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**North East
Derbyshire
District Council**

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Date: Monday, 6 December 2021

To: **Members of the Planning Committee**

Please attend a meeting of the Planning Committee, to be held on **Tuesday, 14 December 2021 at 9.30 am in the Council Chamber, District Council Offices, 2013 Mill Lane, Wingerworth, Chesterfield S42 6NG.**

The meeting will be open to the public. However, because of the capacity limits on those who can be present in the Council Chamber, due to the Coronavirus (Covid-19) outbreak, the number of places will be restricted. Those wishing to attend will need to book in advance. **If you would like to attend this meeting then please contact the Governance Service: Governance@ne-derbyshire.gov.uk or phone: 01246 217391 to register your request.**

The meeting will also be live streamed from the Council's website on its You Tube Channel. Click on the following link if you want to view the meeting:

<https://www.youtube.com/watch?v=Mf6xRgFgdsw>

Yours sincerely

Assistant Director of Governance and Monitoring Officer

Members of the Committee

Councillor William Armitage
Councillor Andrew Cooper
Councillor Peter Elliott
Councillor Mark Foster
Councillor Roger Hall
Councillor David Hancock
Councillor Lee Hartshorne

Councillor Maggie Jones
Councillor Heather Liggett
Councillor Alan Powell
Councillor Jacqueline Ridgway
Councillor Kathy Rouse
Councillor Diana Ruff (Chair)

Please notify the Senior Governance Officer, Alan Maher by 4.00 pm on Friday 10 December 2021 of any substitutions made for all or part of the meeting.

For further information about this meeting please contact: Alan Maher 01246 217391

A G E N D A

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 5 - 19)

To approve as a correct record and the Chair to sign the Minutes of Planning Committee held on 16 November 2021.

4 NED/20/01013/FL - APPERKNOWLE (Pages 20 - 25)

Change of use of amenity land to parking spaces, at various locations in Apperknowle

(Planning Manager – Development Management)

5 NED/21/00627/FL - CLAY CROSS (Pages 26 - 61)

Variation of condition 2 (approved plans) of NED/20/00221/FL, to allow for changes to the road alignment and plot positions (Major Development), at land opposite 24 - 44 Clay Lane, Clay Cross

(Planning Manager – Development Management)

6 NED/21/00885/FL - PILSLEY (Pages 62 - 77)

Demolition of the existing social club building and the erection of 3 sustainable, detached, self-build homes, including associated alterations to the existing access. Site of the former Pilsley Miners Welfare Club, Rupert Street, Lower Pilsley, Chesterfield

(Planning Manager – Development Management)

7 **NED/21/00976/FL - KILLAMARSH** (Pages 78 - 119)

Proposed development of 50 dwellings with associated roads, sewers, gardens, parking and garages, (Major Development) (Departure from the Development Plan) (Amended Plans), at and between the Old Canal and North Side of Primrose Lane, Killamarsh

(Planning Manager – Development Management)

8 **NED/21/01025/FL - ASHOVER** (Pages 120 - 136)

Application to regularise the construction of 2 private ponds (amended title), at land to the South East of Siberia Cottages, Sydnope Hill, Darley Moor

(Planning Manager – Development Management)

9 **NED/21/01026/FL - ASHOVER** (Pages 137 - 146)

Application to vary condition 2 of planning application 18/00177/FL to allow for increased footprint, alter height of roof, verge detailing, amended doorway positions, fenestration and changes to internal layout (resubmission of application 20/00795/FL) (Amended Title). At land to the South East of Siberia Cottages, Sydnope Hill, Darley Moor

(Planning Manager – Development Management)

10 **Late Representations - Summary Update Report**

(Planning Manager – Development Management)
TO FOLLOW

11 **Planning Appeals - Lodged and Determined** (Pages 147 - 151)

(Planning Manager – Development Management)

12 **Matters of Urgency**

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

We speak your language



North East
Derbyshire
District Council

Polish

Mówimy Twoim językiem

Romanian

Vorbim limba dumneavoastră

Urdu

ہم آپ کی زبان بولتے ہیں

Chinese

我们会说你的语言



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PLANNING COMMITTEE

MINUTES OF MEETING HELD ON TUESDAY, 16 NOVEMBER 2021

Present:

Councillor Diana Ruff (Chair) (in the Chair)
Councillor Alan Powell (Vice-Chair)

Councillor William Armitage
Councillor Mark Foster
Councillor Lee Hartshorne
Councillor Maggie Jones
Councillor Kathy Rouse

Councillor Peter Elliott
Councillor Roger Hall
Councillor David Hancock
Councillor Heather Liggett
Councillor John Funnell

Also Present:

A Kirkham	Planning Manager - Development Management
G Cooper	Principal Planning Officer
J Fieldsend	Legal Team Manager (non contentious)
N Calver	Governance Manager
M E Derbyshire	Members ICT & Training Officer
A Maher	Senior Governance Officer

PLA/ Apologies for Absence and Substitutions

39/2

1-22 Apologies were received from Councillor A Cooper, who was substituted by Councillor J Funnell. Apologies were also received from Cllr J Ridgway.

PLA/ Declarations of Interest

40/2

1-22 There were no Declarations of Interest.

PLA/ Minutes of Last Meeting

41/2

1-22 The minutes of the meeting, held on Tuesday 19 October 2021, were approved as a true record.

PLA/ NED/21/00853/FL - HOLMEWOOD

42/2

1-22 The report to Committee explained that an Application had been submitted for the demolition of existing redundant buildings, known as Ellen House, and the construction of a new housing development of 19 units, along with associated car parking and landscaping, close to the junction of Heath Road and Tibshelf Road, Holmewood. This would be classed as a Major Development. It would also involve amended plans to the original proposals.

The Planning Manager (Development Management) had referred the Application to Committee for determination. This was because the Application would not provide for a Section 106 Agreement between the Council as Planning Authority and the Developer – East Midlands Housing (EMH). Such agreements were used to provide health, education and other infrastructure improvements to offset the

impact of a development on local people.

Committee was recommended to approve the Application, subject to conditions.

The report to Committee explained why Members were asked to agree the recommendations. Committee was reminded that the site was classed as Previously Developed Land (PDL) and that under the National Planning Policy Framework (NPPF), such land should be used as far as possible for new developments. The officers had concluded that the existing buildings had little heritage value. They did not have a protected status to prevent their demolition. The buildings had also been vacant for some time and were falling into disrepair. The officers believed that the Application provided a good mix of house types, which would respect the character of the surrounding street scene. They had also concluded that the development would provide much-needed affordable housing in the District.

Before Members discussed the Application those registered to speak were asked to address the Committee. H Roberts and N Roberts objected to the Application. The Applicant J Fradgley and Agent C Woods spoke in support of it.

Committee considered the Application. It took into account the relevant Planning Issues. These issues included the Principle of Development. In particular, how the site fell within the Settlement Development Limit and was on Previously Developed Land (PDL). It took into account the Local Plan policies relating to Affordable Housing. It considered the Tree Preservation Order (TPO) covering some of the trees on the site. Committee also assessed the impact on the Street Scene and on neighbouring properties. In addition, it considered the highway safety, ecology and drainage implications of the Application.

Members discussed the Application. They reflected on the contribution which the proposed 19 units would make to the provision of Affordable Housing in the District. Members asked for and received clarification of what was meant by the term Affordable Housing and how it would be applied to the properties on this development. They discussed the reasons why there would be no Section 106 Agreement if the Application was approved. They heard that as the development would consist only of lower cost Affordable Housing, such a contribution would make it financially un-viable.

Members discussed the impact on the neighbouring Street Scene of the demolition of the existing buildings and whether they could have been retained and re-purposed. They heard about the design of the new buildings and their suitability, in terms of the surrounding area. They also discussed the provision of car parking at the site and whether this would be adequate.

At the conclusion of the discussion Councillor D Ruff and Councillor W Armitage moved and seconded a motion to approve the Application in line with officer recommendations. The motion was put to the vote and was approved.

RESOLVED -

- (a) That planning permission be conditionally approved in accordance with officer recommendations.

- (b) That the final wording of the conditions be delegated to the Planning Manager (Development Management).

GRANT Full Planning Permission subject to the following conditions:

- 1) The development hereby permitted shall be started within 3 years from the date of this permission.

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

- 2) The development hereby approved shall be carried out in accordance with the 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:

- E78 0113-P05 Proposed Site Plan
- E78 0114-P03 Site Plan – Arboricultural
- E78 0115-P03 Site Plan - Visibility Splays
- E78 0116-P01 Demolition Plan
- E78 0117-P01 Boundary Treatment Plan
- E78 0200-P05 Apartment Block Plans
- E78 0201-P03 Apartment Elevations – sheet 1
- E78 0202-P03 Apartment Elevations – sheet 2
- E78 0204-P05 House type A-A-B
- E78 0205-P04 House Type B-A
- E78 0206-P04 House Type C
- E78 0207-P04 House Type D
- E78 7000-P01 Materials Legend
- E78 0111-P01 Location Plan

[Reason: For clarity and the avoidance of doubt.]

Construction/Design Details

- 3) Before development commences, details of the existing ground levels, proposed finished floor levels of the dwellings and the proposed finished ground levels of the site 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.

[Reason: In the interest of the character and appearance of the site and the surrounding street scene.]

- 4) Notwithstanding the submitted details, before above ground work commences, precise specifications or samples of walling and roofing materials to be used 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.

[Reason: In the interest of the character and appearance of the site and the surrounding street scene.]

- 5) Notwithstanding the submitted details, before above ground work commences on the apartment building and/or plot 3 a revised elevation drawing shall be submitted to and approved by the LPA illustrating side facing windows overlooking the connecting footpath through the site. The approved elevations shall then be implemented in full and retained as such in perpetuity.

[Reason: In the interest of increasing natural surveillance all in accordance with policy GS10 of the North East Derbyshire Local Plan, policy SDC12 of the emerging Local Plan and the Councils Successful Places Interim Planning Guidance.]

Affordable Housing/Accessibility

- 6) 100% of the housing units hereby approved shall be affordable dwellings. Notwithstanding the submitted details, before development starts a scheme for the provision of the affordable housing shall be submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in full in accordance with the approved scheme and shall meet the definition of affordable housing in the Glossary of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:

- i. Detailed breakdown of the tenure of all the units (by plot number);
- ii. The arrangements for managing the affordable housing units by the RSL;
- iii. The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- iv. 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.

[Reason: To comply with policy H6 of the North East Derbyshire Local Plan, LC2 of the emerging Local Plan and guidance contained in the National Planning Policy Framework.]

- 7) Before development commences, a scheme of 20% accessible and adaptable dwelling shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include, and not be limited to, details of which plots will be compliant, detailed floor plans, how each plot meets the requirements of M4(2) of the Building Regulations 2015 or any subsequent government standard. The approved scheme shall be implemented in full in accordance with the approved details and retained for the lifetime of the dwelling.

[Reason: In order to ensure that 20% of all dwellings on site are accessible and adaptable dwellings as to meet the requirements of M4(2) of the Building Regulations, all in accordance with policy LC4 of the Emerging Local Plan.]

Landscaping and Public Open Space

- 8) Before development commences, 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 site;
 - b) The details of any trees and hedgerows to be retained, together with measures for their protection during development;
 - c) A schedule of proposed native plant species, size and density and planting locations and
 - d) An implementation programme.

[Reason: In the interest of the character and appearance of the site and the surrounding street scene.]

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

[Reason: In the interest of the character and appearance of the site and the surrounding street scene.]

Employment

- 10) Before the development hereby approved commences, a scheme to enhance and maximise employment and training opportunities during the construction stage of the project, including a timetable for implementation, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall then be implemented in full in accordance with the approved timetable.

[Reason: In the interests of creating sustainable development in accordance with policy GS1 of the North East Derbyshire Local Plan and in the interest of the overarching aims of the Council.]

Public Art

- 11) Before the development hereby approved starts, a scheme for the provision of public art on the site including a timetable for implementation of the scheme shall be submitted to and approved in writing by the Local Planning Authority. The public art shall thereafter be completed in full in accordance with the approved scheme and timetable and shall be retained as such thereafter.

[Reason: In the interests of providing public art and in accordance with

Climate Change

- 12) The details to be submitted to and approved in writing by the Local Planning Authority as part of any reserved matters shall include a scheme for mitigating climate change through the sustainable design and construction of the dwellings including the provision of sources of renewable energy. Thereafter the approved climate change scheme shall be implemented in full and retained as such thereafter.

[Reason: In the interest of delivering sustainable development and in accordance with the North East Derbyshire Interim Sustainable Buildings Policy and the National Planning Policy Framework.]

Environmental Health

- 13) Construction works and deliveries to the site shall be undertaken only between the hours of 07:30 to 18:00 Monday to Friday and 07:30 to 13:00 on Saturday. There shall be no work undertaken on site or deliveries to the site on Sundays or public holidays.

[Reason: In the interest of highway safety and amenity of neighbouring residents.]

- 14) Before the commencement of the development hereby approved:

The site investigation strategy as identified in the Desk Study report Ref STS5056M-DS01 submitted with the application shall be undertaken by a competent person in accordance with the current UK requirements for sampling and analysis.

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.

- 15) No dwellings hereby approved shall be occupied until:

a) The approved remediation works required by Condition 14 above

have been carried out in full in compliance with the approved methodology and best practice.

b) If during the construction and/or demolition 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 contaminated land assessment (desk-study) ref STS5056M-DS01 submitted with the application and through the process described in Condition 14 above and,

c) Upon completion of the remediation works required by Condition 14 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.

[Reason c14 & 15: To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water. All in accordance with policy CSU6 of the North East Derbyshire Local Plan and emerging Local Plan policy SDC14.]

Ecology

16) The development shall be carried out in strict accordance with the Bat Method Statement (Building B1A) as set out in section 5 of the Ecological Appraisal prepared by FPCR, December 2020.

[Reason: In the interest of protecting and mitigating for nationally rare species, all in accordance with policies NE6 of the North East Derbyshire Local Plan and policy SDC4 of the Publication Draft Local Plan.]

17) No development shall take place (including ground works or vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones” to include on-site hedgerows and woodland.
- c) Practical measures (both physical measures and sensitive working

practices) to avoid or reduce impacts during construction (may be provided as a set of method statements and will include for badger, nesting birds and amphibians).

d) The location and timing of sensitive works to avoid harm to biodiversity features.

e) The times during construction when specialist ecologists need to be present on site to oversee works.

f) Responsible persons and lines of communication.

g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

[Reason: In the interest of protecting wildlife and providing a net biodiversity gain. All in the interests of policies NE3, NE6 and NE7 of the North East Derbyshire Local Plan and policies SDC2 and SDC4 of the Publication Draft Local Plan.]

18)A Landscape and Biodiversity Enhancement and Management Plan (LBEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the LBEMP is to maximise the biodiversity value of onsite habitats and should combine both the ecology and landscape disciplines. It shall be suitable to provide to the management body responsible for the site and shall include the following:

a) Details of the location of features to be retained, created, enhanced and managed including replacement hedgerow and trees.

b) Details of the location of 10 integrated swift bricks

c) Aims and objectives of management.

d) Appropriate management methods and practices to achieve aims and objectives.

e) Prescriptions for management actions.

f) Preparation of a work schedule (including a five year work plan capable of being rolled forward in perpetuity).

g) Details of the body or organization responsible for implementation of the plan.

h) Ongoing monitoring visits, targets and remedial measures when conservation aims and objectives of the plan are not being met.

i) Requirement for a statement of compliance upon completion of planting and enhancement works.

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

[Reason: In the interest of protecting wildlife and providing a net

biodiversity gain. All in the interests of policies NE3, NE6 and NE7 of the North East Derbyshire Local Plan and policies SDC2 and SDC4 of the Publication Draft Local Plan.]

- 19) Prior to building works commencing above foundation level, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats, other nocturnal wildlife and resident's safety. This should provide details of the chosen luminaires and any mitigating features such as dimmers, PIR sensors and timers. A lux contour plan shall be provided to demonstrate acceptable levels of light spill to any sensitive ecological zones/features. 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.

[Reason: In the interest of protecting wildlife and protecting residents using the site. All in the interests of policies GS10, NE3, NE6 and NE7 of the North East Derbyshire Local Plan and policies SDC2 and SDC4 of the Publication Draft Local Plan.]

Drainage

- 20) The site shall be developed with separate systems of drainage for foul and surface water on and off site.

[Reason: In the interest of satisfactory and sustainable drainage.]

- 21) 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. Ian Hilton. 21.07.2021. Ellen House, Heath Road, Chesterfield Flood Risk Assessment and Drainage Strategy. RT 30689_001 July 2021. including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team.
- b. Ian Hilton. FW: 21.07.2021. 21/00853/FL - Ellen House, Holmewood – Email Received on 02/11/2021.
- c. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015),

have been submitted to and approved in writing by the Local Planning Authority.

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

- 22) No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords

with the drainage hierarchy as set out in paragraph 80 reference ID: 7-080-20150323 of the planning practice guidance.

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

I. into the ground (infiltration);

II. to a surface water body;

III. to a surface water sewer, highway drain, or another drainage system;

IV. to a combined sewer.

And to ensure that development will be safe from flood risk including from groundwater and natural springs.]

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

[Reason: To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development.]

- 24) Prior to the installation of a surface water drainage system, a reasonable assessment should be undertaken of the existing culvert, identified to be the point of surface water discharge.

[Reason: To ensure the proposed surface water runoff can be appropriately discharged from the site.]

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

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

- 26) There shall be no piped discharge of surface water from the

development prior to the completion of surface water drainage works, details of which will have been submitted to and approved by the Local Planning Authority. If discharge to public sewer is proposed, the information shall include, but not be exclusive to:-

- a) evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical;
- b) evidence of existing positive drainage to public sewer and the current points of connection; and
- c) the means of restricting the discharge to public sewer to the existing rate less a minimum 30% reduction, based on the existing peak discharge rate during a 1 in 1 year storm event, to allow for climate change.

[Reason: To ensure that no surface water discharges take place until proper provision has been made for its disposal and in the interest of sustainable drainage.]

Highway Safety

- 27) No development, including preparatory works, shall commence until space has been provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, wheel washing facilities and parking and manoeuvring of employees and visitors vehicles, with this space laid out in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. Once implemented, the approved facilities shall be retained free from any impediment to their designated use throughout the construction period.
- 28) Prior to the first occupation of any dwelling hereby permitted, the existing access to Heath Road shall be modified in accordance with the approved plans and provided with visibility sightlines of 43m in both directions, measured to a point 1m in from the nearside edge of the carriageway, as measured from a point located centrally and 2.4m back into the access. The area within the sightlines shall thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level.
- 29) Prior to the first occupation of any dwelling hereby permitted, the existing vehicular access to Tibshelf Road shall be permanently closed off and the existing vehicular crossing reinstated as footway in accordance with the County Council's latest standard for works in the public highway. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the measures to close off the access shall be retained as approved throughout the lifetime of the development.
- 30) Prior to the first occupation of any dwelling hereby permitted, the new vehicular to Tibshelf Road shall be constructed. The access shall be provided with a minimum width of 4.8m and laid out in accordance with the approved plans and provided visibility sightlines of 43m in both

directions, measured to the nearside edge of the carriageway, as measured from a point located centrally and 2.4m back into the access. The area within the sightlines shall thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level.

- 31) Prior to the first occupation of any dwelling hereby permitted the fronting bus stop to Tibshelf Road shall be relocated in accordance with details first submitted to and approved in writing by the Local Planning Authority.
- 32) Prior to the first occupation of each dwelling hereby permitted, a bin collection/store point shall be provided as per the application drawings, adjacent to and clear of the public highway, being located clear of accesses, parking and turning provision and retained thereafter free from impediment to designated use, so bins can be stored clear of the public highway on collection day.
- 33) The premises, the subject of the application, shall not be occupied until the proposed new estate street between each respective plot and existing public highway have been laid out in accordance with the approved application drawings, or subsequent revisions agreed with the Local Planning Authority in writing, to conform to the County Council's residential design guide, constructed to binder course level, drained and lit in accordance with the County Council's specification for new housing development roads. The estate streets being fully completed with the final surface courses applied to carriageways and footways in a timescale to be agreed with the Local Planning Authority prior to the occupation of any dwelling, or other such timescale as may be agreed in writing by the Local Planning Authority.
- 34) The first 5m of the proposed access driveways shall not be surfaced with a loose material (i.e. unbound chippings or gravel etc).
- 35) The proposed driveway gradients shall be no steeper than 1:14 for the first 5m from the nearside highway boundary and 1:10 thereafter.
- 36) The dwellings the subject of the application, shall not be occupied until space has been provided within the site curtilage for parking (including cycle parking), located, designed, laid out and constructed all as agreed in writing with the Local Planning Authority and maintained throughout the life of the development free from any impediment to its designated use.
- 37) Works shall not commence on site until a scheme for the disposal of highway surface water has been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to occupation of the dwellings and retained accordingly thereafter.
- 38) There shall be no gates or other barriers located across the entire frontage of the site.

[Reasons: In the interest of highway safety, all in accordance with Policies T2 and T9 of the North East Derbyshire Local Plan and policy ID3 of the Publication Draft Local Plan.]

Informatives:

- a) DISCON
- b) NMA
- c) Provision of bins
- d) The applicant should note that Derbyshire County Council (DCC) operate the Digital Derbyshire Programme which helps provide access to high speed broadband services for residential and business users. You are encouraged to make enquiries with broadband providers in order to ensure that future occupants have access to sustainable communications infrastructure and that appropriate thought is given to the choice and availability of providers which can offer high speed data connections. Any new development should be served by a superfast broadband connection unless it can be demonstrated through consultation with the network providers that this would not be possible, practical or economically viable. More information on how to incorporate broadband services as part of the design of new development is available by following the link below: <https://www.gov.uk/government/publications/better-connected-a-practical-guide-to-utilities-for-home-builders>.
- e) No clearance of trees, hedgerow or scrub shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and details of measures to protect the nesting bird interest on the site have first been submitted to and approved in writing by the Local Planning Authority and then implemented as approved.
- f) Yorkshire Water Authority notes, as per comments uploaded 21st October 2021.
- g) Highways Informative notes, as per comments uploaded 22 October 2021.
- h) Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance.

If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent's Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays.

If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection measures are required.

All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to.

Email: plantprotection@cadentgas.com Tel: 0800 688 588

- i) LLFA Advisory/Informative Notes. As per letter dated 2 November 2021.

PLA/ NED/21/01005/FL - WESSINGTON

43/2

1-22

The report to Committee explained that an Application had been submitted for the construction of an open sided timber gazebo measuring 6m long by 4m wide by 3.5m high at Amber Valley Wines, Back Lane, Wessington.

In line with normal practice, the application had been referred to the Committee as the applicant was an elected Member of North East Derbyshire District Council.

Committee was recommended to approve the application in line with officer recommendations and subject to the conditions set out in the report.

The report to Committee explained why Members were asked to approve the application. Officers had concluded that it would be an appropriate design and not cause significant harm to the character of the landscape or to the surrounding countryside.

Committee was informed that no representations had been made on the application and that no one had registered to speak on it.

Committee considered and discussed the Application. It took into account the Principle of Development. It considered whether the timber framed Gazebo would serve an appropriate purpose for this countryside location. Members also reflected on what impact the construction might have on the landscape.

At the conclusion of the discussion Councillor P Elliot and Councillor W Armitage moved and seconded a motion to approve the Application in line with officer recommendations. The motion was put to the vote and was approved.

RESOLVED -

- (a) That planning permission be conditionally approved in accordance with officer recommendations.
- (b) That the final wording of the conditions be delegated to the Planning Manager (Development Management).

GRANT Full Planning Permission subject to the following conditions:

Conditions

- 1) The development hereby permitted shall be started within 3 years from the date of this permission.

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

- 2) The development hereby approved shall be carried out in accordance with the submitted plans, unless otherwise subsequently agreed through a formal submission under the Non-Material Amendment procedures.

[Reason: For clarity and the avoidance of doubt.]

- 3) The building hereby approved shall be used for ancillary purposes linked to the winery use of the site and for no other purpose.

[Reason: In the interest of the character and appearance of the site and the surrounding countryside, and highway safety.]

- 4) The structure hereby permitted shall be removed from the site within 3 months of it ceasing to be used for the purposes linked to the winery, and, within 6 months of the removal of the structure, the land shall be restored in accordance with a scheme of works that shall have been first submitted to and approved in writing by the Local Planning Authority.

PLA/ Planning Appeals - Lodged and Determined

44/2

1-22

The report to Committee informed Members that two appeals had been lodged. One appeal had been allowed. No appeals had been dismissed or withdrawn.

PLA/ Matters of Urgency

45/2

1-22

None

PARISH Unstone Parish

APPLICATION Change of use of amenity land to parking spaces at various locations in Apperknowle
LOCATION Sharman Close, Apperknowle
APPLICANT Rykneld Homes, Pioneer House, Mill Lane, Wingerworth, Chesterfield
APPLICATION NO. 20/01013/FL
CASE OFFICER Mr Colin Wilson
DATE RECEIVED 20th October 2020

REFERRED TO COMMITTEE

REASON: In accordance with the Council's Scheme of Delegation, applications submitted by the Local Authority (in this case Rykneld Homes) require a committee determination in instances where objections are received, as here.

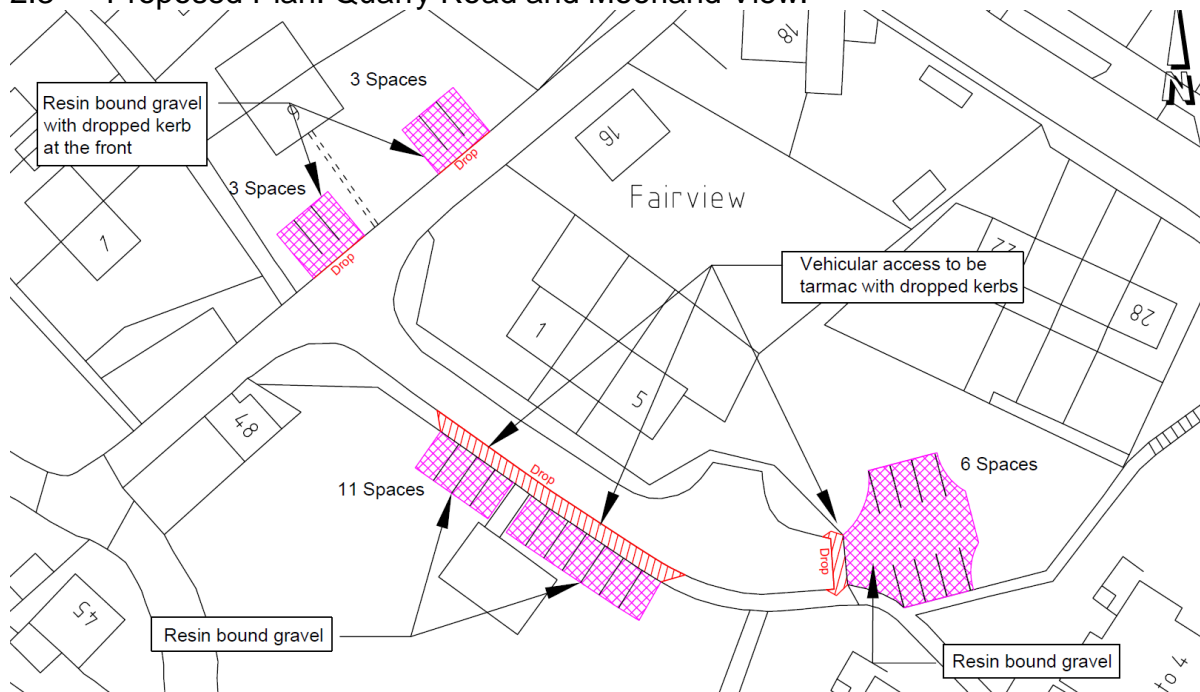
1.0 SITE DESCRIPTION

- 1.1 The application site comprises a variety of locations within the village of Apperknowle. The site includes land situated on land adjacent to various roads within the village, these being New Road, Sharman Close, Moorland View and Quarry Road.
- 1.2 The land forming the sites of this application comprise a variety of verges and amenity land situated within the defined Settlement Development Limits for Apperknowle.
- 1.3 The locations forming the application are all situated within a Development High Risk Area for coal mining legacy.

2.0 PROPOSAL

- 2.1 Full planning permission is sought for the change of use of amenity land to parking spaces at various locations in Apperknowle. The sites identified would result in the creation of 40 off-street parking spaces for the use of residents and visitors to the area. The identified sites (which are listed below) would be surfaced with a permeable resin bond material:
 - Land on the north western side of Quarry Hill (6 spaces).
 - Land on the southern side of Moorland View (11 spaces).
 - Land at the eastern end of Moorland View (6 spaces).
 - Land to west Sharman Close (8 spaces).
 - Land to the west of New Road (9 spaces).
- 2.2 All the parking spaces would be served by dropped kerbs, where applicable.

2.3 Proposed Plan: Quarry Road and Moorland View:



2.4 Proposed Plan: Sharman Close and New Road:



2.1 AMENDMENTS

3.1 The development proposals have been amended throughout the processing of the application. The main revisions to the proposal can be summarised as:

- Amendment of layout and addition of 5 spaces at the verge on the northern side of New Road.
- Omission of 4 parking spaces on the southern side of Quarry Road.

The amendments were made in relation to highway safety concerns identified in the Derbyshire County Council Highways Officers consultation comments (dated 25.11.2020).

- 3.2 For clarity and the avoidance of doubt, the application has been assessed on the basis of the following amended drawings: Amended drawing number P-LOC-SN-DET-W-REVA (uploaded to the Council's website on 21.10.21) and Amended drawing number AP-LOC-SN-DET-W-REVA (uploaded to the Council's website on 26.10.2021).

4.0 PLANNING HISTORY

- 4.1 There is no relevant planning history relating to the locations of the proposed parking provision.

5.0 PLANNING POLICY CONSIDERATIONS

North East Derbyshire District Local Plan 2014-2034

- 5.1 The new Local Plan was adopted on 29.11.2021. The most relevant policies in respect of determining this application are as follows:

- SS1 Sustainable Development
- SS7 Development on Unallocated Land within Settlement with defined Settlement Development Limits
- SDC11 Flood Risk and Drainage
- ID3 Sustainable Travel
- ID4 New Social Infrastructure

National Planning Policy Framework

- 5.2 The overarching aims of the National Planning Policy Framework (NPPF) are also material in the assessment of this application and have been taken into account.

6.0 PUBLICITY, CONSULTATIONS AND REPRESENTATIONS

- 6.1 The application was publicised by way of neighbour letters and the display of a site notice – 5 letters of representation were received and can be summarised as follows:

- The proposed parking provision is disproportionate to the need and will encroach on green spaces and residential gardens within the village.
- It does not appear that an official survey has been undertaken to support the proposals in an evidence based format.
- Concerns that a holly bush in close proximity to 8 Sharman Close would be removed to facilitate the proposed parking spaces. The removal of the holly in question would have a negative impact in biodiversity terms, as it is a haven local and migratory birds. Officer Note: The applicant has stated in the submitted details that no trees would be affected under the proposed development.
- Supporting comments based on the need for additional parking on Moorland View.

- 6.2 The **Ward Member** and **Parish Council** were consulted on the application:

- The **Ward Member** raised no comments.

- The **Parish Council** advised that they have no comments to make regarding the proposals.

6.3 **Derbyshire County Council Highways Officers** were consulted on the application, raising comments. See Assessment below for details.

6.4 **The Coal Authority** were consulted on the application – no comments were received.

6.5 **Yorkshire Water** were consulted on the application – no comments were received.

7.0 PLANNING CONSIDERATIONS

7.1 The main considerations for this application are the suitability of the proposal in this location in policy terms, its effect on the character of the sites and the surrounding area, residential amenity considerations and highway safety issues.

8.0 PLANNING ASSESSMENT

Principal of Development

8.1 The application site is situated within the defined Settlement Development Limits for Apperknowle where the principle of development is acceptable. Policy SS7 of the Local Plan (LP) relates to development on unallocated land within settlements with defined Settlement Development Limits and is therefore relevant. The Policy states that all development proposals on sites within Settlement Development Limits that are not allocated in the Local Plan or in a Neighbourhood Plan, will be permitted, provided that the proposed development: (a) is appropriate in scale, design and location to the character and function of the settlement; and (b) does not result in the loss of a valued facility or service unless it can be demonstrated that it is no longer viable, or is not the subject of a Community Right to Bid, and (c) is compatible with and does not prejudice any intended use of adjacent sites and land uses; and (d) accords with other policies of the Plan.

8.2 In this instance, Officers are of the view that the proposed parking provision would not result in any significant detrimental impacts to the character and appearance of the respective sites and the surrounding environment. Whilst the proposals would result in the loss of grassed amenity land, it is not considered that the creation of the parking provision would result in the loss of amenity space of a high value. Ultimately, Officers are of the view that the loss of the amenity space earmarked for the parking spaces would not result in any unacceptable impacts to the function, or character of the village and that ample amenity space would be retained within the vicinity of the sites.

8.3 Moreover, it is not considered that any of the proposed parking spaces would have any unduly harmful impact from a residential amenity perspective. Some of the proposed parking spaces would be positioned within relatively close proximity of existing residential properties, particularly at Quarry Road. That being said, it is not considered that the anticipated vehicular movements would give rise to any unacceptable impacts to the amenity levels currently enjoyed by the occupiers of properties adjacent to the sites of the proposed parking spaces due to the limited number of vehicle movements that would

ensue and the simple nature of such movements on to and off the adjoining highway.

- 8.4 Given the topography of a number of the sites of the proposed parking spaces, it is anticipated that some engineering operations, specifically alterations of the existing land levels, would be required. In the absence of such detailed information in the submission, Officers are of the view that conditions requiring details of the site levels, any proposed boundary treatments, and precise materials of construction would be required should planning permission be granted (see recommended conditions in the Recommendation section of this report below) to enable control over those elements to be retained.

Highway Safety Consideration

- 8.5 Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 8.6 Derbyshire County Council Highways Officers were consulted on the application, initially raising specific concerns relating to the proposed parking spaces at New Road and those earmarked for the southern side of Quarry Road. Subsequently, the application has been amended by way of revisions to the layout and number of spaces at New Road, and the omission of the four parking spaces initially proposed at the southern side of Quarry Road. It is understood that the amended scheme has been revised following discussions between the applicant and Derbyshire County Council (DCC) Highways Officers.
- 8.7 Accordingly, DCC were reconsulted on the amended details. However, at the time of writing this report, updated consultation comments have not been received. Given their input in the revised parking layout for New Road and Quarry Road, it is not anticipated that any further DCC objections will be raised to the scheme from a highway safety perspective. Any subsequently received DCC Highways comments will be communicated to Members in due course, either as late representations, or by Officers at the Committee meeting.
- 8.8 Based on the above considerations, it is considered that the proposed development would not result any unacceptable impacts on highway safety in the locality.

Conclusion

- 8.9 In conclusion, it is considered that the proposals would not impact harmfully the character of the area, the amenity of neighbouring residential properties of highway safety.
- 8.10 As such, it is concluded the application accords with the policies of the Development Plan and there are no other considerations that outweigh that conclusion. Accordingly, it is recommended that planning consent is granted.

RECOMMENDATION

9.0 Recommendation

GRANT permission subject to the following conditions:

- 1 The development hereby permitted shall be started within 3 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: Amended Drawing Number P-LOC-SN-DET-W-REVA (uploaded to the Council's website on 21.10.21) and Amended Drawing Number AP-LOC-SN-DET-W-REVA (uploaded to the Council's website on 26.10.2021).
- 3 Before above ground works start, a plan to show the positions, design, materials, height and type of any boundary treatments to be erected shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be completed before first use of the parking spaces hereby approved and shall be retained as approved thereafter.
- 4 Before above ground works start, details of the existing ground levels, proposed finished levels of the proposed parking spaces, and the proposed finished ground levels adjacent to the parking spaces, 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.
- 5 Before above ground works start, precise specifications or samples of the surfacing materials to be used 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.

PLANNING COMMITTEE – 14 December 2021

REFERENCE NUMBER: 21/00627/FL Application Expiry Date: 09 August 2021
Application Type: Full Planning Permission

Proposal Description: Variation of condition 2 (approved plans) of NED/20/00221/FL to allow for changes to the road alignment and plot positions (Major Development)

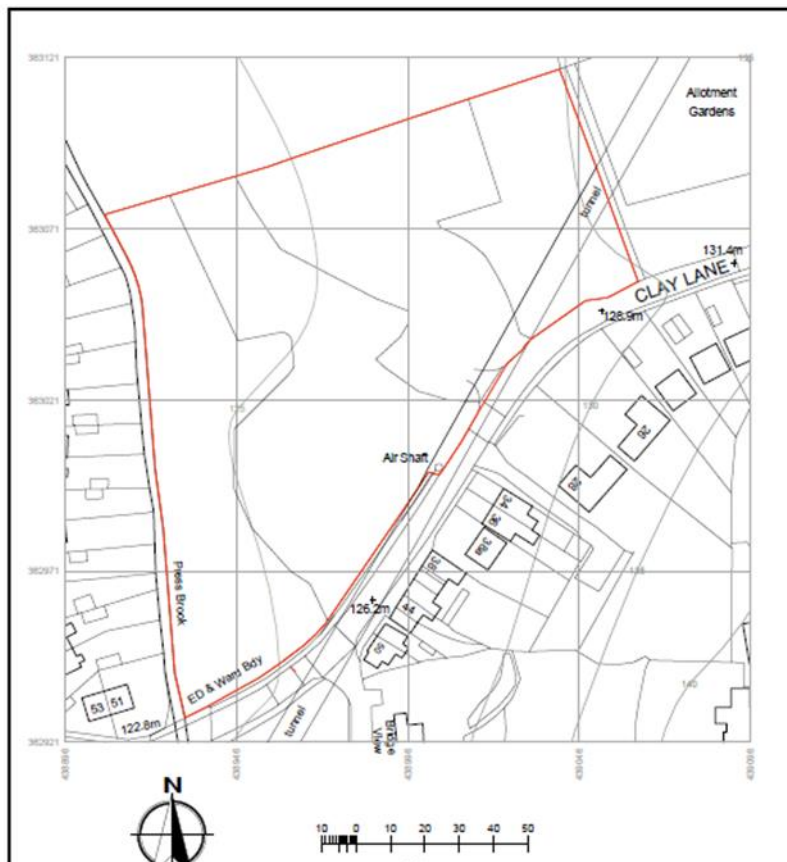
At: Land opposite 24 to 44 Clay Lane, Clay Cross

For: Woodall Homes

Third Party Reps: 16 **Parish:** Clay Cross Parish Council
Ward Name: Clay Cross North Ward

Author of Report: Phil Slater **Date of Report:** 24 November 2021

MAIN RECOMMENDATION: GRANT (subject to S.106 agreement)



1.0 Reason for Report

- 1.1 Councillor Shipman has requested that this application be determined by Planning Committee so the Planning Committee is able to scrutinise the proposal to change the layout. Officers are also of the opinion that the intense public interest in this application warrants Committee consideration before it is determined.
- 1.2 The Planning Committee is required to determine the application.

2.0 Proposal and Background

- 2.1 The application site is a 1.54 ha parcel of land to the north of Clay Lane, Clay Cross. The site is bound by Press Brook (also known as Smithy Brook) to the west and Clay Lane to the south (both with residential development beyond), with a public footpath running just outside the eastern boundary of the site. The trees along the bank of the Press Brook are subject to a Tree Preservation Order.



Figure 1: aerial photo of the site

- 2.2 The site benefits from an extant permission for residential development of 34 dwellings with associated infrastructure granted under NED/20/00221/FL. Relevant pre-commencement conditions have been discharged and a lawful start has been made to the development.
- 2.3 This application seeks a minor material amendment to the approved plans condition of the approved application under section 73 of the Town and Country Planning Act 1990. A Section 73 application cannot be used to change the description of the development. There is no statutory definition of 'minor material amendment' but it can include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.
- 2.4 This application seeks minor changes to the road alignment and plot positions due to the line of the existing sewer varying from the asset plans. This impacts on the internal road layout and plot locations in the north west sector of the site. The proposed changes are shown below.



Figure 2: Plan showing revised plot and road alignment overlaid onto the approved layout. (approved layout is in red)



Figure 3: Proposed S73 Layout (approved layout is in red)

2.5 As with the extant permission the application site is predominantly located in Flood Zone 1, with a very small section of the site at the western boundary shown to fall within Flood Zone 2 and 3. All built environment would be set back from the brook and within Flood Zone 1. The existing residential properties and their gardens which bound the brook to the west are situated in Flood Zones 2 and 3.

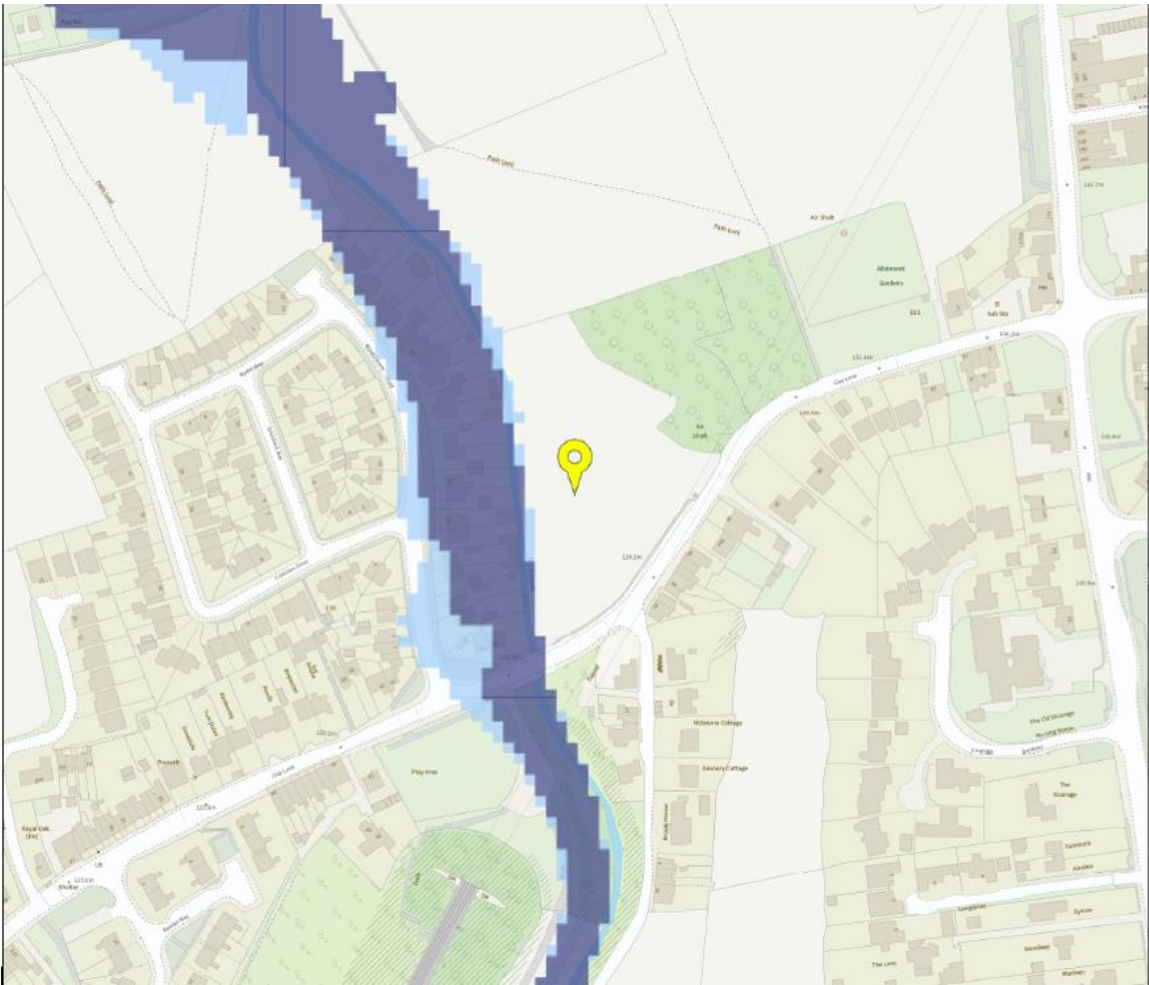


Figure 4: Extract from EA website showing Flood zones 2 and 3

2.6 The submitted site levels for the submitted S73 application are consistent with the approved scheme which proposes an increase in levels of around 2m in the north west corner of the site with a 1 in 3 bank down to the brook.

Amendments

2.7 Following discussions between officers, the LLFA, Members and the MP the applicant has submitted some additional details to address concerns relating to surface water flooding as below. These entail the introduction of a relief tank into the site.

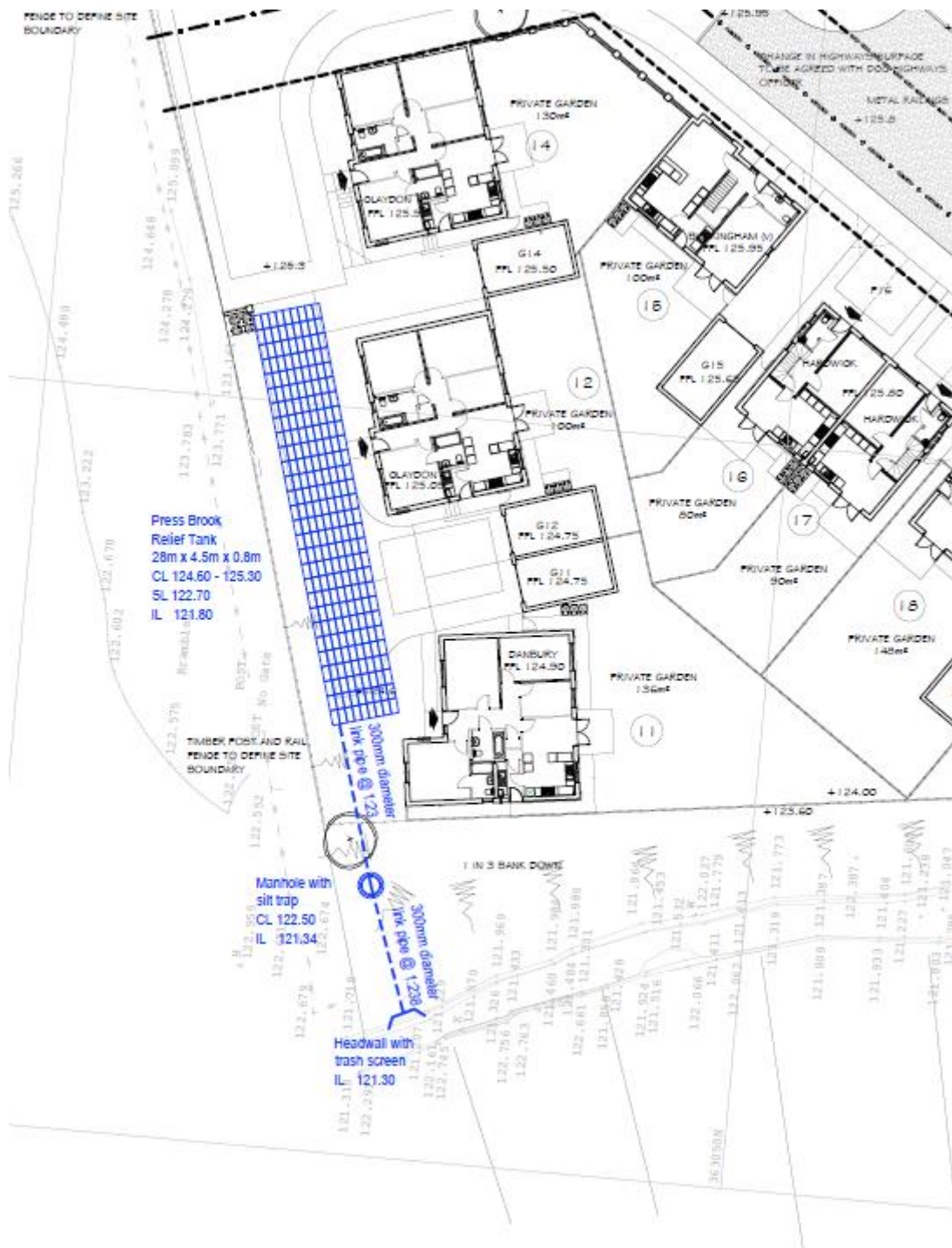


Figure 5: press brook relief tank.

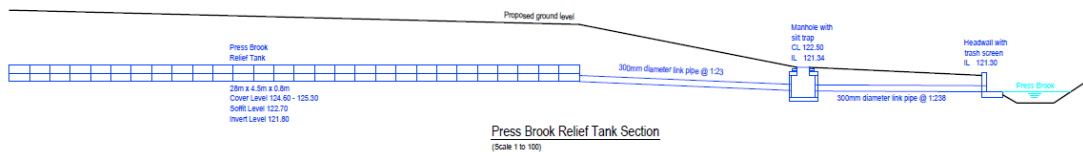


Figure 6: Relief tank section

2.8 There have been some minor amendments to the layout made with respect to the orientation of plots 21 to 24. The garden and orientation of plot 19 has been amended to bring it in line with the Council’s Design Guidance and the detached garage set back from the boundary fencing. Updated landscaping drawings and boundary treatment plans have also been submitted.



Figure 6: Revised site layout plan

3.0 Relevant Planning History

3.1 NED/20/00221/FL - Residential Development of 34 dwellings with associated infrastructure (Major Development/Departure from Development Plan) (Amended Title/Amended Plans) at land opposite 24 to 44 Clay Lane. Conditionally approved subject to a S106 agreement.

- 3.2 NED/21/00659/DISCON - Discharge of Conditions 3, 5, 7, 10, 13, 14, 16, 17, 18, 19, 20, 21, 23, 26, 29, 31, 32, 34, 36, 37, 39 and 42 Pursuant to Planning Application 20/00221/FL. Conditions approved.
- 3.3 NED/21/00829/DISCON - Application to discharge Condition 23 (Remediation Strategy) and Condition 29 (Mining Survey/ Phase 2 Report) pursuant to planning application 20/00221/FL. Conditions approved.

4.0 Consultation Responses

- 4.1 The **Parish Council** have commented that in addition to the Parish Council's original objections to NED/20/00221/FL, they now have concerns regarding the developer abiding by the conditions set – for example, drainage, wildlife habitat, archaeological level issues.
- 4.2 The **County Highway Authority (HA)** initially commented that the revised internal layout is generally considered acceptable. However, there were a few issues raised.
- 4.3 Following receipt of further information, dated 14th July 2021, the HA commented that:-
- The garage set-back distance for Plot 31 does not appear to have been revised, with the setback distance still measuring approximately 5.8m. Either the garage should be set back in order to provide a 6.5m gap between the rear of the highway boundary and the garage door, or a 'roller-shutter' door should be used.
 - The submitted swept path analysis plan (ref: 600183-HEX-00-00-DR-C-9522 P02) shows manoeuvres for a refuse vehicle with an overall length of 10.52m and it is recommended that the Street Scene Services be consulted and it be confirmed that they are satisfied regarding the internal geometry of the estate roads. [*The RCV is of the similar dimensions to those used by NEDDC*]
- 4.4 Provided that the Local Planning Authority are satisfied that a satisfactory layout can be controlled by conditions, there are no highway objections to the proposal from the highway point of view, subject to conditions being included in any consent granted in the interests of highway safety.
- 4.5 The applicant has confirmed that the garage to plot 31 will have a roller shutter door.
- 4.6 The **Derbyshire County Council Flood Team (LLFA)** as Lead Local Flood Authority initially objected to the proposals as they advised it was

not possible to provide an informed comment until such a time that the applicant had submitted further information and as follows:

1. It has been brought to the LLFA's attention that the north west sector of the development (plots 11-19) is lower or level with the west bank whereas it was stated as part of the planning application that the east bank was significantly higher than the west bank. Therefore, if the north west sector of the site is level with, or lower than the west bank it is not unreasonable to expect it to be in flood zone 3 as is the case for the opposite properties along Windermere Road. If the north west sector of the site is level with, or lower than the west bank, any increase in ground levels in the north west section of the site will displace more water onto properties on the west bank during a rainfall return period that results in a flood zone 3 event, increasing flood risk off site. The LLFA require a more detailed topographical survey to be carried out along the entire west bank of Press Brook to accurately document differences in levels. If parts of the development site are found to be level with, or lower than the west bank further work needs to be undertaken to demonstrate no increase in flood risk off site as per the National Planning Policy Framework (NPPF).
2. The LLFA requires a hydraulic model of Press Brook along the west of the development to validate the true extent of the flood zones, in particular to the north west section of the site in its current condition. This will allow the developer to demonstrate empirically they are adhering to NPPF and not increasing the flood risk elsewhere.

4.7 The applicant submitted the following documents in response:-
Open Channel Conveyance Capacity Assessment
Press Brook Relief Tank Assessment
Press Brook Relief Tank Design

4.8 The LLFA further commented that the developer has provided the LLFA with an updated hydraulic assessment of the watercourse (Press Brook), based upon actual levels the LLFA had obtained. The updated model provided, indicates that the eastern bank (NW corner) of the watercourse overtops in less than a 1 in 100 year event, which would effectively place part of the site within Flood Zone 3.

4.9 To ensure that the flood risk is not increased to either existing residents or the new properties, the LLFA wanted to know what the potential flood levels and flood extents are within the development (over a range of return periods and durations), given that the updated hydraulic assessment now indicates that the watercourse overtops. The LLFA advised that through detailed hydraulic modelling of the watercourse, once a more accurate extent of flooding has been determined, a more accurate assessment can be made as to how much, or if flood compensation is required. Unfortunately, the current submitted hydraulic assessment and flood

- compensation proposals were not considered satisfactory enough by the LLFA to give sufficient confidence to the LLFA that the flood risk isn't increased and that any compensation offered is also sufficient.
- 4.10 If any further detailed hydraulic modelling indicates that flood compensation is required, guidelines set out in CIRIA C624 and by the Environment Agency need to be adhered to, for any flood compensation design. Furthermore, In light of the latest hydraulic assessment, will the outfall of the surface water drainage system have sufficient freeboard to drain the site safely when the river level is high on certain storm events.
- 4.11 The LLFA have further commented that with regards to the current application they are satisfied that the proposed works under this application has **no increase of impact when compared to the approved application, either on the management of surface water for the development, and no increase in the flood risk both on and off site.**
- 4.12 The LLFA fully acknowledge the position North East Derbyshire District Council are in, in respect of the Section 73 application, and that any issues/concerns not directly connected to this application, can't be taken into consideration. However, given the information which came to light at the time of the Section 73 consultation, from initial anecdotal evidence from residents and the further hydraulic assessment undertaken by the Developer, the LLFA feel that they must express continued concerns.
- 4.13 The LLFA still have concerns in relation to the flood risk from the Press Brook watercourse. Additionally, the hydraulic assessment undertaken by the developer on the Press Brook highlights the need for a more detailed hydraulic model to ensure that the flood risk isn't increased to either existing or new properties. The LLFA have further concerns in relation to the surface water outfall from the proposed site, being surcharged which would impact upon the effectiveness of the surface water drainage system on site, and would therefore request that further information is provided in order to allay concerns. The LLFA accept that the Developer is in no way obliged to provide the information that the LLFA have requested, as part of the current application, but would strongly encourage them to do so, in the interests of ensuring all properties are not at risk from flooding.
- 4.14 **NEDDC Engineers** have not commented.
- 4.15 The **Derbyshire Wildlife Trust (DWT)** have commented that in terms of the impacts to the buffer zone along Press Brook, there does not appear to a significant change to the width or alignment of the buffer between this layout or that previously approved. The layout of the houses immediately east of the buffer has been altered so that there are fewer, larger gardens adjacent to the buffer. This may be more beneficial in terms of less noise and disturbance to the Brook habitats and species that use them.

- 4.16 The Trust still do not consider that the buffer zone complies with previous advice, as it appears to be measured from the channel (and possibly the western edge of the channel) when DWT advice has consistently recommended it should be measured from the bank top. The nature of a buffer zone is to 'buffer' impacts to Press Brook and the species that use it, therefore the buffer zone should not include the Brook corridor itself.
- 4.17 The agent has submitted a revised site plan which provides for a greater depth of buffer in the south west corner of the site and planting that is consistent with the approved scheme NED/20/00221/FL. DWT have confirmed that they have no further comments to make.
- 4.18 The **Council's Environmental Health Officer** has no further comments to make apart from the conditions initially recommended in the response to the application 20/00221/FL.
- 4.19 **Severn Trent Water** have not commented.
- 4.20 **Police Designing Out Crime Officer** has no objection or comments regarding the amended layout, but noticed that a footpath link to the side of plot 21 onto Clay Lane is now annotated on the site plan resubmission, whereas it was not within the approved plans. The Officer has a note of caution regarding this link and questions the rationale for its inclusion when considering the risks it brings.
- 4.21 **Derbyshire County Council Community Infrastructure** has no comments to make.
- 4.22 **NEDDC Housing Officer** has not commented.
- 4.23 **Network Rail** has no objection to the variation of the condition.
- 4.24 **NEDDC Parks Officers** have not commented.
- 4.25 **NEDDC Streetscene** have not raised an objection and have 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 developers.
- 4.26 **Coal Authority** have no objections to the amended plans however should the LPA approve this variation of condition application, it requests that Condition 29 and 30 of approved consent: NED/20/00221/FL are included within the Decision Notice.
- 4.27 The **Environment Agency (EA)** has not raised an objection and has commented that this is a difficult site as the actual application site lies

- mainly within flood zone 1 with a very small section of the site at the western boundary shown to fall within FZ 2 and 3. All built environment will be set back within flood zone 1.
- 4.28 It would appear that the applicant has sought to offset the loss of floodplain, which is based on anecdotal evidence from local residents at present. That being said the flood map for planning is a large strategic model and if there is concern that the flood zones are incorrect then the local residents can submit a flood map challenge. EA point out that the Smithy Brook is not a main river and therefore the EA do not hold hydraulic modelling data for this watercourse.
- 4.29 The management and maintenance of this watercourse falls under the remit of the Lead Local Flood Authority (LLFA). They may hold hydraulic modelling of this watercourse so they should be contacted for comment.
- 4.30 The EA are unsure on the potential impact from surface water flooding which again falls under the remit of the LLFA. This may be what the residents observe during heavy rainfall events and may not be due to overtopping of the river bank. Ultimately without the benefit of hydraulic modelling this is impossible to ascertain. If a flood map challenge was undertaken then this watercourse would need to be modelled at the customers own cost. I appreciate this is a very difficult site to determine but there is not much more EA can supply in terms of comments within the constraints of the NPPF.
- 4.31 The **Ramblers Association** have no objections
- 4.32 The DCC Archaeologist has commented that the site is undergoing archaeological investigation currently and an interim report on this project is awaited, before advising further on any additional recording that may be necessary. Future development layout will not be relevant to the archaeological mitigation here however, and DCC would not wish to comment further on this application.

5.0 Representations

- 5.1 **Cllr Shipman** does not believe the developer has carried out the proper assessments before the first application.
- 5.2 Cllr Shipman objects to the application for the following reasons:-
- At the time when the first application was approved, I raised at the time that there were real flooding concerns about this piece of land.
 - DCC flooding dept. only ever did a desktop assessment of the area and I understand they have subsequently been out and looked at the site, and now do have concerns.

- DWT also inform me that they are not happy about the new layout of the site.
- This development if it is to go ahead needs reducing much further than has been proposed, and the affordable housing part of the site should not be reduced to allow this.

5.3 16 objections have been received which can be summarized as follows:-

Flooding issues

- Previously submitted video footage and photographs clearly show the north west corner of the field flooded to a fair extent and the new plans show that the section of field that used to be allowed to flood is to be raised by approximately 2m. [*Officer note: the levels are consistent with the approved application 20/00221/FL*]
- The brook may not be able to cope during periods of heavy rain and as the developers aim to raise the east side of the stream then the existing houses on Windermere Road would almost certainly be subject to flooding.
- strongly oppose this planning application until it can be proven by someone who has actually visited the site in person that our houses will be protected from flooding by any works carried out by the developers
- Object on the grounds of flood risk. The ground where the road is proposed already floods after even a moderate amount of rain. The river rises also and would have nowhere to soak away to other than further into residents gardens.
- Object to the developer building in the northwest corner of the plot, the local flood team has identified that the northwest corner is lower than the land on Windermere Road. The developer has not given a geological survey of the west bank which will prove the land is lower. The developer is planning to raise the land by 2 metres minimum, and this will divert flood water to our neighbouring properties, which is against the riparian land ownership.
- The north west corner already acts as a floodplain in heavy rain, which prevents Windermere Road from flooding.
- Following flooding to properties on Windermere Road in 1982, substantial works were undertaken to the Brook and the development site, to prevent reoccurrence. This included straightening the Brook, strengthening the banks and ensuring the field at the far side, especially the north west corner, were lower than the properties on Windermere Road, to act as a flood plain.
- Strongly object to any part of the land being increased further on the west side & the north west side of the development site [*officer note: the levels are not being increased over those already granted planning permission.*]
- All the land adjoining Press Brook is in Flood Zone 2 and 3.

- Surface water tank into the ground (supervised by an ecologist?) which will have a runoff into Press Brook watercourse area, (could an alternative route been found) instead of the runoff being placed behind the properties of Windermere Road, which will affect further flood risk in a flood zone 2/3 area.
- When they put in place the runoff pipe, they will uproot established trees (T.P.O) & vegetation.
- DCC Flood Team have not been to the site, as an empty field is a Covid risk. Their flood assessment was desk based and from flawed data. The site needs an independent DCC led, up to date, flood risk. Everyone who has connections to the area say it floods, there are images of it flooded submitted and yet more extreme flooding events due to global warming
- Resident has have forwarded correspondence from the EA stating that there should be a topo geological hydraulic survey to prove the height of the land and question if it should also be listed as flood zone 3. [*Officer note: the correspondence was to the resident from the EA as a response to an FOI request. The EA has not requested that any additional surveys be carried out as part of this or the original application*].
- Reference to the NPPF and questions as to why planning have allowed Woodall Homes planning permission to raise land and build on it, when it is a floodplain

Comments in relation to the proposed tank

- Object to the planning application due the response from Simon Bond regarding the information given by the LLFA. Simon states in his reply that after re-running the calculations based on the survey result he now agrees that there will be flooding that will overtop the bank into their proposed tank. However he states that the 1 in 100 year event would result in a water level height of 1.156m. Residents have previously submitted both video and photographic evidence showing the brook with a water level height of 1.26m.
- It has been proved by a survey that the land is lower, and should be registered as flood zone 3.
- The land has now been raised and we are now at risk of flooding in heavy rain from the diversion of the floodplain. Strongly object to a tank which should not even be considered and the land returned to its original state. The tank they propose will not take the volume of water which the floodplain takes when you look at the area of the floodplain and the dimensions of the tank, that it will fill within minutes and flood water will then make its way towards Windermere Road.

Ecology

- The wildlife buffer zone is being encroached. The Derbyshire Wildlife Trust stated that the wildlife buffer should be 10 metres from the top of

the brook bank. The developer has measured the buffer from the middle of the brook which is within the boundaries of the properties of Windermere Road

- The developer does not own the brook and should take the measurement from the bankside as stated by DWT. Encroaching this also is an ecological concern in respect to the brook, otters, water voles, trout, kingfishers, etc.
- Object in relation to ecological reasons, the orchard on site which has supported a vast array of wildlife has already been removed, with the remaining trees, which are currently under a Tree Protection Order at risk, due to the developers plans in relation to the boundary of the site encroaching on the wildlife buffer zone of 10 metres from the boundary being brought into question.
- The hedgerow which should have been left, the southwestern corner has been cut back to provide a better view of the massive advertising hoardings for the building plot
- The site construction compound set up and the entrance road in place on the west side of the site is in close proximity to the wildlife buffer & otter mitigation section. Heavy duty machinery is causing disturbance for the wildlife
- Request that the legal measurements for the orchard be checked & clarified, Also the measurements for the wildlife buffer be checked & clarified because we object to the developers uprooting /destroying part of the Orchard & taking their measurements for the wildlife buffer from within the Press Brook watercourse.

Highways

- Amended drawing states that there is no visitor parking for the "affordable homes" As these properties back on to Clay Lane it means that people will use the Lane for overflow parking, an area where on street parking is already at a premium.
- There is no footpath included up the northern side of Clay Lane up to the A61, the road junction is too narrow at that point for a footpath on both sides of the carriageway or the safe passage of cyclists. There is no crossing point at that junction or lower on Clay Lane. It is too narrow for the existing traffic. This estate will exacerbate the existing traffic problems, if it goes ahead for the 35 houses planned. [officer note - the amendments do not propose any changes to the approved access]
- There are insufficient parking places for the likely cars within the plot
- As there is pedestrian access onto Clay Lane from the western edge of the site, it is highly likely that residents being unable or not bothering to park near their houses will park there instead.

Amenity

- In relation to the trees lining Press Brook, any removal of the established trees will be an invasion of privacy as the site stands on a

higher elevation. This is also concerning regarding the 'Dead Head' turning point, which in darkness will see headlights from turning vehicles illuminating the rear of properties.

- Moving the new buildings around will enable more properties to overlook those on Windermere Road, having immense impact on the privacy for the existing residents on Windermere Road.

Other matters

- Housing will overwhelm school and medical places
- The development will cause disruption to an already congested A61
- The Council has seen fit to say that this land was suitable for 25 houses, but this is for 35 and does not meet the Council's own requirements for space [Officer note: the development is for 34 units and this is unchanged in the current application]
- The contractors are already working on this plot of land, before planning permission is granted.
- The contractors have created a gated entrance for road traffic at the southwestern edge of the proposed building estate
- If the Council went back to their original concept of the land being suitable for 25 houses, there would be sufficient land for the houses to be built away from any land which will require raising, to prevent flooding to them and flood existing housing instead
- Alleged that the developer gave false information about the level of the land in the northwest corner stating it was higher than Windermere Road
- Residents have shown to the LLFA that the land in the north west corner is lower than Windermere Road
- The road is limited to 7.5 tonnes, except for access. So is the bridge at risk of damage so the builders can fill their land with building supplies.
- There is now a substantial quantity of building materials stored in the area of the plot that according to the wildlife reports should be the wildlife buffer.
- Residents of Windermere Road undertook a survey of the levels in the north west corner of the site from the west side of the herras fencing and the results are submitted. The readings taken show that the embankment on the eastern bank of Press Brook was originally lower than the west bank with the exception of the bank behind house number 22 which was 1cm higher which is negligible. However the readings of the new elevated levels taken on the 28th August show a significant rise in levels.

6.0 Relevant Policy and Strategic Context

- 6.1 The Development Plan currently comprises the **North East Derbyshire Local Plan**.

The policies most relevant to this development are as follows:

SS1 – Sustainable Development

SS2 – Spatial Strategy and Distribution of Development

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

- 6.2 The National Planning Policy Framework is also 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.

7.0 Planning Issues

- 7.1 This application seeks consent for a minor material amendment to the approved plans condition applied to application NED/21/00221/FL under section 73 of the Town and Country Planning Act 1990. A Section 73 application cannot be used to otherwise change the description of the development. There is no statutory definition of what constitutes a 'minor material amendment' but it can include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved. Officers are of the view that what is sought by this application can be considered a minor material amendment to the approved scheme of works.
- 7.2 The site benefits from an extant permission for residential development of 34 dwellings (NED/20/00221/FL refers). Relevant pre-commencement conditions have been discharged and a lawful start has been made to the development. It is therefore extant.

- 7.3 This application seeks minor changes to the road alignment and plot positions due to the line of the existing sewer varying from the asset plans. This impacts on the internal road layout and plot locations in the north west sector of the site only.
- 7.4 Following discussions between officers, the LLFA, Members and the MP the applicant has submitted some additional details to address concerns relating to surface water flooding which include the provision of an underground relief tank in the north west corner of the site. If consent is granted that will be implemented as submitted.
- 7.5 There have been some minor amendments made to the layout with respect to the orientation of plots 21 to 24. The garden and orientation of plot 19 has been amended to bring it in line with the Council's Design Guidance and the detached garage set back from the boundary fencing. Updated landscaping drawings and boundary treatment plans have also been submitted.
- 7.6 The plots that the s73 application relate to are plots 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26.

Principle of Development

- 7.7 The site benefits from an extant permission that is currently being implemented and within the newly adopted Local Plan (LP) the application site is identified as a housing allocation (CC2) for approximately 25 dwellings. The settlement development limits for Clay Cross are redrawn to include this site.
- 7.8 As this is an application for a minor material amendment that does not seek to change the description of the development the principle of the development is acceptable and has been previously consented.

Design and Layout

- 7.9 The proposed plot types are the same as approved under the original application and the proposed finished floor levels (FFL) and proposed finished ground levels of the site are also very similar to those approved under 20/00221/FL.
- 7.10 The bungalow at Plot 11 in the north west corner of the site is now proposed to be set back 1m from the proposed boundary fence line (which is unchanged) and would have the same finished floor level (FFL) (see below).

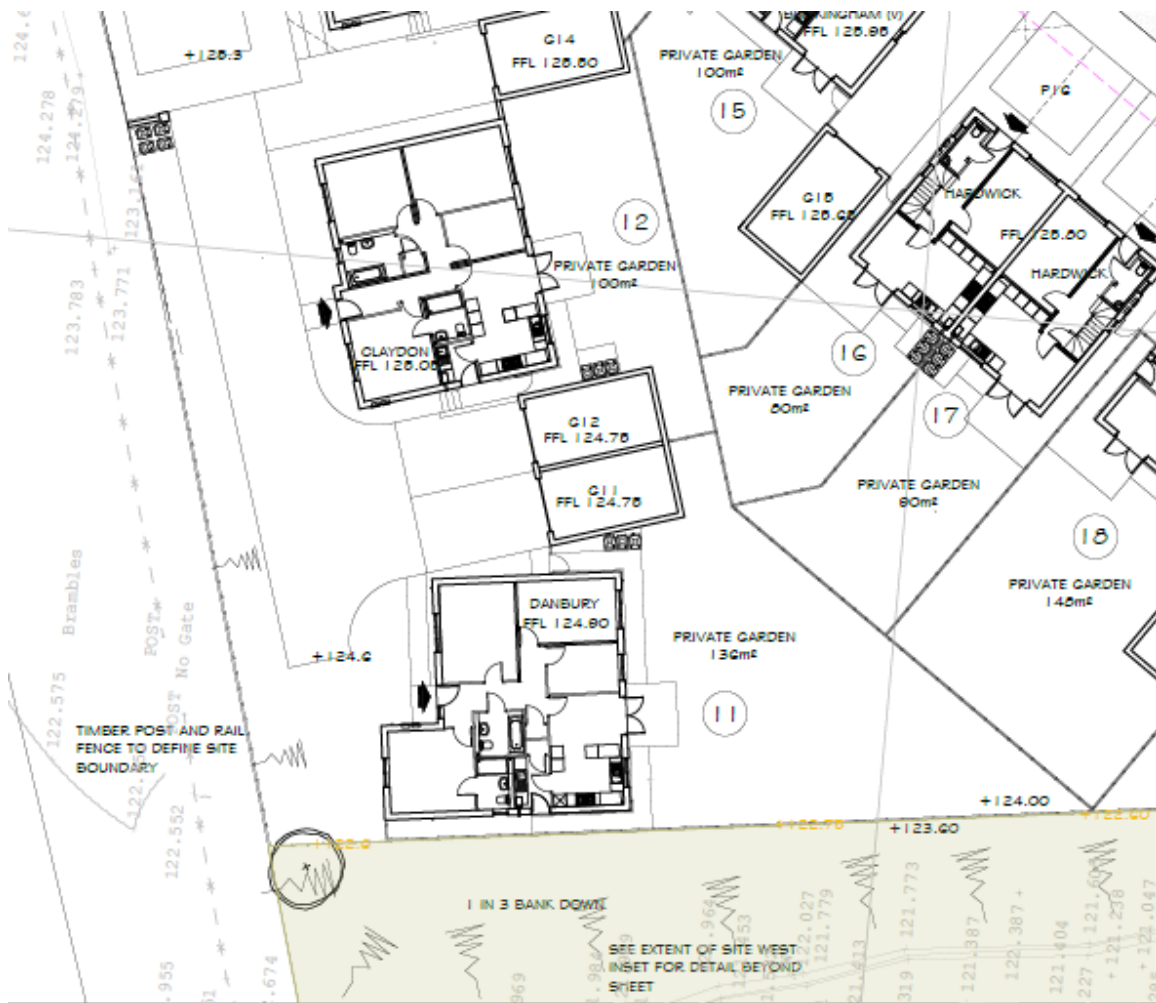


Figure 7: proposed Plot 11

- 7.11 The approved layout has plots 17 and 18 (a pair of semi-detached houses) between 7m and 13m from the boundary fence line with a FFL of 124.90, and the detached houses at plot 19 and plot 20 where the house siting is unchanged on both layouts abutting the boundary fence line with the Press Brook. Plot 19 was 6m from the boundary with a FFL of 124.75.
- 7.12 The proposed layout reduces the number of properties which directly abut the brook from 4 units to 2. Plot 19 is now proposed to be 3.5m from the boundary fence line rather than the previous 6m and would have a FFL of 124.90 which would be 15mm higher than approved.
- 7.13 Plots 16, 17 and 18 would not border the brook and be set back away from this boundary between 13m and 26m from the fence line. The proposed FFL's of the 3 units would be 1m higher than approved due to these being set further into the site and is consistent with the approved layout. (see below). An additional condition is proposed in respect of the finished floor levels and finished ground levels of plots 14 to 20 where these differ from the approved layout.

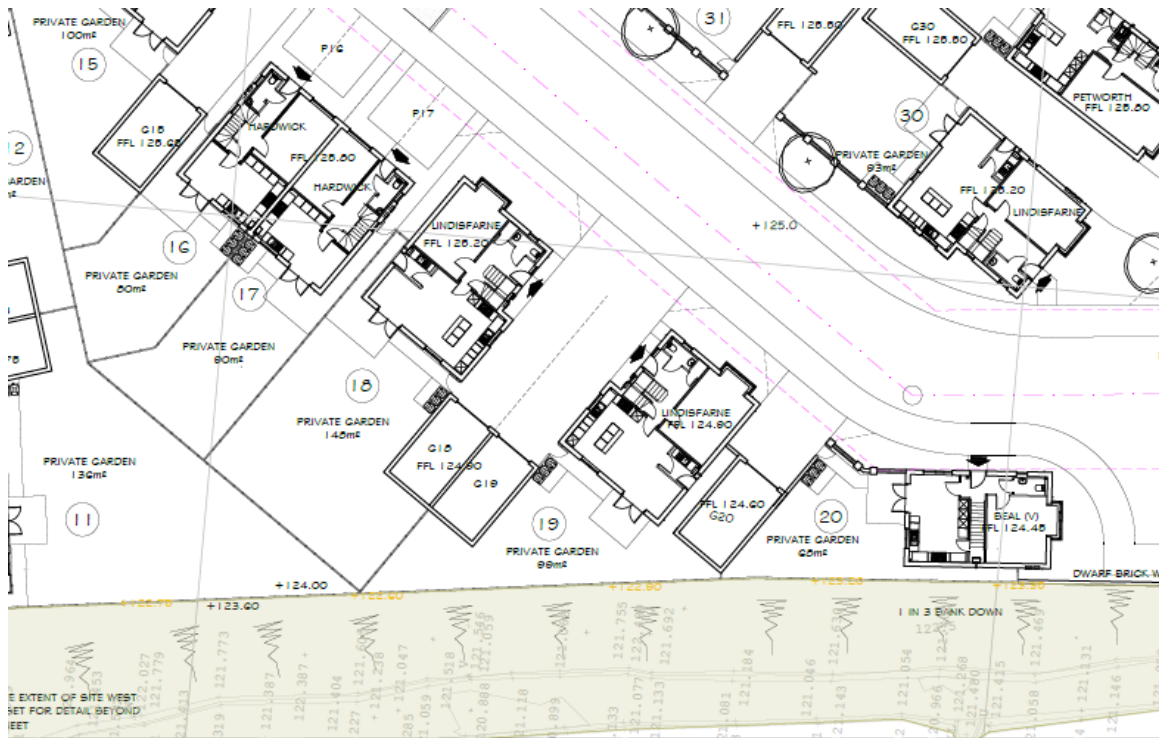


Figure 8: proposed layout for plots 16 to 20

- 7.14 The proposed amendments to the approved layout accord with the Council’s Design Guidance “Successful Places” in terms of garden sizes with the exception of plot 20 which would now have a garden of 68 m2 where the guidance sets out it should be 70m2.
- 7.15 Whilst Officers consider it unfortunate that the siting of plot 19 is closer to the fence line and the brook, the setting back of plots 16-18 and the reduction in units directly abutting the brook offer design improvements over the extant permission which are considered beneficial. In summary, therefore, Officers consider that the amendments to the layout are acceptable in design terms.

Impact on Heritage Assets

- 7.16 The original application was accompanied by a Heritage Impact Assessment which assessed the impact on the nearby designated heritage assets, specifically the Clay Cross Conservation Area, the Grade II listed St Bartholomew’s Church and the Grade II listed Clay Cross Tunnel Southern Portal.
- 7.17 Officers do not consider that the proposed changes submitted under this minor material amendment would have any greater impact on the identified heritage assets than the approved scheme.

Flood Risk

- 7.18 The current, section 73, application as originally submitted proposed only to substitute the alternative layout drawings for those previously approved, none of which proposed any revisions to the bank of the brook or indeed to the site levels. The original application was accompanied by a Flood Risk Assessment and all associated details were approved under the original permission and by the discharge of the pre-commencement conditions attached thereto. Members will recall that the Lead Local Flood Authority (LLFA) raised no objections from a flood risk perspective to that application.
- 7.19 There have been a number of objections raised to the current application from residents who live on Windermere Road and whose properties lie within the Environment Agency (EA) Flood Zones 2 and 3.
- 7.20 Since the grant of planning permission, it has been discovered that part of the site which is to be developed is at risk of flooding and, further, that a consequence of the development permitted might be to increase the risk of flooding to properties on Windermere Road, on the opposite site of the Press Brook. Prior to the grant of planning permission originally the developer made a factual representation that the bank of the Press Brook on the development side was higher than the opposite bank and so that there was no additional risk of flooding arising from the development. The LLFA, as statutory consultee and expert advisor to the Council, raised no objections to the application based on all the information available to it at that time. As matters have progressed, it has become apparent that the developer's representation was incorrect.
- 7.21 The EA has been consulted on the current application and have commented that this is a difficult site as the actual application site lies mainly within flood zone 1 with a very small section of the site at the western boundary shown to fall within flood zones 2 and 3 and all the built elements will be set back within flood zone 1. It also comments that the applicant has sought to offset the loss of any floodplain, which is based on anecdotal evidence from local residents at present.
- 7.22 The EA have further commented that the flood map for planning is a large strategic model and if there is concern that the flood zones are incorrect then the local residents can submit a flood map challenge pointing out that the Smithy Brook is not a main river and therefore the EA do not hold hydraulic modelling data for this watercourse. The management and maintenance of the watercourse falls under the remit of the Lead Local Flood Authority (LLFA).
- 7.23 The LLFA have been consulted on the current application and initially objected to the proposals on the grounds that it was not possible to

provide an informed comment until such a time that the applicant has submitted further information as set out above. The developer did then submit further information

- 7.24 The LLFA then further commented that the developer had provided the LLFA with an updated hydraulic assessment of the watercourse (Press Brook), based upon actual levels the LLFA had obtained and this indicated that the eastern bank (NW corner of the site) of the watercourse overtops in less than a 1 in 100 year event, which would effectively place part of the site within a Flood Zone 3 designation.
- 7.25 The LLFA further commented that to ensure that the flood risk is not increased to either existing residents or the new properties, it needed to know what the potential flood levels and flood extents are within the development (over a range of return periods and durations), given that the updated hydraulic assessment indicated that the watercourse overtops. Through detailed hydraulic modelling of the watercourse, once a more accurate extent of flooding has been determined, a more accurate assessment could then be made as to how much, or if, flood compensation was required. The LLFA considered that the current submitted hydraulic assessment and flood compensation proposals are not satisfactory enough to give sufficient confidence that the flood risk isn't increased and that any compensation offered is also sufficient.
- 7.26 The applicant has stated that discussions on this issue cannot continue to be raised as part of the present application as they fall outside its scope and terms, which seeks only to substitute the alternative layout drawings for those previously approved, none of which propose any revisions to the bank of Press Brook. The FRA and all associated details were approved under the original permission and have been further substantiated by the discharge of the pre-commencement conditions.
- 7.27 On the issue of flood risk the Council has sought the advice of independent Counsel who has advised that the amendments to be made to the approved layouts pursuant to the current application involve works all of which are to be done in Environment Agency Flood Zone 1, i.e. on land where there is no risk of flooding. In such circumstances it would not be usual to ask for any flood risk modelling. As it has not been demonstrated that the section 73 application works pose any additional risk of flooding to that arising from the planning permission already granted, which is the fallback position, no proper request can be made for flood risk modelling nor can the absence of such modelling properly be relied upon to refuse the application. Further, it is advised that in the event that the LLFA cannot identify how and to what extent the section 73 application increases the risk of flooding over and above that which already exists arising from the permission granted, the decision maker can and should place no weight on any objection made by the LLFA. Counsel

reminds the Council that weight is a matter entirely for the decision maker and that provided that the decision maker properly takes into account all relevant matters and does not take account of irrelevant matters, no court will interfere with any decision as to weight given to a particular matter unless there has been perversity. However, to give weight to an objection which is irrelevant to the works being proposed would be perverse.

- 7.28 In the circumstances of this case Officers note that the LLFA are satisfied that there is not a greater flood risk from the scheme proposed by the current application over those of the extant permission to which it raised no objections. In such a case, Officers advise any objection by the LLFA can and should be accorded no weight. Accordingly, there are no planning reasons evident to Officers on which to refuse the application on grounds of flooding or flood risk.

Impact on Ecology

- 7.29 Concerns have been raised regarding the impact of the development on the ecology of the Press Brook and in particular to the lack of a suitable wild buffer for otters.
- 7.30 Comments from residents state the buffer has been reduced; however the buffer is consistent with what was approved under the original application and is not proposed to be reduced as part of this application.
- 7.31 For clarity with regards to the buffer the DWT originally requested an average width of the buffer of 10m. However there is a difference of opinion between the DWT and the applicants' ecologist as to where the buffer should be measured from.
- 7.32 The Derbyshire Wildlife Trust have been consulted on the current application and have not raised an objection commenting that in terms of the impacts to the buffer zone along Press Brook, there does not appear to a significant change to the width or alignment of the buffer between this layout and that previously approved. Indeed, DWT note that the layout of the houses immediately east of the buffer has been altered so that there are fewer, larger gardens adjacent to the buffer and this may be more beneficial in terms of less noise and disturbance to the Brook habitats and species that use them.
- 7.33 Notwithstanding this, DWT do not consider that the buffer zone complies with its previous advice, as it appears to be measured from the channel (and possibly the western edge of the channel) when the advice given has consistently recommended it should be measured from the bank top.
- 7.34 On this issue, Officers conclude that the application does not propose any changes to the buffer that has been agreed and approved. Officers are of

the view that the amendments proposed may actually benefit ecology and so are acceptable in respect of that issue.

Impact on Trees

- 7.35 The trees along Press Brook are now protected by a Tree Preservation Order. An application has been submitted for works to these trees in order to allow for the erection of the boundary fence on the site boundary. Officers do not consider that the current application has any greater impact on the trees than the original layout.

Highways and Other Matters

- 7.36 The Police Designing out Crime Officer has made comments in respect of a footpath link; however this was included in the approved layout and is not proposed to be amended.
- 7.37 The Highway Authority has not raised any objections to the amendment to the internal road layout. The access from Clay Lane would be unaltered to that which has already been granted approval. The applicant has demonstrated swept paths for a refuse vehicle of the dimensions used by NEDDC Streetscene.
- 7.38 Residents have raised concerns in respect of the parking provision; however the number of parking spaces is the same on both the approved and the current application.

8.0 Summary and Conclusion

- 8.1 This is an application that proposes a minor material amendment to the layout of an approved housing development. The development remains acceptable in principle and accords with the overall objectives of the Local Plan.
- 8.2 As a result of concerns raised by residents and the LLFA, the applicant is proposing to install an additional underground tank in an attempt to address these concerns. Notwithstanding these amendments, the legal advice to the Council is clear, that in consideration of the original application the Council properly consulted the LLFA prior to granting permission. The LLFA did not object or request detailed modelling be done, as it could have done, and planning permission was correctly granted.
- 8.3 The LLFA has not identified how and to what extent the current, proposed works increase the risk of flooding over and above that which already exists arising from the permission granted, and therefore Officers consider no weight can be attached to the objection received from the LLFA.

- 8.4 On the issue of ecology and trees, the proposed amendments have no greater impact on either issue than the approved scheme and are considered to be acceptable.
- 8.5 The S106 agreement which requires biodiversity off setting is carried over to the new permission and the applicant has agreed to this.
- 8.6 Accordingly, Officers consider the amendment proposed are minor and non-material and that no new issues are raised that outweigh this conclusion. Accordingly, it is recommended that, subject to conditions, permission should be granted.

9.0 Recommendation

- 9.1 GRANT Full Planning Permission subject to the following conditions (and the carry over of the extant section 106 agreement) with the final wording and content of the conditions delegated to the Planning Manager (Development Management).
1. The development hereby approved shall be carried out in accordance with the details shown on the following plans:-
 - 19-03-P01 Rev H – Site Plan
 - 600183-HEX-00-00-DR-C-9522 P02 S38 Vehicle Swept Paths
 - 19-03-P02 PLOT 1 BEAL
 - 19-03-P03 PLOT 3 BEAL
 - 19-03-P04-A PLOT 7 and 31 BEAL (A1)
 - 19-03-P05-A PLOT 20 BEAL (A1)
 - 19-03-P06 PLOTS 2 AND 29 PETWORTH (A1)
 - 19-03-P07- A PLOT 4 LINDISFARNE
 - 19-03-P08- A PLOT 18 LINDISFARNE (A1)
 - 19-03-P11- B PLOT 19 LINDISFARNE (A1)
 - 19-03-P13- A PLOT 8 SUDBURY (A1)
 - 19-03-P14- A PLOT 9 SUDBURY (A1)
 - 19-03-P15- B PLOT 12 CLAYDON (A1)
 - 19-03-P16- A PLOT 10 CLAYDON (A1)
 - 19-03-P17- A PLOT 14 CLAYDON (A1)
 - 19-03-P18 REV B PLOT 11 DANBURY (A1)
 - 19-03-P19- A PLOTS 21-22, 23-24, 25-26 2 BED AFFORDABLES
 - 19-03-P20 PLOT 28 ROSEDENE
 - 19-03-P21 PLOT 34 ROSEDENE
 - 19-03-P22-A PLOT 15 BUCKINGHAM (A1)
 - 19-03-P23- A PLOTS 5-6 HARDWICK (A1)
 - 19-03-P24 PL

- OTS 17, 18, 32, 33 HARDWICK
- 19-03-P25 GARAGES (A1)
- 19-03-P26 REV D SITE SECTIONS (A1)
- 19-03-P27- A PLOT MATERIALS SCHEDULE
- 19-03-P29 REV B BOUNDARY DETAILS (A1)

- Otter Mitigation Strategy
- 600183-HEX-00-00-DR-C-9511 P02 S38 GENERAL ARRANGEMENT
- 600183-HEX-00-00-DR-C-9512 P03 S38 CONSTRUCTION LAYOUT
- 600183-HEX-00-00-DR-C-9515 P03 S38 SETTING OUT
- 600183-HEX-00-00-DR-C-9519 P02 S38 LEGAL PLAN
- 600183-HEX-00-00-DR-C-9522 P02 S38 VEHICLE SWEPT PATHS
- 600183-HEX-00-00-DR-C-9531 P01 DRAINAGE AREAS PLAN

- 19-03-W01 F SITE PLAN
- CLCC-BSP-ZZ-XX-DR-C-0003 P01 PRESS BROOK RELIEF TANK
- OPEN CHANNEL CONVEYANCE CAPACITY ASSESSMENT received 01/10/2021
- PRESS BROOK RELIEF TANK ASSESSMENT received 01/10/2021
- MANNING CHANNEL FLOW REPORT RECEIVED 22/10/2021

- 09610-FPCR-XX-XX-DR-L-0001 D REVISED LANDSCAPING DRAWING
- 09610-FPCR-XX-XX-DR-L-0002 D REVISED LANDSCAPING DRAWING
- W29C REVISED BOUNDARY TREATMENT PLAN

Unless otherwise subsequently agreed through a formal submission under the non-material amendment procedures and unless otherwise required by any condition in this decision notice.

Reason: For Clarity and the avoidance of doubt.

Employment and Training

2. The scheme to enhance and maximise employment and training opportunities during the construction stage of the project, including a timetable for implementation, shall then be implemented in full in accordance with the timetable approved under application NED/21/00659/DISCON

Reason: In the interests of creating sustainable development in accordance with policy GS1 of the North East Derbyshire Local Plan.

On-site Public Spaces

3. Prior to the first occupation of any dwelling a scheme for the delivery and future maintenance of all on site public open space, 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.

Reason: In the interest of the appearance of the area and in accordance with policies GS1 and H12 of the North East Derbyshire Local Plan

Sustainable Design, Character and Appearance

4. The scheme of landscaping shall be carried out in accordance with drawing 09610-FPCR-XX-XX-DR-L-001 revision D: Soft Landscaping Proposals, and 09610-FPCR-XX-XX-DR-L-0002 revision D.

Reason: In the interest of the appearance of the area and in accordance with policies GS1 and H12 of the North East Derbyshire Local Plan.

5. 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 buildings or the completion of the development, whichever is the sooner. Any plants or trees which within a period of 5 years from the completion of 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.

Reason: In the interest of the appearance of the area and in accordance with policies GS1 and H12 of the North East Derbyshire Local Plan

6. The boundary treatments shall be implemented in accordance with drawing 19-03-W29 revision C prior to the occupation of the relative plot numbers and retained as such thereafter.

Reason: In the interest of the appearance of the area and in accordance with policies GS1 and H12 of the North East Derbyshire Local Plan.

7. The proposed finished floor levels of the dwellings and the proposed finished ground levels of the site shall be implemented in accordance with drawing 19-03-W01 revision F.

Reason: In the interest of the appearance of the area and in accordance with policies GS1 and H12 of the North East Derbyshire Local Plan

8. Prior to first occupation of any dwelling, 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.

Reason: In the interest of the appearance of the area and in accordance with policies GS1 and H12 of the North East Derbyshire Local Plan.

9. The scheme for mitigating climate change through sustainable design and construction of the dwellings shall be implemented in accordance with details approved under NED/21/00659/DISCON.

Reason: In the interests of creating sustainable development in accordance with policy GS1 of the North East Derbyshire Local Plan.

10. No part of the development shall be occupied until details of arrangements for the storage of bins and collection of waste have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained as such thereafter.

Reason: In the interests of highway safety and in accordance with policies T2, T9 and H12 of the North East Derbyshire Local Plan

Ecology

11. 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.

Reason: To safeguard the ecology of the site and ensure ecological interest is conserved in accordance with Policy NE6 of the North East Derbyshire Local Plan.

12. The Otter Mitigation Strategy shall be implemented in accordance with details approved under NED/21/00659/DISCON and retained as such thereafter.

Reason: To safeguard the ecology of the site and ensure ecological interest is conserved in accordance with Policy NE6 of the North East Derbyshire Local Plan.

13. The Badger Mitigation Strategy shall be implemented in accordance with details approved under NED/21/00659/DISCON and retained as such thereafter.

Reason: To safeguard the ecology of the site and ensure ecological interest is conserved in accordance with Policy NE6 of the North East Derbyshire Local Plan.

14. Prior to the installation of services, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard the Press Brook corridor and the eastern orchard and maintain their value to nocturnal wildlife. The Strategy should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Such approved measures will be implemented in full.

Reason: To safeguard the ecology of the site and ensure ecological interest is conserved in accordance with Policy NE6 of the North East Derbyshire Local Plan.

15. The Biodiversity Enhancement Plan shall be implemented in accordance to details approved under NED/21/00659/DISCON and retained as such thereafter.

Reason: To safeguard the ecology of the site and ensure ecological interest is conserved in accordance with Policy NE6 of the North East Derbyshire Local Plan.

16. The scheme to mitigate and compensate the net loss in biodiversity shall be implemented in accordance to details approved under NED/21/00659/DISCON. The scheme shall thereafter be provided in accordance with the approved details and timescales or before 90% of the dwellings are occupied whichever is sooner.

Reason: To safeguard the ecology of the site and ensure ecological interest is conserved in accordance with Policy NE6 of the North East Derbyshire Local Plan.

Drainage

17. Within 28 days of the date of this decision, a scheme for the provision of foul drainage works shall be submitted to the Local Planning Authority for approval. The approved scheme shall be implemented in full before the first occupation of the dwellings and retained as such thereafter.

Reason: In the interests of ensuring proper drainage of the site in accordance with policy CSU4 of the North East Derbyshire Local Plan.

18. Within 28 days of the date of this decision 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 & Drainage Strategy, Clay Lane, Clay Cross for Woodall Homes Ltd by BSP Consulting Referenced CLCC-BSP-ZZ-XX-RP-C-0001-P02 dated June 2020 Revision P02 and also 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),
 - c. and including any additional details submitted relating to maintenance and accessing of the watercourse for the lifetime of the development have been submitted to and approved in writing by the Local Planning Authority.

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

19. Within 28 days of the date of this decision a detailed assessment shall be provided to the Local Planning Authority for written approval, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 reference ID: 7-080-20150323 of the planning practice guidance.

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

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

20. Within 28 days from the date of this decision a detailed assessment shall be submitted to the Local Planning Authority for written approval, to demonstrate that the proposed destination for surface water accords with

the drainage hierarchy as set out in paragraph 80 reference ID: 7-080-20150323 of the planning practice guidance.

Reason: To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development

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

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

Ground Conditions

22. The development shall be carried out in accordance with the remediation strategy approved under NED/21/00829/DISCON.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

23. Prior to any part of the permitted development being brought into use, a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 170 of the NPPF.

24. If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the NPPF.

25. The development shall be undertaken in accordance with the Written Scheme of Investigation for archaeological work approved under NED/21/00659/DISCON.

Reason: So as to record and advance understanding of a heritage asset in accordance with The National Planning Policy Framework and Policy GS7 of the North East Derbyshire

26. No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition 26.

Reason: So as to record and advance understanding of a heritage asset in accordance with The National Planning Policy Framework and Policy GS7 of the North East Derbyshire

27. 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 26 and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: So as to record and advance understanding of a heritage asset in accordance with The National Planning Policy Framework and Policy GS7 of the North East Derbyshire

28. Where the findings of the intrusive site investigations (required by the condition above) identify that coal mining legacy on the site poses a risk to surface stability, no development shall commence until a detailed remediation scheme to protect the development from the effects of such land instability has been submitted to the Local Planning Authority for consideration and approval in writing, including the submission of a layout plan which identifies appropriate zones of influence for the mine entry on site, and the definition of suitable 'no-build' zones. Following approval, the remedial works shall be implemented on site in complete accordance with the approved details.

Reason: To protect the environment and address any coal mining legacy issues and in accordance with Policy CSU6 of the North East Derbyshire Local Plan.

29. Details of any development works within 15m, measured horizontally, from the outside face of the Tunnel extrados shall be implemented in accordance with details approved under NED/21/00659/DISCON.

Reason: In the interests of the safety, operational needs and integrity of the railway.

30. Excavations and earthworks carried out near the railway undertakers boundary fence shall be in accordance with NED/21/00659/DISCON.

Reason: In the interests of the safety, operational needs and integrity of the railway.

31. Where vibro-compaction machinery is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.

Reason: In the interests of the safety, operational needs and integrity of the railway.

32. The development shall be carried out in accordance with the Method Statement in relation to works around the tunnel air shaft approved under NED/21/00659/DISCON.

Reason: In the interests of the safety, operational needs and integrity of the railway.

Amenity

33. 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.

Reason: To protect the amenity of nearby property occupiers and users in accordance with policy H12 of the North East Derbyshire Local Plan.

Highways

34. The scheme of highway improvement works in connection with the potential relocation of an existing speed hump fronting the site, together with a programme for the implementation and completion of the works shall be implemented in accordance with NED/21/00659/DISCON. No part of the development shall be brought into use until the required highway

improvement works have been constructed in accordance with the approved details.

REASON: In the interest of highway safety and in accordance with policies T2 and T9 of the North East Derbyshire Local Plan.

35. The construction operations shall be carried out in accordance with the construction management plan approved under NED/21/00659/DISCON
36. Throughout the period of development, vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.
37. The temporary access for construction purposes shall be implemented in accordance to details approved under NED/21/00659/DISCON.
38. No part of the development shall be occupied until a new estate street junction has been formed to Clay Lane (and appropriate frontage footway and tactile crossing) in accordance with the revised application drawings that shall be submitted to and approved in writing by the local planning authority. The access shall also be provided with visibility sightlines extending from a point 2.4m from the carriageway edge, measured along the centreline of the junction, for a distance of 43m in each direction, measured up to 1m into the nearside carriageway at the extremity of the splay. The land in advance of the sightlines being levelled, constructed as footway and not being included in any plot or other sub-division of the site.
39. Within 28 days, or other such period of time as may be agreed with the Local Planning Authority, of the permanent access being constructed all other means of access to Clay Lane (existing or temporary) shall be permanently closed and the existing vehicle crossover(s) reinstated with full height kerbs and appropriate footway / verge construction in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.
40. Within 28 days of the date of this decision construction details of the residential estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior in accordance with the approved timetable. The applicant is advised to obtain construction approval from the Highway Authority prior to submission of any details in connection with this condition.

41. The carriageways and footways shall be constructed in accordance with the details approved under condition 36 above, up to and including binder course surfacing, to ensure that each dwelling, prior to occupation, has a properly consolidated and surfaced carriageway and footway between the dwelling and the existing public highway. Until final surfacing is completed, the footway binder course shall be provided in a manner to avoid any upstands to gullies, covers or other such obstructions within or abutting the footway. The carriageways and footways in front of each dwelling shall be completed with final surface course within twelve months (or three months in the case of a shared surface road) from the occupation of such dwelling.
42. The gradient of the new estate street access shall not exceed 1:30 for the first 10m into the site from the existing highway boundary and 1:20 thereafter.
43. The dwellings, the subject of the application, shall not be occupied until the estate street has been provided with suitable turning arrangements to enable service and delivery vehicles to turn. In the case where interim turning arrangements are constructed these must remain available until any permanent estate street turning is available, in accordance with the approved estate street designs.
44. All private and shared driveways, and parking spaces within the site shall not be taken into use until provided with 2.4m x 25m, or other such dimensions as may be agreed with the Local Planning Authority, visibility splays, the area in advance maintained free from any obstruction exceeding 1m (600mm if vegetation) relative to the adjacent carriageway channel level and 2m x 2m x 45° pedestrian intervisibility splays on either side of the access at the back of the footway, the splay area being maintained throughout the life of the development clear of any object greater than 0.6m in height relative to footway level.
45. No part of the development shall be occupied until details have been submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of water from private areas/driveways onto the adoptable highway. The approved scheme shall be undertaken and completed prior to the first use of private areas/accesses and retained as such thereafter.
46. The dwellings the subject of the application, shall not be occupied until space has been provided within the site curtilage for parking (including cycle parking), located, designed, laid out and constructed all as agreed in writing with the Local Planning Authority and maintained throughout the life of the development free from any impediment to its designated use.

47. The garages hereby permitted / car spaces to be provided, shall be kept available for the parking of motor vehicles at all times. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and/or re-enacting that Order) the garage / car parking spaces hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property without the grant of further specific planning permission from the Local Planning Authority.
48. The first 5m of the proposed access driveways shall not be surfaced with a loose material (i.e. unbound chippings or gravel etc).
49. No gates, chains or other barriers (or any part of their opening arc) shall be permitted to open outwards over the adjacent street - any gates, chain or barriers shall open inwards/ onto the site only.
50. Prior to the first occupation of any dwelling, details of the proposed arrangements for future management and maintenance of the streets shall be submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details or until such time as an agreement has been entered into under section 38 of the Highways Act 1980, if appropriate.
51. Within 28 days of the date of this decision, and notwithstanding the submitted details, details of the existing ground levels, proposed finished floor levels of Plots 14 to 20 and the proposed finished ground levels of those plots, relative to a datum point which is to remain undisturbed during the development, shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details and the levels shall be retained as such thereafter.

Reason: In the interest of the appearance of the area and in accordance with policies GS1 and H12 of the North East Derbyshire Local Plan

PLANNING COMMITTEE –14 December 2021

REFERENCE NUMBER: 21/00885/FL **Application Expiry Date:** 17.12.2021
Application Type: Full application

Proposal Description: Demolition of the existing social club building and the erection of 3 sustainable, detached, self-build homes, including associated alterations to the existing access

At: Pilsley Miners Welfare, Rupert Street, Lower Pilsley

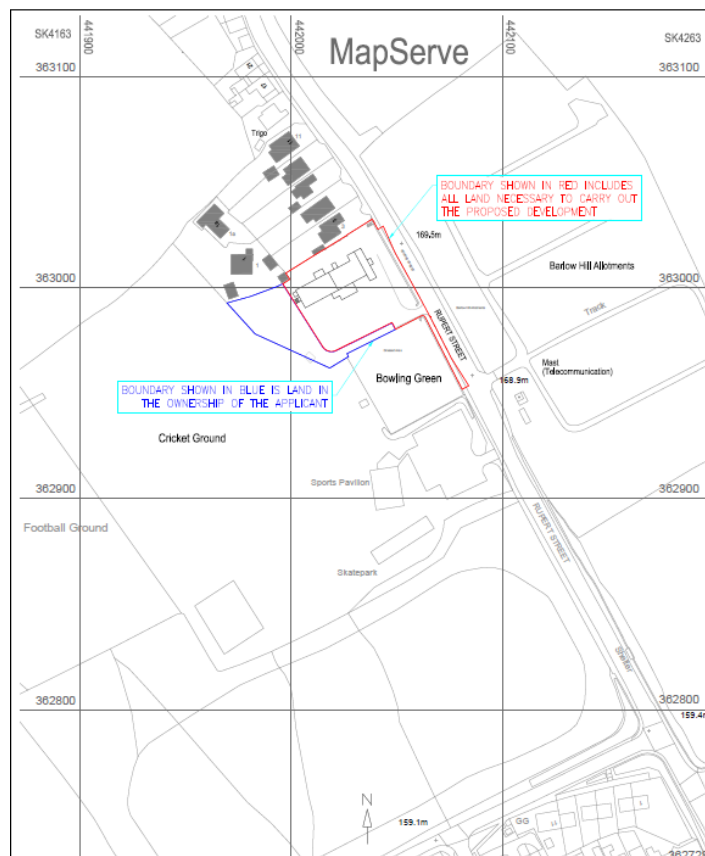
For: Mr and Mrs Hooper

Third Party Reps: 32 **Parish:** Pilsley

Ward Name: Pilsley and Morton Ward

Author of Report: Emily Cartwright **Date of Report:** 30.11.2021

MAIN RECOMMENDATION: CONDITIONALLY APPROVE



1.0 Reason for Report

1.1 This application is being considered by planning committee due the Ward Member Councillor Cooper calling the application in on the following grounds:

- On a the previous application 17/01162/FL where this site came to full planning committee there was much controversy about the size of the ball net that was there to stop cricket balls entering the new properties. On the previous approval for the application it was agreed that a 16 metre high ball net be erected to protect the new properties on the advice of Sport England. On this current application the ball net has been reduced considerably and I am concerned over public safety.
- The other main concern is the removal of 27 parking spaces that were agreed for use by sports teams using the adjacent sports ground on the previous application 17/01162/FL. The lack car of parking provision at the site remains a constant problem and cars are regularly parked on the hill before and after the main entrance into the new pavilion car park. This has been a real highway safety issue on many occasions and remains a problem.

2.0 Proposal and Background

Site Description

- 2.1 The application site is comprised of the former Pilsley Miner's Welfare Club which occupies a prominent location to the west of Rupert Street, sited on the top of the hill between Lower Pilsley and Pilsley.
- 2.2 The application site has an existing access off Rupert Street, over which No1 and No1 Rupert Street have a right of easement. Additionally, a right of easement exists to the recreation ground along the southern boundary.
- 2.3 Situated in an elevated position above Rupert Street with a stone wall topped by a hedge forming the boundary, the building is set back from the highway and runs lengthways perpendicular to the highway.
- 2.4 The building is a single storey structure of red brick and render construction with an apex tiled roof of differing height levels and gable ends. The curtilage of the site is covered with a mix of hardstanding which was formerly used as car parking for the recreational ground, although only by informal agreement and some short grass and overgrown area to the northern side and rear of the building.
- 2.4 The site is a brownfield site containing the vacant building of the Miners Welfare Social Club. The building is not in use, and has been closed since April 2012.
- 2.5 To the south of the site is a bowling green and a large 31 space car parking associated with the Recreation Ground which serves the lawn bowls, cricket and football clubs. To the west is a cricket pitch and to the north residential properties form the southern boundary of Lower Pilsley.

- 2.6 The application site is not included within the defined Settlement Development Limit but lies adjacent to it with the built up form immediately to the north.

Proposal

- 2.7 Full permission is sought for the demolition of the existing social club building and the erection of 3 sustainable, detached, two storey, self-build homes, including associated alterations to the existing access.
- 2.8 The dwellings are to be positioned in a linear row north to south across the site fronting onto the highway broadly in line with the existing building line that extends to the north of the site.
- 2.9 The access will be retained in its existing position, although widened to accord with highway standards. The internal shared driveway will extend along the front of the three dwellings with each dwelling served by three parking spaces. One of the three parking spaces will be a disabled parking space and will feature an electric charging point.
- 2.10 The three dwellings will be similar in size and design, with plots 2 and 3 being slightly larger than plot 1. Each dwelling will benefit from a large garden to the rear. The dwellings will be finished in render with wood-effect cladding on the first floor and an acrylic coated fibre reinforce cement slate roof tiles. Each dwelling will be finished in a different colour scheme.
- 2.11 Plot 1 will comprise of a two bedroom dwelling finished in pearl-coloured render with grey cladding, with accommodation split of two levels and a footprint measuring 79.1m².
- 2.12 Plot 2 will comprise a three bedroom dwelling finished in sky-coloured render with violet blue cladding, with accommodation split of two levels and footprint measuring 89.2m²
- 2.13 Plot 3 will comprise a three bedroom dwelling finished in prue white-coloured render with grey brown cladding, with accommodation split over two levels and a footprint of 91.1m².
- 2.14 Each dwelling will benefit from solar photovoltaic (PV) panels integrated into the roof and a rainwater harvesting system, as well as bat and swift boxes.
- 2.15 The access to 1 and 1A Rupert Street will be retained as will the pedestrian access to the Recreation Ground, and the existing retaining stone wall and hawthorn hedgerow to the east of the site will be retained and made good.

3.0 Amendments

- 3.1 The following revised plans have been provided:
- Report No LSUK 21-0611 Cricket Ball Risk Assessment (published 12.10.2021)

- Drawing No PMWI-114 Rev 02 Site Cricket Mitigation Plan (published 12.10.2021)
- Drawing No PMWI-109 Rev 02 Site Levels Plan (published 12.10.2021)
- Drawing No PMWI-108 Rev 02 Site Boundary Plan (published 12.10.2021)
- Drawing No PMWI-107 Rev 02 Proposed Landscape Plan (published 12.10.2021)
- Drawing No PMWI-102 Rev 02 Proposed Site Layout Plan (published 12.10.2021)
- Drawing No PMWI-113 Rev 01 Site Bat Mitigation Plan (published 20.08.2021)

4.0 Relevant Planning History

- 4.1 16/00113/OL - Demolition of the disused Miners Welfare Club and outline planning application (means of access not reserved) for the erection of six new dwellings, including improvements to the existing access off Rupert Street, laying out and surfacing of the recreation ground carpark with improved access to 1 Rupert Street via the car park (Amended Title) (Conditionally Approved)
- 4.2 17/01162/FL - Application for demolition of Former Miners Welfare and erection of 4no detached dwellings including installation of a 16m ballstop net fence (Revised scheme of 16/00113/OL) (Amended Plan) (Conditionally Approved)

5.0 Consultation Responses

- 5.1 The **Parish Council** have provided no comments.
- 5.2 The **Ward Member** called the application into committee.
- 5.3 County **Highways Authority** (HA) were consulted, and commented that the application site was subject to a similar proposal in 2017 (17/01162/FL) for the demolition of the existing social club and the erection of 4no dwellings to which the Highway Authority raised no objections, subject to various conditions . Whilst this latest application is seeking approval for 3 homes, the Highway Authority would not wish to raise objections, subject to similar conditions being included in any consent.
- 5.4 **Derbyshire Wildlife Trust** (DWT) were consulted, and commented that sufficient information has been provided. Given the likelihood of small numbers of bats using the building, a bat licence has been recommended by the consultant ecologist and suitable mitigation proposed. The bat mitigation and enhancements should be implemented in line with recommendations in the Bat Survey report (Armstrong Ecology, May 2021) and the Site Bat Mitigation Plan (Drawing no: PMWI/113 Rev. 01).

- 5.5 **Environmental Health** (EHO) were consulted, and commented that they have no objections to the proposal in principle subject to the inclusion of ground contamination conditions on any decision.
- 5.6 **Sport England** were consulted, and commented that they have no objections to the development proposed subject to planning conditions or a legal agreement to secure the ball strike mitigation proposed in perpetuity, including prevention of public access to the parts of the residential curtilages to Plots 1 and 2 that remain in the ball strike zone and are marked accordingly on the applicants plans.
- 5.7 **Yorkshire Water** (YW) were consulted, and commented that if planning permission is to be granted, conditions should be attached in order to protect the local aquatic environment and YW infrastructure.
- 5.8 **NEDDC Drainage** were consulted, however no comments have been received

6.0 Representations

6.1 The application was publicised by way of neighbour letters and the display of a site notice.

6.2 Objections

6.3 **6 letters of objection** from 5 residents have been received and cover the following points:

6.4 Loss of parking and highway safety

The application includes no provision for any parking for users of the adjacent sports ground

(Officer comment- this is dealt with in section 8 below)

6.5 Failure to provide any of the parking spaces specified in the 16/00113/OL application

(Officer comment- this is dealt with in section 8 below)

6.6 When the new pavilion was built the car park (35 spaces) was sized based on the availability of additional spaces provided under the planning consent previously granted for the old welfare building, without such provision in any further planning consent the car parking provision will continue to be inadequate and the site will continue to cause significant parking problems to the users of the site and local residents.

(Officer comment- this is dealt with in section 8 below)

6.7 Cricket safety fence

Previous consents required the erection of a safety fence to ensure there was protection between the cricket field and the development. The applicant has commissioned Labosport to produce a report on the requirement of a safety fence. Labosport have concluded there is a requirement to build an 11 metre safety fence. The applicant has informed Labosport that the most easterly 3

wickets are only used for junior cricket (page 6 of the report) which then influences the outcome of the safety fence. This is not correct. All wickets, including the artificial wicket, are used for both senior and junior cricket – this is due to the volume of cricket played on the square.

(Officer comment- this is dealt with in section 8 below)

6.8 When the developer purchased the land in 2018, he was aware from previous planning applications that a 16m safety fence was required. Not having a safety fence would present an unacceptable level of risk to people and this would lead to potential damage to property and residents

(Officer comment- this is dealt with in section 8 below)

6.9 Access and Land disputes

The current owner of the land has not allowed access onto the sports field via the right of way for maintenance purposes etc.

(Officer comments – this is a civil/legal matter and not a planning consideration)

6.10 Access to the cricket score box has also been restricted due to a boundary dispute that is currently ongoing between landowner and the Parish Council.

(Officer comments – this is a civil/legal matter and not a planning consideration)

6.11 Design

The proposal of the 3 new properties on the very brow of the hill on Rupert Street will be very imposing .

(Officer comment- this is dealt with in section 8 below)

6.12 Disruption

Noise and disruption from the building works

(Officer comment- this is dealt with in section 8 below)

6.13 **21 Supporting comments** have been received covering the following points:

6.14 Welcome the development as the building has been left to deteriorate for many years and has attracted vandalism and antisocial behaviour

6.15 The 3 houses will help improve the appearance of the area

6.16 The design of the houses are in keeping with other houses on Rupert Street and around the village and the site will not look over-developed

6.17 Since purchasing the site, vandalism and fly tipping has halted and the applicants have kept the site tidy which has benefited the village

6.18 The applicants have plans to support local wildlife

6.19 Schemes such as self build should be supported

6.20 The development is long overdue

- 6.21 **A rebuttal letter** has been received from the Agent which addresses the objections raised
- 6.22 **2 general comments** have been received which covering the following points:
- 6.23 The original application showing the additional parking was always an issue to us, as it would have altered the entrance drive as per our agreed deeds and lend itself back to the old un-policed anti-social behaviour again. We were always confused why the new owners of the land would have to give up and maintain so much of their land for no gain to themselves.
(Officer note – the application does not include any additional parking)
- 6.24 We have lived here for over 10 years now and during this time we can honestly state that we have never had a cricket ball hit over our boundary hedge, but we have had several roll through it (even when the professional players were on site) We have always allowed access onto our grounds to retrieve them with or without being asked and have also returned ones that I have found. Since the steel fence was erected, I don't think we have ever had any cricket balls on our grounds.
(Officer comment- this is dealt with in section 8 below)
- 6.25 We have always opposed the need for the high safety net/fence, due to, the actual need, potential permanent wind noise through the material and structures, debris and wildlife that will collect in it and the eyesore on the landscape.
(Officer comment- this is dealt with in section 8 below)
- 6.26 A question we would like to ask is before planning is agreed and granted in one form or another, who will be erecting the safety fence to protect us in the meantime. As previously stated, we have never had an issue with ball strikes, but this issue could take several years and, in the meantime, we are unprotected from potential harm from ball strikes. Does this mean we have to erect a very tall safety fence to protect ourselves, bearing in mind we have owned and lived in this property for over 10 years and well before the cricket pitches were extended.
(Officer note – the land mentioned does not form part of the application site and does not form part of the planning consideration)

7.0 Relevant Policy and Strategic Context

North East Derbyshire Local Plan (Adopted November 2021)

- 7.1 The following policies of the Local Plan are material to the determination of this application:

SS1 Sustainable Development
SS9 Development in the Countryside

LC4 Type and Mix of Housing
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
ID3 Sustainable Travel
ID Loss of Existing Social Infrastructure

National Planning Policy Framework (NPPF)

- 7.2 The overarching aims of the National Planning Policy Framework (NPPF) have been considered in the assessment of this application. The main sections are covered in the assessment below.

Other Material Planning Considerations

- 7.3 Successful Places Interim Planning Guidance, adopted December 2013.

8.0 Planning Issues

Principle of Development

- 8.1 The application site is situated outside, but adjacent to the Settlement Development Limit of Pilsley and so is considered a countryside location.
- 8.2 Local Plan Policy SS1 states that in order to contribute to sustainable development, proposal will promote the efficient use of land or the re-use of previously developed land.
- 8.3 Local Plan Policy SS9 allows for the partial or complete redevelopment of previously developed sites providing there is no greater impact on the character of the countryside than the existing development.
- 8.4 Local Plan Policy LC4 states that the inclusion of self and custom build dwellings will be encouraged, in line with Council's Self and Custom Self Build Register.
- 8.5 The NPPF looks to support sustainable development, good design is a key aspect of this. Development should be visually attractive, sympathetic to the local character and history of the area and maintain a good sense of place.
- 8.6 The proposed inhabitants of the proposed three dwelling have joined the North East Derbyshire Self-Build Register and application site is considered to be previously developed land, as such the principle of the redevelopment of the site is acceptable subject to having satisfactory impacts upon the character of the area, residential amenity, highways, land contamination and ecology.

Design and Impact on the Character of the Area Considerations

- 8.10 Local Plan Policy states that development will be permitted provided it would not be detrimental to the character and appearance of the site and its surrounding environment and it would not have a detrimental effect on the amenities of neighbouring occupiers and uses.
- 8.11 The application site comprises of a vacant and unattractive building.
- 8.12 The submitted plans illustrates that the three dwellings will replace the existing Welfare building and follow the pattern and grain of Rupert Street by fronting onto the highway.
- 8.13 It is considered that the proposed dwellings be reason of their siting, scale, design and finished materials would not be harmful to the character of the area and respect the surrounding landscape.
- 8.14 The proposed garden areas exceed the guidance as set out in Successful Places and are considered to be acceptable, and do not in Officers view represent an overdevelopment of the site.
- 8.15 The submitted boundary and landscaping details are both deemed to be sympathetic to the character of the area. These details are considered to be sufficient, and a suitably worded condition shall be attached in order for these to be retained throughout the life of the development.
- 8.16 In view of the above, it is considered that the proposed dwellings would be of a style, proportion and materials in keeping with the surrounding street scene and the overall design of the scheme is considered to accord with Successful Places. Officers consider the scheme to represents a positive redevelopment of the site and deem the scheme to acceptable in design terms.

Privacy and Amenity Considerations

- 8.17 Local Plan Policy SDC12 seeks to ensure that new development protects the amenity of existing and creates a good quality of amenity for future occupiers in terms of privacy, overshadowing and/or any overbearing impacts.
- 8.18 The property most likely to be affected by the development would be No 3 Rupert Street which would be sited within close proximity to Plot 3.
- 8.19 The proposed layout of the rear gardens running parallel to the existing properties on Rupert Street ensures that the amenity of these properties is retained and protected.
- 8.20 The scheme has been assessed against guidance provided in Successful Places, and Officers consider the scheme would not result in any overlooking or loss of privacy and that all recommended separation distance have been met.
- 8.21 Officers note concerns raised relating to noise and disruption from the building. It is accepted that there will be a level of noise and disruption during the

construction however due to the scale of the development it is not deemed to be detrimental to the amenity of neighbouring occupiers or land uses. A condition is proposed in relation to controlling working hours in view of the adjacent residential properties.

- 8.22 Overall, Officers consider that the development would not have any overriding and harmful impacts on nearby residential neighbours.

Highway Safety Considerations

- 8.23 Paragraph 111 of the NPPF (2021) states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 8.24 The submitted plans demonstrate that access to the site is proposed from the existing access off Rupert Street which will be modified to allow for emerging visibility splays of 2.4m x 43m in both direction. Officers note that these alterations will not affect the existing public easement in the south west corner of the site, nor will it affect the private easement for dwellings No 1 and A1 Rupert Street.
- 8.25 The layout provides 3 parking spaces per dwelling, with adequate space for manoeuvring and turning, allowing for all vehicles to access and egress the site in a forward gear.
- 8.26 The Highway Authority has been consulted on the scheme and raised no objections, subject to conditions being appended to the consent in the interest of highway safety.
- 8.27 In conclusion, there are no highway objections to the proposals subject to conditions and it is therefore considered that the application accords with Local Plan Policy.

Loss of Community Facility Consideration

- 8.28 Local Plan Policy ID5 seeks to ensure that development proposals do not result in the loss of social infrastructure and will not be permitted unless it can be shown that the facility is no longer needed, or that the service could be adequately provided in an alternative way, or elsewhere in an alternative location that is equally accessible.
- 8.29 The Miners Welfare has been closed since April 2012 which by virtue of time demonstrates that the facility is no longer needed or required. It is therefore not considered that there is a loss of community facility.

Cricket Ball Strike Risk Considerations

- 8.30 Paragraph 187 of the NPPF (2021) states that planning policies and decisions should ensure that new development can be integrated effectively with existing

businesses and community facilities (such as places of worship, pubs, music venues and sports clubs).

- 8.31 The application is accompanied by a Cricket Boundary Risk Assessment prepared by Labosport, dated October 2021 and a Site Cricket Mitigation Plan which have been reviewed by Sport England.
- 8.32 The Cricket Boundary Risk Assessment has been undertaken to assess the potential risk of cricket balls surpassing the boundaries of the cricket pitch at the adjacent Pilsley Crickey Club and entering the application site.
- 8.33 The report has taken the 11th wicket as the ball strike point at which the distance to the proposed new dwellings is calculated. This distance is 61m to the boundary of the proposed new dwellings. A ball stop fence comprising of a 2m high V-mesh fence is proposed to be sited along the rear boundaries of the proposed residential curtilages to ensure appropriate safety for the future occupiers.
- 8.34 Sport England accept that the information provided demonstrates that the proposals, in principle, protects the development from ball strike and therefore raise no objection to the development subject to planning conditions.
- 8.35 Officers note the concerns in relation to the previous requirement for a 16m high ball stop fence, and the possible consequences to the cricket club of accidents occurring through the reduced height of the ball net proposed. However, following the advice provided from Sport England, Officers consider the proposed scheme to be a reasonable mitigation approach.
- 8.36 In view of the above, Officers consider the proposed development to meet the requirements of Paragraph 187 of the NPPF.

Ecological Considerations

- 8.37 The NPPF at para 180 states that when determining planning applications, local planning authorities should apply the following principles: if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated or as a last resort, compensated for, then planning permission should be refused.
- 8.38 The application is accompanied by a Bat Survey prepared by Armstrong Ecology Ltd, dated May 2021 which has been reviewed by DWT.
- 8.39 DWT have raised no objections subject to the inclusion of the recommended bat mitigation and enhancements as shown within the submitted Site Bat Mitigation Plan.
- 8.40 The scheme as whole looks to green the site, with the planting of native species shrubs, trees and meadow planting, new hedge planting as well as the retention of the hedgerow to the front of the site.

- 8.41 In view of the above, Officers are of the view that the proposed development will result in a net gain in biodiversity on site and would not have any detrimental impacts on ecological interests.

Drainage and Land Contamination Considerations

- 8.42 The application is accompanied by a Site Drainage Plan and a Radon Mitigation & Top Soil Plan.
- 8.43 The application site is located within Flood Zone 1, which has the lowest probability of flooding. The accompanying Site Drainage Plan identifies both the surface water and foul sewage to be disposed of via the main sewer.
- 8.44 Yorkshire Water have been consulted on the application, raising no objections subject to the inclusion of conditions.
- 8.45 With regards to land contamination, no objections have been raised by Environmental Health Officers, subject to conditions.
- 8.46 In summary, Officers consider that the development would be acceptable from a land contamination and drainage perspective.

Other Considerations

- 8.47 Officers note that many of the objections received are in relation to the lack of parking provision to serve the recreational ground and sports clubs, and the associated highway safety concerns.
- 8.48 The land within the submitted blue line plan has previously been used for parking for the recreational ground, although only by an informal agreement.
- 8.49 Previous applications 16/00113/OL and 17/01162/FL included parking provisions as part of the schemes to serve the recreational ground and sports clubs. Officers draw attention to the 16/00113/OL application in which the Officer made reference to the fact that there was no legal agreement securing the parking area for use by the community, and should the site be sold there would be no safeguarding in place to retain it.
- 8.50 The scheme subject to this application does not include any parking for the recreational ground and sports clubs and there is no compulsion for the land owner to provide parking facilities for community use.
- 8.51 Whilst Officers acknowledge the concerns, the proposal does not result in a loss of parking for the recreational ground and sports clubs and it is noted that there are alternative facilities within the village for parking.
- 8.52 To conclude, Officer do not deem these concerns to be a material consideration.

Summary and Conclusion

- 9.1 Having taken into account all the material considerations, it is considered that the proposed development would be in keeping with the character and

appearance of the site and surrounding street scene, and would not have a detrimental impact upon the neighbouring properties amenity or land uses. There is sufficient space provided within the site for parking and manoeuvring of vehicles and matters relating to ecology, drainage and ground stability can all be addressed through appropriate conditions on any permission granted. The proposed development would therefore accord with Local and National Planning Policy.

10.0 Recommendation

10.1 APPROVE Permission for the above reasons, subject to the following conditions:-

Conditions

1. The development hereby permitted shall be started within 3 years from the date of this permission.

2. The development hereby approved shall be carried out in accordance with the following submitted plans, 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:
 - Drawing No PMWI-114 Rev 02 Site Cricket Mitigation Plan (published 12.10.2021)
 - Drawing No PMWI-109 Rev 02 Site Levels Plan (published 12.10.2021)
 - Drawing No PMWI-108 Rev 02 Site Boundary Plan (published 12.10.2021)
 - Drawing No PMWI-107 Rev 02 Proposed Landscape Plan (published 12.10.2021)
 - Drawing No PMWI-102 Rev 02 Proposed Site Layout Plan (published 12.10.2021)
 - Drawing No PMWI-113 Rev 01 Site Bat Mitigation Plan (published 20.08.2021)
 - Drawing No PMWI/101 Rev 01 Location Plan A3 (published 09.07.2021)
 - Drawing No PMWI/103 Rev 01 Street Scene/Site Sections (published 09.07.2021)
 - Drawing No PMWI/104 Rev 01 Proposed Plot No.1 House Plans & Elevations (published 09.07.2021)
 - Drawing No PMWI/105 Rev 01 Proposed Plot No.2 House Plans & Elevations (published 09.07.2021)
 - Drawing No PMWI/106 Rev 01 Proposed Plot No.3 House Plans & Elevations (published 09.07.2021)
 - Drawing No PMWI/116 Rev 116 Site Contamination Plan (published 09.07.2021)

- Drawing No PMWI/111 Rev 01 Site Soil & Waste Drainage Plan (published 09.07.2021)
3. The development hereby permitted consists of solely self-build dwellings as defined in the Custom Housebuilding Act 2015
 4. The three self-build dwellings hereby approved shall be occupied by the applicants for a minimum of 3 years after construction.
 5. The existing Hawthorn hedgerow to the east of the site adjacent to Rupert Street shall be retained throughout the lifetime of the development
 6. All planting, seeding and turfing shown on Drawing No PMWI-107 Rev 02 Proposed Landscape Plan (published 12.10.2021) 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
 7. The first floor window proposed in the north (facing) side elevation of the Plot 3 shall be fitted with obscure glazing and shall be of a non-opening design prior to the dwelling hereby approved being brought into use. The obscure glazing shall be installed in order to provide of level of obscurity at least equivalent to level(s) 3 on the Pilkington Glass scale and the glazing shall be retained as such thereafter.
 8. The facilities as shown within Drawing No PMWI/116 Rev 116 Site Contamination Plan (published 09.07.2021) shall be retained free from any impediment to their designated throughout the construction period.
 9. Throughout the period of development vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.
 10. Before any other operations are commenced the sites existing vehicular access to Rupert Street shall be modified in accordance with the application drawings 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 43 metres in each direction measured along the nearside carriageway edge. 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 the adjoining nearside carriageway channel level.

11. The premises, the subject of the application, shall not be occupied until space has been provided within the site curtilage for the parking and manoeuvring of residents vehicles (each space measuring a minimum of 2.4m x 5.5m), located, designed, laid out and constructed all as agreed in writing with the Local Planning Authority and maintained throughout the life of the development free from any impediment to its designated use.
12. There shall be no gates or other barriers within 10m of the nearside highway boundary and any gates shall open inwards only, unless otherwise agreed in writing by the Local Planning Authority.
13. The modified access drive to Rupert Street shall be no steeper than 1:14 for the first 10m from the nearside highway boundary and 1:10 thereafter.
14. No part of the development shall be occupied until details of arrangements for storage of bins and collection of waste have been submitted to and approved 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.
15. Prior to the first occupation of the dwelling(s) hereby approved, any made ground on the site shall be removed or a contamination investigation and risk assessment of that part of the site shall be carried out by a competent person in accordance with current guidance and in accordance with a scheme which has been approved by the Local Planning Authority, to demonstrate that the site is suitable for the use hereby approved. Where the site investigation and risk assessment shows that contamination remediation is required, a remediation scheme shall be prepared and submitted to the Local Planning Authority for written approval; the approved remediation scheme shall be implemented as approved and a verification report shall be submitted to and approved in writing demonstrating that the remediation has been carried out successfully prior to the first occupation of the [dwelling(s)] hereby approved.
16. Where any suspected areas of contamination are discovered during the development of the site, the process of site investigation and risk assessment as identified in condition 15 above shall be carried out by a competent person in accordance with current guidance and in accordance with a scheme which has been approved by the Local Planning Authority, to demonstrate that that part of the site is suitable for the use hereby approved.
17. In the event that it is proposed to import soil onto site in connection with the development, the soil to be imported shall be sampled at source and analysed in a laboratory that is accredited under the MCERTS Chemical Testing of Soil Scheme for all parameters previously agreed in writing with the Local Planning Authority, the results of which shall be submitted to and shall be approved in writing with the Local Planning Authority.
18. Licensing, mitigation and enhancement measures for bats detailed in Section 4 of the Bat Survey report (Armstrong Ecology, May 2021) and the Site Bat Mitigation Plan (Drawing no: PMWI/113 Rev. 01) shall be implemented in full

and maintained thereafter, unless agreed in writing with the LPA or Natural England. A copy of the bat licence shall be submitted to the LPA once granted by Natural England.

19. No stripping, demolition works or 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.
20. The site shall be developed with separate systems of drainage for foul and surface water on and off site. The separate systems should extend to the points of discharge to be agreed.
21. There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which will have been submitted to and approved by the Local Planning Authority. If discharge to public sewer is proposed, the information shall include, but not be exclusive to:- a) evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical; b) evidence of existing positive drainage to public sewer and the current points of connection; and c) the means of restricting the discharge to public sewer to the existing rate less a minimum 30% reduction, based on the existing peak discharge rate during a 1 in 1 year storm event, to allow for climate change.
22. 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.
23. Prior to the first occupation of any of the three dwellings hereby approved the 2m high ball strike fence as shown within Drawing No PMWI-114 Rev 02 Site Cricket Mitigation Plan (published 12.10.2021) shall be erected and be maintained throughout the life of the development
24. During cricket games there shall be no access to the parts of the Plot 1 and Plot 2 that remain in the ball strike zone as identified within Drawing No PMWI-114 Rev 02 Site Cricket Mitigation Plan (published 12.10.2021).

PLANNING COMMITTEE – 14 December 2021

REFERENCE NUMBER: 21 / 00976/FL Application Expiry Date: 18.11.2021
Application Type: Full Planning Permission

Proposal Description: Proposed development of 50 dwellings associated roads, sewers, gardens, parking and garages (Major Development) (Departure from the Development Plan) (Amended Plans)

At: Land Between Old Canal And North Side Of Primrose Lane, Killamarsh

For: W Redmile & Sons Ltd

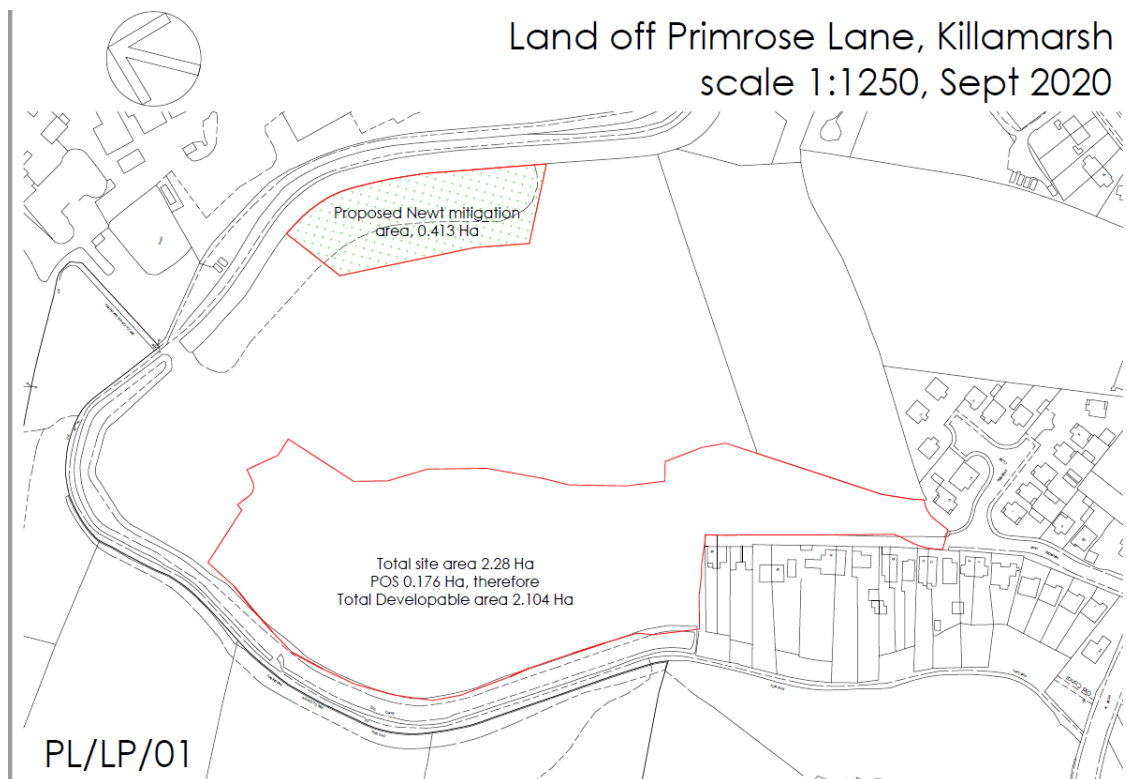
Third Party Reps: 29 **Parish:** Killamarsh
Ward Name: Killamarsh East Ward

Author of Report: Phil Slater

Date of Report: November 2021

MAIN RECOMMENDATION: GRANT (subject to S106 agreement)

Location Plan



1.0 Reason for Report

- 1.1 Councillor Clough has requested that the application be determined at Planning Committee, due to it constituting development that is not suitable and would adversely affect the character of the area. Concerns are also raised that the transport capacity assessment has not been carried out at an appropriate time during the pandemic period.
- 1.2 The Planning Committee is required to determine the application.

2.0 Proposal and Background

- 2.1 The application site is located north of Primrose Lane on the northern edge of Killamarsh and is approximately 2.28 ha in size. The site is currently grassland with vegetation to the northern and western perimeter along the line of the disused Chesterfield Canal. The site gently slopes towards the western and northern boundaries with the disused canal forming a sunken channel along the site boundary.



Figure 1: aerial photo of site

- 2.2 The existing properties along Primrose Lane are mixed in character with detached and semi-detached properties, bungalows with dormer windows

and a row of terrace houses. The properties to the west of Primrose Lane are set within long narrow plots which extend up to and include the line of the disused canal. Approximately 100 metres west of the site beyond a private road are wetlands associated with Rother Valley Country Park.

- 2.3 The site lies within the defined settlement development limits as set out in the adopted Local Plan and is allocated for residential development of approximately 30 dwellings. A portion of the northern part of the site is located within a Hazardous Installations Zone as indicated on the local plan policies map extract below.
- 2.4 The original route of the Chesterfield Canal as identified on the Local Plan Policies Map is to be safeguarded from development likely to prejudice its future restoration and its existing function of providing a quality green space and leisure route.

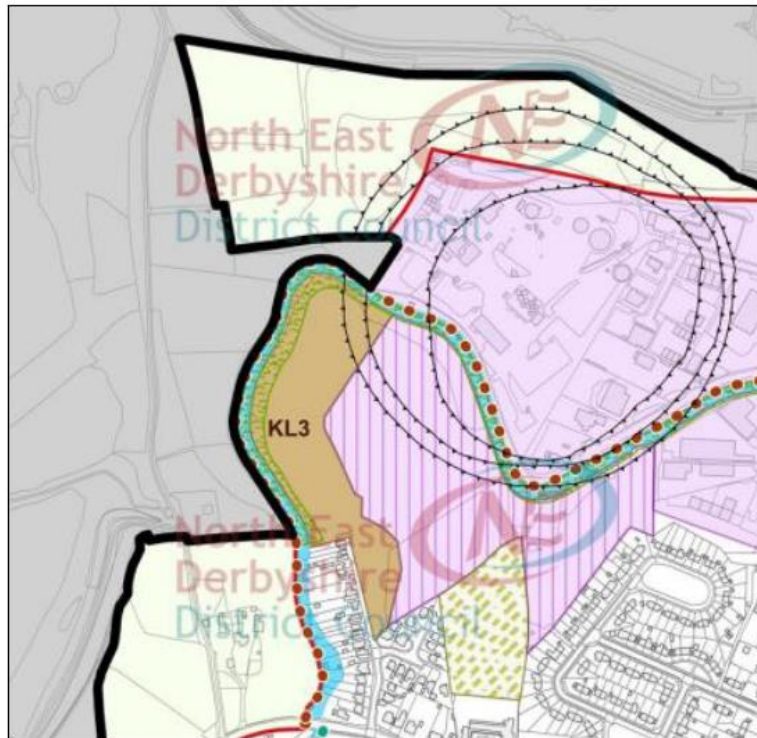


Figure 2: LP extract

Proposals

- 2.5 This application is a re-submission following an earlier application that was refused under reference NED/20/00919/FL for the proposed development of 50 dwellings, associated roads, sewers, gardens, parking and garages.
- 2.6 This is a full application for the erection of 50 dwellings, access, landscaping and ancillary works and is of the same character and description as the development to which the earlier application was made.

The differences in this submission are to address the reasons for refusal. This includes an offer of a financial contribution to meet NHS requirements from the development and includes additional submissions to assess the impact of the development on junction capacity at Sheffield Road / Primrose Lane.

- 2.7 The application site is 2.28 ha in size, and it is proposed that the development will comprise of a mix of 2, 3, 4, and 5 bedroom bungalows and houses of varying styles. Properties will be orientated to provide views and surveillance over the Chesterfield Canal, and surrounding areas of open space. A plan showing the proposed layout is set out below.



Figure 3: Site Layout Plan

- 2.8 A total of 158 car parking spaces will be provided as part of the scheme. 43 of these parking spaces will be provided via integral or detached garages. Garages will also provide space for cycle storage.
- 2.9 The 7 bungalows are proposed as affordable units and the 20% affordable housing contribution would be made up by a commuted sum for off-site affordable housing for 3 units.
- 2.10 A canal turning point (winding hole) will be located to the north of the development site once the canal restoration works have taken place.
- 2.11 A newt mitigation area will also be located to the north of the development site. That will cover approximately 0.41ha and comprise of piles of clean rubble covered with soil and areas of long tufted grass created between. On completion of the mitigation, the fencing will be removed to make it

available to amphibians and the project will not require any monitoring to be undertaken.

2.12 . Some visual representations are also shown for information.



Figure 4: Visual from the site entrance on Primrose Lane



Figure 5: Visual of view from the canal route.

3.0 Relevant Planning History

- 3.1 NED/14/00090/FL - Proposed construction of 30 detached houses with associated car parking, garages, gardens and roads and sewers. Application refused.
- 3.2 NED/16/00216/FL - Revised scheme of 14/00090/FL for development of 30 dwellings (Major Development). Conditionally approved subject to S106. This application is now time expired.
- 3.3 NED/20/00919/FL - Proposed development of 50 dwellings associated roads, sewers, gardens, parking and garages (Major Development)

(Departure from the Development Plan) (Amended Plans). Application refused in May 2021.

The application is considered unacceptable as it represents the development of a greenfield site and the proposals for a development of 50 dwellings would exceed the 30 dwellings set out in the North East Derbyshire Local Plan 2014-2034 (Publication Draft) (PDLP) housing allocation. It would therefore constitute development that is not sustainable and which would adversely affect the character of the area and so to grant permission would be contrary to policy GS1 of the Adopted North East Derbyshire Local Plan and policies SS1 and LC1 (as amended by Main Modifications) of the North East Derbyshire Local Plan 2014-2034 (Publication Draft).

The application is not accompanied by a capacity assessment of the existing junction of Primrose Lane and Sheffield Road and there is insufficient information submitted to allow a proper assessment of the issue of highway safety. Notwithstanding that, the development of the site for 50 dwellings would introduce additional vehicles movements that would be severely harmful to and impact on highway safety. To grant permission would, therefore, be contrary to policy T2 of the Adopted North East Derbyshire Local Plan and ID3 (as amended by Main Modifications) of the North East Derbyshire Local Plan 2014-2034 (Publication Draft) (PDLP).

4.0 Consultation Responses

- 4.1 The **Parish Council** have objected as the application fails to deliver on a number of aspects including 3 overarching objectives of the NPPF (July 2021)
- Achieving sustainable development - green field site that this is not the right type of development on a quiet cul-de-sac and would impact greatly on both the open space aspect of the site and the lack on infrastructure to absorb an extra 150 plus vehicles.
 - The road network does not have the capacity to cope with an increase in properties and as the cul-de-sac exits on to a busy main thoroughfare (Sheffield Road), which at specific times is very difficult to negotiate as traffic needs to turn right, at the brow of a hill, when entering and exiting.
 - The cul-de-sac is very close to a busy Junior and Infants School, where a number of traffic accidents have occurred in the past. The impact of adding a further 50 homes in this location, would be far too significant for the area to cope with and would increase an already dangerous situation and would potentially put both current residents and the school children at greater risk.
 - the impact of housing of this size has the potential to over burden the surgery even further, leaving residents at even greater risk. This

application is for higher occupancy properties, so 50 houses has the potential to add a further 200 plus patients to a surgery unable to cope now.

- Social objective - This site does not provide for the right type of housing in Killamarsh by only providing for 7 two beds and just 3 three beds. There has been no acknowledgement of Social, Affordable or Intermediate Rent, Affordable Home Ownership, Starter Homes Self-build or Custom Build. This application looks to build homes that will not help the future generations of Killamarsh.
- Environmental objective – There will be a major impact on the environment of Killamarsh as this would not be an effective use of an important greenfield site and would in fact only add to the waste and pollution of Killamarsh.
- Public transport in Killamarsh, as well as many villages is very poor, there is currently limited access to jobs locally, so the only way people will be able to access work is by commuting using their vehicles, thus adding to the pollution, with no signs shown that this is truly mitigated.

4.2 The **County Highway Authority** (HA) have not raised an objection and initially commented that, as the current submission does not appear to differ in highway terms, previous highway comments remain the same. It has been noted that the latest Transport Statement includes a capacity assessment of the junction of Primrose Lane with Sheffield Road, demonstrating a considerable level of reserve capacity.

4.3 A revised Transport Statement (TS) has been submitted which seeks to address the Local Planning Authority's highway reason for refusal associated with planning application NED/20/00919/FUL. This latest TS includes a capacity assessment of the junction of Primrose Lane with Sheffield Road (B6058)) from baseline traffic flows at the existing junction and trip rates derived from the TRICs database for the development. The Highway Authority has undertaken its own independent video survey of the junction to ensure the veracity of the submitted data, due to it being taken at a time of disruption due to the Covid-19 pandemic and baseline flows submitted are accurate, with the results being comparable with those found within the submitted TS. Following this it is considered that the capacity assessment demonstrates a considerable level of reserve capacity, given the relatively modest quantum of development under consideration.

Accordingly, subject to conditions being appended to any consent, there are no highway objections to the above proposal.

4.4 The **Derbyshire County Council Flood Team** (LLFA) commented that it has reviewed the information submitted and has no objections subject to conditions.

- 4.5 **NEDDC Engineers** have raised no comments.
- 4.6 The **Derbyshire Wildlife Trust (DWT)** have been consulted and have not provided comments. With regards to the previous application DWT raised no objections and suggested a number of conditions in relation to ecology and biodiversity.
- 4.7 The Council's **Environmental Health Officer (EHO)** has raised no objection and commented that previous comments still apply. Conditions are recommended in respect of noise and ground conditions.
- 4.8 The **Health and Safety Executive (HSE)** have commented The proposed development site does not currently lie within the consultation distance (CD) of a major hazard site or major accident hazard pipeline; therefore at present HSE does not need to be consulted on any developments on this site.
- 4.9 The **Council's Employment and Skills Officer** has requested a condition to enhance and maximise employment and training opportunities.
- 4.10 The **NHS (Chesterfield Royal Hospital)** have commented that the Section 106 impact on health be considered. Officers requested further details of the specific s106 requests. No further comments have been received.
- 4.11 The **NHS Derby and Derbyshire Clinical Commissioning Group** have requested £24,000 to be invested in enhancing capacity/infrastructure with existing local practices. The closest practice to this development is Killamarsh Medical Practice. Also within the vicinity of the development are: The Valleys Medical Partnership, Emmett Carr Surgery and Barlborough Medical Practice (Renishaw Site)
- 4.12 The **Council's Housing Officer** has commented that their previous comments apply which were that North East Derbyshire's Publication Draft Local Plan Policy L2 requires that at least 20% affordable housing is provided on sites of 10 or more dwellings. The proposal in this application is to provide 7 x 2 bedroom bungalows as affordable housing. This equates to 14% provision on a site of 50 units, so it is below that required in planning policy.

The agent has subsequently offered to pay a commuted sum for offsite affordable housing to provide a total of 20% affordable housing contribution. The housing officer has responded that whilst they would prefer to have affordable housing on site, there do not appear to be any other property types on the plan that would be suitable for affordable

housing. As such in this case the housing officer recommends accepting a commuted sum in lieu of the 3 units not provided on site.

The commuted sum contribution per unit would be £64,905.75 (market value minus 55%). The sum for 3 units would therefore be £194,717.25

- 4.13 The **Coal Authority** has commented that the submission is supported by a letter that provides additional commentary on the recorded mine entry located on site.

In this letter it is indicated that the shaft will require treating and capping. A cross section is provided of a calculated no build zone for the mine entry and the letter confirms that the plots proposed are positioned outside of this radius. A 1:500 plan is given showing the extent of the shaft cap necessary and a no build zone which indicates that Plots 4 and 5 fall outside of this area.

The Coal Authority is of the opinion that building over the top of, or in close proximity to, mine entries should be avoided wherever possible, even after they have been capped, in line with adopted policy:

The Phase 1 & Phase 2 Geotechnical and Geo-Environmental Site Investigation Report, dated 31 July 2020, conclude that shallow coal mine workings will need to be stabilised beneath the site, as well as the mine entry treated.

Overall, the Coal Authority raise no objection subject to conditions relating to further intrusive site investigations.

- 4.14 The **Police Force Designing Out Crime Officer** has commented that the recommendations are the same as for the previous application.

- 4.15 The **Derbyshire County Council Archaeologist** has commented that their previous comments apply which are that the site has no known heritage sensitivity beyond the course of the Chesterfield Canal (Derbyshire HER MDR6152). The applicant has submitted a heritage assessment which sets out the significance of this asset within the site. It is noted that the canal itself is not impacted and that there is a stand-off between the canal and red-line boundary that would allow access should a restoration project take place. There are no objections to the scheme as proposed.

- 4.16 **Derbyshire County Council Infrastructure** have commented that no additional capacity at the primary or secondary school level is required to cater for this development. £3520 is requested to mitigate the impact of the development on the nearby libraries. It is stated that 3 more dwellings than

those proposed are required for suitable affordable housing accommodation and a monitoring fee will be requested.

- 4.17 **Yorkshire Water** have raised no objections subject to a condition requiring the development being carried out in accordance with the submitted drawings.
- 4.18 **NEDDC Parks Officers** have commented that the development comprises of 7 two bed dwellings, 3 three bed dwellings, 16 four bed dwellings and 24 five bed dwellings. This could attract £48,626.24 of section 106 monies towards existing offsite provision with a 10 year maintenance fee in addition. It is recommended that any s106 monies be allocated for play areas within the vicinity of the site, rather than being allocated to a specific play area.
- 4.19 **NEDDC Streetscene** have not commented however they previously raised no objections and commented that access is required for refuse collection vehicles which will not cross un-adopted roads unless an alternative solution is proposed by the developers.
- 4.20 The **Chesterfield Canal Trust** has not objected to the application. It has commented that the reasons for refusal did not address the trusts argument in favour of a contribution towards restoration of the canal and have no further comments to make.
- 4.21 **Natural England** has no comments to make.

5.0 Representations

- 5.1 One **Ward Member (Cllr Clough)** has called in the application to planning committee due to it constituting development that is not suitable and would adversely affect the character of the area. Concerns are also raised that the capacity assessment has not been carried out at an appropriate time during the pandemic period.
- 5.2 **28 objections** have been received which can be summarized as follows:-

Infrastructure

- Killamarsh infrastructure and services are stretched, and adding more houses will only exacerbate the issue
- The schools are at their capacity, and the number of patients registered to the GP practice is already so high that the waiting period for an appointment is an uncomfortable length of time
- this development would certainly not be sustainable and would adversely affect the character of the area and would certainly not play a

- positive role in adapting to and mitigating the effect of climate change

Highway issues

- 50 dwellings of this size will generate 150 additional cars (doubling the existing footprint and not taking into account the two daily school runs) all exiting from the one T junction (Primrose Lane/Sheffield Road).
- A comparable estate very close by (situated off Sherwood Road/Rotherham Road A618- to the east of Primrose Lane) has a similar amount of houses (mainly 3 bed dwellings) and only one exit off the estate to a Main road. At some point there must have been a road safety issue regarding the amount of vehicles exiting this junction to warrant a mini roundabout as it was originally a T junction.
- Junction should be changed to a mini roundabout.
- The proposed entrance runs almost parallel to the unadopted part of the road so in theory any vehicle leaving this part of the road would need to look 180 degrees behind them to ensure it is safe to continue (the hedge may not always be there and viewing is blocked). In addition drivers will need to drive over the proposed new public pathway, which is dangerous.
- Local government regulations state there should be a satisfactory access to the new site and it needs to be safe access. The plans submitted do not fulfil this criteria.
- Object to this application due to the vast increase of traffic, not just on Sheffield Road, but throughout the village and especially Rotherham Road. Traffic on Rotherham Road and through the village on the B6058 has increased rapidly over the last year or two.
- The figures obtained from the turning count don't give a true representation of the actual amount of traffic using Primrose Lane and Sheffield Road as they have picked a quiet day and haven't taken the following factors into the consideration: i) Due to the COVID pandemic many people are still working from home, as many businesses are still closed or are encouraging as many of their staff as possible to continue to work from home. Prior to the school holidays many children were not at school due to having to self isolate, so the amount of school traffic on the roads would have been significantly lower; iii) An afternoon timeslot wasn't included and most certainly needs to be added to the turning point count to accommodate the school pick up time (14:30 – (15:30) iv) amount of traffic varies from day to day
- Developers are planning of using part of the unadopted road outside number 19 and 21, to gain the full width of the road into the development with footpaths on both sides of the road.
- The unadopted road belongs to the residents outside each of the properties that run alongside that stretch of the road, and that its their responsibility for the upkeep. If this is the case how can the developers use part of this road without getting permission from the appropriate residents, which we know has certainly not happened, surely, the

developers can't just make claim to it without full consultation with the appropriate residents.

- Standard footpaths are going to be installed on both sides of the road, this will have a detrimental effect to the current residents. How do the current residents of the unadopted part of the road gain access to their properties?
- According to Section 34(1) of the Road Traffic Act 1988 (RTA 1988) it states that anyone driving a mechanically propelled vehicle, for example a motor car, on a road that is a footpath, bridleway or restricted byway is guilty of an offence unless it can be shown that there is a private right in place for people to use the accessway to gain vehicular access to their property.
- Some residents will be unable to park outside their homes. Where do these residents park their vehicles?
- What happens when we have a bad winter with heavy snow? In the past when we've had a heavy snowfall it's been near possible to gain access to Primrose Lane
- Concern over construction workers vehicles.
- What happens if the current application is approved and long term they come back and submit a further application to develop the rest of the land to the East of the site? (*officer note: not a material planning consideration as any future application will be assessed at the time*)
- Refuse collection vehicle has to reverse back out of Primrose lane due to vehicles parked on the kerbside.
- Parents use the whole length of the lane for parking with some vehicles blocking residents drives
- Cars having used the parking bays on Lock Hill turning on Primrose Lane just to turn around and go backdown the hill.
- Cars unable to enter Primrose Lane due to exiting cars blocking the narrow road, resulting in tailbacks East and West on Sheffield Road until somebody gives way.
- On the main road, cars parked up to the school thereby narrowing Sheffield Road.
- With larger vehicles especially HGVs, traffic has to stop one way which creates event grater tail backs
- History of incidents and accidents close to the junction with details provided.
-
- Residents have done a traffic count on a Wednesday and Friday during the school pick up (14:30 -16:00), as this time was conveniently missed of the developers manual traffic turning count that they carried out on 30 June 2021.
- The unadopted part of Primrose lane is narrow and clearly not wide enough for vehicles to turn around. Drivers have to reverse off of the unadopted road if they drive down the unadopted road.

- The current proposals would mean having to reverse over a newly proposed pathway going across the unadopted road whilst also ensuring that 3 directions of traffic are clear before continuing with their manoeuvre. I object on the basis that it does not leave residents/visitors to the unadopted part of Primrose Lane with a satisfactory or safe access.
- Speed of vehicles in this location has increased considerably
- Footpaths blocked by parked cars making it difficult for wheelchairs

Other

- Should not be disturbing contaminated land will flood the hospitals with patients it has been contaminated for years since tar distillers and burying Norwood colliery waste
- If the density of 50 properties on 2.804 hectares was unacceptable in 2014, how is it possible for 50 dwellings on 2.28 hectares (approximately 80% of the 2014 application) to be acceptable now? Based on this and the other reasons why the number of dwellings was reduced to 30 then this application should also be refused based on the same grounds. Apart from the number of houses the only different between the two proposed developments is a change to how the developers would gain access to the site. (this is addressed in the assessment)
- Development is totally unacceptable as it would exceed the 30 dwellings set out in the North East Derbyshire Local Plan 2014/2034 (Publication Draft) (PDLP) housing allocation.
- Why are Redmile's focusing on the larger 4-5 bedroomed properties and not affordable/starter properties (2-3 bedroomed) which would help first time buyers etc.
- Veolia remains concerned about potential land use conflicts associated with a new housing development in close proximity to a large, operational Hazardous waste recycling facility on an established industrial estate. We request that the Local Planning Authority carefully consider them before reaching a decision.
- There is a proposed wildflower meadow in the area of land adjacent to the section of the disused canal where there is still Japanese Knotweed present and extending its spread. Do the developers or NEDCC propose dealing with this invasive species or will they allow it to infest the wildflower meadow? Who will monitor the treatment and disposal of the contaminated land?
- Concerns regarding mine shafts and tunnels from underground workings
- Effect on wildlife

6.0 Relevant Policy and Strategic Context

- 6.1 The Development Plan comprises the **North East Derbyshire Local Plan (2014-2034) (LP)**. Other relevant policy documents include the Successful Places Interim Design Guide.
- 6.2 The LP identifies Killamarsh as a Level 1 Town within the settlement hierarchy which are considered to be the most sustainable locations for new development in terms of the range of services and facilities they provide.
- 6.3 The application site is identified in the LP as a proposed housing allocation (ref KL3) and is expected to deliver approximately 30 dwellings.
- 6.4 The following policies are relevant to this application:
- SS1 – Sustainable Development
 - SS2 – Spatial Strategy and Distribution of Development
 - LC1 – Housing Allocations
 - LC2 – Affordable Housing
 - LC4 – Type and Mix of Housing
 - SDC11 – Flood Risk and Drainage
 - SDC12 – High Quality Design and Place-Making
 - SDC15 – Development near Hazardous Uses
 - ID1 – Infrastructure Delivery and Developer Contributions
 - ID2 – Provision and Safeguarding of Transport Infrastructure
 - ID3 – Sustainable Travel
 - ID8 – Chesterfield Canal
- National Planning Policy Framework**
- 6.5 The National Planning Policy Framework 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 there are no relevant development plan policies, or the policies which are the most important for determining the application are out of date granting permission; unless the application of policies in the framework provides a clear reason for refusing the development or any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the framework taken as a whole.

7.0 Planning Issues

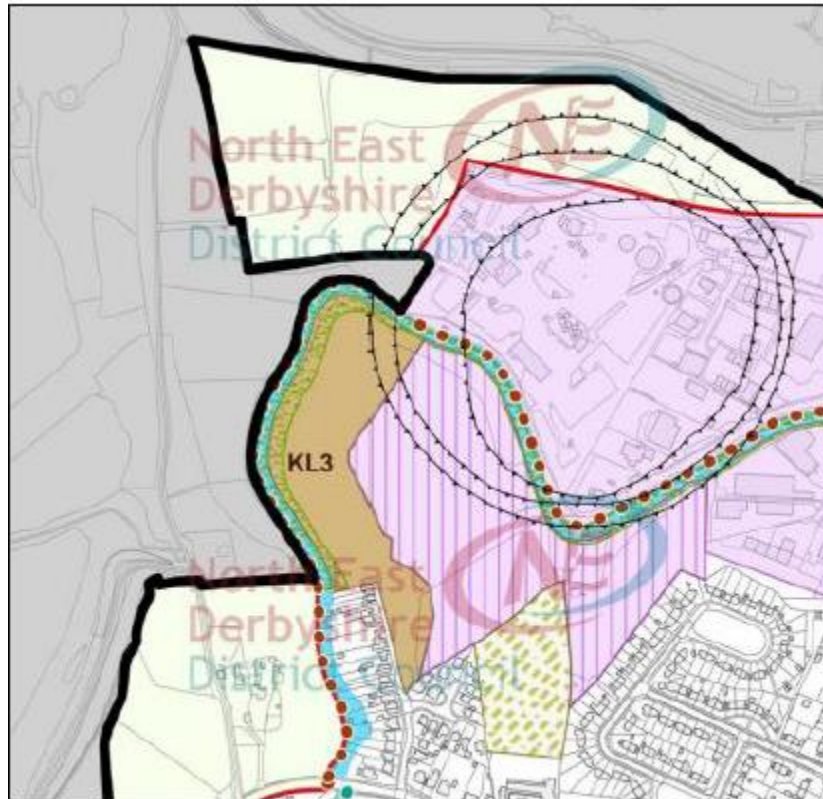
- 7.1 This is a full application for the construction of 50 no. dwellings with associated access works, car parking and landscaping on land off Primrose Lane, Killamarsh.

Principle of Development

- 7.2 The application site is a green field site located within the defined settlement development limits for Killamarsh and is approximately 2.28 hectares in size. The site is currently grassland with vegetation to the northern and western perimeter along the line of the disused Chesterfield Canal
- 7.3 The application site has an expired consent for the erection of 30 dwellings, granted under application reference 16/00216/FL on the 31st January 2017.



- 7.4 The LP identifies the application site as a specific housing allocation which is expected to deliver 30 dwellings within the first 10 years after adoption of the local plan as set out below.



- 7.5 As such, the principle of developing the site for housing has been established by the Local plan as a sustainable location for housing development.

Addressing the reasons for Refusal

- 7.6 Members will recall that the previous application was refused on two grounds:-

1) *The application is considered unacceptable as it represents the development of a greenfield site and the proposals for a development of 50 dwellings would exceed the 30 dwellings set out in the North East Derbyshire Local Plan 2014-2034 (Publication Draft) (PDLP) housing allocation. It would therefore constitute development that is not sustainable and which would adversely affect the character of the area and so to grant permission would be contrary to policy GS1 of the Adopted North East Derbyshire Local Plan and policies SS1 and LC1 (as amended by Main Modifications) of the North East Derbyshire Local Plan 2014-2034 (Publication Draft).*

2) *The application is not accompanied by a capacity assessment of the existing junction of Primrose Lane and Sheffield Road and there is*

insufficient information submitted to allow a proper assessment of the issue of highway safety. Notwithstanding that, the development of the site for 50 dwellings would introduce additional vehicles movements that would be severely harmful to and impact on highway safety. To grant permission would, therefore, be contrary to policy T2 of the Adopted North East Derbyshire Local Plan and ID3 (as amended by Main Modifications) of the North East Derbyshire Local Plan 2014-2034 (Publication Draft) (PDLP).

- 7.7 The agent has submitted an updated Planning Statement and commented in respect of the first reason that this is a fundamental misunderstanding of the policy in the (formally) emerging plan. Policy LC1 as set out in the Proposed Modifications version of the Plan considers an approximate yield from the site to be 30 dwellings. It does not set a limit on the capacity of the site. The density of the scheme as proposed is circa 22dph, which is below 30 dwellings to the hectare which might otherwise be considered a lower density proposal. This proposal will make more efficient use of land. The lower yield is a historic factor associated with Health and Safety Executive advice which has been revised and reviewed and no longer constraints the development of the site in the way it previously did.

The site has a long-standing allocation for development for housing on it and cannot be considered unsustainable. To do so would be to consider the allocations of the existing and emerging Local Plan unsound which is illogical in the context of how one has been adopted and how far the new Plan has progressed. In summary, the Planning Statement sets out that the development proposals simply would not constitute development that is not sustainable, and it would be appropriate to the character of the area.

- 7.8 The second reason for refusal relates to the lack of a junction capacity assessment. The agent has commented that no such information was prepared or requested by the Highways Authority, the Local Planning Authority or any other party until Planning Committee considered the application. Indeed, the Highways Authority had no objection to the development proposals.

In accordance with both National and Local policy and guidance, capacity assessments are typically undertaken whereby the development vehicle trips exceed 30 two-way trips during any given peak period, or there is a pre-existing capacity concern (i.e., congestion / queuing). Neither of these triggers have been identified within this Transport Statement for the Sheffield Road / Primrose Lane junction, and hence no capacity assessment is deemed to be required. Nevertheless, in order to address the concern identified, a PICADY 9 junction capacity model was created. As set out in the Transport Statement accompanying the application the assessment confirms, that the existing junction would have ample spare capacity within it once the proposed development is fully built-out, and therefore no further assessment should be undertaken.

This confirms that the proposal would not have a severe impact, and therefore be in accordance with Paragraph 111 of the National Planning Policy Framework. There would be no harmful impact on highway safety and the development is not contrary to Policy T2 of the adopted Local Plan or Policy ID3 of the emerging Local Plan.

Chesterfield Canal

- 7.9 As accepted in the previous approval on site the restoration of the canal would be financially prohibitive to the Applicant, however, space has been allocated within the development for a future winding hole should restoration take place.
- 7.10 The Chesterfield Canal Trust has not raised an objection to the proposals and has commented that as the Council did not require a s106 contribution towards the canal in 2016 they do not request a contribution from this application. On the earlier application the trust commented that it should be noted that the restoration of what will become a side-arm to the main line of the restored canal remains an aspiration for the trust. It should also be noted that construction access will be required, probably via Primrose Lane, when restoration takes place.
- 7.11 The canal trust has previously commented that the scheme is well designed to take advantage of any future views over the canal and to present an attractive frontage to the canal.
- 7.12 The proposed winding hole is outside the redline boundary, the vendor for the proposed development site owns the adjoining land and is prepared to gift the land for this feature to the Canal Trust.
- 7.13 Local plan policy ID8 relates to the Chesterfield Canal and requires that the route be safeguarded from development likely to prejudice its future restoration and its existing function providing a quality green space and leisure route. The development proposals are considered by officers not to prejudice this future restoration and the area of land required for the winding hole can be included in the s106 agreement along with the provision of access through the site for the restoration.

Infrastructure and affordable housing

- 7.14 The application proposes 7 x 2 bedroom bungalows as affordable housing. This equates to 14% provision on a site of 50 units, so it is below that required in planning policy (20%).
- 7.15 The agent has subsequently offered to pay a commuted sum for off site affordable housing to provide a total of 20% affordable housing

- contribution. The housing officer has commented that whilst they would prefer to have affordable housing on site, there do not appear to be any other property types on the plan that would be suitable for affordable housing. As such a commuted sum would be accepted in lieu of the 3 units not provided on site as an acceptable way forward. The commuted sum contribution per unit would be £64,905.75 (market value minus 55%). The sum for 3 units would therefore be £194,717.25 to be included in the s106 agreement.
- 7.16 Officer consider, in line with the Housing officer's comments that the proposed affordable housing provision is acceptable.
- 7.17 Derbyshire County Council have confirmed that the relevant normal area primary and secondary schools would have sufficient capacity within the next 5 years to accommodate the additional pupils arising from this development and therefore no education S106 contribution would be required. DCC have requested s106 contributions of £3520 respect of library stock.
- 7.18 NEDDC Parks officers have requested £48,626.24 of section 106 monies towards existing offsite open play provision within the vicinity of the site with a 10 year maintenance fee of £15,372.89.
- 7.19 The NHS Chesterfield Royal Hospital have commented that Section 106 impact on health should be considered. Officers requested further details of the s106 requests. No further comments have been received.
- 7.20 The NHS Derby and Derbyshire Clinical Commissioning Group have requested £24,000 to be invested in enhancing capacity/infrastructure with existing local practices. The closest practice to this development is Killamarsh Medical Practice with other practices nearby.
- 7.21 On this issue, officers have gone back to the NHS Chesterfield Royal Hospital and requested further details in respect of their S106 request. Without this additional information officers consider that this specific request does not meet the relevant tests and so should not be required.
- 7.22 With regards to the £24,000 towards Killamarsh Medical Practice the agent has confirmed their agreement to this request.

Highways

- 7.23 The application proposes a single point of access to the main highway network via Primrose Lane and concerns have been raised by residents regarding the existing lane being congested particularly around school drop off and pick up times. Concerns have also been raised regarding the numbers of units being increased to 50 dwellings.

7.24 The application is accompanied by a Transport Assessment which includes a capacity assessment of the Primrose Lane/Sheffield Road junction. The site would be served via an extension of the Primrose Lane cul-de-sac. The carriageway would extend to the north at a width of 5.5 metres with a 2 metres wide footway bound at both edges. There would be a dropped kerb access provided to continue to facilitate access to the 12 existing residential dwellings along the private drive to the northwest. A refuse collection vehicle could suitably enter the site, manoeuvre within the layout and exit in forward gear.





- 7.25 The Highway Authority have not raised an objection and initially commented that, as the current submission does not appear to differ in highway terms, previous highway comments remain the same. It has been noted that the latest Transport Statement includes a capacity assessment of the junction of Primrose Lane with Sheffield Road, demonstrating a considerable level of reserve capacity.
- 7.26 The revised Transport Statement (TS) seeks to address the Local Planning Authority's highway reason for refusal associated with planning application 20/00919/FUL. The latest TS includes a capacity assessment of the junction of Primrose Lane with Sheffield Road (B6058) from baseline traffic flows at the existing junction and trip rates derived from the TRICS database for the development. The Highway Authority has undertaken its own independent video survey of the junction to ensure the veracity of the submitted data, due to it being taken at a time of disruption due to the Covid-19 pandemic and baseline flows submitted are accurate, with the results being comparable with those found within the submitted TS. Following this it is considered that the capacity assessment demonstrates a considerable level of reserve capacity, given the relatively modest quantum of development under consideration.

- 7.27 Accordingly, subject to the conditions being appended to any consent, it is concluded by Officers that there are no sustainable highway objections to the above proposal and it has been shown through the submission of evidence that the previous reason for refusal has been addressed.
- 7.28 Concern has been raised by local residents regarding the highway implications of the development. 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.
- 7.29 Officers, based on the advice of the HA, do not consider that the 50 additional dwellings would result in demonstrable harm to highway safety. Officers consider that the highway issues can be satisfactorily addressed by appropriate conditions and have no reason to conclude that the transport impacts of this development would be severe.
- 7.30 Therefore, in considering all the issues pertaining to Highway Safety the comments of the HA are clear in stating that the scheme is acceptable from a highway safety point of view and Officers concur with that assessment.

Proximity to a Hazardous Installation

- 7.31 Concerns have been raised with regards to the appropriateness of locating a housing development close to an industrial site. The Health and Safety Executive (HSE) have been consulted and have commented that the application site does not currently lie within the consultation distance of a major hazardous site therefore at present HSE does not need to be consulted on any developments on this site.
- 7.32 The site was previously entirely located within the Middle Consultation Zone for the Veolia Environmental Services, Norwood Industrial Estate, Killamarsh. However, that is no longer the case.

Design and Layout

- 7.33 The application site is a site located within the defined Settlement Development Limits as per the Local Plan and a specified housing allocation which is identified with a capacity for 30 dwellings. The development proposal will be constructed to a density of 21.93 dwellings per hectare which is below the expected minimum of 30 dwellings per hectare as set out in the allocation.
- 7.34 However, if the site was to only deliver 30 dwellings in line with the expectations of its allocation this would result in a density of 13.1 dwelling per hectare.



- 7.35 The proposed layout proposes a mix of 2, 3, 4 and 5 bed units with on plot parking. Garages would provide space for cycle storage. Properties will be orientated to provide views and surveillance over Chesterfield Canal, and surrounding areas of open space. Two and a half storey dual aspect units are proposed at key points along the street elevation with the canal.
- 7.36 The development is outward facing towards the canal and the northern edge of the development and a mix of off street car parking is proposed so that it does not dominate the streetscene. On the eastern edge the rear gardens of plots back onto what is currently an open field; and to soften the appearance of the boundary fencing a new hedgerow is proposed along this boundary.
- 7.37 Officers consider that the layout demonstrates generally good design principles and proposes an outward facing development towards the route of the canal and is considered to be generally in accordance with the design guidance set out in Successful Places. The garden sizes meet the Council's design guidance except plot 29 which is a dual aspect unit and contributes to the wider street scene and the overall design of this part of the site such that this reduced garden size is offset by these other benefits.

Impact on Neighbours

- 7.38 The properties most likely to be affected by the development would be No's.11 to 45 Primrose Lane which lie on the west side of the unadopted section of Primrose Lane and No. 15 Primrose Close adjacent to the new junction that would be formed by the development.
- 7.39 The existing row of terraced houses would retain their existing access road, with the new road into the site formed beyond this and bungalows

sited on the opposite side of the road from these houses. The separation distance between is 25m which exceeds the requirements of Successful Places.



- 7.40 The property adjacent to the site entrance would not be directly overlooked, although it is acknowledged that there will be some increased noise and disturbance from the comings and goings from the development site.
- 7.41. The area of open space lies adjacent to No. 45 Primrose Lane, however it is not considered that this would cause a significant increase in noise or disturbance and was set aside for POS in the earlier approved development.
- 7.42 Overall, Officers consider that the development would not have an overriding and harmful impact on near residential neighbours.

Archaeology, ground stability and drainage

- 7.43 The Water Authority, and the DCC Lead Flood Authority (LLFA) have not raised objections to the proposals subject to conditions relating to the design and management of the surface water drainage for the site. Officers consider that subject to conditions the development would be appropriately drained and the scheme is acceptable from drainage and flood risk perspectives.
- 7.44 The Coal Authority have commented that the application is accompanied by a Phase 1 and Phase 2 Site Investigation Report which confirms that intrusive site investigations have been carried out on site to locate the

mine entry and have established that shallow coal mine workings are present beneath the site. The agent has further indicated that the shaft will require treating and capping; and confirms that the plots proposed are positioned outside of this radius. The agent has provided a 1:500 plan showing the extent of the shaft cap necessary and a no build zone which indicates that Plots 4 and 5 fall outside of this area. The Coal Authority has recommended that the Local Planning Authority impose a planning condition requiring site investigation works to be carried out prior to commencement of development.

- 7.45 With regards to land contamination no objections have been raised by Environmental Health Officers, subject to conditions. EHO have also commented that the proposed development is within close proximity to an industrial estate which could result in significant noise impacts upon amenity. There is also potential for the construction activities to impact upon the amenity of existing sensitive receptors. No objections are raised, however, subject to conditions relating to construction working and also a scheme of sound insulation to the new dwellings.
- 7.46 The DCC Archaeologist has commented that the site has no known heritage sensitivity beyond the course of the Chesterfield Canal. The applicant has submitted a heritage assessment which sets out the significance of this asset within the site. It is noted that the canal itself is not impacted by the development and that there is a stand-off between the canal and red-line boundary that would allow access should a restoration project take place. There are no objections to the scheme as proposed.
- 7.47 In summary, Officers consider that in view of the above, subject to conditions the development would be acceptable from drainage, environmental health and ground stability perspectives.

Impact on Ecology

- 7.48 The NPPF at para 175 states that when determining planning applications, local planning authorities should apply the following principles: if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated or as a last resort, compensated for, then planning permission should be refused.
- 7.49 Derbyshire Wildlife Trust (DWT) have previously commented that the submitted Ecological Impact Assessment is sufficient to address potential risks and impacts to habitats and species at the proposed site. DWT consider that the survey work and proposed mitigation for protected species including great crested newt, reptiles, bats and birds is acceptable and that if the application is approved suitable conditions could be

attached to ensure these issues are addressed in line with legislation and guidance.

- 7.50 The application is accompanied by a Biodiversity Metric Calculation to ensure that there is no net loss of biodiversity as a result of the development.



- 7.51 In summary, the proposals seek to mitigate its impact on biodiversity and provide the provisions of additional biodiversity off setting as required. 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 subject to conditions this would ensure that the development would not have a detrimental impact on ecological interests.

8.0 Summary and Conclusion

- 8.1 The site is an allocated site for housing within the adopted Local Plan, and has previously benefited from permission for 30 residential units. It lies within the defined settlement development limits for Killamarsh and is considered a sustainable location for additional housing.

- 8.2 The proposed development is considered on the whole to offer a 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 on highway safety.
- 8.3 The agent has submitted additional information and an updated Transport Assessment including capacity assessment of the junction to address the previous reasons for refusal.
- 8.4 Accordingly, it is recommended that, subject to completion of the necessary s106 agreement and conditions, that permission should be granted.

9.0 Recommendation

- 9.1 **GRANT** Full Planning Permission subject to the following conditions and section 106 agreement with the final wording and content of the conditions delegated to the Planning Manager (Development Management)

Section 106 Heads of Terms

Affordable Housing (7 bungalows) plus Affordable Housing commuted sum - £194,717.25

£48,626.24 of section 106 monies towards existing offsite play provision with a 10 year maintenance fee of £15,372.89.

£24,000 towards NHS to be invested in enhancing capacity/infrastructure with existing local practices.

£3520 towards DCC Library stock

Provision of land for the canal winding hole and access through the site for the future restoration of the canal.

Conditions.

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

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.
2. The development hereby approved shall be carried out in accordance with the details shown on the following plans:-

PI/LP/01 Location Plan 1:1250 September 2020
Site Layout – PLK/SL/01 REV C

Ecological Impact Assessment received 22 March 2021
Killamarsh Biodiversity Metric 2.0 Calculation received 22 March 2021
Biodiversity Plan Revision D February 2020
Images of Proposed Estate Railings
Proposed Eastern Boundary Treatment Plan
PLK/SL/01 REV A Sketch Layout
SD/DFSBT/02 1200mm Timber fence with 400mm trellis
SDSFDB/01 Double Boarded Fence
SD/PPW/02 1800mm pier and panel solid wall
SDDFSB/01 1200mm high timber fence

1079-22 REV A Access Plan
Comparison Road and Boundary Levels Drawing
Ditch Sections

1123-1 Rev C Engineering Layout
1123-13-1 Rev C External Works
1123-13-2 Rev C External Works
1123-13-3 Rev C External Works
Land Survey Plan
1123-2-1 Rev C Longitudinal Sections
1123-2-2 Rev C Longitudinal Sections
1123-2-3 Rev C Longitudinal Sections
1123-2-4 Rev B Road 1/ Ditch Sections
Manhole Schedule
PL/LP/02 Location Plan

AL/2BB-01 ALNWICK BUNGALOW PLAN
AL/2BB-02 ALNWICK BUNGALOW 3 BLOCK PLAN
PL/AL-01 ALNWICK BUNGALOW PLAN
4B-D/BI-02 Birchover Ground Floor Plan
4B-D/BI-03 Birchover First Floor Plan
4B-D/BI-04 Birchover Elevations
BR-01 BRAMSALL FLOOR PLANS
BR-02 BRAMSALL ELEVATIONS PLOT 23
BR-02 BRAMSALL GROUND FLOOR PLAN
BR-03 BRAMSALL FIRST FLOOR PLAN
BR-04 BRAMSALL 2ND FLOOR PLAN
BR-05 BRAMSALL ELEVATION PLAN
CR-01 CROMFORD FLOOR PLAN
CR-01 CROMFORD PLAN
CR-02 CROMFORD HOUSE PLAN
DA-01 DAGDALE FLOOR PLANS

DA-02 DAGDALE ELEVATIONS
DA-02 DAGDALE GROUND FLOOR PLAN
DD-03 DAGDALE FIRST FLOOR PLAN
DD-04 DAGDALE 2ND FLOOR PLAN
DD-05 DAGDALE ELEVATION PLAN
DO-01 DOVERIDGE PLAN
DO-02 DOVERIDGE GROUND FLOOR PLAN
DO-04 DOVERIDGE ELEVATION PLAN
DO-04 DOVERIDGE ELEVATION

PL/ED-02 Edensor Elevations
PL/ED-01 Edensor Ground Floor Plans
58-D/ED-03 Edensor Ground Floor Plan
58-D/ED-04 Edensor Elevations
58-D/ED-11 Edensor Ground Floor Plan bi-fold doors
58-D/ED-12 Edensor Elevations bi-fold doors

FG01 DOUBLE GARAGE PLAN
SG01 SALES GARAGE PLAN PLOT 43
FG01 SINGLE GARAGE PLAN
HA-01 HARDWICK FLOOR PLANS
HA-02 HARDWICK ELEVATIONS
HA-02 HARDWICK GROUND FLOOR PLAN
HA-03 HARDWICK FIRST FLOOR PLAN
HA-04 HARDWICK ELEVATION PLAN
MO-01 MONSAL PLAN
MO-02 MONSAL GROUND FLOOR
MO-03 MONSAL FIRST FLOOR PLAN
MO-04 MONSAL ELEVATION PLAN
TI-01 TISSINGTON PLAN
TS-02 TISSINGTON ELEVATION PLAN
TS-03 TISSINGTON GROUND FLOOR PLAN
TS-04 TISSINGTON FIRST FLOOR PLAN
TS-20 TISSINGTON BIFOLD DOORS
TS-21 TISSINGTON BIFOLD
WE-01 WESSINGTON FLOOR

WE-02 WESSINGTON ELEVATION PLAN
WE-02 WESSINGTON GROUND FLOOR PLAN
WE-03 WESSINGTON FIRST FLOOR PLAN
WS-05 WESSINGTON ELEVATION PLAN

DESIGN & ACCESS STATEMENT
ECOLOGICAL IMPACT ASSESSMENT
FLOOD RISK ASSESSMENT
HERITAGE STATEMENT
PLANNING STATEMENT

TRANSPORT STATEMENT

Employment and Training

3. Before the development hereby approved commences, a scheme to enhance and maximise employment and training opportunities during the construction stage of the project, including a timetable for implementation, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall then be implemented in full in accordance with the approved timetable.

Reason: In the interests of creating sustainable development in accordance with policy GS1 of the North East Derbyshire Local Plan.

On-site Public Spaces

4. Prior to the first occupation of any dwelling a scheme for the delivery and future maintenance of all on site public open space, 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.

Reason: In the interest of the appearance of the area and in accordance with policies GS1 and H12 of the North East Derbyshire Local Plan

Sustainable Design, Character and Appearance

5. Before 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

Reason: In the interest of the appearance of the area and in accordance with policies GS1 and H12 of the North East Derbyshire Local Plan

6. All planting, seeding or turfing in the approved scheme of landscaping shall be carried out in the first planting and seeding season following the occupation of buildings or the completion of the development, whichever is the sooner. Any plants or trees which within a period of 5 years from the completion of 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.

Reason: In the interest of the appearance of the area and in accordance with policies GS1 and H12 of the North East Derbyshire Local Plan

7. The boundary treatments shall be implemented in accordance with Site Layout – PLK/SL/01 REV C. Prior to first occupation a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in full in accordance with the approved timetable and retained as such thereafter.

Reason: In the interest of the appearance of the area and in accordance with policies GS1 and H12 of the North East Derbyshire Local Plan

8. Notwithstanding the submitted details, before development starts, other than preparatory works, 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 the development, shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details and the levels shall be retained as such thereafter.

Reason: In the interest of the appearance of the area and in accordance with policies GS1 and H12 of the North East Derbyshire Local Plan

9. Before any above ground works commence a scheme for mitigating climate change through sustainable design and construction of the dwellings shall be submitted to and approved in writing by the LPA. Thereafter the approved climate change scheme shall be implemented in full and retained as such thereafter.

Reason: In the interests of creating sustainable development in accordance with policy GS1 of the North East Derbyshire Local Plan.

10. Before any above ground works commence, precise specifications (including the manufacturer, range and colour details where applicable) or samples of the walling and roofing materials to be used, 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.

Reason: In the interest of the appearance of the area and in accordance with policies GS1 and H12 of the North East Derbyshire Local Plan.

Highways

11. Prior to any works exceeding demolition / site clearance, space shall be provided within the site curtilage for the storage of plant and materials/ site

accommodation/ loading and unloading of goods vehicles/ parking and manoeuvring of site operatives and visitors vehicles, laid out and constructed in accordance with detailed designs to be submitted in advance to the Local Planning Authority for written approval and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

12. Prior to any operations commencing on the site a Construction Traffic Management Plan and Access Route for the routing of HGVs to and from the site shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall thereafter be implemented as approved and make provision for: -
 1. Monitoring of the approved arrangements during the life of the site.
 2. Ensuring that all drivers of vehicles under the control of the Applicant are made aware of the approved arrangements and to ensure no other local roads are used by construction traffic.
 3. Appropriate signage, details to be approved by the Local Highway Authority and erected advising drivers of the vehicle routes agreed with the Local Highway Authority.
 4. Wheel cleaning facilities and their use/retention.
13. Before any other operations are commenced the extension of Primrose Lane into the new development and junction with the existing private street serving house numbers 19 to 45, shall be created in accordance with the application drawing PLK/SL/01 Rev C, laid out and constructed and maintained in perpetuity free from any impediment to its designated use.
14. Throughout the period of development vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.
15. The estate streets shall be provided with 25m forward visibility sightlines around the inside of bends as per the revised application drawings, or other such dimension as may be agreed in writing with the Local Planning Authority; the area in advance of the sightlines being laid out as an extended footway, forming part of the estate street and not part of any adjoining plot or other third party land.
16. Prior to any works exceeding demolition and site clearance construction details of the residential estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority. The applicant is advised to attain construction approval from the Highway Authority prior to submitting any information to support this condition.
17. The carriageways of the proposed estate roads shall be constructed in

accordance with condition 16 above up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access from that roads. The carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surface course within twelve months (or three months in the case of a shared surface road) from the occupation of such dwelling.

18. The gradient of the new estate street access shall not exceed 1:30 for the first 10m into the site from the existing highway boundary and 1:20 thereafter, unless otherwise agreed in writing with the Local Planning Authority
19. Prior to occupation of any dwelling its vehicular access shall be formed to the new estate street in accordance with the revised application drawings, the access being provided with visibility sightlines extending from a point 2.4m from the carriageway edge, measured along the centreline of the accesses, for a distance of 25m in each direction measured along the nearside carriageway edge. The land 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.
20. The domestic accesses shall not be taken into use until 2m x 2m x 45° pedestrian inter-visibility splays have been provided on both sides of the access at the rear edge of the footway, the splays thereafter kept clear of any object greater than 0.6m in height above the adjacent footway level.
21. The premises, the subject of the application, shall not be occupied until the estate street has been provided with suitable turning arrangements to enable service and delivery vehicles to turn, all as may be agreed in writing with the Local Planning Authority. In the case where interim turning arrangements are constructed these must remain available until any permanent estate street turning is available, in accordance with the approved estate street designs.
22. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the revised application drawings for the parking of residents and visitors vehicles (including secure covered cycle parking), laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use..

Notwithstanding the provisions of the Town and Country Planning (General

Permitted Development) Order 1995 the garage accommodation/ parking space to be provided in connection with the development shall not be used other than for the above stated purpose except with the prior permission of the Local Planning Authority granted on an application made in that regard.

23. No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii. include a timetable for its implementation; and
 - iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
24. Bin collection points shall be provided within private land at the entrance to shared private accesses and/or courtyards, sufficient to accommodate two bins per dwelling served, in accordance with the approved application drawings. The bin collection points shall be provided prior to the first occupation of a dwelling to which they serve and shall be retained thereafter free from any impediment to their designated use as such.
25. The gradient of the new private driveways shall not exceed 1:12 for the first 5m from the nearside proposed new estate streets. Where sloping towards the proposed new estate streets, measures shall be installed at the interface between each private driveway and the proposed new estate streets to prevent the flow of surface water onto the highway.
26. The first 5m of the proposed access driveways shall not be surfaced with a loose material (i.e. unbound chippings or gravel etc).
27. No gates, including any part of their opening arc, shall be permitted to open outwards over the adjoining footway areas / highway. Any gates shall be set-back into the site an appropriate distance or shall open inwards only.
28. Prior to the first occupation of any dwelling details of the proposed arrangements for future management and maintenance of the streets proposed to be adopted by the Local Highway Authority within the

development shall be submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980, if appropriate.

Ecology

29. No removal of hedgerows, trees, shrubs or brambles shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the local planning authority and then implemented as approved.

Reason: Reason: To safeguard the ecology of the site and ensure ecological interest is conserved in accordance with Policy NE6 of the North East Derbyshire Local Plan.

30. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.
- a) Risk assessment of potentially damaging construction activities.
 - b) Identification of “biodiversity protection zones”.
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements including reptiles, non-native invasive species).
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.
 - f) Responsible persons and lines of communication.
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - h) Use of protective fences, exclusion barriers and warning signs.
- The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

31. No development shall take place (including demolition, ground works, vegetation clearance) until a great crested newt mitigation plan has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full in accordance with the approved timetable.

32. A landscape and biodiversity enhancement and management plan (LBEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The LBEMP should combine both the ecology and landscape disciplines and include the following:-
- a) Description and location of features to be created, planted, enhanced and managed including at least 0.4 ha of species rich grassland, scrub mosaic habitats and native species rich hedgerows
 - b) Creation of amenity grassland using a 'flowering lawn' mix
 - c) Details of 4 bat boxes, 6 general bird boxes, 15 integrated swift bricks, hedgehog access gaps and habitat piles (include specifications/installation guidance/numbers)
 - d) Aims and objectives of management
 - e) Appropriate management methods and practices to achieve aims and objectives.
 - f) Prescriptions for management actions.
 - g) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a ten-year period).
 - h) Details of the body or organization responsible for implementation of the plan.
 - i) Ongoing monitoring visits, targets and remedial measures when conservation aims and objectives of the plan are not being met.
- The LBEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.
33. A wildlife friendly lighting scheme (for external lighting) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The approved scheme shall be implemented in full prior to the completion of the development.

Drainage

34. 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. The drawing R.A.B. Engineering Design Ltd. (21/07/2020). Primrose Lane, Killamarsh Engineering Layout. 1123-1 Revision B., including any subsequent amendments or updates to that document as approved by the Flood Risk Management Team,
 - b. Bland, R. (2021) Email to Jo Crawshaw-Moore (Derbyshire County Council), 22 March,
 - c. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015),
- have been submitted to and approved in writing by the Local Planning Authority

Reason: To ensure that the proposed development does not increase flood

risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided to the Local Planning Authority, in advance of full planning consent being granted.

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

Reason: To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development

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

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

37. The development shall be carried out in accordance with the details shown on the submitted plan, drawing no. 1123-1 (revision B) dated 21/07/2020 prepared by RAB Engineering Design Ltd.

Reason: In the interest of satisfactory and sustainable drainage in accordance with policy CSU4 of the North East Derbyshire Local Plan.

Ground Conditions

38. Before the commencement of the development hereby approved:
A Phase I contaminated land assessment (desk-study) shall be undertaken and approved in writing by the local planning authority.

The contaminated land assessment shall include a desk-study with details of the history of the site use including:

- the likely presence of potentially hazardous materials and substances,
- their likely nature, extent and scale,

- whether or not they originated from the site,
- a conceptual model of pollutant-receptor linkages,
- an assessment of the potential risks to human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments,
- details of a site investigation strategy (if potential contamination is identified) to effectively characterise the site based on the relevant information discovered by the desk study and justification for the use or not of appropriate guidance. The site investigation strategy shall, where necessary, include relevant soil, ground gas, surface and groundwater sampling/monitoring as identified by the desk-study strategy

The site investigation shall be carried out by a competent person in accordance with the current U.K. requirements for sampling and analysis. A report of the site investigation shall be submitted to the local planning authority for approval.

39. Before the commencement of the development hereby approved:
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.

40. No [dwellings/buildings] hereby approved shall be occupied until:

The approved remediation works required by 39 above have been carried out in full in compliance with the approved methodology and best practice.

If during the construction and/or demolition works associated with the development hereby approved any suspected areas of contamination are discovered, which have not previously been identified, 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 above.

Upon completion of the remediation works required by 39 and 40a 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.

41. No development shall commence until;
- a) any further intrusive site investigations necessary have been carried out on site to define the risks posed to the development by past coal mining activity, and;
 - b) the remediation works and any mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The remedial works shall be carried out in accordance with authoritative UK guidance.

42. Prior to the occupation of the development a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and the completion of the remedial works and any mitigation necessary to address the risks posed by past coal mining activity.

Reason: To protect the environment and address any coal mining legacy issues and in accordance with Policy CSU6 of the North East Derbyshire Local Plan.

Amenity

43. 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 1pm on Saturday. There shall be no work undertaken on site or deliveries to the site undertaken on Sundays or public holidays.

Reason: To protect the amenity of nearby property occupiers and users in accordance with policy H12 of the North East Derbyshire Local Plan

44. Before the commencement of construction works including any demolition in

connection with the development hereby approved, a programme of measures to minimise the spread of airborne dust from the site during construction periods shall be submitted to and approved in writing by the Local Planning Authority. The construction shall be undertaken in accordance with the approved scheme.

Reason: To protect the amenity of nearby property occupiers and users in accordance with policy H12 of the North East Derbyshire Local Plan

45. Prior to the first occupation of the [dwelling(s)] 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 night (2300 hrs – 0700 hrs)

Any outdoor amenity areas 55 dB LAeq (1 hour) (0700 hrs – 2300 hrs)

The scheme as approved shall be validated by a competent person and a validation report submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full and retained thereafter.

46. Reason In the interests of the amenity of the future residents, and in accordance with H12 of the North East Derbyshire Local Plan.

New hedgerow

47. Prior to the commencement of the development hereby approved full details of proposals for the landscape boundary treatment of the eastern boundary outside of the residential curtilage of Plots 28, 30 - 45 (indicated in plan reference PLK/SL/01 rev A) shall have been submitted to and approved in writing by the Local Planning Authority. Such approved details shall then be implemented and be in place prior to occupation of any of Plots 28, 30 – 45.

Reason: to provide landscaping appropriate to the setting, particularly where

the development is on the fringe of employment development at Norwood Industrial Extension (allocated under Policy E3) and deliver high quality housing design (in accordance with the Policy H12e) in accordance with the policies of the North East Derbyshire Local Plan 2005.

Notes

a. Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from Mr K Barton in Development Control at County Hall, Matlock (telephone: 01629 538658).

b. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from Mr K Barton in Development Control at County Hall, Matlock (telephone: 01629 538658). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.

c. Pursuant to Sections 219/220 of the Highways Act 1980, relating to the Advance Payments Code, where development takes place fronting new estate streets the Highway Authority is obliged to serve notice on the developer, under the provisions of the Act, to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980.

d. Pursuant to Section 50 (Schedule 3) of the New Roads and Street Works Act 1991, before any excavation works are commenced within the limits of the public highway (including public Rights of Way), at least 6 weeks prior notification should be given to the Economy, Transport and Environment Department at County Hall, Matlock (telephone: 01629 533190 and ask for the New Roads and Street Works Section).

e. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc). In the event that loose material is transferred to the

highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the householder.

f. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

g. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway, measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

h. The application site is affected by a public Right of Way (Footpath number 83 Killamarsh on the Derbyshire Definitive Map). The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 01629 533190 and asking for the Rights of Way Duty Officer.

- Please note that the granting of planning permission is not consent to divert or obstruct a public right of way.
- If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact 01629 533190 for further information and an application form.
- If a right of way is required to be permanently diverted then the Council that determines the planning application (The Planning Authority) has the necessary powers to make a diversion order.
- Any development insofar as it will permanently affect a public right of way must not commence until a diversion order (obtainable from the planning authority) has been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the County Council.
- To avoid delays, where there is reasonable expectation that planning permission will be forthcoming, the proposals for any permanent stopping up or diversion of a public right of way can be considered concurrently with the application for the proposed development rather than await the granting of permission.

Phil Slater
Principal Planning Officer

PLANNING COMMITTEE – 14 December 2021

REFERENCE NUMBER: 21/01025/FL **Application Expiry Date:** 8th October 2021
Application Type: Full Planning Permission

Proposal Description: Application to regularise the construction of 2 private ponds (Amended Title)

At: Land To The South East Of Siberia Cottages, Sydnope Hill, Darley Moor

For: Mr P Kelly
Third Party Reps: 13 **Parish:** Ashover Parish Council
Ward Name: Ashover Ward

Author of Report: Case Officer Alice Lockett **Date of Report:** 21st October 2021

MAIN RECOMMENDATION: GRANT

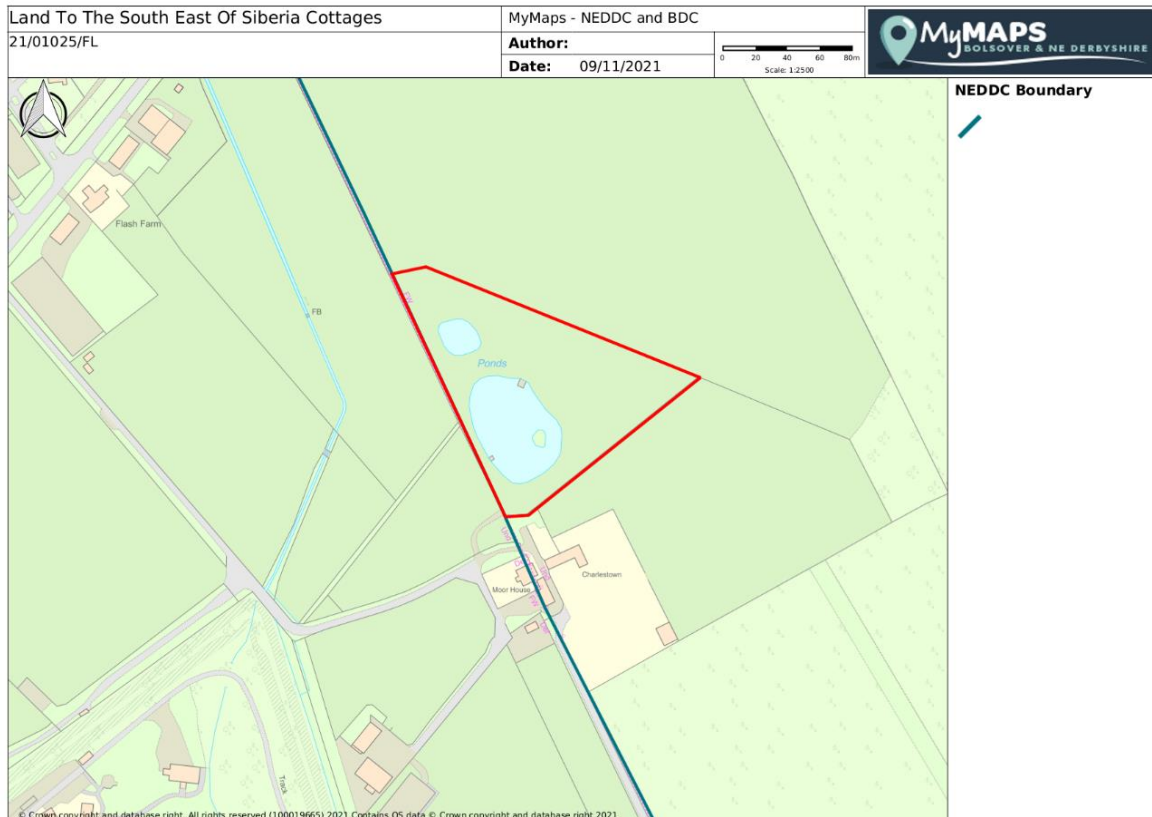


Figure 1: Location Plan

1.0 Reason for Report

- 1.1 This application has been called in by Ward Member Cllr Armitage due to the possible impact on the surrounding landscape.

2.0 Proposal and Background

- 2.1 The application site is located to the north east of the applicant's dwelling, Moor House which is accessed along a narrow track which leads from Sydnope Hill (B5075) to the north.
- 2.2 The field subject to the application is sited to the north east of Moor House and features two ponds and a stone built building surrounded by a significant amount of new tree planting. The building is used as a mixed use store and leisure building.
- 2.3 Land surrounding the two ponds is predominately open in character, and due to the flat topography is visible from the public highway to the north, adjacent informal footpaths in woodland to the east and neighbouring properties.
- 2.4 To the immediate south is the neighbouring dwelling, Charlestown, a large detached property which is separated from the application site by a dry stone wall.
- 2.5 To the east of the site is an open field owned by the applicant which is bounded by a band of woodland. This is known as Matlock Forest and is managed by the Woodland Commission, and is a designated Local Wildlife Site (Ref: NE377).
- 2.6 This is a retrospective application to regularise the size and shape of the private ponds which were approved in 2017 under application reference 17/00279/FL.
- 2.7 The applicant seeks to regularise the modified form to the area and delineation of the ponds, the construction of a small artificial bank and landscaping associated with the ponds.
- 2.8 The application was originally registered under the title "Application for the retention of private ponds (revised scheme of 20/00795/FL and 20/01269/FL respectively)". However this was incorrect as application 20/01269/FL was to vary the condition, under section 73 of the planning act, of the original application (17/00279/FL). It was deemed that the works were not minor amendments and therefore could not be applied for under a section 73 application. Further the works are not related to application 20/00795/FL- which was in relation the building on the site. As

a consequence the title was amended to reflect this. The content of the application has not changed.

3.0 Relevant Planning History

- 3.1 15/00102/FL – Erection of new dwelling (Conditionally Approved)
- 3.2 17/00279/FL – Application for construction of a private pond (Conditionally Approved)
- 3.3 18/00177/FL – Erection of replacement building for mixed agricultural/leisure use (amended plans) (Conditionally Approved)
- 3.4 18/00784/DISCON – Application to discharge conditions 3 (Samples), 4 (Landscaping) and 7 (Biodiversity enhancement strategy) of planning application 18/00177/FL (Discharged)
- 3.5 19/00611/AMEND – Non-material amendment pursuant of 18/00177/FL to allow the insertion of a new doorway into the west elevation, the incorporation of an additional window within the north elevation and the splitting of the viewing hatch to provide a centrally-located natural stone mullion (Approved)
- 3.6 19/00955/FL – Erection of single storey 3 bed dwelling (revised scheme of 15/00102/FL) (Further Information) (Amended Plans) (Amended Title) (Conditionally Approved)
- 3.7 20/00795/FL – Application to vary Condition 2 of planning application 18/00177/FL to allow for increased footprint, alter height of roof, verge detailing, amended doorway positions, proposed fenestration and changes to the internal layout (Amended Title) (Refused)
- 3.8 20/01269/FL- Application to vary condition 2 (approved plans) of planning application 17/00279/FL (Withdrawn)

4.0 Consultation Responses

- 4.1 Highway Authority
No highways safety comments.
- 4.2 Derbyshire Wildlife Trust (DWT)
Officers at DWT considered the application and confirmed that their comments (DWTNED652-1 sent 19th April 2021) still stand with regards to ecology matters. The key issue is ensuring that the ecological enhancements and site management are secured via a condition so that DWT can monitor implementation and address any issues in the future

should they arise. Details of what to include in the condition are set out in our letter (DWTNED652-1).

4.3 Comments made on application 20/01269/FL by DWT:

One of the key issues at the site is size and shape of the main pond. It is larger and deeper than was originally proposed and more circular lacking the wavy edged margins shown on the original plan. There is an island in the pond and a floating raft is present. The margins of the pond support around 1 to 2 m of vegetation comprising rushes, purple loosestrife, water mint and brooklime as well as other plants. These have been established using pre-planted coir rolls. Vegetation around the margins now appears to be relatively well established. The ecological addendum has provided more details on the method used to establish this vegetation. Aquatic vegetation within the pond is limited and none was obvious during the visit. The applicant confirmed that attempts to establish aquatic plants (including *Nymphaea alba* white water-lily) in the larger pond had been unsuccessful to date. The original design would probably have helped to create sheltered and shallower areas that might have been better for establishment of aquatic plants. Although, the original planning statement indicated that there was 'no reason to introduce fish' the applicant has introduced fish including perch, tench, Crucian carp and rudd to the larger pond. Fish are not generally recommended when creating a wildlife pond as they tend to predate invertebrates, stir up sediments (resulting in turbidity) and can lead to nutrient enrichment. The original application prohibited commercial fishing and as far as I am aware no commercial fishing is taking place, though clearly one of the uses for this pond is recreational fishing.

- 4.4 There is a second smaller pond, which has marginal emergent vegetation and some aquatic plants. This pond has not been stocked with fish. Adult frog and toad were noted during the DWT visit and both common and palmate newt occur locally and may use both ponds. Successful breeding of amphibians is more likely in the smaller of the ponds. The larger pond is considered less suitable due to the presence of fish and the lack of vegetation that would shelter amphibians in their egg and larval stages.
- 4.5 The larger pond would have been more wildlife-friendly if the original design had been adhered to, but to re-engineer the pond now, whilst potentially feasible, would result in a lot of disturbance to the pond and the wildlife that has already been attracted. Any such works would have to be undertaken in the autumn/winter period, which means another 6 months will pass in which the pond is likely to further establish and attract wildlife.
- 4.6 Further enhancement measures around the larger pond include establishing marginal trees (willows are recommended) as a shelterbelt of trees along its northern and western edges and slowly introducing some hardier aquatic species such as amphibious bistort, floating water-lily

- (*Nymphoides peltata*) could help improve the appearance and wildlife value in the longer term.
- 4.7 Wetland bird breeding areas: As stated above the larger pond has one island and a floating raft. These will provide some nesting opportunity for birds such as coot and moorhen and possibly mallard. However, they are exposed to the elements and potentially predators such as fox. However, this would be the case whatever the shape of the pond.
- 4.8 Kingfisher embankment: To the south of the two ponds there is a mound of soil that has been shaped to create an embankment and the applicant plans to install two kingfisher nest sites. The applicant has already purchased these. Whilst kingfisher usually nest adjacent to water they will nest further afield so there is a possibility that a pair might choose to use a nest site such as this. The applicant is keen to try it and there is nothing to lose by installing the nests. Further details of how this will be achieved have been provided in the ecological addendum and these seem reasonable. Nonetheless it could be a while before kingfisher would use an exposed site in this kind of situation. Officers also discussed the use of wild flower seed to re-vegetate the embankment and increase its value to pollinating insects, beetles, moths and butterflies, amongst other species. The applicant has agreed to this suggestion. A pollinator mix such as Naturescapes N4f Summer Flowering Butterfly and Bee Mix Flowers is recommended.
- 4.9 DWT officers previously queried reference to 'stone wall breeding bird habitat' and its potential use by sand martins. It is now clear that there is no specific feature that has been constructed for sand martin and that this referred to the stone walls that form the boundaries of the site. These have been re-built and will be providing habitat for wildlife including small mammals, common lizard and smaller birds such as wren, but will not provide habitat for sand martin.
- 4.10 Woodland: The north of the field is planted with a mix of broad-leaved trees, which will in time provide opportunities for a range of species associated with the tree and shrub species used. The trees will require ongoing aftercare and some may need to be replaced. As far as officers could ascertain the survival rate so far appears to be reasonably good.
- 4.11 Refugia for amphibians and reptiles: Refugia including piles of stone or wood are present and the applicant stated that he intends to create additional refugia, particularly in places along the base of the stone walls. This could benefit common lizard as well by providing basking areas and foraging habitat. Overall the refugia are considered to provide a biodiversity benefit for amphibians, small mammals, reptiles and birds. Wildflower meadow.

- 4.12 The original application included the creation of wildflower rich grassland, but the current grassland habitat is species poor and results from over-sowing with an agricultural seed mix. This needs to be addressed by over-sowing targeted areas with a species rich seed mix or mixes.
- 4.13 The areas around the two ponds, and between the edge of the planted trees and the building should all be subject to enhancement. (*Officer Comment: The methodology for enhancement is set out in the comments from DWT*).
- 4.14 At present, the site remains only partially completed in terms of the original proposal and the larger pond and grasslands fall short of what might have been expected at this stage. However, the applicant has confirmed that the grassland enhancement and kingfisher nest sites will be completed in the near future and further information on how this will be achieved has now been provided by the ecological addendum.
- 4.15 The addendum includes photographs of the site prior to the habitat creation and landscaping works. The wildlife value of the area prior to the works has not been recorded in any detail, but is likely to have been limited due to homogeneous and species poor (at least floristically) nature of the habitat. It does seem reasonable to view the mix of habitats under establishment at the site as likely to offer a wider range of opportunities for plant and animal species. The value of the larger pond for wildlife could have been better if the original design had been followed, but the smaller pond appears to be developing well and is likely to provide a breeding pond for amphibians.
- 4.16 If the Council were minded to request that the larger pond is reduced in size, re-profiled and re-contoured this would necessitate quite significant earth moving and engineering works and the loss of and disturbance to wildlife now using the pond has to be considered. It would be feasible to do this, but on balance, I would advise the LPA to focus on securing the completion of enhancements at the site and a sympathetic management regime for the site in the future.
- 4.17 In relation to the original planning proposal the flower rich grassland still needs to be established at the site and this will be crucial to providing a more significant gain for the flora and pollinating insects. There is also an opportunity to establish a 'pollinator mix' on the bund, which would also benefit butterflies and bees as well as other species.
- 4.18 If the LPA were minded to approve the application DWT would advise securing the above biodiversity enhancements by way of condition.
- 4.19 The Environment Agency
No comments received.

4.20 Severn Trent Water Authority (STWA)

With reference to the above planning application STWA's observations regarding sewerage are as follows:

Planning Practice Guidance and section H of the Building Regulations 2010 detail surface water disposal hierarchy. The disposal of surface water by means of soakaways should be considered as the primary method. If this is not practical and there is no watercourse is available as an alternative other sustainable methods should also be explored. If these are found unsuitable, satisfactory evidence will need to be submitted, before a discharge to the public sewerage system is considered.

Please note for the use or reuse of sewer connections either direct or indirect to the public sewerage system the applicant will be required to make a formal application to the Company under Section 106 of the Water Industry Act 1991. They may obtain copies of our current guidance notes and application form from either our website (www.stwater.co.uk) or by contacting our Developer Services Team (Tel: 0800 707 6600).

4.21 Cadent Gas Comment

Looking at the above planning application, Cadent would not object to the application but we would be most grateful if an informative could be raised with the applicant:

Cadent own and operate twin High pressure gas pipelines that run at the edge of the application boundary, these High pressure gas pipelines are of national importance so we would be most grateful if an informative could be raised with the applicant, Cadent must be consulted and liaised with before any development is considered in the vicinity of the HP gas pipelines, we can if requested attend site to mark out the exact pipeline position.

4.22 Ashover Parish Council

Whilst Ashover Parish Council supports applications that enhance wildlife, this application is not supported for the following reasons:

4.23 This is a retrospective application seeking to regularise significant changes to the original approval and Members of the Parish Council consider applications should have been made prior to these changes being made.

(Officer Comment- that the application is retrospective is not a material planning consideration)

4.24 The stocking of the pond with, what is possibly up to 1,000 fish, invalidates use of the pond for wildlife.

(Officer Comment- the title of the original application was for the “construction of a private pond” not for the construction of a wildlife pond. This is dealt with in section 7 below.)

- 4.25 It is further understood that the lining of the pond is ‘Butyl’, this again is thought not to be wildlife friendly.

(Officer comment- butyl linings for wildlife ponds are recommended by The Conservation Volunteers in their Waterways and Wetlands Handbook and by The Wildlife Trusts on their website.)

- 4.26 A condition imposed in 2017 prevents the keeping of fish for commercial purposes and as such, Members considered that any fishing should only be open to members of the household in the applicant’s property.

(Officer Comment – it is considered appropriate for such a condition to be imposed)

- 4.27 There is a loss of amenity and privacy to a neighbouring property.

(Officer comment- this is dealt with in section 7 below)

- 4.28 Ashover Parish Council considers that a formal assessment of the wildlife provision should be undertaken by Derbyshire Wildlife Trust and supports the Ward Member’s request that this application is determined by the Planning Committee.

(Officer Comment- Officers from Derbyshire Wildlife Trust have visited the site and have commented on the application and the Ecological addendum, their comments are outlined in section 3 above and discussed in section 7 below.)

- 4.29 Environmental Health Comments

No Comments

5.0 Representations

- 5.1 Objections

- 5.2 **12 letters of objection** have been submitted by a single neighbour, however the same neighbour has instructed an planning agent to respond on his behalf and it is considered that this accurately summarises the points made and covers the following points:

- 5.3 Principle of development

The proposed development does not fall within any of the categories set out as being acceptable within the countryside. The development is for private use and therefore does not involve small scale employment uses relating to local farming, forestry, recreation or tourism, and therefore the proposal is contrary to Local Plan, PDLP and Ashover Neighbourhood Plan Policy.

(Officer comment- this is dealt with in section 7 below)

5.4 Biodiversity

When considering the original application the environmental and ecological enhancements of the proposal were given weight in the decision making process.

(Officer comment- this is dealt with in section 7 below)

- 5.5 The conditions with regards to landscaping attached to the original planning permission for the pond have not formally been discharged. The failure to deal with this condition adds further weight to the complete disregard for what was originally granted planning permission.

(Officer comment- this is an enforcement issue which is not relevant to the decision making process on this application.)

- 5.6 The stocking of the pond with fish appears at odds with the applicant's original stated objective of creating a wildlife pond.

(Officer comment- this is dealt with in section 7 below)

- 5.7 It is clear that this development is not for a private pond, but for a private fishing facility. This is significantly different than the proposal put forward in the original application and this use has not been assessed against the relevant policies in the adopted development plan. The combination of the increase the size of the pond the stocking with fish for use as a private sporting facility and the permission for a building, all materially alter the use of the land.

(Officer comment- this is dealt with in section 7 below)

5.8 Impact on Amenity of the Neighbour:

The increased visitors to the site have caused significant disturbance to our client who lives at the adjacent property, through associated 'comings' and 'goings'. Their garden with only a low boundary wall sits adjacent to the application site and the number of visitors to the site increase noise and disturbance and creates a loss of privacy. This must be understood in a context where our client's previously enjoyed a peaceful and extremely private environment. The proposal is in conflict with policy GS6 and HDC12. *(Officer comment- this is dealt with in section 7 below)*

- 5.9 Subsequent letters from the Objector have included comments regarding the validity of supporting comments, illustrations and photos of the size of the pond and its use for fishing and comments regarding the response from DWT. *(Officer comment- this is dealt with in section 7 below)*

- 5.10 **9 Supporting comments** have been received covering the following points:

- 5.11 The ponds, which are the subject of the above application have only complimented the local landscape and as keen Birdwatchers, we feel their addition with the surrounding tree planting has rectified the loss of the nearby Flash Dam body of water.
- 5.12 It ticks all the boxes in terms of reclaiming and encouraging wildlife habitat, whilst restoring and preserving the character of our Derbyshire countryside.
- 5.13 Developing the new pond and wildlife area which, provides a much needed habitat for huge array of local and national species, many being on the endangered list.
- 5.14 The pond is clearly lightly stocked to achieve a natural balance with other wildlife and contains a variety of species of native fish, which is a rarity in today's fishing world and certainly does not exist at commercial fisheries.
- 5.15 During the few occasions I have fished at Moor House, I can confirm that at all times Paul insists on a high degree of consideration towards his immediate neighbours situated at the Charlestown residence; including keeping groups fishing to a maximum of five people including Paul and his father and minimising car parking on the field, whilst taking into account any personal physical disabilities and COVID-19 social distancing requirements
- 5.16 Consider the separate wildlife pond, the large planting of native trees within the boundaries of Mr Kelly's property and it is all too clear that there has been an ongoing improvement within the area.
- 5.17 Moved by the sensitivity of the landscaping which will quickly mature and soften as the project moves forward.
- 5.18 As a specialist outdoor education Teaching Assistant at Spire Infant School in Chesterfield I am in the process of organising with the land owner some regular trips to the wildlife area with some small groups of students. These visits would have a particular focus on the amphibian pond and its ecosystem, but would also include the other areas of the wildlife habitat. These visits would not only widen the students' knowledge, but would give them valuable time in the outdoors which, is fantastic for their well-being and mental health inside and outside the current COVID-19 situation we all find ourselves in. Hopefully over time the students will witness how the newly created habitats mature and develop, thus motivating and nurturing their passions for 'the great outdoors'.
- 5.19 We also understand that there are plans to include a nesting habitat for the already attracted Kingfishers which if successful will be a fantastic addition to the local ecology.

6.0 Relevant Policy and Strategic Context

North East Derbyshire Local Plan (Adopted November 2021)

6.1 The following policies of the new Local Plan are material to the determination of this application:

SS1 Sustainable Development
SS9 Development in the Countryside
SDC3 Landscape Character
SDC12 High Quality Design and Place Making

Ashover Neighbourhood Plan

6.2 The Ashover Neighbourhood Plan (ANP) was adopted on 9 February 2018. The following policies should carry weight in any decision:

AP2 Development Proposals Outside SDL's
AP11 Design
AP13 Landscape Character
AP19 Dark Skies

The National Planning Policy framework (NPPF)

6.3 The overarching aims of the NPPF have been considered in the assessment of this application.

7.0 Planning Issues

Principle of Development

7.1 The principle of development on this site was established through the granting of 17/00279/FL. At this time the title of the application was for "Private Ponds". Whilst the Design and Access statement discussed the wildlife nature of the ponds this was not what was described in the title.

7.2 The application site comprises of a fairly level piece of former agricultural land which features two ponds, a stone built outbuilding and a recently planted woodland area bounded by dry stone walls, with open agricultural fields to the west, north and east.

7.3 The larger of the two ponds has increased in size and altered in shape. It is approximately three times larger (covering an area of 3000m²) and deeper, and has a more circular shape rather than the wavy edged shape as approved under the 17/00279/FL application. The margins of the pond support around 1 to 2m of well-established vegetation comprising rushes, purple loosestrife, water mint, brooklime as well as other plants. This pond also features an island and a floating raft.

- 7.4 The smaller of the two ponds has also increased in scale and depth, and altered in shape. This pond features marginal emergent vegetation and some aquatic plants.
- 7.5 The submitted planning statement confirms that the larger of the two ponds has been stocked with fish, and will continue to be used as a fishing facility, from time to time, for the private purposes of the applicant and that no commercial fishing use will take place. The smaller of the two ponds is not stocked with fish.
- 7.6 Whilst Local Plan policy SS9 does not directly support the principle of the construction of private ponds, policy SDC3 does support proposal for new development where they would not cause significant harm to the character, quality, distinctiveness or sensitivity of the landscape, or to important features or views, or other perceptual qualities. Furthermore policy SDC4 supports biodiversity and geodiversity habitat creation.
- 7.7 In addition to the above, whilst the proposal does not fall into one or more of the categories listed in Policy SS9, permission has already been granted under 17/00279/FL which represents a 'fallback position' for the applicant. The assessment for members is therefore whether or not the changes in design represent an acceptable impact on the landscape character of the area and result in a positive habitat creation.

Biodiversity

- 7.8 Local Plan policy SDC4 seeks to protect and enhance the districts natural environment and seek to increase the quantity and quality of biodiversity and geodiversity by promoting the qualitative enhancement of all sites of biodiversity and geodiversity value by supporting the creation of new habitats.
- 7.9 Landscaping around the site has been partly implemented through the creation of a plantation wooded area to the east of the site and a grassland area. Further landscaping in the form of grassland enhancement, a kingfisher nesting bank and wildlife piles have been identified within the submitted Ecological Addendum and will be implemented on site if permission is granted.
- 7.10 The landscaping condition attached to the 17/00279/FL application has not yet been formally discharged, and no wildflower areas have been created on site.
- 7.11 Concerns have been raised in relation to the ability to introduce ecological enhancements to the site through the creation of the deeper, larger pond and given the use of the land.

- 7.12 In relation to the original planning proposal the flower rich grassland still needs to be established on site and this will be crucial to providing a more significant gain for the flora and pollinating insects. There is also an opportunity to establish a 'pollinator mix' on the bund, which would also benefit butterflies and bees as well as other species.
- 7.13 It is noted that the second smaller pond, appears to be developing well and is likely to provide a breeding pond for amphibians. As such, it is considered necessary in this case to place a condition restricting the stocking of this pond with fish.
- 7.14 When the application was approved in 2017 a level of weight was placed on the biodiversity value of the proposed ponds offsetting the loss of agricultural land.
- 7.15 It is accepted that adding fish to a pond does reduce its suitability for certain insect and plant life, however it is clear from visiting the pond that, by virtue of being an different habitat from the agricultural land around it alongside the tree planting, proposed wild flower planting, kingfisher bank and other measures to encourage wildlife the site as a whole has contributed a net gain in biodiversity to the area over and above its previous use as a mono-culture arable field.
- 7.16 As such it is considered that despite the larger pond having been stocked with fish the biodiversity value of the site as a whole still offsets the loss of the agricultural land.
- 7.17 DWT are of the opinion that the value of the larger pond could have been more wildlife-friendly if the original design had been followed and had fish not been introduced. However, to re-engineer the pond now, whilst feasible, would result in a lot of disturbance to the pond and the wildlife that has already been attracted. DWT have taken an on balance view that the LPA should focus on securing the completion of enhancement at the site and a sympathetic management regime for the site in the future via biodiversity enhancement and management conditions.

Design and impact on the countryside

- 7.18 Local Plan policy SDC3 states that proposals for new development will only be permitted where they would not cause significant harm to the character, quality, distinctiveness or sensitivity of the landscape, or to important features or views, or other perceptual qualities such as tranquility. Furthermore, development proposals should be informed by and be sympathetic to, the distinctive landscape areas identified in the Derbyshire Landscape Character Assessment and the Areas of Multiple Environmental Sensitivity (AMES), or any successor Document(s), and contribute, where appropriate, to the conservation and enhancement, or

restoration and re-creation of the local landscape taking into account its wider landscape character type.

- 7.19 The site is visible from Sydnop Hill and from the publicly accessible woodlands to the east. It is officer's opinion that the ponds whilst large are not detrimental to the character of the countryside in this area and indeed may even contribute a new element of habitat and landscape to a formerly agricultural field. In addition the applicant has carried out a large amount of tree planting which will eventually reduce the impact of the ponds on the landscape as the trees mature.
- 7.20 It is considered that the parking of a large number of vehicles on the site would represent an intrusion into the countryside however a single parking space has been applied for in application 21/01026/FL which refers to the building on site. Notwithstanding this it is considered appropriate to include a condition preventing the parking of vehicles on any other areas of the land in order to protect the character of the countryside.
- 7.21 It is therefore considered by officers that whilst the scale and shape of the two ponds have increased and are noticeably different from what was originally approved, the changes made would not cause significant harm to the character, quality, distinctiveness or sensitivity of the landscape, or to important features or views, or other perceptual qualities and would be sympathetic to the landscape character, contributing to the conservation and enhancement of the site.

Privacy and Amenity Considerations

- 7.22 Local Plan policies seek to protect the amenity of existing occupiers and create a good quality of amenity for future occupants and land uses. This Policy does not preclude some disturbance.
- 7.23 The closest neighbouring property is Charlestown, which is located to the immediate south of the application site. The increase in scale to the larger of the two ponds has meant that the southern edge of the pond is now sited approximately 48m to the north of the neighbouring dwelling. The submitted Landscaping Plan shows that screening in the form of Hawthorn and Holly hedging adjacent to the 1.2m dry stone wall which has been rebuilt will in time help to screen the site from the neighbour at Charlestown.
- 7.24 It is noted that representation has been made in relation to noise and disturbance to the neighbouring resident, through associated comings and goings of visitors to the site.
- 7.25 Occasional use of the larger pond for fishing would be utilised by the applicant, and their family and friends. It is considered that this would not be intensive and the noise associated with such a use would be minimal.

Further any impact will reduce as the screening hedges and trees mature. As such the use of the ponds for fishing by the applicant's family and friends is not considered by officers harmful to the enjoyment of the nearby residential occupier or land uses.

- 7.26 It is, however considered necessary to condition the ponds are not used for any commercial fishing in order to ensure that the intensity of use remains low and to prevent any increase in the impact on the amenity of the neighbouring resident.
- 7.27 The condition outlined above preventing the parking of cars on the site with the exception of the space close to the building will also have the benefit of reducing disruption to the neighbour associated with any potential vehicular movements.
- 7.28 In view of the above, it is not considered that the development would lead to any demonstrable harm to the privacy and amenity of neighbouring residents or land uses.

Highway Safety Considerations

- 7.29 The proposed development does not include any new road infrastructure, access will only be taken from the applicants land holding.
- 7.30 The County Highways Authority was consulted on the proposal, and raised no comments.
- 7.31 In view of the above, it is not considered that the development would lead to a demonstrable harm to highway safety.

Other Considerations

- 7.32 The application site is within Flood Zone 1, which has a low probability of flooding.
- 7.33 The application site lies within a Development Low Risk Area as defined by the Coal Authority.

8.0 Summary and Conclusion

- 8.1 This application is for the regularisation of changes in dimensions and shape of two ponds previously approved under planning permission 17/00279/FL. The resulting ponds are larger and less curvy than those approved. Further the larger pond has been stocked with fish which has somewhat reduced its value to biodiversity.
- 8.2 Despite these changes, it is considered that the ponds would not cause significant harm to the character, quality, distinctiveness or sensitivity of the landscape, or to important features or views, or other perceptual qualities

and would be sympathetic to the landscape character, contributing to the conservation and enhancement of the site.

- 8.3 Whilst a small area of agricultural land has been lost to the development it is considered that this has been offset by the value to wildlife and biodiversity of the ponds and the inclusion of landscaping features. It is considered that even though one pond has been stocked with fish its still represents a net gain in habitat and biodiversity over the former arable field.
- 8.4 The larger pond is to be used by the applicant and his friends and family for private recreational fishing. It is considered that due to the distance from the neighbouring property and the vegetation screening which has been planted along with the non intensive use means that it will cause minimal problems of noise disturbance, pollution and other environmental impact. A condition restricting its use to private fishing is recommended as is a restricting preventing the parking of vehicles on the site.
- 8.5 In conclusion it is considered that the proposal meets the requirements of polices contained in the Local Plan, those in the Ashover Neighbourhood Plan and the overarching aims of the National Planning Policy Framework.

9.0 Recommendation

9.1 GRANT Full Planning Permission subject to the following conditions:

1. The development hereby approved shall be carried out in accordance with the following plans referenced unless otherwise specifically agreed in writing by the Local Planning Authority or otherwise required by any other condition in this decision notice:
 - Site Location Plan – JC/K63/1 (date stamped 14/08/2021)
 - Drawing No 9 Topographical Survey of Ecological Wildlife Ponds (date stamped 14/08/2021)
 - Drawing No. PK01 Landscaping Details – Specimen trees and shrub screening (date stamped 14/08/2021)
 - Drawing TR-01 Rev V1 Wildflower and Grassland Location included in within the Ecological Addendum Version 1 (date stamped 24/11/2021)
2. The measures for biodiversity enhancement as set out in the submitted Ecological Addendum including for grassland enhancement, the establishment of kingfisher nest sites and the sowing of a pollinator mix shall be completed in full by 31st June 2022. The grassland and pollinator enhancement should target all areas highlighted in blue on the map taken from page 8 of DWT letter included in the Ecological

Addendum and the bund (marked N) using seed mixes EM5 and EM8 from Emorsgate and N7f from Naturescape (or mixes of equivalent diversity) as well as the kingfisher bund. The enhancement should be undertaken in the autumn following scarification of areas to be seeded. Confirmation of the completion of the enhancement works and details of subsequent management of the grassland and bund must be submitted to the Local Planning Authority for approval.

3. Within 3 months of permission being granted, further enhancement measures around the larger pond including the establishing marginal trees (Willows are recommended) as a shelterbelt of trees along its northern and western edges and slowly introducing some hardier aquatic species such as amphibious bistort, floating water-lily (*Nymphoides peltata*) along with an implementation programme shall be submitted to and approved by the Local Planning Authority. The approved further enhancement measures shall be implemented in full and in accordance with the approved details.
4. If within a period of two years from the date of this decision any tree or trees planted as replacement for it, is removed, uprooted or destroyed, or dies, or becomes, in the opinion of the Local Planning Authority seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives it written approval to any variation.
5. The larger of the two ponds hereby approved shall not be stocked with fish in connection with any commercial angling activities.
6. The smaller of the two ponds hereby approved shall not be stocked with any fish.
7. With the exception of use of the parking space to the north of the building subject to application number 21/01026/FL (if approved). No vehicles shall be parked within the field as identified with the red line location plan.

PLANNING COMMITTEE – November 2021

REFERENCE NUMBER: 21/01026/FL **Application Expiry Date:** 10th October 2021
Application Type: Full Planning Permission

Proposal Description: Application to vary Condition 2 of planning application 18/00177/FL to allow for increased footprint, alter height of roof, verge detailing, amended doorway positions, proposed fenestration and changes to the internal layout (resubmission of application 20/00795/FL) (Amended Title)

At: Land To The South East Of Siberia Cottages, Sydnope Hill, Darley Moor

For: Mr P Kelly

Third Party Reps: 11 **Parish:** Ashover Parish Council
Ward Name: Ashover Ward

Author of Report: Case Officer Alice Lockett **Date of Report:** 9th November 2021

MAIN RECOMMENDATION: GRANT

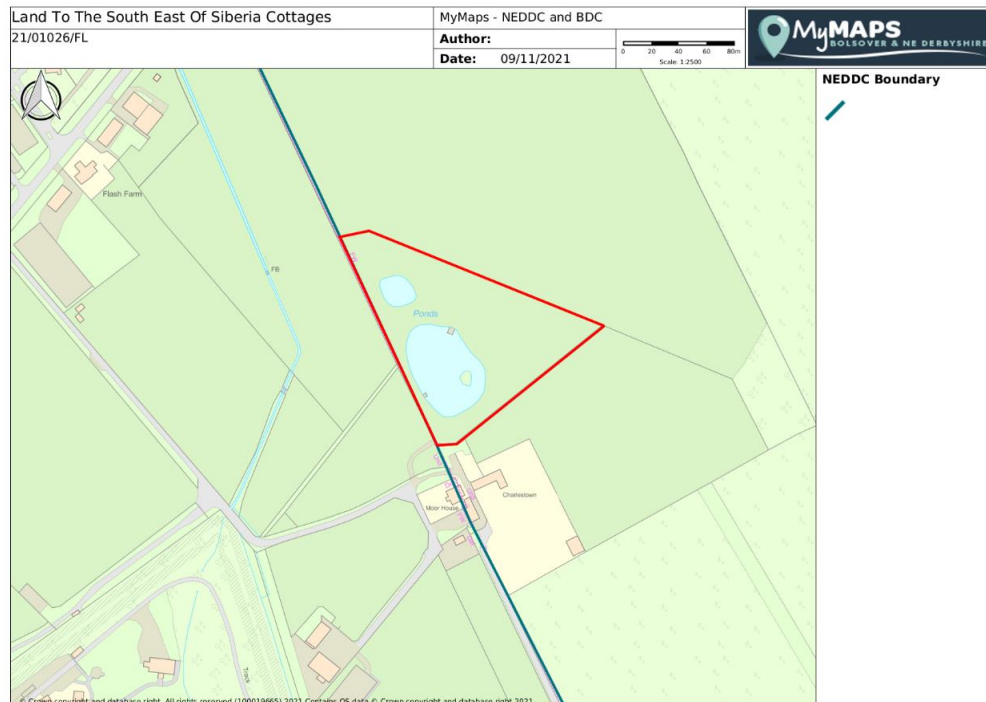


Figure 1: Location Plan

1.0 Reason for Report

- 1.1 This application has been called in by Ward Member Cllr Armitage due to the possible impact on landscape.

2.0 Proposal and Background

- 2.1 The application site is located to the north east of the applicant's dwelling, Moor House which is accessed along a narrow track which leads from Sydnope Hill (B5075) to the north.
- 2.2 The field subject to the application is sited to the north east of Moor House and features two ponds and a stone built building surrounded by a large area of new tree planting. The building is used as a mixed use store and leisure building.
- 2.3 Land surrounding the two ponds is predominately open in character, and due to the flat topography is visible from the public highway to the north, adjacent informal footpaths in woodland to the east and neighbouring properties.
- 2.4 To the immediate south is the neighbouring dwelling, Charlestown, a large detached property which is separated from the application site by a dry stone wall.
- 2.5 To the east of the site is an open field owned by the applicant which is bounded by a band of woodland. This is known as Matlock Forest and is managed by the Woodland Commission, and is a designated Local Wildlife Site (Ref: NE377).
- 2.6 Planning permission 18/00177/FL was granted in 2018 for the erection of replacement building for mixed agricultural/leisure use. In 2019, application 19/00611/AMEND was submitted to and approved for amendments to position and details of fenestration.
- 2.7 The proposed changes to the scale of the building include a 1m increase in the height of the building from 5m to 6m; creating a steeper roof pitch and verge detailing. As well as an increase to the overall footprint of building from 5m x 5.8m (29m²) to 5.3m x 6.3m (33m²) respectively, amounting to an approximate 13% footprint increase.
- 2.8 The proposed elevation and floor plans (PK/MH/10) show amended window and door positioning and detailing, and a minor change to the internal layout to allow the disabled toilet to be more accessible.
- 2.9 The hard landscaping proposals plan JC/K63/701B show that some hard landscaping is proposed around the building including 1m wide stone

paving around the building, a low disabled access ramp to the eastern elevation and a single car disabled parking space to the west side of the building.

- 2.10 The submitted soft landscaping plan (PK01) shows the approved landscaping works which have been implemented on site, with the inclusion of further enhancement landscaping through the planting of additional trees and shrubs around the site.
- 2.11 The same application was submitted to and refused by committee on 15th December 2020. However according to the planning statement it has subsequently come to the applicant's notice that some members of the Planning Committee consider that not all material considerations were fully discussed and taken into account before the motion to refuse permission was determined. The application is re-deposited, accordingly.
- 2.12 The original title of this application was recorded as "Retention of building to allow for increased footprint, alter height of roof, verge detailing, amended doorway positions, fenestration and changes to internal layout (revised scheme of 20/00795/FL and 20/01269/FL respectively)" however it was noticed that since the application was in fact a resubmission of refused application 20/00795/FL and as such the title has been changed to reflect the true nature of the application. The content of the application has not changed.

3.0 Relevant Planning History

- 3.1 15/00102/FL – Erection of new dwelling (Conditionally Approved)
- 3.2 17/00279/FL – Application for construction of a private pond (Conditionally Approved)
- 3.3 18/00177/FL – Erection of replacement building for mixed agricultural/leisure use (amended plans) (Conditionally Approved)
- 3.4 18/00784/DISCON – Application to discharge conditions 3 (Samples), 4 (Landscaping) and 7 (Biodiversity enhancement strategy) of planning application 18/00177/FL (Discharged)
- 3.5 19/00611/AMEND – Non-material amendment pursuant of 18/00177/FL to allow the insertion of a new doorway into the west elevation, the incorporation of an additional window within the north elevation and the splitting of the viewing hatch to provide a centrally-located natural stone mullion (Approved)

- 3.6 19/00955/FL – Erection of single storey 3 bed dwelling (revised scheme of 15/00102/FL) (Further Information) (Amended Plans) (Amended Title) (Conditionally Approved)
- 3.7 20/00795/FL – Application to vary Condition 2 of planning application 18/00177/FL to allow for increased footprint, alter height of roof, verge detailing, amended doorway positions, proposed fenestration and changes to the internal layout (Amended Title) (Refused)
- 3.8 20/01269/FL- Application to vary condition 2 (approved plans) of planning application 17/00279/FL (Withdrawn)
- 3.9 21/01025/FL Application for the retention of private ponds (revised scheme of 20/00795/FL and 20/01269/FL respectively) Pending Decision.

4.0 Consultation Responses

4.1 Highway Authority

No highways safety comments.

4.2 Severn Trent Water

With reference to the above planning application the Company's observations regarding sewerage are as follows:

Planning Practice Guidance and section H of the Building Regulations 2010 detail surface water disposal hierarchy. The disposal of surface water by means of soakaways should be considered as the primary method. If this is not practical and there is no watercourse is available as an alternative other sustainable methods should also be explored. If these are found unsuitable, satisfactory evidence will need to be submitted, before a discharge to the public sewerage system is considered.

Please note for the use or reuse of sewer connections either direct or indirect to the public sewerage system the applicant will be required to make a formal application to the Company under Section 106 of the Water Industry Act 1991. They may obtain copies of our current guidance notes and application form from either our website (www.stwater.co.uk) or by contacting our Developer Services Team (Tel: 0800 707 6600).

(Officer Comment- surface water will be disposed of via a soakaway whilst foul sewage will be disposed of via the septic tank.)

4.3 Ashover Parish Council

- 4.4 Ashover Parish Council recognises the initial Committee decision and considers that the proposal is not supported under Policies AP2, AP13 and AP19 of the Ashover Parish Neighbourhood Plan. Ashover Parish Council

supports the Ward Member's request that this application is determined by the Planning Committee.

- 4.5 Environmental Health Comments raised no objections to the proposals.
- 4.6 NEDDC Drainage were consulted however no comments have been received.
- 4.7 The Lead Local Floor Authority was consulted however no comments have been received.

5.0 Representations

5.1 Objections:

10 letters of objection have been submitted by one neighbour, however he has instructed an agent to respond on his behalf and it is considered that this summarises the points made by him and covers the following points:

- 5.2 As set out in the background section of this objection this is to regularise a building which has been constructed without compliance with approved plans under the earlier 2018 approval.
- 5.3 The planning statement identifies that in the course of construction works certain changes were made to the building including "a slightly increased footprint, alterations to the height of the roof, revised verge detailing, amended doorway positions, proposed fenestration and changes to the internal layout". It is clear that these are substantial changes to the building which was granted planning permission.
- 5.4 An application for these amendments to the building have already been refused under application reference 20/00795/FUL, albeit tweaks have been made to this submission in respect of fenestration of the building. The decision notice for the refused application states that 'the application is considered unacceptable by reason of its size, scale and height it would fail to respect the character and beauty of the countryside, protect or enhance the natural environment and be a prominent intrusion'.
- 5.5 The proposal is similar to that which was previously refused and facilitates a 13% increase to the footprint of the building, a 1m increase in height with a steeper roof pitch and a change in the location of windows and doors.
- 5.6 The need for the building is not justified. No information has been provided as to why a building with a toilet and observation shelter is required on this site, nor why it needed to be significantly larger than that already approved. Although the main part of the building is labelled as an 'observation shelter and dingy store' the building has no suitable access for which a dingy can be taken inside with. The building will be used principally to support the use

of the site as a private fishing facility, for which there is no policy support. The building also has the appearance of a residential building, rather than that of a store. This is exacerbated through the use of patio doors on the east elevation of the building and the creation of a taller building with a steeper pitched roof. This affects the character of the site, and the countryside location of the proposal.

- 5.7 The building itself therefore has not changed from that which was refused in 2020. It is not supported by local plan policies regarding development in the countryside and should be refused.
- 5.8 11 Letters of support have been received, these don't address the issue of the building specifically but these praise the ecological value and quality of the work carried out on the wider site by the applicant and in particular the high quality of dry stone walling work and the benefit to wildlife of the planting and other landscaping which has been carried out as well as that proposed.

6.0 Relevant Policy and Strategic Context

6.1 North East Derbyshire Local Plan (Adopted November 2021)

The following policies of the Local Plan are material to the determination of this application:

SS1 Sustainable Development
SS9 Development in the Countryside
SDC3 Landscape Character
SDC12 High Quality Design and Place Making

6.2 Ashover Neighbourhood Plan

The Ashover Neighbourhood Plan (ANP) was adopted on 9 February 2018 and the following policies are material to the determination of this application:

AP2 Development Proposals Outside SDL's
AP11 Design
AP13 Landscape Character
AP19 Dark Skies

7.0 Planning Issues

Principle of Development

- 7.1 The principle of development on this site was established through the granting of 18/00177/FL. The proposed use of the building, siting and materials are unchanged, therefore the application is considering the scale and detailing only.

- 7.2 The application site is open in character, comprising of agricultural fields with intersecting dry stone walls bounded by two detached dwellings to the south and woodland to the east. Having visited the site and reviewed the submitted plans, the increase in height of the building results in a steeper roof pitch than that approved on the 18/00177/FL application. The combination of the steeper roof pitch and additional verge detailing have changed the simplistic character of the building which was originally approved. However, it is noted that the design of the roof is now similar in appearance to the neighbouring property; Flash Farm to the west.
- 7.3 It is considered that whilst the footprint (13% increase) and overall scale (1m height increase) of the building has increased the building is still of an appropriate scale for its designed use, which does not detract from the surrounding landscape or represent a prominent intrusion into the countryside. It is noted that, whilst the site is visible from public viewpoints on Sydnop Hill to the north and north west, these views are from some distance and the intervening development and planting helps screen the building.
- 7.4 The site is also visible from the woodlands which have public access to the north and east. Here again the building is a considerable distance away and it is considered that due to its relatively small size and materials it does not represent an intrusion. Over time the tree planting already carried out on the site will further screen the building from public views.
- 7.5 The amended position and fenestration details have been designed sympathetically to the surrounding countryside setting with the use of high quality materials.
- 7.6 The additional soft landscaping planting will further enhance the site and providing screening over time from public viewpoints.
- 7.7 The hard landscaping details will provide safe access to the building when occasionally required. Given the countryside location, it is important that hardstanding is kept to a minimum in order to retain the open nature of the site. It is considered that the details proposed are well contained to the existing built form will have limited visual impact, merging with the adjoining planted area.
- 7.8 A parking space is proposed close to the north eastern side of the building, it is considered that this is acceptable due to the location close to the building here a parked car will be mostly hidden from view from the neighbour by the building and by views from public view points by the boundary walls and eventually the tree planting which has been carried out on the site. Application 21/01025/FL includes a condition not to allow any further parking on the site due to the impact on the countryside.

7.9 It is noted from a neighbour's representation and the site visit that two external lights have been installed above the side elevation doors. These details have not been included within the submitted plans and it is considered that no external lighting should be approved as part of the proposal, in the interest of protecting the designated Dark Skies as identified in the Ashover Neighbourhood Plan. This can be controlled by way of condition on any approval.

7.10 In view of the above, it is considered that the building is of a high quality design which has a limited visual impact on the surrounding landscape respects the rural character of the area.

Privacy and Amenity Considerations

7.11 The closest neighbouring property is Charlestown, which is located approximately 110m to the south of the subject building.

7.12 The use of the building has not changed from the approved 18/00177/FL application (storage of equipment in conjunction with the pond, filtration suite and as a bird hide).

7.13 It is noted that representation have been made in relation to traffic movements to and from the building which would impact the neighbouring properties privacy and amenity. Occasional access to the building would be utilised by disabled family and friends, and it is not considered that the use of the building would be intensive or damaging to the enjoyment of the nearby residential properties or land uses.

Highway Safety Considerations

7.14 The proposed development does not include any new road infrastructure.

7.15 The County Highways Authority was consulted on the proposal, and raised no objections.

7.16 In view of the above, it is not considered that the proposed development would lead to a demonstrable harm to highway safety.

Ecology and Biodiversity Considerations

7.17 The approved landscaping works have been implemented and will be enhanced, as shown on Landscaping and Block plan PK01 which includes the planting of additional trees and shrubs.

7.18 Derbyshire Wildlife Trust (DWT) have reviewed the submitted details, and confirm that the enhanced landscaping would not have any bearing on the ecology of the site.

7.19 In view of the above, it is considered that the proposed development would not result in a net loss of biodiversity.

Other Considerations

- 7.20 The application site is within Flood Zone 1, which has a low probability of flooding.
- 7.21 The application site lies within a Development Low Risk Area as defined by the Coal Authority.
- 7.22 A number of representations have been received which raise issues that do not relate to the existing application or are not considered material planning considerations. A number of conditions linked to the building and its use have been proposed by an objector, however officers consider that these do not meet the tests of a planning condition. All relevant conditions have been put forward by officers in this report.

8.0 Summary and Conclusion

- 8.1 This application seeks to regularise changes to the original building approved in 2017. The changes have resulted in a bigger building which is more ornate in its design than that originally proposed. No changes have been made to the use of the building.
- 8.2 It is considered that the changes made to the scale, character and appearance of the building over and above what has been approved would still have an acceptable impact upon the character of the countryside.
- 8.3 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 or lead to a loss of net biodiversity.
- 8.4 In conclusion it is considered that the proposal meets the requirements of policies contained in the Local Plan, those in the Ashover Neighbourhood Plan and the overarching aims of the National Planning Policy Framework.

9.0 Recommendation

- 9.1 **GRANT** Full Planning Permission subject to the following conditions:

Conditions

1. The development hereby approved shall be carried out in accordance with the following submitted plans, unless otherwise specifically agreed in writing by the Local Planning Authority or otherwise required by any other condition in this decision notice:
 - Drwg.no PK/MH/10, Plans and Elevations (date stamped 16/08/2021)
 - Drwg.no PK01, Block Plan (date stamped 16/08/2021)

- Drwg.no JC/K63/701/B, Revised Block Plan (date stamped 16/08/2021)
2. 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.
 3. No external lighting shall be installed on the building hereby approved and the building shall not in any way be artificially illuminated.
 4. Within 6 months of this decision, the approved biodiversity enhancement strategy shall be implemented in accordance with the approved details and retained as such for the lifetime of the development.

North East Derbyshire District Council

Planning Committee

14 December 2021

Planning Appeals Lodged and Determined

Report No PM/08/2021-22/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

The following appeals have been lodged:-

Mr M Toth - Retrospective application for the construction of a balcony at 3 The Crescent, Clay Cross (21/00539/FLH)

Planning Officer – Emily Cartwright emily.cartwright@ne-derbyshire.gov.uk

Mr & Mrs Hough - Application for a single storey extension to detached dwelling (Resubmission of 20/00917/FLH) at Ouzlebank Farm, Highgate Lane, Dronfield (21/00388/FLH)

Planning Officer – Aspbury Planning

Mr D Piggott - Application for the retention of a single pitch traveller site at Land On West Side Of Boiley Farm Between Fishing Pond And Boiley Lane, Killamarsh (21/00384/FL)

Planning Officer – Susan Wraith susan.wraith@ne-derbyshire.gov.uk

1.2 Appeals Allowed

The following appeal has been allowed:-

Mr Jonathan Dann – Application for two storey-side extension at 115 Snape Hill Lane, Dronfield (21/00083/FLH)

Means of Determination – Committee

Planning Officer's Recommendation – Conditionally Approve

Planning Officer – Kevin Figg kevin.figg@ne-derbyshire.gov.uk

1.3 Appeals Part Allowed/Part Refused

Stephen Barker – Application for determination of a high hedges complaint relating to conifers at 30 Knighton Street, Hепthorne Lane, North Wingfield (19/00789/HHC)

Means of Determination – Delegated

Planning Officer's Recommendation –Refuse

Planning Officer – Adrian Kirkham adrian.kirkham@ne-derbyshire.gov.uk (Aspbury Planning)

1.4 Appeals Dismissed

No appeals have been dismissed.

1.5 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**

Is the decision a Key Decision? 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>	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
District Wards Affected	All
Links to Corporate Plan priorities or Policy Framework	All

8 Document Information

Appendix No	Title
Background Papers (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)	
Report Author	Contact Number
Katie Spelman	01246 217172

