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**North East
Derbyshire**
District Council

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Date: Monday, 25 September 2023

To: **Members of the Planning Committee**

Please attend a meeting of the Planning Committee to be held on **Tuesday, 3 October 2023 at 1.00 pm in the Council Chamber**, District Council Offices, 2013 Mill Lane, Wingerworth, Chesterfield S42 6NG.

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:

[North East Derbyshire District Council - YouTube](#)

Yours sincerely



Assistant Director of Governance and Monitoring Officer

Members of the Committee

Councillor David Cheetham
Councillor Andrew Cooper
Councillor Peter Elliot
Councillor Stuart Fawcett
Councillor Mark Foster
Councillor David Hancock

Councillor Lee Hartshorne (Chair)
Councillor Tony Lacey
Councillor Heather Liggett
Councillor Fran Petersen
Councillor Kathy Rouse

Please notify the Governance Manager, Alan Maher by 4.00 pm on Friday 29 September 2023 of any substitutions made for the meeting.

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

AGENDA

1 Apologies for Absence and Substitutions

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

2 Declarations of Interest

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

3 Minutes of the Last Meeting (Pages 5 - 20)

To approve as a correct record and the Chair to sign the Minutes of Planning Committee held on 5 September 2023.

4 NED/23/00154/FL - PILSLEY (Pages 21 - 31)

Change of use of existing building to 3 supported living units (Amended Plans/Additional Information) at Garden House, Station Road, Pilsley.

(Planning Manager – Development Management)

5 NED/23/0049 - LOWER PILSLEY (Pages 32 - 43)

Change of use of commercial unit with ancillary accommodation to 1 office and 3 one bedroom residential apartments, including alterations to openings (Amended Title)(Amended Plans) at 67 Rupert Street, Lower Pilsley.

(Planning Manager – Development Management)

6 NED/TPO/ 293/2023- DRONFIELD (Pages 44 - 51)

Proposed confirmation of Tree Preservation Order (TPO 293/2023) Trees at Clifton Court, Dronfield Woodhouse, Dronfield.

(Planning and Environment Manager)

7 Late Representations - Summary Update Report - NOW PUBLISHED (Pages 52 - 58)

(Planning Manager – Development Management)

8 Planning Appeals - Lodged and Determined (Pages 59 - 61)

(Planning Manager – Development Management)

9 Matters of Urgency (Public)

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

10 Exclusion of Public

The Chair to Move:

“That the public be excluded from the meeting during the discussion of the following item of business to avoid the disclosure to them of exempt information as defined in Paragraphs 3 & 5, Part 1 of Schedule 12A to the Local Government Act 1972”. (As amended by the Local Government (Access to Information)(Variation) Order 2008).

11 Section 106 (Legal) Agreements Update (Pages 62 - 71)

(Planning Manager – Development Management)

12 Matters of Urgency (Exempt)

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



**North East
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District Council

Access for All statement

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PLANNING COMMITTEE

MINUTES OF MEETING HELD ON TUESDAY, 5 SEPTEMBER 2023

Present:

Councillor Lee Hartshorne (Chair) (in the Chair)
Councillor Tony Lacey (Vice-Chair)

Councillor Andrew Cooper
Councillor David Hancock
Councillor William Jones
Councillor Kathy Rouse

Councillor Stuart Fawcett
Councillor Christine Gare
Councillor Heather Liggett

Also Present:

D Thompson	Assistant Director of Planning
A Kirkham	Planning Manager - Development Management
G Cooper	Principal Planning Officer
A Lockett	Senior Planning Officer
S Sternberg	Assistant Director of Governance and Monitoring Officer
A Bond	Governance Officer
A Maher	Governance Manager

PLA/ Apologies for Absence and Substitutions

20/2

3-24 Apologies were received from Councillor D Cheetham, who was substituted by Councillor C Gare and Councillor P Elliot, who was substituted by Councillor W Jones. Apologies were also received from Councillor M Foster.

PLA/ Declarations of Interest

21/2

3-24 Councillor D Hancock declared an Interest in Item 6 – Application NED/22/0142/AD, in his capacity as a Member of Wingerworth Parish Council. He indicated that he would not take part in Committee's consideration or determination on the Application and would leave the meeting at the appropriate time.

PLA/ Minutes of the Last Meeting

22/2

3-24 The minutes of the meeting held on Tuesday 26 July 2023 were approved as a true record.

PLA/ NED/22/00686/FL - DRONFIELD

23/2

3-24 The report to Committee explained that an Application had been submitted for the development of 27 new dwellings, a Sports Pavilion and associated access at the Gladys Buxton Adult Education Centre site, Oakhill Road, Dronfield. The Application had been referred to the Committee by the Planning Manager (Development Management) due to the important planning policy issues that would need to be considered.

Planning Committee was recommended to approve the Application, subject to conditions and a 'Section 106' Agreement between the Council and the Developer to carry out specific work to help offset the impact of the new development. The report to Committee explained the reasons for this.

Officers felt that the development would be acceptable and accord with the Policies of the Development Plan. They contended that the Applicant had provided a layout and design, which would, on balance, provide a reasonable environment for future occupiers of the Development and ensure that an acceptable level of amenity was retained by existing residential occupiers. A full package of social mitigation had been offered as part of a Section 106 Agreement, and in particular, the Applicant had agreed a mitigation package for the part loss of the playing fields, to provide a two-team sports pavilion for those using the remaining playing fields.

Officers had concluded, therefore, that the proposed Development would accord with the policies of the Development Plan. There were no technical reasons that would justify resisting the Application or other matters that would outweigh this. The proposed Development would also provide affordable housing, which would help to meet the needs of the local area and the District as a whole. The report recommended, therefore, that the Application be approved, subject to the conclusion of a suitable Section 106 Agreement and the conditions set out in the report.

Before the Committee considered the Application it heard from E Ranson and P Ranson, who spoke against the Application. It also heard from T Breislin, the Agent for the Application, who spoke in support of it.

Committee considered the Application. It took into account the location of the site within the Settlement Development Limits for Dronfield. It considered the relevant local and national planning policies. These included Local Plan Policy SS7 on the development of unallocated land within Settlement Development Limits, Local Plan Policy SDC12, requiring new developments to achieve high standards of design and Local Plan Policy ID10, seeking to protect and enhance existing open space sports and recreation facilities. It also took into account Local Plan Policy ID1, requiring appropriate mitigation to be achieved to offset the social impacts of developments, as well as the relevant policies of the Dronfield Neighbour Plan and the National Planning Policy Framework (NPPF).

Members discussed the Application. They reflected on the low level of use of the playing field for organised sport in recent years and what use might be made of it in the future. In this context, some Members expressed concern about the proposed Sports Pavilion, suggesting that it might remain empty and so become a focus for Anti-Social Behaviour. Committee was given the assurance that as a condition of approval it was proposed that a Management Agreement for the proposed Sports Pavilion would have to put in place, which would help to prevent these problems from occurring. Some Members raised concerns about pedestrian and traffic access to the proposed Sports Pavilion. It was suggested that this could be addressed as part of a Section 106 Agreement with the Developer. Members also discussed what impact the Development might have on neighbouring properties and how this would be mitigated.

At the conclusion of the discussion Councillor D Hancock and K Rouse moved and seconded a recommendation to approve the Application. The Motion was put to the vote and was agreed.

RESOLVED -

- (1) That the Application be conditionally approved, in line with officer recommendations and the prior agreement of a Section 106 agreement, in accordance with the details set out in the report.
- (2) That the final wording of the Conditions be determined by the Planning Manager (Development Management)

Conditions

- 1.1 **GRANT** Planning Permission subject to the following conditions and the prior completion of a section 106 agreement in accordance with the details set out in the report above (with delegated authority granted to the Planning Manager (Development Management)).

Section 106 Agreement to include:

NEDDC Parks: £30,059.74 plus £11,766.16. Total: £41,825.90

Chesterfield Royal Hospital: Total £58,894

Derbyshire County Council: £213,099.53 plus monitoring fees.

Biodiversity Net Gain: As agreed.

Management of the Pavilion: as agreed.

Affordable Housing.

Conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby approved shall be carried out in accordance with the details shown on the following plans:

200 Location Plan received 6th July 2022

205 REV A Proposed Planning Layout uploaded 14th June 2023

210-223 REV A House Types, floor plan and elevations uploaded 14th June 2023

5918-EW-01 REV P9 External Works Layout uploaded 15th June 2023

5918-EW-02 REV P8 External Works Layout uploaded 14th June 2023

5918-DR-01 REV P4 Drainage Layout uploaded 15th June 2023

Revised Biodiversity net Gain File note uploaded 15th June 2023

Revised Biodiversity Metric uploaded 15th June 2023

Revised Drainage Strategy uploaded 15th June 2023

Revised Planning Statement uploaded 15th June 2023

Revised Transport Statement uploaded 15th June 2023

Phase 2 Intrusive Report uploaded 6th July 2022
Phase 1 and Phase 2 Tree Survey uploaded 6th July 2022
Design and Access Statement received 10th August 2023
Preliminary Ecological Appraisal uploaded 31 August 2022

3. 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.
4. 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.
5. No development shall commence above foundation level of any of the dwellings hereby approved until the access arrangements onto the playing field and the car park as shown on approved Drw No: 205 Rev A (Proposed Planning Layout) have been implemented in full and made available for use at all times for all users of the playing field.
6. Prior to the first occupation of any of the dwellings hereby approved the sports pavilion as shown on Drws No: 205 Rev A and 223 shall be constructed on site and made available for use for all users of the playing field.
7. No development shall commence until;
 - a) any remediation works and/or 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 safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

8. Prior to the occupation of the development, or it being taken into beneficial use, 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 findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

9. Before first occupation of the houses on relevant plots, the foot access between the garages for plots 25 and 26 should be secured with a key lockable gate, suited to the plots affected and be retained as such thereafter.
10. Before first occupation of the plots served by it, either the vehicular entrance to the parking court serving plots 19,20,21,22,23,24,25,26 & 27 should be provided with a pair of manual gates, capable of being secured when chosen, or the outer sections of garden fencing between private gardens and the court should be changed to a 1.2m high solid wooden lower section, with an engineered 500mm topping to allow house occupants a view of their vehicle/garage.
11. Before development commences, a scheme of 20% accessible and adaptable dwellings 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 and 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.
12. Except in the case of emergency, operations (or deliveries to the site) should not take place on site other than between the hours of 08:00 - 18:00 Monday to Friday and between 09:00 - 13:00 on Saturdays. There should be no working on Sundays or Public Holidays.
13. Heavy goods vehicles shall only enter or leave the site between the hours of 08:00 - 18:00 on weekdays and 09:00 - 13:00 Saturdays and no such movements should take place on or off the site on Sundays or Public Holidays (this excludes the movement of private vehicles for personal transport).
14. Best practicable means shall be employed to minimise noise and dust. Such measures may include water bowsers, sprayers whether mobile or fixed, or similar equipment. At such times when due to site conditions the prevention of dust nuisance by these means is considered by the Local Planning Authority in consultations with the site operator to be impracticable, then movements of soils and overburden shall be temporarily curtailed until such times as the site/weather conditions improve such as to permit a resumption.
15. 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 and demolition or groundwork 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.

16. Prior to the first occupation of any of the dwellings hereby approved a scheme of sound insulation shall be submitted to and approved in writing the Local Planning Authority. The scheme shall be designed following the completion of a sound survey undertaken by a competent person. The scheme shall take account of the need to provide adequate ventilation, which will be by mechanical means where an open window would not achieve the following criteria. The scheme shall be designed to achieve the following criteria with the ventilation operating:

Bedrooms 30 dB LAeq (15 Minutes) (2300 hrs – 0700 hrs)

Living/Bedrooms 35 dB LAeq (15 Minutes) (0700 hrs – 2300 hrs)

All Other Habitable Rooms 40 dB LAeq (15 Minutes) (0700 hrs – 2300 hrs)

All Habitable Rooms 45 dB LAmax to occur no more than 10 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 then be implemented in full and retained as such thereafter.

17. Before the commencement of the development hereby approved:
Further works as identified in the submitted Report ref 5132-G-R002-Rev-B, dated May 2022, along with the preparation and submission of a remediation strategy shall be undertaken. The Remediation works shall ensure that the development 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.

18. No dwellings/buildings hereby approved shall be occupied until:
- a) The approved remediation works required by XX 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 contaminated land assessment ref 5132-G-R002-Rev-B, dated May 2022 submitted with the application and through the process described in 1.18 above and,

- c) Upon completion of the remediation works required by 1.18 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.
19. Prior to the first occupation of any dwelling, hereby approved, a scheme for the delivery and future maintenance of all on site public open space, and a timetable for its implementation relative to the completion of dwellings hereby approved, shall be submitted to and be approved in writing by the Local Planning Authority. Thereafter the approved scheme shall be implemented in full as agreed and then the public open space shall be maintained as such thereafter.
20. Before development starts, 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) identification of trees designated street trees
 - d) a schedule of proposed plant species, size and density and planting locations and
 - e) an implementation programme.
21. 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 which within a period of 15 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.
22. Before the dwellings are first brought into use, the area shown on the approved plans as reserved for the parking, garaging, circulation and standing of vehicles, shall be provided in accordance with the approved details and shall be retained as such thereafter. The parking and manoeuvring areas shall not be used for any purpose other than the parking and manoeuvring of vehicles and in particular shall not be used for the open storage of goods, plant or materials of any kind.
23. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:

- a. Flood Risk Assessment prepared by KSA Consulting Engineers, Ref 5918- FRA dated May 2022, “including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team”.
 - b. Drainage Strategy prepared by KSA Consulting Engineers, Ref 5918/DS01, Rev A dated May 2022, “including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team
 - 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.
24. 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 80reference ID: 7-080-20150323 of the planning practice guidance. and to obtain a full understanding of the springs within the site and any associated mitigation requirements.
25. 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.
26. 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).

Notes

Yorkshire Water

Yorkshire Water: If the developer is looking to have new sewers included in a sewer adoption agreement with Yorkshire Water (under Section 104 of the Water Industry Act 1991), he/she should contact our Developer Services Team (telephone 03451 208 482, email: technical.sewerage@yorkshirewater.co.uk) at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with the WRc publication 'Code for Adoption - a design and construction guide for developers' as supplemented by Yorkshire Water's

requirements.

Derbyshire County Council

The management and maintenance of the sports pavilion building should form part of appropriate wording in a Section 106 Agreement to accompany this planning application.

Broadband developers should work with broadband providers to ensure NGA broadband services are incorporated as part of the design of new development. However, if it can be shown that this would not be possible, practical or economically viable, in such circumstances, suitable ducting should be provided within the site and to the property to facilitate future installation.

Lead Local Flood Authority

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

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

C. No part of the proposed development shall be constructed within 5-8m of an ordinary watercourse and a minimum 3 m for a culverted watercourse (increases with size of culvert). It should be noted that DCC have an anti-culverting policy.

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

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

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

G. The applicant should provide a flood evacuation plan which outlines:

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

- Who will be responsible for the update of the flood evacuation plan PUBLIC

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

I. Surface water drainage plans should include the following:

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

J. On Site Surface Water Management.

- The site is required to accommodate rainfall volumes up to the 1% probability annual rainfall event (plus climate change) whilst ensuring no flooding to buildings or adjacent land.
- The applicant will need to provide details and calculations including any below ground storage, overflow paths (flood routes), surface detention and infiltration areas, etc, to demonstrate how the 30 year + 35% climate change and 100 year + 40% Climate Change rainfall volumes will be controlled and accommodated. In addition, an appropriate allowance should be made for urban creep throughout the lifetime of the development as per 'BS 8582:2013 Code of Practice for Surface Water Management for Developed Sites' (to be agreed with the LLFA).
- Production of a plan showing above ground flood pathways (where relevant) for events in excess of the 1% probability annual rainfall event, to ensure exceedance routes can be safely managed.
- A plan detailing the impermeable area attributed to each drainage asset (pipes, swales, etc), attenuation basins/balancing ponds are to be treated as an impermeable area.

Peak Flow Control

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

for that event.

Volume Control

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

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

- Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.
- Where cellular storage is proposed and is within areas where it may be susceptible to damage by excavation by other utility contractors, warning signage should be provided to inform of its presence. Cellular storage and infiltration systems should not be positioned within the highway.
- Guidance on flood pathways can be found in BS EN 752.
- The Greenfield runoff rate which is to be used for assessing the requirements for limiting discharge flow rates and attenuation storage for a site should be calculated for the whole development area (paved and pervious surfaces - houses, gardens, roads, and other open space) that is within the area served by the drainage network, whatever the size of the site and type of drainage system. Significant green areas such as recreation parks, general public open space, etc., which are not served by the drainage system and do not play a part in the runoff management for the site, and which can be assumed to have a runoff response which is similar to that prior to the development taking place, may be excluded from the greenfield analysis.

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

- Ground percolation tests to BRE 365.
- Ground water levels records. Minimum 1m clearance from maximum seasonal groundwater level to base of infiltration compound. This should include assessment of relevant groundwater borehole records, maps and on-site monitoring in wells.
- Soil / rock descriptions in accordance with BS EN ISO 14688-1:2002 or BS EN ISO 14689- 1:2003.
- Volume design calculations to 1% probability annual rainfall event + 40% climate change standard. An appropriate factor of safety should be applied to the design in accordance with CIRIA C753 – Table 25.2. PUBLIC •

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

- Drawing details including sizes and material.
- Details of a sedimentation chamber (silt trap) upstream of the inlet should be included. Soakaway detailed design guidance is given in CIRIA Report 753, CIRIA Report 156 and BRE Digest 365.

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

M. The applicant should submit a comprehensive management plan detailing how surface water shall be managed on site during the construction phase of the development ensuring there is no increase in flood risk off site or to occupied buildings within the development.

N. The applicant should manage construction activities in line with the CIRIA Guidance on the Construction of SuDS Manual C768, to ensure that the effectiveness of proposed SuDS features is not compromised.

PLA/ NED/23/00610/FL - CUTTHORPE

**24/2
3-24**

The report to Committee explained that an Application had been submitted for Temporary Planning Permission to site a Mobile Farm Shop, along with the creation of new access and parking, at land to the west side of the Cutthorpe Institute, Main Road, Cutthorpe. The Application had been referred to Committee by Ward Member, Councillor M E Thacker MBE, who had raised issues about it.

Committee was recommended to refuse the Application. The report to Committee explained the reasons for this.

Officers had concluded that the proposed Farm Shop / Café building, and the associated car park and infrastructure would represent an unacceptable development. If approved, it would cause significant harm to the Green Belt, impacting upon the openness, both spatially and visually, of the site. This would be contrary to both Local and National Planning Policy, which seek to protect the Green Belt and areas of countryside which contribute to the character of the area from inappropriate and unacceptable development.

Officers also contended that none of the very special circumstances in planning terms, that would justify the Development and outweigh the harm to the Green Belt site, had been identified. Consequently, they recommended that the Application be refused.

Before the Committee considered the Application it heard from A Herrington, who objected to the Application. It also heard from E Wood and M Langley, the Applicants and D Cooney, the Agent, who spoke in support of the Application. The Committee then heard from D Catton, T Johnstone, A Wood and C Langley, who supported the Application.

Committee considered the Application. It took into account the site's location within the Green Belt and a primary Area of Multiple Environmental Sensitivity (AMES), within the District's most valued and protected landscape.

Committee considered the relevant national and local planning policies. These included Local Plan Policy SS10 on preventing inappropriate development within the Green Belt except in very special circumstances, Local Plan Policy SDC3, requiring new developments not to cause significant harm to the character, quality, distinctiveness or sensitivity of the landscape and Local Plan Policy SS9, requiring acceptable developments to respect the form, scale, and character of the landscape through careful siting, scale, design, and use of materials. In addition, Committee took into account the relevant policies of the draft Brampton Neighbourhood Plan.

Members discussed the report. They reflected on what impact the development would have on the visual openness of the area. They discussed the time limited period for the Application and the officer conclusion that it would not be an appropriate development given its Green Belt location.

Members considered the proposed access and parking arrangements. They considered what use would be made of the proposed Farm Shop and Café and benefits which they might have, in terms of providing additional facilities for the local community. They heard about the potential benefits of the proposed facility in helping to diversify an existing agricultural holding and in reducing carbon emissions by using locally produced foodstuffs at the Farm Shop / Café.

At the end of the discussion Councillor K Rouse and Councillor T Lacey moved and seconded a motion to refuse the Application. The motion was put to the vote and was agreed.

RESOLVED -

That the Application be refused, in line with officer recommendations.

Reasons

1. The application site is situated within an area of countryside designated as Green Belt. National and Local Plan Policies pertaining to Green Belt land, identify new buildings as inappropriate development with a few exceptions. Engineering works are likewise inappropriate where they impact openness and Green Belt purposes.

The proposal seeks to introduce buildings, a car park and associated infrastructure into an area that is currently an undeveloped and open parcel of land.

The proposed development, by reason of its scale, massing, location and extent, is not considered to represent appropriate development in the Green Belt and it would result in unacceptable encroachment into the countryside eroding both the spatial and visual openness of the Green Belt and conflicting with Green Belt purposes.

There are not considered any very special circumstances that would outweigh the significant harm caused by way of inappropriateness.

Therefore, the proposed development would be contrary to Policies SS1 and SS10 of the North East Derbyshire Local Plan, and the NPPF, when read as a whole.

2. The application site is located within a countryside area, identified as a primary Area of Multiple Environmental Sensitivity. In such locations, both national and local policies seek to ensure development is designed in a manner sensitive to the local landscape and in a way that would conserve and enhance the area. Policies B2, B8 and B9 of the Neighbourhood Plan seek to protect the character of the area, open spaces and dry-stone walls from unacceptable development.

In this case, by reason of the scale, design and siting of the proposed building, the car park and associated infrastructure, the proposed development would unacceptably harm and fail to conserve and enhance the local landscape. Additionally, it would harm the setting of a Local Green Space and lead to the loss of a length of dry-stone wall.

Therefore, the proposed development is considered unacceptable and would be contrary to Policies SS1, SS9, SDC3 and SDC12 of the North East Derbyshire Local Plan, policies B2, B8 and B9 of the Neighbourhood Plan and the NPPF, when read as a whole.

PLA/ NED/22/01042/AD - WINGERWORTH

25/2

3-24

Councillor D Hancock left the meeting at this point.

The report to Committee explained that an Application had been submitted for an Advertisement Consent for four signs at the Parish Rooms, New Road, Wingerworth. The Application had been referred to Committee by the Planning Manager (Development Management) due to the interest which had been shown in it, the issues raised by the Application and because a public body (Wingerworth Parish Council) had submitted it.

Planning Committee was recommended to approve the Application. The report to Committee explained the reasons for this.

Officers had concluded that the Application would be acceptable in planning terms. In particular, the signs would be in keeping with the character and appearance of the site and the surrounding street scene. The report made clear that concerns had been raised about the possible light pollution which the signs might cause. However, the Applicant had now confirmed that these would not be illuminated as part of this Application. Consequently, officers were content that the proposal would not have a detrimental impact on the amenity of neighbouring residents, land uses or the adjacent countryside setting.

Members were informed that no one had registered to speak on the Application.

Committee discussed the Application. Members reflected on the scale of the proposed signs. Committee welcomed confirmation that these would not now be illuminated as part of this Application. Some Members asked for and received reassurance that a requirement that the signs should not be illuminated would be included as a proposed condition for approving the Application.

At the conclusion of the discussion Councillor L Hartshorne and Councillor T Lacey moved and seconded a motion to approve the Application. The motion was put to the vote and was approved.

RESOLVED -

That the Application be conditionally approved, in line with officer recommendations.

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

Conditions

- 1) The development hereby approved shall be carried out in accordance with the submitted plans:
 - 0520-AM2-LP (Location Plan)
 - Location of Signs Plan; date scanned 27.10.2022
 - Proposed Signs Plan; date scanned 27.10.2022
 - Vertical Sign Details; date scanned 11.08.2023
- 2) The signage hereby approved shall not be illuminated in any way.
- 3) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
- 4) No advertisement shall be sited or displayed so as to—
 - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
 - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
 - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
- 5) Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
- 6) Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

- 7) Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

PLA/ Planning Appeals - Lodged and Determined

26/2

3-24 Councillor D Hancock returned to the meeting at this point.

The report to Committee explained that one appeal had been lodged, one had been allowed and one appeal had been dismissed.

PLA/ Matters of Urgency

27/2

3-24 None.

PLANNING COMMITTEE – 3rd October 2023

Reference Number: 23/00154/FL

Application expiry: 06/10/23

Application Type: Full

Proposal Description: Change of use of existing building to 3 supported living units (Amended Plans/Additional Information)

At: Garden House, Station Road, Pilsley, Chesterfield

For: IBC Healthcare

Third Party Reps: Objections

Parish: Pilsley

Ward: Pilsley and Morton

Report Author: Adrian Kirkham

Date of Report: 15th September 2023

MAIN RECOMMENDATION: Refuse planning permission



Figure 1: Site Location Plan

1.0 Reason for Report

- 1.1 The application has been called in for Planning Committee consideration and decision by Councillor Cooper to consider the objections made when assessed against the comments made by the Councils Environmental Health Officer.

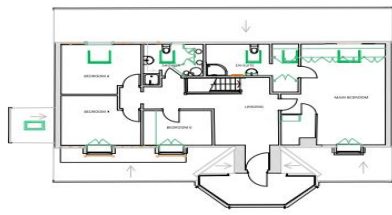
2.0 Proposal and Background

- 2.1 The application site comprises an existing residential property located off Station Street in Pilsley. The property formerly comprised 2 storey accommodation incorporating 7 bedrooms set within a residential curtilage. The site is set on an unmade track located between South Street and the unnamed track, addressed as Station Road (see Figure 1 above).
- 2.2 The application site (Figure 2 below) is bordered by three residential properties, South Street and the track accessing it within the settlement development limits identified for Pilsley in the Local Plan.

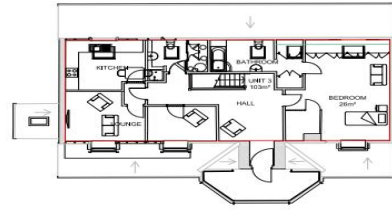


Figure 2: The application site

- 2.3 The application seeks consent to convert the property into three self-contained supported living units, two at ground floor and one at upper floor level. The applicant states that the units will be for people with autism and learning difficulties and each unit will have its own tenancy and council tax liability but not services. No external alterations to the building are proposed (although it is understood that the conversion works have already taken place). The existing and proposed layouts are given at Figure 3 below. Care is to be provided by IBC healthcare, the applicant, and each individual is anticipated to have no more than 2 carers on site at any one time, including through the night.



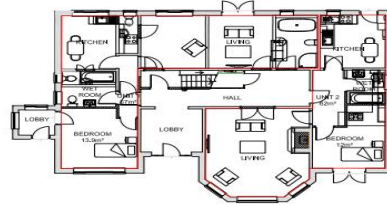
EXISTING FIRST FLOOR PLAN



PROPOSED FIRST FLOOR PLAN



EXISTING GROUND FLOOR PLAN



PROPOSED GROUND FLOOR PLAN

Figure 3: Existing and proposed floor layouts (not to scale).

- 2.4 Certain works are proposed to the wider site and are shown in Figure 4 below. These include the formal provision of 6 car parking spaces to the front of the property and space set aside to the rear for “activity”, “leisure” and “sensory” [activities].



EXISTING SITE PLAN

PROPOSED SITE PLAN

Figure 4: Existing and proposed site layouts.

2.5 The applicant concludes the submission by stating that the property will remain within Class C3, i.e. in use as a dwelling house(s), and as supported living for single adults. Daytime carers will work from 09:00 to 20:00 and nighttime carers from 20:00 to 09:00. It is stated there will be no other comings or goings other than would be expected from a normal family home. Finally, it is stated by the applicant that staff will be sourced generally locally and many will arrive by public transport or bicycle.

3.0 **Relevant Planning History**

3.1 NED/03/00304/OL: Application for one dwelling. Approved 2003

3.2 NED/82/00860/OL: Application for one bungalow. Refused 1989

3.3 NED/82/00852/OL; Application for one bungalow. Refused 1998

4.0 **Consultations and Representations**

4.1 **Ward Councillor** – Requests that Planning Committee determine this application to assess the issues raised in the EHO's first comments and whether or not this is an appropriate place for this sort of operation.

4.2 **Parish Council (PC)** – Commented raising concerns over increased traffic in an already congested area.

4.3 Subsequent to listening to the views of local residents the PC object to the application on the following issues:

- Highway safety: The development will generate more than usual traffic in an area that suffers from heavy traffic.
- Noise/disturbance: This is a quiet residential area and the 24 hour a day use is out of keeping with the area. There will be a significant increase in noise impacting negatively on neighbouring homes.
- Incompatible use: There is a fear of crime undermining the quality of life and community cohesion (para 92a of the NPPF).
- NPPF: Guidance has not been followed. There has been no early engagement as required by para 39 of the NPPF and residents feel the developer is unconcerned about their views, a stance the parish council agree with.

4.4 **Highways Authority** – No objections subject to conditions.

4.5 **NEDDC Planning Policy**: Consider the location of the proposal generally acceptable and compliant with policy SS7 and LC4 of the Local Plan.

4.6 **Derbyshire Constabulary Designing Out Crime Officer (DOCO)**: Comments that the proposal is set in the context of a national policy drive to move residential care services away from institutional settings to more traditional family environments which has led to a significant number of applications to change the use of family homes.

- 4.7 For this application the use class is not specified, but the application description seems to fit with a change in use class, with permanent staffing on site and 24-hour care provision, to the C2 use class for a residential care home, and the suggestion of three individual units operating separately from each other being presented for expediency.
- 4.8 There appears no provision at all for care staff within the design submitted. The DOCO's own experience of such applications is that, where there are community tensions because of the proposal, applications have been withdrawn, and care providers have sought to locate their operations elsewhere.
- 4.9 There have been decisions made and appeals decided stating both that the behaviour of residents is and is not material to planning. There is no inevitability that those in care will bring with them problematic behaviour. There is the possibility of this but the likelihood rests with the individual resident and the quality of care provided and governance is the responsibility of the Care Quality Commission.
- 4.10 Experience shows that if this balance is not struck then community problems follow, and police resourcing is required.
- 4.11 Site specifically, the site is set along an unlit stone surfaced private driveway, within a quiet residential area of detached homes, on the edge of a rural setting. The tenure is evidently gentrified and fearful of the proposal disturbing their quality of life. An apparent lack of consultation by the applicants has clearly not helped to allay these fears.
- 4.12 The rift in community cohesion approval of this application would bring, has the potential to alter the hierarchy of space for this cul-de-sac, which would negatively affect territoriality, and consequently, in my view, have a detrimental effect upon community safety.
- 4.13 The NPPF is clear that all development should promote healthy, inclusive and safe places. Considering the scale and type of objections received this aspiration does not look to have been met.
- 4.14 Local plan policy sets out that applications should include measures to minimise the opportunity for crime and anti-social behaviour, which the DOCO expects could be addressed by setting conditions in respect of occupancy numbers, management practices, enclosure and sound attenuation.
- 4.15 **Environmental Health Officer (EHO)** – Noted in March 2023 that the location of the application site in a quiet residential area and any significant increase in noise is likely to impact on neighbouring residential properties. In view of the potential for the use to impact on neighbouring amenity the EHO requested further information from the applicant.
- 4.16 Further to the receipt of a submitted noise management plan, the EHO raises no objection to the application, subject to conditions. The complete contents

of the Environmental Health Officers (EHO) comments are set out on the Council's planning portal as required. In short, the EHO consider there is no substantial evidence that supported living is unacceptable in a residential area on grounds of amenity and that the management controls proposed appear reasonable and can be achieved by way of condition.

4.17 29 submissions have been made to the application objecting to it. They have come from 15 individuals. They make the following points (in precis):

- The change proposed is from a C3 residential use to a C4 House of Multiple Occupation. It will change the character of the area and it could be extended further under permitted rights. The site is distant from other public land and unsuitable for the use proposed.
- Significant detrimental impact on privacy and safety.
- The site does not overlook countryside as stated and, despite claims by the applicant, the garden is not well vegetated and the site boundaries are poor.
- The comments of the EHO are questioned.
- There will be excessive noise and disturbance. The area is very quiet. There will be noise from residents, staff and vehicles and the new use will impact on the peace and tranquillity of the area. There will be 6 full time staff plus visitors and employees are unlikely to arrive by bicycle or on foot. The level of carers and residents is unlike a family home.
- Adults with challenging behaviours can create excess levels of noise and anti-social behaviour. Existing residents will feel vulnerable and future residents of the property will not be provided with suitable accommodation.
- Access Issues. The lane is single track and in a poor state of repair. It is not suitable for further traffic in addition to the future houses that already have planning consent. Parking on the land would obstruct other users/create trespass. The access to the main highway network is poor.
- There will be inadequate parking created and there should be 18 spaces plus turning.
- The lane is privately owned and additional use will increase maintenance costs for all. There is no lighting, and it is dark.
- There has been no consultation from the applicant. Can the applicants guarantee the existing residents safety? The suggested safeguards will be inadequate and raise the fact that the applicant considers special provision needs to be put in place to accommodate future residents.
- The site notice was displayed late and consultation has been poor.
- There will be an adverse impact on the mental health of existing residents, many of whom are elderly and several of which are disabled.
- Refuse vehicles can't access the lane.
- Concern is raised that the works of conversion of the property has already been carried out.

4.18 Additionally, the local MP has submitted comments reiterating the concerns of residents on the suitability of the property along a single width unmade track, with no lighting, pavements, turning space or off-track parking. He also sets out his concerns about the access for emergency vehicles and submits

pictures for information. He also reiterates concerns about safety and security of both potential, future, and existing residents.

- 4.19 The full transcripts of all/any comments made can be seen on the Council's planning portal.

5.0 Planning Policy Considerations

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

The following policies are considered those most relevant to the determination of this application:

- SS1 Sustainable Development
- SS2 Spatial Strategy and the Distribution of Development
- SS7 Development on Unallocated Land within Settlement with defined Settlement Development Limits
- LC4 Type and Mix of Housing
- SDC12 High Quality Design and Place Making

- 5.2 The **National Planning Policy Framework (NPPF)** is also material to the determination of this application. In particular, chapters 8 and 12 are pertinent to the issues raised by the application.

6.0 Planning Issues

Principle of Development

- 6.1 The application site is located within the confines of Pilsley where new development is generally considered to be acceptable. The site is unallocated for development but, as per policy SS7 of the Local Plan (LP), development will generally be acceptable where it is appropriate in scale, design and location to the character and function of the settlement; does not result in the loss of any valued facility, is compatible with the use of adjacent sites and land uses and accords with other policies of the Plan.
- 6.2 Policy LC4 of the LP refers to the type and mix of housing. It states, in respect of specialist housing, that the Council will support the provision of specialist housing in appropriate locations, close to services and facilities for specialist housing providers.
- 6.3 Policy SDC12 of the LP refers to design and place making and, amongst its various criteria, seeks to ensure that new development will respond positively to local character and context to preserve and, where possible, enhance the quality and local identity of existing communities and their surroundings.
- 6.4 These policies are contained in a newly adopted LP and so are considered in full conformity with the NPPF which in turn advises that new development should foster well designed and safe places, deliver new homes for different groups, promote social interaction and result in safe and accessible

communities.

- 6.5 The application site at present exhibits all the characteristics of a traditional dwelling house. It is two storey property, although it takes on the appearance of a dormer bungalow (see Figure 2 above). The submitted plans show 7 existing bedrooms and it is set within a large garden. It has parking to the site frontage. The area is typically residential with dwelling houses surrounding the site and access to it is via an unmade road that as it passes the site reduces in width to form a single track.
- 6.6 The applicant seeks to convert the property into 3 self-contained supported living units each containing a single bedroom, a living area, bathroom and kitchen. The applicant indicates that residents will be supported by non-resident carers but by no more than two per individual resident at any one time. The applicant concludes that the use of the property will not deviate from its use as a Class C3 use, i.e. as dwelling houses. The carers would operate on a two shift per day basis.
- 6.7 Notwithstanding the issue of which specific use class any newly converted and occupied dwelling(s) would have, it is clear that the converted property is intended to run on the basis that 24-hour care on site is provided, but not by residents living at the property, but by visiting, albeit permanently embedded, carers across the three units.
- 6.8 Whilst the operation of a single residential property on that basis may not result in the character of a site altering, the consequence of three separate units being occupied and run in that way would inevitably result in a more intensively used property. Added to that activity, there would be the normal comings and goings associated with the three domestic units, including family and friends visiting the site and the other activities associated with any residential unit.
- 6.9 The front drive/garden to the property would also be altered to form formally laid out car parking spaces for 6 vehicles along with turning. Officers would normally expect to see 3 spaces to support 3 single bedded residential units. In this case, the applicants state that up to 2 carers will attend the site at any one time, for all 3 residents. This would potentially add a further 6 vehicles being present on the site at any one point resulting in the potential need for 9 spaces to be provided. In addition, it is noted that, to the rear, formal areas for the residents (and others) to use would also be created.
- 6.10 Officers consider that the overall level of activity associated with the new use and how it would be physically accommodated on the site would impact on how the existing property operated and adversely on the character of the area.
- 6.11 The comments made by the DOCO are noted and the impact any new use would have on community cohesion. This adds some weight to the concerns of Officers in this case.

Impact on Residential Amenity

- 6.12 Comments that have been received in respect of how the newly converted

property would impact on the amenity of the adjoining residents. LP policies seek to ensure that any new use does not impact detrimentally on neighbouring amenity.

- 6.13 It is noted that there are no external alterations proposed to the property. The site will continue to be used for ongoing residential purposes and so it is considered there will be no greater impact on the day-to-day amenity of neighbouring residents from any new use of the property itself.
- 6.14 It is considered that the garden to the premises will be more intensively used than previously in view of its proposed specific demarcation and in a manner that will be more akin to a supported environment than a domestic garden.
- 6.15 However, the comments of the EHO are noted on this issue and so, notwithstanding the comments of the DOCO, it is considered on this issue that, subject to appropriate conditioning of the noise management controls proposed, there is unlikely to be any demonstrable impact on the specific amenity of the neighbouring dwelling houses from the new use proposed by reason of overlooking or overbearing.

Highway Safety

- 6.16 The site is accessed along an unmade private road that, where it leaves Station Road, is of considerable width but which, as it approaches the site, reduces to a single width track.
- 6.17 The area close to the access point onto the primary highway is well used for vehicle parking, but the additional traffic likely to be associated with the new use will be limited and, as visibility is good, and as per the comments of the Highway Authority, will not be detrimental to highway safety.
- 6.18 The nature of the access track itself is noted. Its capacity is limited and there will be additional traffic using it, not only by the subdivision of the dwelling into the three units with the associated impact on traffic levels, but also by the carers who will occupy the site and come and go at least twice a day.
- 6.19 However, Officers are of the view that the speed at which the track is used is self-regulating due to its finish and character, as such the impact of the additional traffic is likely to be to cause inconvenience at worst rather than any harmful highway safety impact.
- 6.20 Officers conclude on this issue in accordance with the comments of the statutory consultee and that the proposal will not harm highway safety.

Other Issues

- 6.21 A number of other issues have been raised by stakeholders. Those relating to private matters, such as the increased cost of maintaining the access road, are not ones that can be considered in the planning balance. Additionally, some areas of disagreement with the applicant's submissions are raised but Officers have set out above how the site currently operates and how it will be

used and conclude on its overall impact. The Planning Committee will be able to do likewise.

- 6.22 The issue of the needs of future residents has been raised. The policies of the Council seek to secure housing to accommodate all members of society and so there is support for supported housing of the nature proposed here in general terms.
- 6.23 The DOCO does provide some commentary on experience of similar developments. However, as accepted by the EHO, properly controlled, there is no reason necessarily why there should be any unacceptable impact on the safety and welfare of either future residents or nearby existing residents, particularly as full-time supervision is to be provided and could be controlled as required.
- 6.24 It is commented that refuse vehicles cannot access the site. However, that is a current situation and other residential units occupy land further along the track from the site and do not appear to have insurmountable problems in terms of refuse collection. In addition, refuse bins will currently be collected from the site. The issue of refuse vehicles attending the site in this case, therefore, is considered neutral in the planning balance.
- 6.25 During consideration of the application, it has been reported to Officers that the works to convert the property have been undertaken and that a single resident has been moved in. Whilst this is regrettable, this carries no weight in the determination of the application, which should be judged on its merits. The works of conversion have not entailed any changes to the external appearance of the property.
- 6.26 Finally, the issue of consultation has been raised, not least by the Parish Council. The DOCO also refers to this issue. Officers concluded, in view of the DOCO's comments, that the application process may be assisted if a consultation by the applicant with residents took place. This has been arranged and will have taken place prior to the Planning Committee meeting to determine the application, but it has been arranged after a resident has been placed at the property. Notwithstanding this, the fact that consultation is raised as an issue should not weigh in the planning balance, as all the necessary statutory consultation has been carried out by the Council in any case.

Summary and Conclusion

- 6.27 The application site is located in a residential area of Pilsley. The property will be divided up into 3 independently occupied properties with ongoing support for the individuals living there with communal outside areas.
- 6.28 The level of activity associated with the new property is not considered compatible with a residential area and will result in activity, comings and goings and physical alterations that will adversely alter its character.
- 6.29 The Council's policies seek to provide a mix of housing. However, the level of

change associated with the new use is assessed as considerable and damaging to the locality.

- 6.30 Notwithstanding this, there is not considered any technical reason why the development should be resisted and, subject to controls, the specific and day to day residential amenity of the near neighbours could, it is concluded, be protected by condition to avoid unacceptable impacts.
- 6.31 In conclusion, therefore, the new use for the site is not considered acceptable and contrary to the policies of the Development Plan and there are no other material matters to outweigh that conclusion. As such, the application is recommended for refusal.

7.0 Recommendation

- 7.1 **REFUSE** planning permission for the following reason:

The application is considered to be unacceptable as it would result in 3 supported living units being formed with care provided on a 24-hour basis by up to two carers per unit. This level of activity, the associated comings and goings and infrastructure required to support the new uses would result in a change in the character and use of the site/property that would be incompatible with, detrimental to, and not sympathetic with the area and which would lead to a lower standard of amenity for existing residents.

As such, the proposal would be contrary to policies SS1, SS7 and SDC12 of the North East Derbyshire Local Plan and the National Planning Policy Framework when read as a whole.

PLANNING COMMITTEE – 3rd October 2023

Reference Number: 23/00049/FL

Application expiry: 15/11/2023

Application Type: FULL

Proposal Description: Change of use of commercial unit with ancillary accommodation to 1 office and 3 one bed residential apartments, including alterations to openings (Amended Title)(Amended Plans)

At: 67 Rupert Street, Lower Pilsley, Chesterfield, S45 8DB

For: Cosi Build Limited

Third Party Reps: 1 objection

Parish: Pilsley

Ward: Pilsley and Morton

Report Author: Alice Lockett

Date of Report: 14 September 2023

MAIN RECOMMENDATION: Grant permission, subject to conditions



Figure 1: Location plan, with site edged in red

1.0 Reason for Report

- 1.1 Cllr Gillot requested that the application be considered at committee for the following reasons:
- A proposal to create a house of multiple occupation and office space is out of character with this area of Lower Pilsley. (*Officer comment – the application is for 3 self contained flats not an HMO which would be expected to have shared living areas*)
 - The lack of appropriate amenity area included in this development.
 - The lack of sufficient off-street parking for both the commercial and the residential aspect of this development and, therefore, the inevitable increase in on-street parking. The current on-street parking is already insufficient for the area and the additional vehicles this development would generate would be more than de minimis resulting in parking on, close to, or opposite existing junctions and entrances in contrary to the provisions of the Highway Code.
 - The impact on highway safety of footway users resulting from the use of the undercroft to access the limited off-street parking.

2.0 Proposal and Background

Site Description

- 2.1 The application site is a two storey building which was last used as a post office with 3 bedroom residential unit above.
- 2.2 The building is early 20th century and is located within a row of 2 storey terraced residential dwellings located to the west of Rupert Street and immediately fronting the highway. On the opposite side of the road are more modern single and 2 storey dwellings set back from the road.

Proposal

- 2.3 This application seeks permission to convert the shop into 79m² of office space and to create three 1 bedroom flats. Two of these flats would be on the first floor with the third spanning the ground and first floor.

Amendments

- 2.12 The application was amended from 3 offices and 5 flats. The extra two were to go into the roof space at the property and have been omitted from the scheme.

3.0 Relevant Planning History (not the full site history)

- 3.1 None

4.0 Consultation Responses

4.1 **Ward member:** Ward members are concerned about the intensification of the site, the lack of amenity space, the lack of sufficient parking and the impact on the highway of footway users due to the undercroft parking. They also have concerns about the character of the proposed development.

(Officer Comment: these concerns are dealt with in the assessment below)

4.2 **Parish Council:** No comments received.

4.3 **Highways** The Local Highway Authority (LHA) have been re consulted on application 23/00049/FL at 67 Rupert Street, Lower Pilsley, Chesterfield. It is noted the scale of development has been reduced from 3 offices and 5 one bed residential apartments to 1 office and 3 one bed residential apartments.

Drawing No. P/002 rev A illustrates the site is to be served via an existing 'undercroft' access from Rupert Street, which is approximately 2.8m in width. The LHA note the access is substandard, however it is acknowledged this is an existing situation. The access is proposed to serve two off street parking spaces within the rear yard area, with turning provision to exit the undercroft in a forward gear.

The applicant has provided further information which clarifies the previous commercial use of the property was as a Post Office with accommodation above. It is acknowledged the Post Office would have generated significant vehicle movements and all customer parking demand would have been met on-street, with only staff being able to park within the property.

Considering the existing use of the site and the proposed reduced scale of development the LHA do not consider the proposals represent a significant intensification. Therefore, in the site-specific circumstances it is not considered that this development proposal would lead to a severe or unacceptable highway impact in the context of the NPPF and as such the LHA would not seek to resist this application.

4.4 **Environmental Health Officer** No comments.

4.5 **Derbyshire Wildlife Trust:** DWT commented on the original proposal to convert the loft space, as this has been removed from the application the bat survey is no longer required.

5.0 Representations

5.1 The application was publicised by way of neighbour letters and the display of a site notices. A Site notice was placed on the window of the building which expired on 7/3/2023.

5.2 1 local resident have made representations raising the following comments objecting to the proposed development:

- I don't feel the development offers enough parking for 8 proposed units. The site is amongst other properties that mostly don't have off road parking and between two businesses that attract a good amount of visitors.
(Officer Comment: these concerns are dealt with in the assessment below)

6.0 Relevant Policy and Strategic Context

North East Derbyshire Local Plan 2014-2034 (LP)

6.1 The following policies of the LP are material to the determination of this application:

SS1 Sustainable Development
SS2 Spatial Strategy and the Distribution of Development
SS7 Development on Unallocated Land within Settlement with defined Settlement Development Limits
SDC11 Flood Risk and Drainage
SDC12 High Quality Design and Place Making
SDC14 Land potentially affected by Contamination or Instability
ID5 Loss of existing Social Infrastructure

National Planning Policy Framework (NPPF)

6.3 The overarching aims of the National Planning Policy Framework (NPPF) have been considered in the assessment of this application.

Other Material Planning Considerations

6.4 Successful Places Interim Planning Guidance, adopted December 2013

7.0 Planning Issues

Policy Background

7.1 The application site is located within the settlement development limits for Pilsley where local plan policy SS7 supports development provided that it is appropriate in scale, design and location to the character and function of the settlement, does not result in the loss of a valued facility or service, is compatible with, and does not prejudice any intended use of adjacent sites and land uses; and accords with other policies of the Plan.

7.2 Policy ID5: Loss of Existing Social Infrastructure states that development proposals which would result in the loss of social infrastructure facilities 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 by public transport, walking and cycling; or it can be demonstrated through a viability assessment that the current use is not economically viable and all reasonable efforts have been made to let or sell the facility for the current use over a 12 month period.

7.3 In this case the applicant seeks to convert an existing building, from a mixed use comprising ground floor commercial with one flat above to a mixed use comprising ground floor commercial, two flats above and one dwelling spanning both storeys to the rear of the building. Consequentially a loss of a small area of commercial use is proposed.



Figure 2 Proposed Plans

7.4 The 3 dwellings proposed will be self-contained flats with each flat having its own kitchen, bath/shower room, dining and sitting rooms. The only shared element is the access and stairs. As such it is not considered that the proposal is for a house of multiple occupation.

- 7.5 The ground floor of the building is currently in a class E use. This use class covers shops, financial and professional services, food and drink and some business uses including offices. The applicant proposes that the front section of the ground floor of the building will remain in such a class E use (for an office or shop).
- 7.6 Buildings in class E use are considered as social infrastructure due to their potential use as shops, such as convenience stores or post offices etc.
- 7.7 Officers are of the view that there is therefore no change of use of the majority of the ground floor as it will remain in a class E use.
- 7.8 The first floor of the building is currently in residential (C3) use. This use comprises one 3 bed flat. It is considered that there is no change of use of this floor although the layout will result in 2 flats and one 2 storey dwelling rather than a single dwelling.

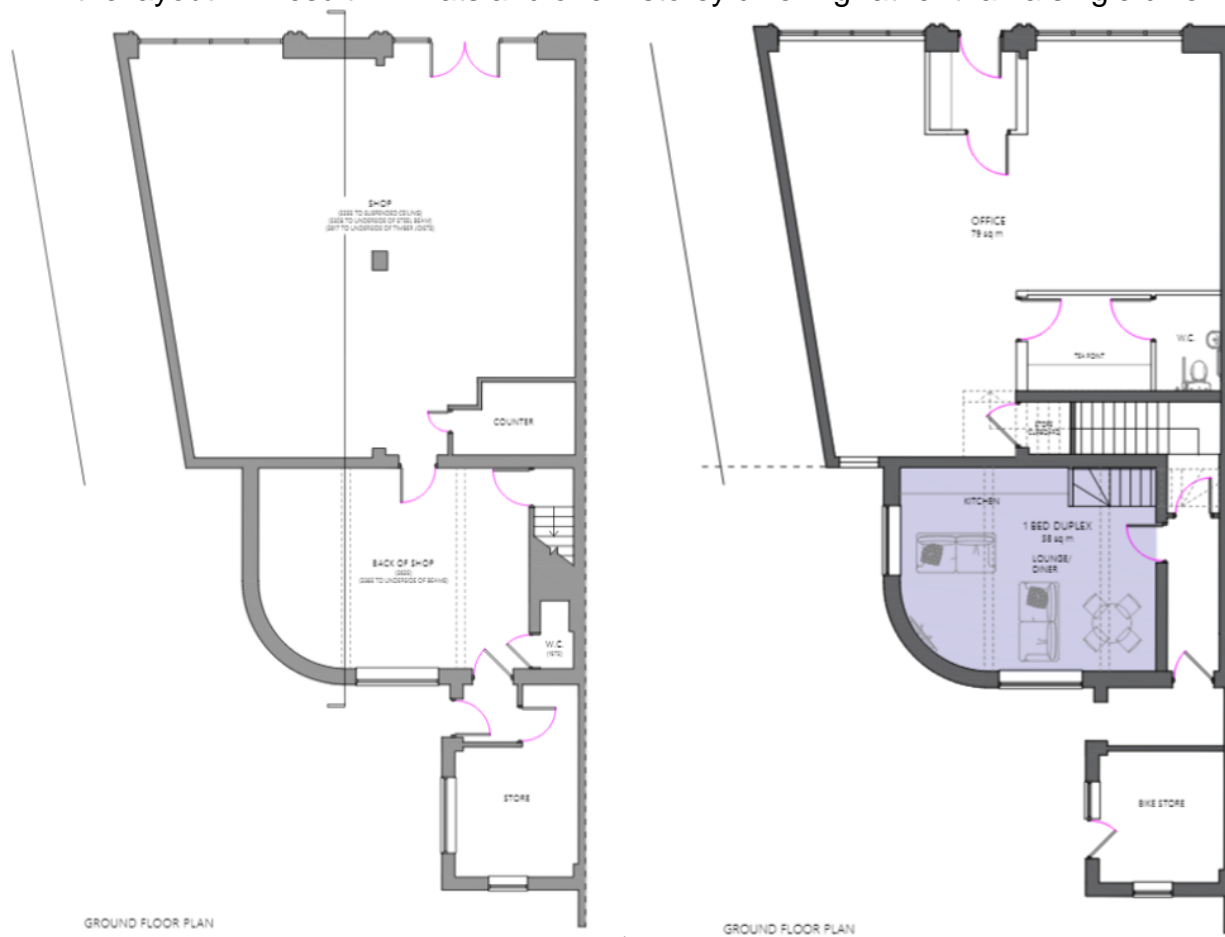


Figure 3 existing (left) and proposed (right) ground floor plans showing the area of commercial use to be lost(purple)

- 7.9 The back quarter of the ground floor will change its use to residential. Evidence has not been submitted to meet the requirements of policy ID5. However, as the majority

of the ground floor will remain in a class E use, there will not be a complete loss of potential social infrastructure.

Design and impact on the street scene

7.10 Policy SDC12 states that all new development should be of high-quality design and make a positive contribution to the quality of the local environment. Proposals for development will only be permitted provided that they: Respond positively to local character and context to preserve and, where possible, enhance the quality and local identity of existing communities and their surroundings.



Figure 4 Existing front elevation of the building

7.11 Currently the building is in a poor state of repair with its front, street facing, elevation dominated by a bricked-up doorway and the shutter over the underpass to the rear. As such it does not make a positive contribution to the character of this part of Pilsley.

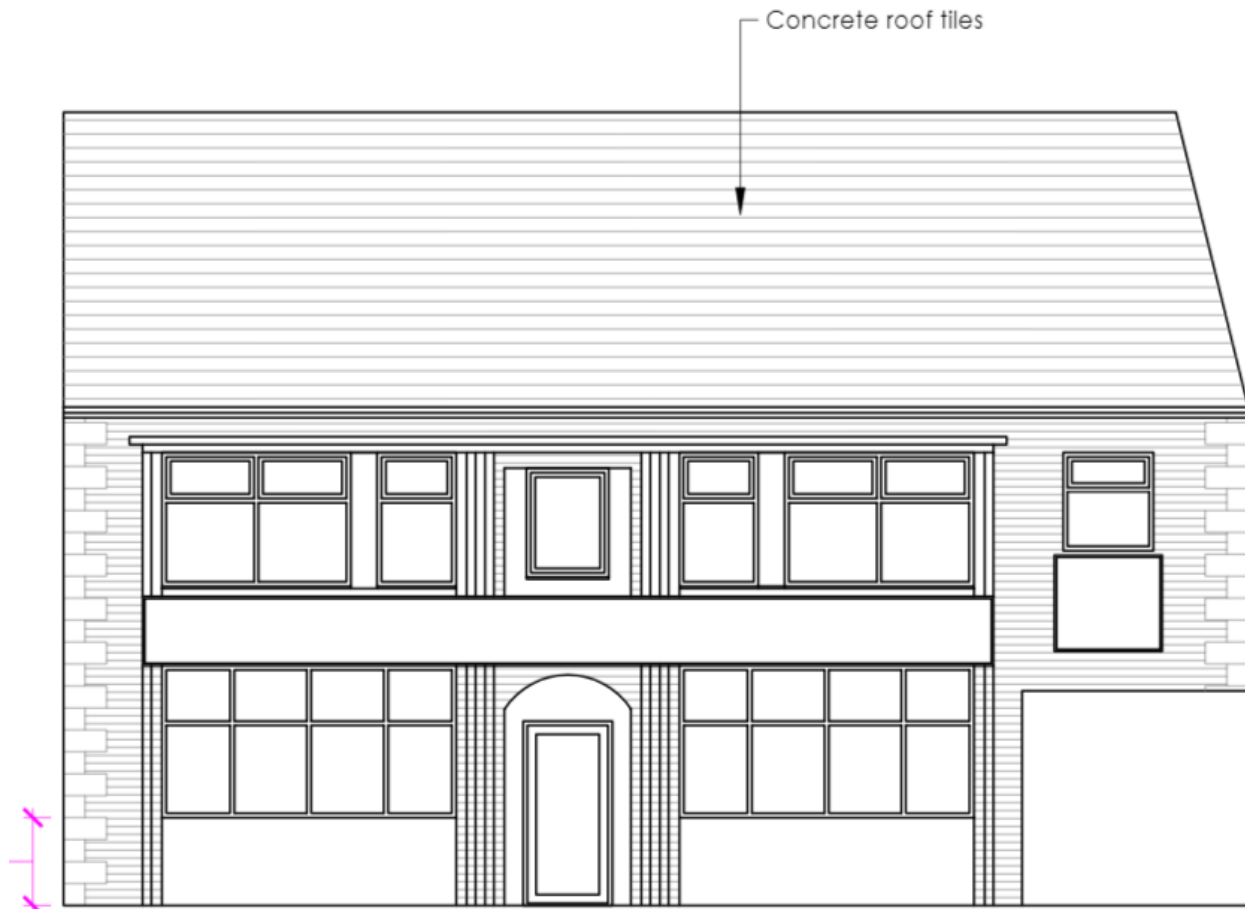


Figure 5 Proposed front elevation

7.12 The proposal will result in improvements to the front elevation of the property, the bricked-up doorway will be brought back into use and the shutter will be removed from the underpass, alterations to the shop windows are also proposed. It is considered that these changes will create a more active and less oppressive frontage onto Rupert Street.

7.13 Officers consider the benefits of bringing the building back into use and improvements to the street scene particularly as a consequence of the loss of roller shutters and the reinstatement of the front door outweigh the loss of a relatively small area of commercial space to the rear of the ground floor. As a consequence it is considered that the principal of the proposal is acceptable.

Highways

7.14 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.

- 7.15 Policy SDC12 requires that new development makes provision for private amenity space, storage and recycling facilities, and vehicle and cycle parking.
- 7.16 The extant shop use has the potential to generate a large number of vehicle movements in a day as visitors come to and from the shop. The 3 bed flat would be expected to have at least 2 cars.
- 7.17 The existing situation includes space to park at the rear of the building (although this is not formally laid out and there is space for 3 cars to park on the highway to the front of the building (these are publicly accessible parking spaces -not limited to the users of the building). Rupert Street at this point is restricted to 30mph, it is of an adequate width to allow for parked cars and there are no parking restrictions
- 7.18 The proposal includes 2 formalised parking spaces with suitable turning to the rear of the building. The highway parking spaces on the front remain.
- 7.19 A bike store is proposed to the rear of the property and there are bus stops within 100m with regular services to Chesterfield and Alfreton on the no 55 Hulley's Bus.
- 7.20 It is considered that the use of the ground floor as an office or shop would not represent a change over the existing extant use of the building with regard to vehicle movements and parking.
- 7.21 The county council guidance on parking expects one parking space for a 1 bed dwelling, as such it is expected that there would be a net increase in 1 car if permission for the flats is granted. It is considered that there is adequate on street parking spaces in the area to accommodate this.
- 7.22 As a consequence of the existing use, the provision of cycle storage and the provision of local bus services. Officers are of the view that the proposal will not generate the number of cars needing to park on the highway, that would represent a severe impact on highway safety.
- 7.23 The Highway Authority have highlighted the substandard nature of the access to the rear of the property but have acknowledge that this is an existing situation. They have confirmed that they do not consider the proposed scheme to represent an intensification of this access and therefore consider that the proposal is acceptable. In considering all the issues pertaining to Highway Safety the comments of the LHA are clear in stating that the scheme is acceptable from a highway safety point of view and Officers concur with that assessment.

Privacy and Amenity Considerations

- 7.24 Policy SS12 requires that new development protect the amenity of existing occupiers and create a good quality of amenity for future occupants of land or buildings including in relation to privacy, overlooking, overshadowing and/or any overbearing impacts.

- 7.25 No new building or extensions are proposed and as such it is considered that the proposal will not have a greater impact on overlooking or overshadowing of neighbours than the existing building and use.
- 7.26 At the rear it is proposed to remove a French window at first floor level which provides access onto the roof of the flat roof rear extension, removing the door will remove the access and as such the risk of overlooking of the garden to the south will be reduced.

National Space Standards				Proposed Scheme		
No of Bedrooms	Number of persons	1 storey	2 Storey	Flat 1 (1 storey 1x2)	Flat 2 (2 storey 1x2)	Flat 3 (1 storey 1x1)
1	2	50		54		
1	2		58		58	
1	1	39				44

Table 1 To show flat sizes against National Space Standards

- 7.27 Two of the proposed flats will meet the space standards for a 1 bed 2 person unit whilst the third flat meets the requirements for a 1 bed 1 person unit. As such it is considered that the internal dimensions meet the requirements for a good quality of amenity for future occupiers.
- 7.28 Successful Places Planning Guidance states that all schemes should provide a level of outdoor amenity space that is proportionate to the type of accommodation, appropriate to its location and suitable to meet the occupiers' likely requirements. Wherever possible, flats should also be provided with some outdoor amenity space, whether private or communal. Ground floor flats have the potential for their own private gardens. Upper floor flats should be provided with 25 sqm of space per flat.
- 7.29 In this case shared outdoor areas are proposed which cumulatively represent approximately 42m² of outdoor amenity space, this is substandard to the recommendations of Successful Places.
- 7.30 However, in this case, the village location will provide residents with easy access to the countryside. Whilst Pilsley Recreation Ground (550m) and the Cricket Ground (400m) are both around a 5 minute walk away. As such officers are of the view that due to the outside facilities close by, the reduced outdoor amenity space is acceptable.
- 7.31 As a consequence of the above, officers are of the view that the proposals meets the requirements of policy SDC12

Drainage Considerations

- 7.32 The site falls in Flood Zone 1 with the lowest probability of flooding additionally no new building or hard standing is proposed as such it is considered that the proposal will not be at risk from or a risk to flooding.

Land Contamination/Land Stability Considerations

- 7.33 Due to the pre-existing use the Council's Environmental Health Officer (EHO) has no comments.
- 7.34 As no new building was proposed and due to the pre-existing use, The Coal Authority (CA) were not consulted.
- 7.35 Officers conclude that there are no technical reasons relating to land contamination or land stability that would preclude development.

Ecological Considerations

- 7.36 The original scheme included the conversion of roof space to habitable rooms, this would have required a preliminary bat roost assessment to assess whether the building was a suitable habitat for bats. As the scheme has been amended to remove the rooms in the roof element this survey is no longer required. It is considered appropriate to add a note to any permission reminding the applicant of their responsibility with regard to protected species.

8.0 Summary and Conclusion

- 8.1 Local and national planning policy supports development within settlements which are considered to be sustainable. Local policy aims to protect social infrastructure and aims to ensure a good standard of privacy and amenity for residents whilst local and national policy seek to ensure that highway issues only prohibit development when the risk to highway safety is severe.
- 8.2 In this case an existing shop with accommodation above is to be converted to a commercial class E use with 3 flats, one of which will use up part of the rear storage area of the ground floor shop.
- 8.3 Officers are of the view that the loss of this area of commercial space to dwelling is outweighed by the improvements proposed to the front of the building which will result in a positive contribution to this part of Pilsley.
- 8.4 It is considered that the proposed does not represent a significant intensification over the existing use so as to cause a severe or unacceptable highway impact.
- 8.5 There are no technical reasons that would justify refusing the application.

8.6 As a consequence of the above officers are of the view that the proposal meets the requirements of policies SS7, SDC12 and ID5 and as such are recommending approval of the scheme.

9.0 Recommendation

9.1 That planning permission is **CONDITIONALLY APPROVED subject to the following conditions**, with the final wording delegated to the Planning Manager (Development Management):-

Conditions

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

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

2) The development hereby approved shall be carried out in accordance with the details shown on drawing numbers:
P/02 Rev A Proposed site block plan
P/005 Rev C Proposed Floor Plans and Elevations received 18/8/2023; unless otherwise subsequently agreed through a formal submission under the Non Material Amendment procedures

Reason: For clarity and avoidance of doubt

3) The Development hereby approved shall not be occupied until the access, parking and turning facilities have been provided as shown on Drawing No. P/002 Rev A titled 'Proposed Site Block Plan'

REASON: To ensure conformity with submitted details.

Informatives:

- a) DISCON
- b) NMA
- c) Provision of bins
- d) Bats

North East Derbyshire District Council

Planning Committee

3 October 2023

PROPOSED CONFIRMATION OF TREE PRESERVATION ORDER (TPO 293/2023) Trees at Clifton Court, Dronfield Woodhouse, Dronfield.

Report of the Planning Policy & Environment Manager

Classification: This report is public

Report By: Principal Arboricultural Officer (Planning)

Contact Officer: David Cunningham

PURPOSE / SUMMARY

- Tree Preservation Order 293 was made in its provisional form on 5 June 2023. The effect is that the Order applies for six months or until confirmed or modified.
 - Before deciding to confirm an Order, the local authority must take into account all 'duly made' objections and representations that have not been withdrawn.
 - Two objections have been received.
 - One letter of support from neighbouring residents has been received.
 - The Council's Principal Arboricultural Officer (Tree Officer) believes that there is a perceived threat to trees at Clifton Court. This would likely result in the loss of trees should TPO 293 not be confirmed with modifications in the interests of amenity.
-

RECOMMENDATIONS

1. To confirm TPO 293/2023, Trees at Clifton Court, Dronfield Woodhouse, Dronfield subject to modification.

Approved by the Portfolio Holder – Cllr Pickering, Cabinet Member for Planning & Environment

IMPLICATIONS

Finance and Risk: Yes No

Details: There is no financial or other risk from the confirmation of the Order as the option remains for the tree owners to make an application to seek to undertake works to or remove trees.

On Behalf of the Section 151 Officer

Legal (including Data Protection): Yes No

Details: All proper legal processes have been followed, the landowners have been advised of the making of the provisional Orders and given the opportunity to make comments. Provisional TPOs must be confirmed within 6 months of their making, to retain effect. Failure to confirm the orders within that time would mean they no longer have effect and any protection is lost.

On Behalf of the Solicitor to the Council

Staffing: Yes No

Details: There are no significant implications on staffing resources arising from the action recommended in this report

On behalf of the Head of Paid Service

DECISION INFORMATION

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: NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <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 Significantly Affected	None
Consultation: Leader / Deputy Leader <input type="checkbox"/> Cabinet <input type="checkbox"/> SMT <input type="checkbox"/> Relevant Service Manager <input checked="" type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input checked="" type="checkbox"/>	Yes Details: Affected land owners have been consulted in line with legislation.
Links to Council Plan (NED) priorities, including Climate Change, Equalities, and Economics and Health implications.	
(A) A Great Place that Cares for the Environment (C) A Great Place to Live Well	

REPORT DETAILS

1 Background

- 1.1 The Council's Tree Officer undertook an inspection of trees at Clifton Court, Dronfield Woodhouse on 30th May 2023. This was in response to concerns raised by a member of the public, that the trees were under immediate threat of removal. The inspection was undertaken from the public domain along Northern Common and Public Footpath NE7/1/1.
- 1.2 Section 198 of The Town and Country Planning Act 1990 affords the power for a local authority to make a TPO where it appears to the authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in its area.
- 1.3 An Area Tree Preservation Order (TPO 293) protecting all trees which were growing at Clifton Court at the time the Order was served was made on 5th June 2023 (Figure 1). The effect is that the Order applies for six months or until confirmed or modified.

2 Details of Proposal or Information

- 2.1 Clifton Court is a recent development, having received Planning Permission in 2019 (19/00679/FL) for the demolition of the previous two-story house and the subsequent erection of four new dwellings. Clifton Court is located off Northern Common (B6054), south of Mickley. Clifton Court comprises of 4 individual dwellings positioned around a private drive. Access is gained to Clifton Court directly from Northern Common. Immediately north are five residential properties which are set back from Northern Common and are served off a private driveway. The land to the east and south of Clifton Court is agricultural land belonging to Dunston and Moorview Farms. The rear gardens of two properties within Clifton Court lie within the North East Derbyshire Green Belt. Mature trees form part of the property boundary around Clifton Court along with hedgerows, and these trees can be seen from Northern Common, particularly when travelling north from Dronfield Woodhouse. Trees at the rear of Clifton Court can be seen between gaps of hedging along Footpath NE7/1/1 and provide screening of the development. Young trees which were planted as part of the development of Clifton Court are a feature of the front gardens at Clifton Court and can only be seen from the private drive.
- 2.2 An Area Tree Preservation Order is a way of specifying and protecting scattered individual trees and is particularly useful as an interim measure, enabling the immediate protection of a range of trees pending more detailed analysis. However, the Area classification of Order has drawbacks. Firstly, it is possible to include trees within the Order that do not merit protection. Secondly, the Order only protects those trees standing at the time the Order was made. Over time, as new trees are planted or grow within the area, it may become difficult to say with certainty which trees are actually protected. In the Secretary of State's view, the Area classification should only be used in emergencies, and then only as a temporary measure until the trees in the Area can be assessed properly and reclassified.

- 2.3 The Council's Tree Officer undertook a detailed assessment of trees on 5th September 2023 and identified four trees as merit worthy of protection by TPO 293 (Figure 2). These trees are T1 Copper Beech, T2 Common Beech, T3 Common Lime and T4 Common Lime (Figures 3 & 4). T1 and T2 are located on the southern boundary of 3 Clifton Court. T3 and T4 are located in the rear garden of 4 Clifton Court. The inclusion of T1 is contested and a duly made objection was received over the inclusion of T1 within TPO 293.
- 2.4 The Council's Tree Officer did not consider the young trees recently planted in the front gardens of properties which were planted as part of the Clifton Court development suitable for TPO protection, as these trees are not visible from the public domain. These young trees also remain protected by condition 8 of planning permission 19/00679/FL. Hedgerows were not included as TPO protection cannot extend to protecting hedges. A number of mature trees were not included, and these are discussed in detail at paragraph 4.8 of this report.



Figure 1: TPO 293 in its provisional form before modification and protecting all trees within the area described as A1 within the First Schedule of the Order



Figure 2: Proposed modifications to TPO 293 which limits protection to 4 individually identified trees considered merit worthy of TPO protection by the Council's Tree Officer.



Figure 3: T1 Copper Beech and T2 Common Beech when viewed from Northern Common, south of Clifton Court.



Figure 4: T3 and T4, both Common Limes and located in the rear garden of 4 Clifton Court.

3 Representations

- 3.1 A Representation has been received from AWA Tree Consultants acting on behalf of the residents of 4 Clifton Court raising the following **Objection**:
- The Copper Beech (T1) on the southern boundary of Clifton Court should not be included as the tree scores low using the TEMPO system and the tree does not merit TPO.
- 3.2 The following comments of **Support** have been received from 4 neighbouring residents at Northern Common:
- The trees make a significant contribution to the amenity value and natural appearance of the area.
 - The Arboricultural Report submitted in support of 19/00679/FL did not deem it necessary to remove any of the existing and mature trees from this site.
 - Without continued protection there remains risk of losing mature trees from the site.

4 Officer Response

- 4.1 TPO 293 Trees at Clifton Court, Dronfield Woodhouse, was created as an emergency response to prevent the felling of mature trees at Clifton Court. As such, the Order was classified as an Area Order as a temporary measure until a time when the Council's Tree Officer could properly assess the quality of trees on the site. The Council Tree Officer undertook a detailed assessment of trees at Clifton Court on 5th September 2023.
- 4.2 Comments of objection were received from the residents of 4 Clifton Court, who also instructed an Arboricultural Consultant to provide written representations on their behalf to the making of TPO 293. Of the four suggested trees deemed suitable for protection by the Council's Tree Officer, only the inclusion of T1 within the modified TPO 293 is contested by these objections. There has been no duly made objection to the inclusion of T2, T3 and T4 within the modified TPO 293.
- 4.4 T1 is an early-mature Copper Beech located on the southern boundary of Clifton Court. The objecting Arboricultural Consultant has stated that T1 does not merit inclusion in TPO 293 as it has scored low using the TEMPO methodology. The supporting notes for this tree within the tree schedule of the Consultant's report add that this tree has an unbalanced crown, is likely to outgrow its location and the dense and dark foliage will overhang the property. The Consultant has estimated the remaining retention span of T1 to be no more than 40 years.
- 4.5 TEMPO is a field guide to TPO decision making and is a quick and easy means of systematically assessing the suitability of trees for statutory protection. However, TEMPO does omit key considerations when assessing the amenity

value of a tree. TEMPO does not consider the value of screening, unless it is a formally planted screen, and TEMPO does not include the future potential of amenity, which is a consideration specifically mentioned within the Government Guidance Notes for Tree Preservation Orders and trees in conservation areas.

- 4.6 The 2019 Arboricultural Report submitted in support of Planning Application 19/00679/FL described T1 as a *'good Copper Beech tree with much future potential'* and identified the physiological and structural condition of the tree as *'Good'*. This report estimated the remaining contribution in years of this tree to be in excess of 40 years. The 2019 Arboricultural Report described both the Copper Beech (T1) and the adjacent Common Beech (T2) as prominent trees and recommended their retention. The Planning Officer's Report in response to Planning Application 19/00679/FL makes particular mention of the substantial hedgerows and trees along the site boundaries and how these lessen the impact of the development from public viewpoints.
- 4.7 It is the Council Tree Officer's opinion that T1 continues to make a positive contribution to lessening the impact of the development at Clifton Court by softening the hard forms of the buildings and providing visual screening for the Green Belt. T1 has future potential in excess of 40 years and its contribution to amenity shall increase as the tree grows. It is the Council Tree Officer's opinion that T1 should have scored equally to T2 within the TEMPO methodology and that TPO protection for T1 is defensible. The unbalanced crown as described within the objection appears to be a result of recent pruning to reshape the canopy of T1 to reduce the overhang of this tree across the rear garden of 3 Clifton Court. These pruning works have not reduced the amenity value of the tree when viewed from Northern Common. The objecting comments relating to dark foliage overhanging the property appear unfounded as pruning to remove the overhang has already been undertaken to reduce the canopy of the tree back to the garden fence line, and this can be repeated, when necessary, should the canopy of the tree begin to encroach again in the future.
- 4.8 Although representations supporting the protection of mature trees were received from the neighbouring residents at Northern Common, the Council's Tree Officer considered several mature trees unsuitable for continued TPO protection. It was decided to not include the two mature Ash trees located in the rear garden of 4 Clifton Court, as these are both considered of poor form and condition, having been recently 'topped' and a substantial cavity forming at the base of one. The Ash and Holly trees at the access to Clifton Court were also not included as these both are of poor form and limited amenity value.

5 Reasons for Recommendation

- 5.1 A tree preservation order is normally made to protect trees in the interests of amenity and this involves an assessment of the trees visibility, impact (including the contribution to the wider landscape) and the trees size and form. Before confirming an Order the Council should satisfy itself that the tree(s) would bring a reasonable degree of public benefit in the present or future. In this case officers consider that the trees offer a significant level of amenity to the area and are readily visible from public viewpoints along the highway and along

public footpaths. The trees have been assessed by the Council's Tree Officer and have been found to be healthy and maturing trees merit worthy of the special protection afforded by TPO in the interests of amenity.

5.2 A local authority may make a TPO where it appears to the authority that it is expedient in the interests of amenity. Intentions to fell trees are not always known in advance and Government Guidance advises it may sometimes be appropriate to proactively make Orders as a precaution. The residents of Northern Common perceive a risk of losing mature trees from this location which increases the protection imperative above the level of precaution alone.

6 Alternative Options and Reasons for Rejection

6.1 To decide to not make the TPO. This option was rejected because it would leave trees unprotected and could lead to trees being removed which would be detrimental to local amenity.

DOCUMENT INFORMATION

Appendix No	Title
N/A	
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 you must provide copies of the background papers)	
None	

Planning Committee 3rd October 2023

SUMMARY OF LATE COMMENTS/REPORT UPDATE

The aim of this report is to seek to avoid the need for lengthy verbal updates that Planning Officers have sometimes needed to provide in the past at the Planning Committee. In consultation with the Chair, it has been decided that on the evening before committee a summary of all the late comments/representations received so far will be emailed to the Committee Members by the Governance Team.

It is possible that verbal updates will still be required at the meeting as sometimes comments are received at the last minute or Officers may wish to amend their recommendations: however Officers will seek to keep verbal updates to a minimum.

At the meeting Officers will only refer briefly to any key points of the case in the summary that has been emailed, as well as providing the usual verbal update for any additional last minute items.

If Members have any queries about the comments or the application itself please feel free to contact the relevant case officer given beneath the title of each summary below.

PARISH: PILSLEY

APPLICATION: NED/23/00154/FL

CASE OFFICER: Adrian Kirkham

1. SOURCE OF COMMENTS: Cllr Gillott

DATE RECEIVED: 8th September 2023

SUMMARY:

I write on behalf of my constituents who have contacted me to express their objections to this application to seek a change in use for the property known as Garden House to 3 supported living units with permanent 24-hour residential care and to reiterate my constituents request that the Committee refuse this application.

I note that a number of my constituents have already submitted the reasons they believe this application should be refused using the online portal and, therefore, I do not propose to go through each and every point they make. However, whilst I limit my comments to the issues detailed below that should not be taken to mean that I dismiss any valid ground not referred to in this submission but is merely a recognition of the fact that repetition of itself does not strength a case or make a point more valid.

Before going into the substance of the grounds of their objections it is important that I start by highlighting the fact that my constituents have expressed concerns about the fact that the applicant has already undertaken building work to the property and moved one resident into Garden House. They believe that these actions bring into

question the integrity of the planning process with the consequence that the application is more likely to be granted than it would otherwise have been had those new circumstances not been created. Having discussed those concerns with you I would accept your assessment that these issues are best addressed by the determination of the application rather than by any interim measure as requested by my constituents and I also readily accept that they will not affect your professional judgement or influence your final recommendation. However, it is difficult to underestimate how damaging these actions have been to the communities confidence in the fairness of the planning process or their confidence in the veracity of any of the promises made by the applicant as to the mitigation measures they would propose to adopt as part of their request for planning permission.

Having read the online objections I note that a number of the issues raised - for example the potential impact on house prices, the ownership of the road, the impact on the location of refuse bins for collection – are not material planning grounds and, therefore, I make no comment on those particular issues.

Other ground such as the impact on highway safety or the environmental impact are to a large degree objective in nature and the reports of both the Highway Authority and the Environmental Health Officer will carry great weight with the Committee and require evidence in rebuttal as opposed to mere anecdotal assertions of facts to the contrary.

That said, any subsequent material change in the facts as know at the time of the writing of those reports may have an impact on the strength of their authors conclusions and so I would urge that proper consideration is given to my constituents comments on these two material points to ensure that only the most up to date facts are used when determining what weight is given to those conclusions.

However, my constituents also raise the issue of community safety, which includes the fear of crime, and the impact this development if granted would have in this regard upon them and their neighbourhood. They have in their submissions provided evidence to support their statements, particularly regarding their fear of crime, and so again I do not propose to rehearse those points. However, my constituents may wish to give oral evidence to the Committee in due course to highlight some of the key points that they make. I note that the report from Derbyshire Constabulary dated 19th May deals with this very issue and provides professional comment from an expert in this field of planning policy that is supportive of the planning implications of the facts that are the basis of my constituents objections. In particular, the police report states

“The rift in community cohesion approval of this application would bring, has the potential to alter the hierarchy of space for this cul-de-sac, which would negatively affect territorially, and, consequently, in my view, have a detrimental effect upon community safety.

[and]

“The NPPF is clear that all developments should promote healthy, inclusive and safe places. Considering the scale and type of objections received this aspiration does not look to have been met.”

Unlike some of the other grounds of objection, I would contend that this ground is subjective in nature and as such is less conducive to professional comment on the effect upon community safety than some of the other, objective, grounds. As such the assertions of my constituents on this point are as valid as anyone else's and, therefore, their comments should be taken at face value unless there is credible evidence to the contrary.

In addition, the police report makes clear that it is yet to be settled planning law as to whether the behaviour of residents can be material to planning decisions. In the absence of such clarity the Committee should take my constituents behaviour into account as a material factor and, if it finds their argument to be persuasive, given them due weight when making their decision. In such circumstances the Committee would be able to conclude that the requirement of that element of the NPPF has not been met and have grounds for refusal.

My constituents also believe that this development is out of character with the cul-de-sac where Garden House is located and were it to be granted it would substantially change the nature of the area. Whilst Station Road is the main east-west road through Pilsley, and as such is a busy road, Garden House is situated on an off-shoot from that main road and is located between Rouse Street and South Street. It is an unadopted road which runs in a southerly direction. It is unsurfaced and leads to open fields and the village boundary, factors which reaffirm the nature of the area as being different from the rest of Station Road. It currently has 5 residential properties, including Garden House, located along it with 4 of the properties located in a row on the eastern side of the track. There is no cause for vehicles or pedestrians to use the cul-de-sac except to visit the residential properties located on it and therefore movement along the road has been minimal. A 3 bed-room house of multiple occupation with care staff in the property, with consequent traffic movements, providing permanent 24-hour care to the residents of Garden House is out of character with this cul-de-sac and would substantially change the nature of this small area.

In addition, such a change in use is materially different to a normal residential property where the residents, through age or infirmity, become unable to remain at home without the assistance for short periods, 3 or 4 times a day, from day care workers. Such a substantial change to the area should not be allowed to take place.

On behalf of my constituents, I would ask that the Committee give consideration to all of these issues they put forward so that their contention that there are strong grounds for the refusing this application are given proper consideration.

OFFICER COMMENTS:

The majority of the issues raised by Cllr Gillott are addressed in the Officer report.

However, Committee Members should note that whilst a person may now be living in the accommodation and having care provided in accord with the application details this should not prejudice the proper consideration of the planning merits of the application.

PARISH: Pilsley

APPLICATION: NED/23/00154/FL

CASE OFFICER: Adrian Kirkham

2. SOURCE OF COMMENTS: Applicant's Agent

DATE RECEIVED: 27.09.2023

SUMMARY:

Additional comments in relation to the Crime Officers Consultation comments.

It is correct that the context of this application is part of a National Government drive to move residential care services away from institutional settings to more traditional family environments.

Policy context has certainly historically been grey however, the legislative approach to this particular application regarding Use Class was reviewed in depth with the Planning Officer at validation stage to be 3no individual planning units of C3b Use Class for 1 person– incorporating an element of care. A C2 Use Class did not fit the proposals at all when set against previous case law criteria.

IBC Healthcare are respected and known by the Adult Care Commissioners and NHS with many successful placements in the area. Reviews and testimonials can be provided. So the balance of care quality against problematic behaviour has clearly been struck.

Equality Rights Act 2010

Age, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation are protected characteristics under the Equality Act 2010.

By virtue of Section 149 of that Act in exercising its planning functions Councils must have due regard to the need to:

- (i) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited;
- (ii) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (iii) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

The Equality Act says public authorities should take into account in their decision making the need to

- i) remove or reduce disadvantages suffered by people because of a protected characteristic
- (ii) meet the needs of people with protected characteristics
- (iv) encourage people with protected characteristics to participate in public life and other activities

It is therefore key that the Council has due regard to the effect of its decisions on persons with protected characteristics mentioned. The possible behaviour of residents is not a material planning matter.

NPPF

The NPPF is clear that development should promote healthy, inclusive and safe places.

Anti-social behaviours and a reduced quality of life are by no means inevitable with this proposal, given the extensive risk assessment undertaken and management methods described in the Supplementary documents submitted. The possibility of it happening has been reduced for the same reasons. The 'inclusivity' requirement of the NPPF should be assessed and born in mind also in this instance or it raises the question as to whether gentrified areas are exempt from inclusivity. Vulnerable people have the right to quiet, calm, and peaceful places to live and make a home and consideration of this, in the light of the Equality Act mentioned above, should be undertaken.

Neighbour Amenities.

When the impact on neighbour amenities is considered the scale of the existing property is important. It is currently a 7 bedroom detached property with a significant frontage and therefore simply due to its size, has the potential to have a high level of activity and a high level of 'coming and going' - a teenage driving family for example or an adult house share perhaps – neither of which require planning approval be sought. The front garden, without permission, could be completely paved. In terms of the number of residents, 3 residents plus 2 carers each equates to a very similar number of potential residents to a 7 bedroom property. The potential for anti-social behaviour exists irrespective of the residents.

Community Cohesion.

Community consultation has been initiated to allay fears and concerns and improve community cohesion.

The early community comments were never ignored by the applicant, they were responded to via revisions to the submitted statements and additional supplementary information. When concerns were raised once again, a Public Consultation was organised.

No other similar projects of this scale and nature, undertaken by the applicant, have required a public consultation of this nature so the alternative approach was tried, in the first instance.

Hierarchy of space and the negative affect on territoriality.

With respect to hierarchy of space in the area it appears that, with the care and management in place, the private space and defensible space to neighbouring properties will remain as existing and no higher risk than with any new neighbours moving into an area.

Similarly, the existing private road is remaining a fully public space as it currently stands (there are no security gates so the public are able to walk along the lane if they chose to). The possibility of antisocial behaviour therefore exists already due to the dark unlit nature of the road and the possibility of this worsening due to the new occupants of Garden House, is no worse than the possibility with any unknown new occupants. Once again consideration of this concern in the light of the Equality Act mentioned above should be undertaken.

The submitted documents includes as suggested - measures to minimize the opportunity for crime and anti-social behaviour and illustrate normal management practices by carers. Enclosure already exists around the property and reasonable sound reducing measures have been introduced.

A condition restricting the occupancy to one individual per unit is acceptable to the applicant.

OFFICER COMMENTS:

Many of the issues raised have already been covered in the Officer report.

In respect of the comments made in relation to those made by the Designing Out Crime Officer Class C2a of the Use Classes Order relates to "Secure Residential Institutions" with Class C3 relating to "Dwelling Houses". Class C3 (b) specifies that it relates to "a single household of not more than 6 residents where care is provided".

In this case, the proposal seeks consent to form three independent living units each with their own self-contained facilities and where care is provided as set out in the Officer report.

The reference to the Equality Rights Act is noted. As is required the planning decision taken on the application should take into account all the relevant planning policies as set out in the Development Plan and all other material matters, including the NPPF.

PARISH: PILSLEY

APPLICATION: NED/ 23/00049/FL

CASE OFFICER: Alice Lockett

1. SOURCE OF COMMENTS: Derbyshire Wildlife Trust

DATE RECEIVED: 22nd September 2023

SUMMARY: We have no comments regarding the amended plans / title. Our previous response, dated 7th June 2023, remains relevant and has been attached below for reference:

The proposed work will affect the existing roof / loft space. As such, a Preliminary Bat Roost Assessment should be undertaken prior to determination by a suitably qualified ecologist. Any evidence of nesting bird activity should also be recorded. This survey can be undertaken any time of the year and no works of any kind should be undertaken to the building until this assessment has been undertaken and a decision has been made by the LPA.

Paragraph 99 of Circular 06/2005 states “it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted, otherwise all material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances”.

The results of the assessment should be presented in accordance with current guidelines, such as Ecological Report Writing (CIEEM, 2019), British Standard BS 42020: 2013 and Bat Conservation Guidelines (Collins, 2016). The report should make clear the requirement for any further survey work and it should be noted that if further survey is required, this should be undertaken prior to determination of the planning application. These surveys will need to be undertaken at the appropriate time of year, in line with the good practice guidelines (Collins, 2016). The report should include any requirement for licensing and details of mitigation and enhancement measures appropriate to the site.

OFFICER COMMENTS:

Derbyshire Wildlife Trust have been contacted for clarity as the new scheme does not include rooms in the roof, however they have not responded. Officers have sought further clarity from the applicant that he does not intend to re-roof the building as part of this development. Officers are therefore of the view that as no changes to the roof is proposed, a bat survey is not required.

North East Derbyshire District Council

Planning Committee

3 October 2023

Planning Appeals Lodged and Determined

Report 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 William Whitehead and Mrs Linda Allen – Application to fell 1no Sycamore tree T1 within NEDDC Tree Preservation Order 274 at The Old Reading Room, Main Road, Heath (22/01088/TPO)

Planning Officer – Curtis Rouse curtis.rouse@ne-derbyshire.gov.uk

Mr Micheal Philbin – Application for Listed Building consent to reinstate a window on ground floor east elevation at Fallgate Mill, Hockley Lane, Ashover (22/01143/LB)

Planning Officer – Alice Lockett alice.lockett@ne-derbyshire.gov.uk

1.2 Appeals Allowed

No appeals have been allowed.

1.3 Appeals Dismissed

No appeals have been dismissed.

1.4 Appeals Withdrawn

No appeals have been withdrawn.

2 Conclusions and Reasons for Recommendation

2.1 N/a.

3 Consultation and Equality Impact

3.1 N/a.

4 Alternative Options and Reasons for Rejection

4.1 N/a.

5 Implications

5.1 Finance and Risk Implications

N/a.

5.2 Legal Implications including Data Protection

N/a.

5.3 Human Resources Implications

N/a.

6 Recommendations

6.1 N/a.

7 Decision Information

<p>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:</p> <p>NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	No
<p>Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)</p>	No
<p>District Wards Significantly Affected</p>	None
<p>Consultation: Leader / Deputy Leader <input type="checkbox"/> Cabinet <input type="checkbox"/> SMT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/></p>	<p>Yes</p> <p>Details:</p>
<p>Links to Council Plan priorities, including Climate Change, Equalities, and Economics and Health implications.</p>	
<p> </p>	

8 Document Information

Appendix No	Title
<p>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) you must provide copies of the background papers)</p>	
Report Author	Contact Number
Katie Spelman	01246 217172

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