.

### **Other Material Considerations**

- 8.36 The site is within a Flood Zone 1, which has a low probability of flooding.
- 8.37 The site is potentially within a Coal – Development High Risk Area, as such the Coal Authority was consulted on the proposed development. The Coal Authority confirmed that the proposal would be sited outside the High Risk Area and as such no objection is raised.
- 8.38 An objector considers that the building should be moved closer to other structures on the application site. The Council have to consider the submitted application on its own merits and during the application process it was not deemed necessary to request the re-siting of the structure.

### **Conclusion**

- 8.39 Having taken into account all the material considerations, it is considered that the proposed development is acceptable in principle and would have an acceptable impact upon the character of the countryside.
- 8.40 The proposed development would include mitigating measures which would enhance the on-site biodiversity and designated grassland.
- 8.41 In addition, the proposed development would not result in an adverse detrimental impact upon the privacy and amenity of nearby residential properties or neighbouring land uses, nor would it lead to an adverse impact upon highway safety.
- 8.42 It is therefore considered that the proposed development would be in line with the saved policies of the Council and the overarching aims of the NPPF, therefore the proposal should be granted subject to conditions safeguarding the future biodiversity of the application site, character and appearance of the building and highway safety.

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## 9.0 SUMMARY OF CONSULTATIONS

<u>County Highways:</u>	No objection subject to a conditions
<u>Environmental Health:</u>	No objections subject to an informative note
<u>Derbyshire Wildlife Trust:</u>	Raised no objection subject to conditions
<u>Coal Authority:</u>	No objection
<u>Neighbour:</u>	One objection was received
<u>Parish Council:</u>	No comments
<u>Ward Member:</u>	Raised concern about the development and called the application into planning committee

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## 10.0 RECOMMENDATION

That planning permission is **APPROVED** in accordance with officer recommendation, with the final wording of the conditions delegated to the Planning Manager:-

### CONDITIONS

#### General

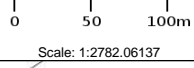
1. The development hereby permitted shall be started within three years from the date of this permission.
2. The development hereby approved shall be carried out in accordance with the details shown on the following drawings unless otherwise subsequently agreed through a formal submission under the Non Material Amendment procedures and unless otherwise required by any condition contained in this decision notice:
  - DRG.02A (Block, Floor and Elevation Plans)
  - DRG.01 (Location Plan)

#### Highways

3. Notwithstanding the provisions of Part C, Class C3 "Dwelling House" to the Schedule of the Town and Country Planning (Use Classes) Order 1987, (or any Order revoking or re-enacting that Order), the premises shall be used for the purpose of holiday accommodation only and for no other purpose, including any other purpose within Class C3 of the Order. The property shall not be occupied by any persons for a total period exceeding 28 days in any calendar year. The owner shall maintain an up to date register of the name of all occupiers of the accommodation and their home addresses, and shall make this register available to the Local Planning Authority within 14 days of the receipt of any written request.
4. Within 14 days of the date of this decision, the area shown on the approved plans as reserved for the parking, circulation and standing of vehicles shall be provided in accordance with the approved details. Thereafter the area shall be used for those purposes only.

### **Ecology**

5. Within one month of the date of this permission, the applicant shall submit for approval in writing by the Local Planning Authority, a scheme of grassland re-seeding for the area of grassland to the north of the Local Wildlife Site, as identified on the attached 'Wildlife Plan'. The re-seeding scheme shall include details of scarifying, seeding, frequency of grass cutting and grassland management for a minimum period of ten years. The approved scheme shall then be implemented in full and the grassland managed in accordance with the approved grassland management scheme.
6. The outdoor amenity area associated with the safari tent hereby approved shall be restricted to that on the attached 'Wildlife Plan'. Occupants of the safari tent shall not use the area outside of this as a general outdoor amenity area.
7. Within one month of the date of this decision, the post and rail boundary treatments illustrated on the approved plan, drawing DRG.02A shall be implemented in full in accordance with the approved details and retained as such for the lifetime of the development.
8. The safari tent hereby approved shall have no external lighting.



Author: K. Spelman

Date: 26/06/2019



**APPLICATION NO.** 19/00391/FL

**APPLICATION** Change of use of paddock for the keeping of one horse and the retention of a chicken coop (Amended Title)

**LOCATION** Cherry Tree Cottage Alton Hill Alton Chesterfield S42 6AW

**APPLICANT** Mr & Mrs Leyland

**CASE OFFICER** Aspbury Planning Ltd – Denise Knipe

**DATE RECEIVED** 17th April 2019

DELEGATED APPLICATION REFERRED TO COMMITTEE BY: Councillor Armitage

REASON: The application is contrary to policies AP16 and AP13 of the Ashover Neighbourhood Plan Ashover.

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**The Site Inspection Group is to visit the site to assess the impact of the proposal on the character of the area and the amenity of neighbours.**

## **1.0 SITE DESCRIPTION**

- 1.1 The application site is located on land adjacent to Cherry Tree Cottage within the hamlet of Alton. The village does not have a defined Settlement Boundary Limit.
- 1.2 The paddock is accessed from a private drive which carries a public right of way. The applicant's own dwelling is located to the south of the application site with further residential properties to the west and open countryside to the north and east.
- 1.3 The paddock is approximately 0.12 hectares in area and defined by post and rail fencing to the north, east and south (to the south the fence has been cloaked by a willow screen) and a 1.8 metre timber fence has been erected to the west in front of the a stone boundary wall and partly along the southern and northern boundary.
- 1.4 The chicken coop is located within the southern portion of the paddock and takes the form of a timber sectional building with part timber and mesh sides. It measures 2.4 metres long, 1.6 metres wide with a height of 1.5 metres.

## **2.0 PROPOSAL**

- 2.1 Retrospective planning permission is sought for the change of use of the paddock for the keeping of one horse and the retention of the chicken coop.

## **3.0 AMENDMENTS**

- 3.1 Following the receipt of objections the original intention to secure retention of a kennel has been removed. It is no longer a consideration in this proposal.

## 4.0 PLANNING HISTORY

- 4.1 19/00390/FLH - Excavation of garden and installation of liquid propane gas tank: Conditionally Approved.

## 5.0 PLANNING POLICY CONSIDERATIONS

- 5.1 The Development Plan comprises of the saved policies of the North East Derbyshire Local Plan (adopted November 2005) and the Ashover Neighbourhood Plan (made in 2018).
- 5.2 In addition, the Publication Draft Local Plan 2014-2034 has been submitted to the Secretary of State for examination. The Council is currently at an advanced stage in the production of the new Local Plan. The Plan was submitted to the Secretary of State for examination at the end of May 2018 and undertook examination earlier this year. This document sets out the Council's strategy for sustainable development and should be afforded appropriate weight in decision making.
- 5.3 The made Ashover Neighbourhood Plan forms part of the Development Plan and should attract full weight in decision making where it is compliant with other national and local policy.
- 5.4 The most relevant policies in this case are considered to be:

### North East Derbyshire Local Plan (2005)

- GS1 - Sustainable Development
- GS6 - Development in the Countryside
- R9 - Equestrian Development
- BE1 - General Design Principles
- NE1 - Landscape Character
- T2 – Highway Impact of New Development
- T9 – Car Parking Provision

### Publication Draft Local Plan 2014-2034

- SS1 - Sustainable Development
- SS2 - Spatial Strategy and the Distribution of Development
- SS9 – Development in the Countryside
- SDC3 - Landscape Character
- SDC12 - High Quality Design and Place-Making

### Ashover Neighbourhood Plan (2016-2033)

- Policy AP2 – Development Proposal Outside of the Limits to Development
- Policy AP11 - Design
- Policy AP13 – Landscape Character
- Policy AP16 - Dry Stone Walls
- Policy AP20 – Traffic
- Policy AP21 – Footpaths, Cycleways and Bridleways

## 5.5 National Planning Policy Framework 2018

A revised National Planning Policy Framework (NPPF) was published on 19<sup>th</sup> February 2019 and sets out the government's planning policies for England and how these are expected to be applied. This NPPF replaced previous



versions. 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.

5.6 NPPF paragraphs 8 and 170 are particularly relevant in this case as they set out the importance of protecting and enhancing the natural environment and recognising the intrinsic character and beauty of the countryside.

## 6.0 PUBLICITY, CONSULTATIONS AND REPRESENTATIONS

6.1 The application was made valid on the 17 April 2019 and was due to be determined by the 11 June 2019. An extension of time until the 5 July has been requested but not agreed to.

6.2 A site notice was placed at the entrance of the site on the 10 May 2019 by the Officer at the time of the site visit.

6.3 **Ward Councillor:** Councillor Armitage has requested that the application is heard by the Planning Committee. The planning reasons given relate to an assertion that the application runs contrary to policies AP13 and AP16 of the Ashover Neighbourhood Plan.

6.4 **Ashover Parish Council** does not consider that this application is supported under Policies AP13 (Landscape Character) and AP16 (Dry Stone Walls) of the Ashover Neighbourhood Plan. The Parish Council considers that the newly erected fence detracts from the adjacent dry stone wall and has requested the Ward Councillor puts the application forward to Planning Committee.

6.5 The comments of the **Environmental Health Officer** are awaited and will be reported to the Committee when received.

6.6 **Interested Parties:** The application has attracted 6 objections from 4 separate households, 2 objections received are duplicates submitted on line and via email. The objections are summarised below:

- The erected post and rail is out of keeping with the character of the area and obscures the stone wall.
- The field is unsightly and has now started to smell from the manure.
- This dog kennel in an agricultural field is totally inappropriate.
- Noise impacts as a result of the barking dog.
- Outside of the settlement development limits
- Discrepancies within the application the start and completion dates are incorrect and the site can be seen from a public place and the application states 'no' and there is a wild life nature reserve nearby.
- The site notice was not displayed and neighbours were not consulted (Officer Note: A site notice was displayed and 4 neighbours were directly notified).

- 6.7 Since the receipt of objections the application description has been amended and the retention of the kennels has been removed from the application and so is not to be considered. The fencing is considered to fall under permitted development limits and the kennels are to be relocated within the domestic curtilage making it also permitted development. Following the amended details being available no further comments have been received.

## **7.0 PLANNING CONSIDERATIONS**

- 7.1 The key considerations in this case are the impact of the development on the character of the area and surrounding landscape and residential amenity.

## **8.0 PLANNING ASSESSMENT**

### **Principle**

- 8.1 The proposal relates to the use of a paddock located in a countryside location on the edge of Alton. It is bound by countryside to the east and north and residential properties to the west and south.
- 8.2 Policies GS6 and NE1 of the extant Local Plan (LP), AP2 and AP13 of the Ashover Neighbourhood Plan (ANP) and policies SS9 and SDC3 of the evolving Local Plan (ELP) all seek to ensure that proposals outside of defined settlements are in keeping with their countryside location and do not represent prominent intrusions, whilst policy BE1 of the LP , ANP Policy AP11 and ELP policy SDC12 seeks to ensure that the design, scale and massing of development is in keeping with the surrounding character.
- 8.3 The use of the paddock for the keeping of a horse would generally be considered a compatible use in the countryside. LP policy R9 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. Whilst not located close to a bridleway, in this case access to countryside can readily be gained via local roads and rights of way.
- 8.4 The keeping of chickens would generally be considered an agriculture/rural use and so compatible with the application site.

### **Impact upon the Character of the Countryside**

- 8.5 Given the constrained size of the paddock no stable buildings are proposed. Therefore, its use for the keeping of a single horse is not considered to be detrimental to the wider countryside. The construction of buildings in association with the keeping of horses would require a specific grant of planning consent.
- 8.6 The chicken coop is of a modest scale and, in view of this and its location close to the applicant's own residential curtilage, it is not considered to have a detrimental impact upon the wider landscape.
- 8.7 Whilst objections have been received in relation to the boundary fencing planning permission is not required for it, it is permitted development and so does not fall to be considered as part of this planning proposal.

- 8.8 Therefore, it is considered that the proposal is compatible with this countryside location and complies with the relevant development plan policies of the LP (GS6, NE1), the ANP (AP2, AP13) and the ELP (SS9 and SDC3).
- 8.9 Comment has also been made about the impact of the proposal on the boundary wall to the west of the site and the fact the newly erected fence obscures it. The fence, as it encloses the field, is considered to comprise permitted development, and so does not fall to be considered here. Therefore, policy AP16 of the ANP attracts no weight in such circumstances.

### **Impact upon Neighbouring Properties**

- 8.10 The most affected neighbouring property is located to the west of the site and shares its western boundary. The timber fence has been erected in front of an existing stone boundary wall. Objections have been raised in relation to the use of the site for the keeping of horses, commenting on the condition of the paddock and the noise experienced from the siting of the dog kennel.
- 8.11 The dog kennel has been removed from the application as it is intended to relocate it within the domestic curtilage of the applicant's dwelling thereby making it permitted development. It is already noted above that the fence does not require planning permission.
- 8.12 Local Plan policy R9 seeks to ensure that equestrian development does not have a detrimental impact upon the character of the area or have an adverse impact upon residential amenity.
- 8.13 It is not considered that the keeping of a horse(s) or the retention of the chicken coop has a detrimental impact upon local amenity due to their small scale and the compatibility of such uses with a rural area.
- 8.14 Whilst the outlook for neighbouring property occupiers may have altered, these changes are not considered incompatible with the character of the area or that they directly, or detrimentally, impact on residential amenity of the area.

### **Other Issues**

- 8.15 The keeping of a horse or horses in this location is not considered an activity that would impact on the local highway network although a condition limiting the use to a personal one only is considered necessary to safeguard this issue.
- 8.16 In addition, a condition removing any rights to park vehicles or trailers or place other structures on the site in connection with the keeping of horses is considered necessary to retain the open character on the site.

### **Conclusion**

- 8.17 In conclusion, Officers consider that the principle of the keeping of a horse and chickens in a reasonably sized coop are uses and development compatible with this rural area. There is not considered to be any overriding impact on the amenity of neighbours.

8.18 Therefore, the application is considered policy compliant and so recommended for approval subject to conditions.

## 9.0 SUMMARY OF CONSULTATIONS

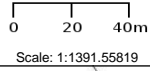
<u>County Highways:</u>	N/A
<u>County Planning:</u>	N/A
<u>Environmental Health:</u>	Comments awaited
<u>Drainage:</u>	N/A
<u>Access Officer:</u>	N/A
<u>Footpath:</u>	N/A
<u>Neighbour:</u>	Four objectors
<u>Ward Member:</u>	Cllr Armitage called the application in to be considered by the Planning Committee.
<u>Parish Council:</u>	Object

## 10.0 RECOMMENDATION

**GRANT** planning permission subject to conditions, the final wording of which is delegated to the Planning Manager (Development Management),

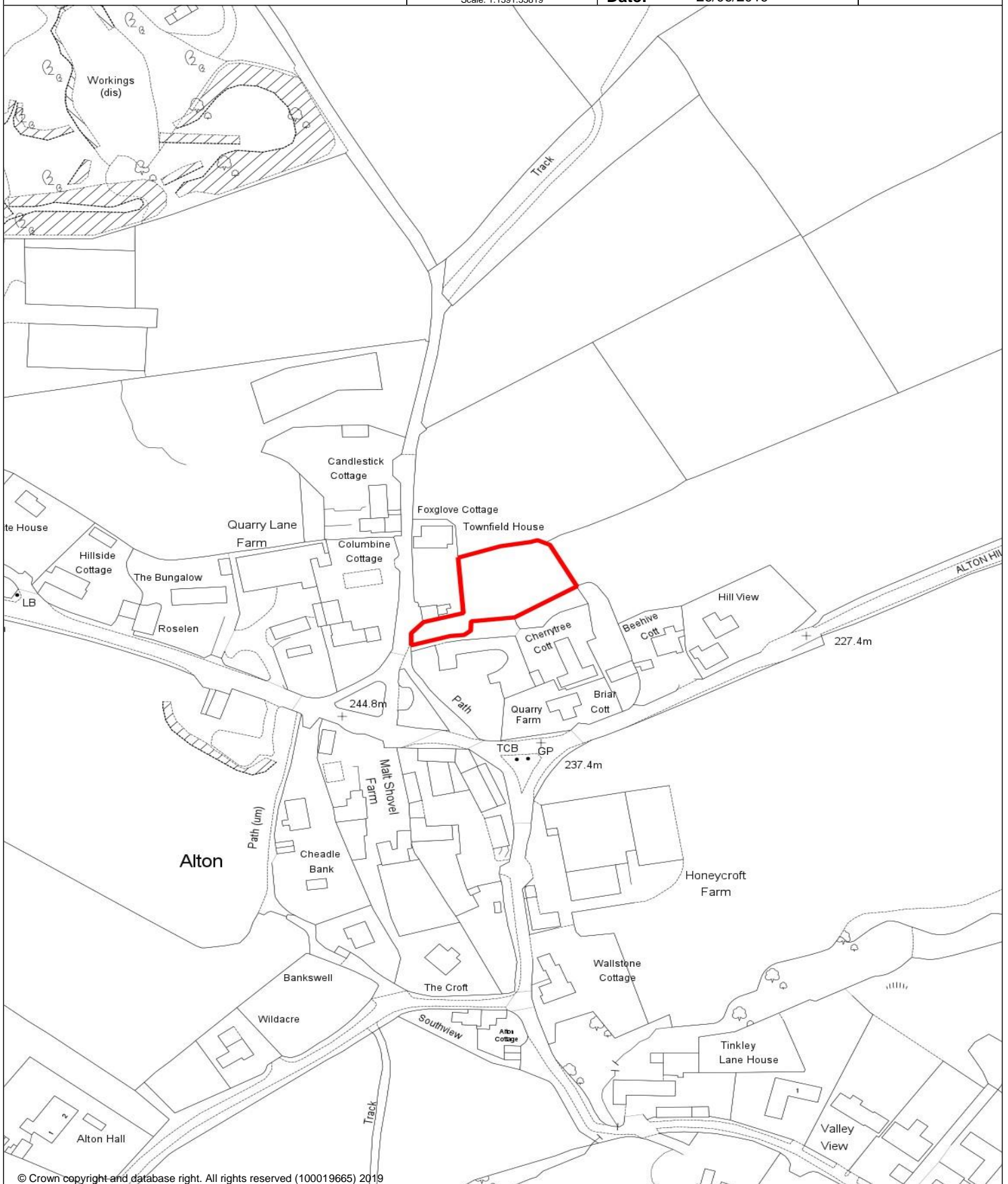
### *Recommended Conditions*

1. The use of the paddock for the grazing and keeping of horses shall be for the private use of the owners of the application site and those of their immediate family only. The site shall not be used for any commercial purposes.
2. No trailers, horse boxes, caravans or other storage containers to be used in connection with the keeping of horses on the site shall be located, parked or stored on the application site.



Author: K. Spelman

Date: 26/06/2019



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**APPLICATION** Change of use of part of woodland to domestic garden for retention of a summerhouse  
**LOCATION** 4 Highdale Fold, Dronfield S18 1TA  
**APPLICANT** Mr Frazer Allen  
**APPLICATION NO.** 19/00370/FL **FILE NO.** N/A  
**CASE OFFICER** Mr Kevin Figg  
**DATE RECEIVED** 3rd April 2019

REFERRED TO COMMITTEE BY: Cllr Angelique Foster

REASON: Concerns that the change of use would set a precedent for future development within the woodland.

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**The Site Inspection Group is to visit the site to view the relationship of the site with the woodland.**

## **1.0 SITE DESCRIPTION**

- 1.1 The application property is a modern stone built two-storey detached dwelling; one of a residential development of 7 similar properties granted approval in 2006 and accessed via a private drive off Gomersall Lane. The land slopes steeply up from north to south, such that the dwellings at the top of the drive are significantly higher than the other properties.
- 1.2 To the rear of numbers 1 to 4 Highdale Fold is an area of deciduous woodland, measuring approximately 2500m<sup>2</sup>, which is within the sole ownership of the applicant and is completely surrounded by residential development. Located within the wooded area is a currently active badger sett.

## **2.0 PROPOSAL**

- 2.1 The proposal is for the retention of a flat roofed timber clad summerhouse with a footprint of 3.6m x 4.2m, which projects approximately 3m into the woodland adjoining the rear of the applicant's garden, and a change of use of the parcel land upon which it is sited.

## **3.0 AMENDMENTS**

- 3.1 There have been no amendments to the application as submitted.

## **4.0 PLANNING HISTORY**

06/00285/FL - construction of 7 detached dwellings – approved 20/06/2006

## **5.0 PLANNING POLICY CONSIDERATIONS**

North East Derbyshire District Local Plan (adopted November 2005)  
BE1 (General Design Principles)  
GS5 (Settlement Development Limits)  
H5 (Domestic Extensions)

GS7 (Changes of Use)  
NE7 (Protection of Trees and Hedgerows)

#### Emerging North East Derbyshire District Local Plan

The plan has now reached its publication draft stage The Plan was submitted to the Secretary of State at the end of May 2018 and whilst under examination the Local Plan is currently paused In accordance with Annex 1 of the NPPF, the Public Draft is considered to carry some weight at this stage.

SS7 (Settlement Development Limits)  
LC5 (Domestic Extensions)  
SDC2 (Trees, Woodland and Hedgerows)

#### Neighbourhood Plan

The Dronfield Neighbourhood Plan has been submitted for consideration by the Council but at this early stage it carries very limited weight only.

#### National Planning Policy Framework

The overarching aims of the revised National Planning Policy Framework (NPPF) are also material in the assessment of this application.

## **6.0 PUBLICITY, CONSULTATIONS AND REPRESENTATIONS**

- 6.1 The site notice was correctly displayed on a lamp post at the bottom of the private drive and expired 09/05/2019. Fifteen adjoining neighbouring properties were notified in writing.
- 6.2 A **Ward Member** has requested that the current application be decided by Planning Committee and raised concerns that this application will set a precedent.
- 6.3 The **Parish Council** has raised no comments.
- 6.4 **Derbyshire Wildlife Trust** has raised concerns that the installation of a summerhouse in the woodland would adversely impact on the already vulnerable badger sett and would not recommend that any part of the woodland is changed to domestic use. It also considered that the summerhouse would potentially increase general disturbance levels within the woodland and risk disturbing the sett.
- 6.5 Representations have been received from neighbouring residents with the following concerns:
- There is an active badger set within the woodland which will be impacted by the retention of the summerhouse and associated activity;
  - The retention of the summerhouse would set a precedent for future developments;
  - The proposed retention goes against conditions imposed for the residential development on Highdale Fold;
  - The reduction and potential loss of the woodland would be detrimental to the character of the area;
  - People should not be allowed to build something and then apply for planning permission later.

## **7.0 PLANNING CONSIDERATIONS**

- 7.1 The planning considerations for this application are the impact of the proposal upon the privacy and amenity of neighbouring occupiers, impact of the proposal on the character and appearance of the site and the surrounding area and the potential impact of the proposal on the protected species living within the adjacent woodland.

## **8.0 PLANNING ASSESSMENT**

- 8.1 Local Plan policies GS5 and H5 require that development should be in keeping with the host property and the surrounding streetscene and should not be detrimental to the character and appearance of the site or its surrounding environment nor have any detrimental impact on the amenity of neighbouring occupiers or uses.
- 8.2 Local Plan policy GS7 requires that any change of use of land should not have an adverse effect on the character and appearance of the area or neighbouring land uses.
- 8.3 The summerhouse the subject of this retention is a relatively modest outbuilding measuring 3.6m x 4.2m with a maximum height of 2.8m and is located partly within the side garden of the applicant's property but also projects 3.0m into the adjacent woodland. The summerhouse has fully glazed doors to its front elevation facing towards the side elevation of the applicant's property but no other openings.
- 8.4 The summerhouse is only partly visible from the adjacent properties at number 3 and 5 and is well screened from the dwellings on Caldey Road to the south of the application site by existing vegetation. It is not considered therefore that the proposed retention of the summerhouse would have any significant impact on the amenity of neighbouring residents.
- 8.5 The summerhouse is not visible from public viewpoints and would therefore have no impact on the appearance or character of the surrounding streetscene.
- 8.6 The current proposal also includes the change of use of a small parcel of land within the woodland on which the summerhouse is sited. The parcel of land measures 3.4m x 4.2m and is located immediately adjacent to the side boundary of the applicant's property. The woodland, which has an area of approximately 2500m<sup>2</sup>, is solely within the ownership of the applicant. The summerhouse is accessed only from the applicant's garden and there is no access from the summerhouse into the adjoining woodland.
- 8.7 The active badger sett within the woodland is located approximately 40m to the northeast of the summerhouse and is appreciably closer to other residential gardens than the applicant's property. It is not considered that the retention of the summerhouse now proposed would significantly impact on the character of the adjoining woodland or result in any additional disturbance to the nearby badger sett when compared to the existing situation; the woodland being totally surrounded by residential properties.



- 8.8 Badgers are a protected species and the animals and their setts are offered protection by current wildlife legislation, any interference being a criminal offense.
- 8.9 Condition 7 attached to the approval for these properties (06/00285/FL) required that a 2.0m fence be erected to protect the foraging areas of the protected species living within the woodland and should be retained as such thereafter. It is not considered that the retention of the summerhouse now proposed would be in breach of this condition; a barrier of at least 2.0m high being retained in compliance with the requirements.
- 8.10 Any potential more intrusive future developments into the woodland would require a further grant of planning permission and would be unlikely to be considered favourably.

### **Conclusion**

- 8.11 Overall, it is considered that the proposed retention represents acceptable development that would not be harmful to the amenity of neighbouring residents or the appearance and character of the surrounding area and would result in no significant additional disturbance to the nearby protected species. It is therefore considered that the proposal complies with the requirements of the relevant Local Plan Policies and guidance within the National Planning Policy Framework.

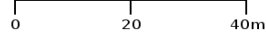
### **9.0 SUMMARY OF CONSULTATIONS**

<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>	Received comments.
<u>Others:</u>	Derbyshire Wildlife Trust raised comments.
<u>Ward Member:</u>	Received comments.
<u>Parish Council:</u>	No comments received.

### **10.0 RECOMMENDATION**

Planning permission be **GRANTED**.

No conditions



Scale: 1:695,25159

Author: K. Spelman

Date: 26/06/2019



**North East Derbyshire District Council**

**Planning Committee**

**9 July 2019**

**Planning Appeals Lodged and Determined**

**Report No PM/5/19-20/AK of the Planning Manager – Development Management**

This report is public

**Purpose of the Report**

- To inform the Committee of the appeals lodged and determined.

**1 Report Details**

**1.1 Appeals Lodged**

No appeals have been lodged.

**1.2 Appeals Allowed**

**Midlands Biomass Solutions Ltd – Erection of timber drying facility and change of use of agricultural building for associated storage purposes with improvements to access track (Amended Details) at Averill Farm, Evershill Lane, Morton (18/00359/FL)**

Means of Determination – Committee

Planning Officer's Recommendation – Approve

Planning Officer – (AP) Susan Wraith – [Susan.Wraith@ne-derbyshire.gov.uk](mailto:Susan.Wraith@ne-derbyshire.gov.uk)

**Enforcement Appeals Allowed**

**Marsh Green Estates – Enforcement Notice Appeal - Renovation work to derelict building at Henstone Barn, Cripton Lane, Ashover (17/00139/OD)**

Planning Officer – Susan Wraith – [Susan.Wraith@ne-derbyshire.gov.uk](mailto:Susan.Wraith@ne-derbyshire.gov.uk)

**A CLAIM FOR COSTS WAS DISMISSED**

### 1.3 **Appeals Dismissed**

The following appeal has been dismissed :-

**Mr Hadfield – Construction of a two-storey side extension, first floor extension over existing single-storey part of dwelling and erection of porch to front elevation at Brindwood House, Millthorpe Lane, Holmesfield (18/01221/FLH)**

Means of Determination – Delegated

Planning Officer’s Recommendation – Refuse

Planning Officer – Kevin Figg – [Kevin.Figg@ne-derbyshire.gov.uk](mailto:Kevin.Figg@ne-derbyshire.gov.uk)

**A CLAIM FOR COSTS WAS DISMISSED**

### 1.4 **Appeals Withdrawn**

No appeals have been withdrawn.

## **2 Conclusions and Reasons for Recommendation**

2.1 N/a.

## **3 Consultation and Equality Impact**

3.1 N/a.

## **4 Alternative Options and Reasons for Rejection**

4.1 N/a.

## **5 Implications**

### **5.1 Finance and Risk Implications**

N/a.

### **5.2 Legal Implications including Data Protection**

N/a.

### **5.3 Human Resources Implications**

N/a.

## 6 Recommendations

6.1 N/a.

## 7 Decision Information

<p><b>Is the decision a Key Decision?</b>  A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:  <i>BDC: Revenue - £75,000</i> <input type="checkbox"/>  <i>Capital - £150,000</i> <input type="checkbox"/>  <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/>  <i>Capital - £250,000</i> <input type="checkbox"/>  <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	Yes/No
<p><b>Is the decision subject to Call-In?</b>  (Only Key Decisions are subject to Call-In)</p>	Yes/No
<p><b>Has the relevant Portfolio Holder been informed</b></p>	Yes/No
<p><b>District Wards Affected</b></p>	All
<p><b>Links to Corporate Plan priorities or Policy Framework</b></p>	All

## 8 Document Information

Appendix No	Title
<p><b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)</p>	
Report Author	Contact Number
Joanne Edwards	217163