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**North East
Derbyshire**
District Council

Contact: Alan Maher

Tel: 01246 217391

Email: alan.maher@ne-derbyshire.gov.uk

Date: Friday, 3 May 2024

To: **Members of the Planning Committee**

Please attend a meeting of the Planning Committee to be held on **Tuesday, 14 May 2024 at 2.00 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 Mark Foster
Councillor Christine Gare
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 10 May 2024 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 - 21)

To approve as a correct record and the Chair to sign the Minutes of Planning Committee held on 23 April 2024.

4 NED/24/00275/FL - CLAY CROSS (Pages 22 - 37)

Modifications to an existing public car park, including the provision of a new access from High Street (A61) (Conservation Area) at the Masterplan site, covering Land, Roads and Buildings to the North and West of Broadleys, Clay Cross.

(Planning Manager – Development Management)

5 NED/23/00189/FL - GRASSMOOR (Pages 38 - 65)

Residential development of the former Derbyshire County Council (DCC) Highways Storage Depot to erect 5 detached two-storey dwellings and creation of a new access (Amended Plans) at Highways Storage Lane, Chesterfield Road, Grassmoor.

(Planning Manager – Development Management)

6 Late Representations - Summary Update Report - NOW PUBLISHED (Pages 66 - 71)

(Planning Manager – Development Management)

7 Planning Appeals - Lodged and Determined (Pages 72 - 75)

(Planning Manager – Development Management)

8 Tree Preservation Order (TPO) 296/2023 - ECKINGTON (Pages 76 - 86)

Proposed Confirmation of Tree Preservation Order 296/2023 of an Ash Tree adjacent to Eckington Friendship Club, Berry Avenue, Eckington.

(Planning Manager - Development Management)

9 Matters of Urgency

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



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PLANNING COMMITTEE

MINUTES OF MEETING HELD ON TUESDAY, 23 APRIL 2024

Present:

Councillor Lee Hartshorne (Chair) (in the Chair)

Councillor Tony Lacey (Vice-Chair)

Councillor David Cheetham
Councillor Christine Gare
Councillor Fran Petersen

Councillor Andrew Cooper
Councillor Heather Liggett

Also Present:

D Thompson	Assistant Director of Planning
A Kirkham	Planning Manager - Development Management
G Cooper	Principal Planning Officer
L Kassell	Solicitor
J Hayden	Senior Scrutiny Officer
A Bond	Governance Officer
M E Derbyshire	Members ICT & Training Officer
A Maher	Governance Manager

PLA/ Apologies for Absence and Substitutions

84/2

3-24 Councillors P Elliot, M Foster, D Hancock, and K Rouse.

PLA/ Declarations of Interest

85/2

3-24 None.

PLA/ Minutes of the Last Meeting

86/2

3-24 The minutes of the meeting held on Tuesday 19 March 2024 were approved as a true record.

PLA/ NED/23/01081/FL - PILSLEY

87/2

3-24 The report to Committee explained that an Application had been submitted for the change of use of land to use as a residential caravan site for four Gypsy (*the preferred nomenclature of the Applicant, rather than the term Traveller*) households, together with the construction of a driveway, laying of hardstanding and the erection of an ancillary amenity building at land approximately fifty metres east of Padley Wood Lane, Pilsley.

The Application had been referred to Committee by Local Ward Member, Councillor A Cooper, who had raised concerns about it.

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

Officers stated that the location was already being used as a caravan site for Gypsy/Traveller accommodation. Hard surfacing had been laid upon the field, fencing had been installed on either side of a new access point and caravans were in place.

Officers highlighted the contribution which the Development would make towards increasing Gypsy/Traveller accommodation in the District. They pointed out that although the Council could currently demonstrate that it had the required number of Gypsy / Traveller accommodation sites for the next five years, this did not preclude other sites from being established. In this context, they referred to the personal difficulties which the Applicant and their family had had in finding suitable Gypsy/Traveller accommodation sites locally and the problems which this had caused them.

Officers concluded that the benefits of providing additional Gypsy/Traveller accommodation would outweigh any other harm identified. They recommended, therefore, that the Application be approved, subject to appropriate conditions.

Before the Committee considered the Application it heard from Local Ward Member, Councillor K Gillott. It also heard from the Applicant, K Sykes, who spoke in support of the Application.

Committee considered the Application. It took into account the site's location in open countryside. It considered the relevant Local and National Planning Policies. These included the provisions of Local Plan Policy SS9, on the use of land in the countryside for Gypsy/Traveller accommodation, if it was in accordance with Local Plan Policy LC9 on the provision of Gypsy/Traveller sites.

Members discussed the Application. They discussed the improvements that would be required at the site. These included appropriate screening of the Development, replacing the current gravel entrance to the site and the installation of appropriate sanitation arrangements. They also heard about the measures to encourage biodiversity and to protect the nearby Local Wildlife site. Committee was informed how these issues would be addressed through the imposition of appropriate conditions.

Members discussed what weight ought to be given to the additional provision of Gypsy/Traveller accommodation in determining the Application. They took into account the officer assessment that the proposed Development would be in line with Local Plan Policy LC9 on the provision of Gypsy/Traveller sites and that it accords with the overall advice contained in the National Planning Policy Framework (NPPF) and in particular, the Planning Policy for Gypsy/Traveller Sites (PPTS).

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

RESOLVED

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

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

Conditions

- 1 The development hereby permitted shall be started within 3 years from the date of this permission.
- 2 The development hereby approved shall be carried out in accordance with the details shown on the following drawings: Location Plan (dated 11.12.23), Post and Rail Fence (undated and unreferenced but as uploaded to the Council's web site dated 12.12.23), Drawing No.PBA4 (showing vertical wooden boarded fencing and as uploaded to the Council's web site dated 12.12.23), Site Layout Plan (showing a Bin Store and Treatment Plant, as uploaded to the Council's web site dated 01.03.24 and as given at Appendix A of this decision notice), the Amenity Block (dated October 2023 and as uploaded to the Council's web site dated 12.12.23) and the details set out in the submitted Design and Access Statement (dated 11.12.23) unless as otherwise required in conditions set out in this decision notice.
- 3 Permission is hereby granted for 4 caravan pitches only, laid out in accordance with the details shown on the approved Site Layout Plan. Each pitch shall only be used for the stationing and residential use of one static caravan, located as shown on the approved plan.

In addition, permission is hereby granted for the stationing of one touring caravan (i.e. a caravan capable of being towed on the highway by a vehicle) only in accordance with the details shown on the approved drawings. No residential occupation of the touring caravan is permitted at any time.

Twin unit caravans are not permitted.

- 4 Within 14 days of the date of this permission, details of arrangements to receive any abnormal loads or unusually large vehicles at the site shall be submitted to and be approved in writing by the Local Planning Authority. The approved details shall then be adhered to throughout the implementation period of the permission, hereby granted.
5. Permission is hereby granted for 4 pitches only for the sole use and occupation of travellers as defined in "Planning Policy for Traveller Sites (updated 19.12.2023)". Prior to the first, or any subsequent, occupation of any of the pitches, hereby approved, details of the pitch occupants shall be submitted to and be approved in writing by the Local Planning Authority. The pitch(es) shall then be occupied solely by the person(s) so agreed.
- 6 Prior to their first stationing on the site, hereby approved, the precise details/specifications of any/all caravans to be stationed there shall be submitted to and be approved in writing by the Local Planning Authority. The details/specifications shall include the size, type and design, including the sound insulation specification, of each caravan. Only those caravans so approved shall then be installed/placed on the site and no other caravans shall be located there.

- 7 Within 28 days of the date of this permission, details of the existing ground levels, the proposed finished levels of the hardstanding area and of the amenity building, hereby approved, and the proposed finished ground levels of the remainder of the site, relative to a datum point which is to remain undisturbed during the development, shall be submitted to and be approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details and the levels shall be retained as such thereafter.
- 8 Notwithstanding any other submitted details, only those fences/boundary treatments expressly shown on the approved Site Layout Plan, or as otherwise agreed by condition of this decision notice, shall be erected/placed or located on the site.

Notwithstanding the provisions of Article 3(1) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), (or any Order revoking and re-enacting that Order) no other means of enclosure/boundary treatments shall be erected/constructed/placed on the site without first obtaining planning permission.

- 9 Notwithstanding any other submitted details, within 28 days of the date of this permission, details, and a timetable for their implementation, of the site entrance forward of the proposed amenity block towards Padley Wood Lane and any gates or other means of enclosure/planting proposed within the area shall be submitted to and be approved in writing by the Local Planning Authority. The agreed scheme shall then be implemented as approved and be retained as such thereafter.
- 10 Notwithstanding any other submitted details, prior to the first occupation of any caravan on the site, the following shall be submitted to and be approved in writing by the Local Planning Authority:
 - a) a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land,
 - b) the details of any trees and hedgerows to be retained, together with measures for their protection during development,
 - c) a schedule of proposed plant species, size and density and planting locations (indicating that all trees to be planted shall meet the definition of "heavy stock" in BS 3936-1 on first planting) and
 - d) an implementation programme.
- 11 All planting, seeding or turfing in the approved scheme of landscaping agreed under the terms of condition 7 above shall be carried out in the first planting and seeding season following the first occupation of any caravan on the site. Any trees or plants which within a period of 5 years from the first occupation of the fourth of the approved pitches, hereby approved, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.
- 12 Within 28 days of the date of this permission, detailed designs shall be submitted to and be approved in writing by the Local Planning Authority, for the storage of plant and materials, site accommodation, loading, unloading

and manoeuvring of goods vehicles, and parking and manoeuvring of employees and visitors vehicles. The approved scheme shall then be implemented within 7 days of any approval being given and it shall be retained free from any impediment to its use throughout the construction period of the site.

- 13 No more than 5no. cars and 4no. light goods vehicles/public carrier vehicles shall be parked/stored or retained on site at any one time. Within 28 days of the date of this permission, notwithstanding the details shown on the approved Site Layout Plan, a plan showing the location of parking for the 9no. vehicles (in total) shall be submitted to and be approved in writing by the Local Planning Authority. The vehicles shall then only be parked within the allotted areas and the remainder of the site shall be retained free from vehicle parking at all times.
- 14 Notwithstanding any other submitted details, prior to the first occupation of any caravan on the site, the access shall have been provided as shown on the Site Layout Plan with a width of a minimum of 5 metres, a gradient of no more than 1/20 for a distance of at least 10 metres behind the highway boundary and the first 5 metres of the driveway back from the highway boundary shall have been surfaced in a solid, hardbound material. Once installed as such, the access and driveway shall be retained as agreed thereafter.
- 15 Prior to the first occupation of any caravan on the site, visibility splays shall be provided from a point 0.6m above carriageway level at the centre of the access to the application site and 2.4 metres back from the near side edge of the adjoining carriageway, (measured perpendicularly), for a distance of 60 metres to the west and 50 metres to the east, measured along the nearside edge of the adjoining carriageway and offset a distance of 0.6 metres from the edge of the carriageway. These splays shall thereafter be permanently kept free of all obstructions to visibility over 0.6m in height above carriageway level.
- 16 No caravan, hereby approved, shall be occupied until the area identified on the approved plans for the storage of bins and the collection of waste in relation to the site have been provided in full. The approved facilities shall then be retained as such thereafter.
- 17 Notwithstanding the provisions of Article 3(1) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), (or any Order revoking and re-enacting that Order) no development otherwise permitted by Part 5, Class B of the Order shall be erected/constructed/undertaken without first obtaining planning permission.
- 18 The site, hereby permitted, shall be used for residential uses only and not for any trade, business or commercial purposes.
- 19 No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site, the subject of this permission.
- 20 Within 28 days of the date of this permission the precise materials that will

be used to clad the approved amenity block (walls and roofing) shall be submitted to and be approved in writing by the Local Planning Authority. The amenity block shall then be clad in accordance with the approved details prior to its first use as such and then be retained as agreed thereafter.

- 21 Before the first occupation of any caravan on the site, as hereby approved, details of the proposed package treatment drainage plant (TP), including its precise location and specification, shall be submitted to and be approved in writing by the Local Planning Authority. The TP shall then be installed as approved and be maintained as such thereafter.
- 22 Prior to the first occupation of any caravan on the site, hereby approved, details of the disposal of surface water drainage and any discharge to a public sewer(s) shall be submitted to and be approved in writing by the Local Planning Authority.

The approved scheme shall then be implemented as approved prior to the first occupation of any caravan on the site and be retained as such thereafter. There shall be no piped discharge of surface water from the site prior to the completion of all approved surface water drainage works.

- 23 Prior to the first occupation of any caravan on the site, a Biodiversity Enhancement and Management Plan (BEMP), including a timetable for its implementation and a schedule of future management, shall be submitted to, and be approved in writing by, the Local Planning Authority.

The scheme shall include, but not be limited to:

- (a) A description and location of habitat features to be retained, created, enhanced and managed. These should include native mixed bird-friendly hedgerows, native tree planting, flowering amenity lawn and wild bird seed mixes at margins.
- (b) The rationale for habitat choices and how these will benefit local species.
- (c) Appropriate management methods and practices.
- (d) Prescriptions for management actions, including a work schedule capable of being rolled forward in perpetuity.
- (e) Details of the body or organization responsible for implementation of the plan.
- (f) A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 2, 3, and 5 years.
- (g) Monitoring reports to be sent to the Council at each of the intervals above.
- (h) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
- (i) Detailed habitat enhancements for wildlife, including pole-mounted owl box(s) at the periphery and habitat piles.
- (j) Details of proposed lighting, if any is required, to demonstrate no lightspill to the adjacent Ancient Woodland.
- (k) Requirement for a statement of compliance upon completion of planting and enhancement works. (cont'd...)

The approved scheme shall then be implemented in full as agreed and then be retained and implemented thereafter in accordance with the approved details.

Within 1 month following the full implementation of the approved measures, photographs showing the approved features in situ shall be submitted to the Local Planning Authority.

- 24 Prior to the first occupation of any caravan on the site, hereby approved, a plan showing any/all external lighting that is to be installed/placed/erected in or on the site shall be submitted to and be approved in writing by the Local Planning Authority. Only the external lighting agreed as such shall then be installed/placed or erected on the site and no other external lighting shall be installed/placed or erected.

Reasons for Conditions

- 1 To comply with the provision of Section 91 (as amended) of the Town and Country Planning Act 1990.
- 2 For clarity and the avoidance of any doubt
- 3 For clarity and the avoidance of any doubt, as this is specifically what the application was made for, as twin caravan units are not considered compatible with the site's countryside location and in the interest of the character and appearance of the site and the surrounding area.
- 4 In the interest of highway safety and in the interests of safe operation of the adopted highway in the lead into development during the construction phase of the development.
- 5 For clarify and the avoidance of doubt, as this is what the application has specifically sought and in the interest of the character and appearance of the site and the surrounding area.
- 6 For clarify and the avoidance of doubt, as no details have been submitted, in the interest of the character and appearance of the area and to protect the amenity of future occupants of the site.
- 7 As no details of levels have been submitted, to provide clarity and avoid any doubt and in the interest of the character and appearance of the area.
- 8 For clarify and the avoidance of doubt, as this is how the application was made, and in the interest of the character and appearance of the area and to protect the amenity of future occupants of the site.
- 9 As no details of how the area will be enclosed or details of the gate indicated on the submitted plans have been submitted and in the interest of the character and appearance of the area.
- 10 In the interest of the character and appearance of the area and as indicative landscaping only is shown on the submitted plans.

- 11 In the interest of the character and appearance of the area
- 12 In the interest of highway safety and to ensure that the public highway is not restricted in its use during the implementation phase of this permission.
- 13 For clarity and the avoidance of any doubt, as this is the number of vehicles prescribed on the application forms and to protect the character and appearance of the area by ensuring parking is undertaken in an acceptable location.
- 14 In the interest of highway safety.
- 15 In the interest of highway safety.
- 16 In the interest of highway safety and to provide appropriate waste collection facilities.
- 17 The site is located within a countryside location where the control of any future/further development should be controlled in the interest of protecting the character and appearance of the area.
- 18 For the avoidance of any doubt, others uses/activities may be incompatible with the site's rural character and to ensure the site is used sympathetically, compatible with its countryside location.
- 19 As the site is for residential use only, for the avoidance of any doubt, and to ensure the site is used sympathetically compatible with its rural and countryside location.
- 20 For clarity and the avoidance of any doubt as the materials originally proposed are considered incompatible with the rural location of the site.
- 21 For clarity, the avoidance of any doubt, no specific details have been submitted and to ensure the site is properly drained.
- 22 To ensure that no surface water discharges take place until proper provision has been made for its disposal and in the interest of sustainable drainage.
- 23 In the interest of providing a net biodiversity gain, the character of the area and in the interest of protecting nesting birds.
- 24 For clarity and the avoidance of any doubt, no detail have been submitted, in the interest of protecting ecology on or near the site and to ensure that the site is lit in manner compatible with its rural location.

PLA/ NED/22/01090/FL - CLAY CROSS

88/2

3-24

The report to Committee explained that a 'Section 73' Application had been submitted to vary Condition 4 (Parameters Plan) pursuant to planning approval

NED20/00532/OL, to rearrange the use of parcels 7, 8A, 9 and 11 at Egstow Park, Clay Cross. This was a major development, affecting the setting of a Listed Building and Public Rights of Way.

The Application had been referred to Planning Committee for determination by the Planning Manager (Development Management), due to the strategic importance of the Development.

Planning Committee was recommended to approve the Application. The report to Committee explained the reasons for this. Officers accepted that the proposal as a whole would result in the loss of some designated employment land, and so not accord with the Development Plan. However, they contended that there were other material matters in favour of approving the Application. These matters were the overall viability of delivering employment uses on the site, the greater benefits that the additional housing would bring and the certainty which the changes would give in terms of enabling the proposed link road to now be constructed. They concluded, therefore, that the Application should be approved, in order to allow the proposed changes to the parameters plan to take place.

Committee considered the Application and discussed the proposed changes. Some Members asked for and received clarification about the reasons for the loss of employment land as a result of the changes. Some Members sought clarification for specific changes of use and the impact these would have.

At the conclusion of the discussion Councillor T Lacey and H Liggett moved and seconded a motion to approve the Application. The Motion was put to the vote and was agreed.

RESOLVED - That the Application be approved subject to conditions.

That the wording of the conditions and any amendments to the section 106 agreement be delegated to the Planning Manager (Development Management) in consultation with the Chair of Planning Committee: -

Conditions

- 1 Applications for approval of reserved matters are required for each part of the site before development can start on that part of the site. The Application(s) for approval of reserved matters shall be made to the Local Planning Authority (LPA) before 10th August 2026. The development hereby permitted shall be started within three years from the date of approval of the last of the reserved matters to be approved.
- 2 Approval of the details of the layout, scale and appearance of the building(s) and the landscaping of the site (called "the reserved matters") for each part of the site shall be obtained from the Local Planning Authority in writing before any development is started on that part of the site.
- 3 The development hereby approved shall be restricted to the following land uses and maximum levels of development:
 - 825 dwellings including a minimum of 11% affordable units (25.2

hectares of residential)

- Employment generating uses (B1, B2 and B8 uses (5 hectares); a local centre A1, A2, A3, A4 and A5 (2 hectares); Hotel and/or care home (C1 and C2)) totalling 8 hectares (including the existing pub/restaurant)
 - Recreational uses and landscaping (totalling 21.5 hectares, including existing off-site public open space at the former Egstow Quarry)
 - Associated highway works including a link road from the A61 to the A6175 (the link road should be complete not later than occupation of the 661st dwelling)
- 4 Development shall proceed in accordance with the broad parameters identified in the Parameters Plan (7184-L23-A) and no buildings on Greenfield land to the north of the Derby Road site, heading toward Tupton, with the exception of those plots, which are 2.5 storeys in scale, outlined in red on drawing R9076-RPS-20-00-DRA-0235 Rev P01 dated June 2020 shall have accommodation over two-storeys.
- 5 The phasing of the development in relation to the provision of affordable housing and highways infrastructure phasing programme for a link road from the A61 to the A6175 within the boundary of the site shall be completed within each phase of the development in accordance with the approved timescales hereby approved by 18/01205/DISCON.
- 6 As part of the reserved matters application for the Biwater Works site, in accordance with condition 2, a plan shall be submitted to show that development does not/will not preclude the future provision of access to a potential off-site railway station. Thereafter, the means to ensure future access to the potential off-site railway station as agreed shall be safeguarded.
- 7 The reserved matters submission for the residential development of the land to the north of the Derby Road site, as referenced in condition 4, shall include details and a timetable for delivering the pedestrian link to the boundary of Tupton Hall School for written approval by the Local Planning Authority. Thereafter, the pedestrian link shall be implemented in accordance with the approved timetable and be retained as such thereafter.
- 8 On any particular phase of development, as defined on the phasing plan agreed under condition 5, no development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) for that phase has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:
- a) Risk assessment of potentially damaging construction activities.
 - b) Identification of "biodiversity protection zones".
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be

- provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period on that phase in accordance with the approved details.

- 9 On any phase of development, as defined on the phasing plan agreed under condition 5, no development shall take place (including demolition, ground works, vegetation clearance) until an Ecological Mitigation and Management Plan for that phase has been submitted to, and been approved in writing by, the Local Planning Authority, The plan shall set out details of biodiversity mitigation, compensation and enhancement based on the recommendations within Chapter 5 of the Environmental Statement (June 2017).

- a) Description and evaluation of features to be managed.
- b) Aims and objectives of management.
- c) Appropriate management options for achieving aims and objectives
- d) Prescriptions for management actions.
- e) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period)
- f) Details of the body or organization responsible for implementation of the plan
- g) Ongoing monitoring and remedial measures
- h) A method statement to mitigate possible impacts on reptiles

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

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the plan are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved plan as part of that phase will be implemented in accordance with the approved details.

- 10 Development shall not take place on any phase of development until an invasive non-native species strategy is submitted and approved by the local planning authority, detailing the containment, control and removal of Japanese knotweed and Himalayan balsam on that phase. The measures shall be carried out on that phase in accordance with the approved scheme.

- 11 No removal of hedgerows, trees, shrubs or brambles shall take place between 1st March and 31st August inclusive on any phase, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on that phase during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to for that phase and approved in writing by the local planning authority and then implemented as approved.
- 12 Development shall not take place on any phase until an external lighting strategy has been submitted to and been approved in writing by the Local Planning Authority for that Phase. The approved measures must be implemented in full and maintained as such thereafter.
- 13 All planting, seeding or turfing in the approved scheme of landscaping for each phase of development shall be completed prior to 85% of occupation of the dwellings in that phase and the landscaping for each individual plot shall be completed prior to the first occupation of that dwelling. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 14 The reserved matters details on any phase of development as agreed under condition 5, shall include a scheme for the provision and management of the amenity space within that phase and such scheme shall be submitted to and be approved in writing by the Local Planning Authority. The scheme shall include:
- provision of play equipment on site;
 - details of footpaths and access furniture;
 - provision of cycle-ways;
 - identified means of managing and maintenance of public open space;
 - indicative uses e.g. play equipment, community woodland, green space;
 - detailed landscaping within the public open space.
- Thereafter, the approved amenity space shall be laid out in accordance with the approved details for that phase and the agreed delivery timetable and managed as agreed thereafter.
- 15 Before development starts on each phase of the development as defined on the Phasing Plan agreed under condition 5, a plan to show the positions, design, materials, height and type of boundary treatment to be erected for each phase (as defined) shall be submitted to and approved in writing by the Local Planning Authority. The approved boundary treatment scheme for each building as part of the development hereby approved shall be carried out prior to the first occupation of that building and shall be retained as such thereafter.
- 16 Before development starts on each phase of the development hereby approved as defined on the Phasing Plan agreed under condition 5, details

of the existing ground levels, proposed finished floor levels of the buildings and the proposed finished ground levels of that phase, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter that phase of the development shall be constructed strictly in accordance with the approved levels and shall be retained as such thereafter.

- 17 Development shall not take place on any phase (excluding those that already benefit from reserved matters approval) until a Phase I contaminated land assessment (desk-study) for that phase is undertaken and approved in writing by the local planning authority.

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

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

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

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

- 19 No dwelling or other building associated with the use hereby approved

within any phase shall be occupied until the approved remediation works required by 18 above for that phase have been carried out in full in compliance with the approved methodology and best practice.

- 20 If during the construction works associated with any phase of development hereby approved any suspected areas of contamination are discovered, which have not previously been identified, then all associated 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 conditions 17 and 18 above.
- 21 Upon completion of the remediation works for any phase required by conditions 18 and 19 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 for that phase. 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.
- 22 Works on site and deliveries to the site during the construction phases shall be undertaken only between the hours of 07:30 to 18:00 Monday to Friday and 07:30 to 12noon on Saturday. There shall be no work undertaken on site or deliveries to the site undertaken on Sundays or public holidays.
- 23 Condition no longer required, but numbering retained for clarity.
- 24 For every reserved matters application seeking to deliver a dwelling(s) associated with this outline approval a scheme of sound insulation shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be designed following the completion of a sound survey (where necessary) undertaken by a competent person. The scheme shall take account of the need to provide adequate ventilation, which will be by a means to be agreed with the LPA, 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 (8 hour) (2300 hrs - 0700 hrs)
 - Living/Bedrooms 35 dB LAeq (16 hour) (0700 hrs - 2300 hrs)
 - All Other Habitable Rooms 40 dB LAeq (16 hour) (0700 hrs - 2300 hrs)
 - Bedrooms 45 dB LAmax to occur no more than 6 times per hour (2300 hrs - 0700 hrs)
 - Any outdoor amenity areas 55 dB LAeq (16 hour) (0700 hrs - 2300 hrs)

The scheme shall include full details of all fences/barriers needed to achieve the outdoor amenity criteria set out in this condition. The scheme as approved shall be implemented in full and retained thereafter.

- 25 Prior to the first occupation of any building on the Market Street part of the application site, the access as approved under permission 14/00586/RM, or other subsequent permission for the access so approved, shall be completed as approved.
- 26 Development shall not take place on any particular phase, as defined in the phasing programme subject of Condition 5 above, until a scheme for the safeguarding of footpaths or their temporary diversion is submitted to and approved in writing by the Local Planning Authority. If a temporary diversion is not required, footpaths shall be retained along their legal line at all times during and after construction works hereby approved.
- 27 Before commencing any works on a particular phase as defined on the phasing programme, the subject of Condition 5 above, a scheme shall be submitted to and approved in writing by the Local Planning Authority with details of the site compound for that phase. The scheme shall include details of site accommodation, storage of plant and materials, parking and manoeuvring areas for site operatives and visitors vehicles, loading/unloading and manoeuvring areas for the goods vehicles and wheel washing facilities. Thereafter, before any operations are commenced on that phase of the development, the scheme shall be implemented in accordance with the approved details and retained as such for the duration of works for that phase.
- 28 Before development commences on each phase of the development as defined on the phasing programme, the subject of Condition 5 above, a scheme for improvements to the pedestrian and cycle networks within that phase, along with a timetable for their implementation, shall be submitted to, and approved in writing by the Local Planning Authority. The approved scheme shall then be implemented in accordance with the agreed scheme of works and approved timetable and shall be retained as such thereafter.
- 29 Prior to occupation of any phase of the development a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include proposals to maximise the use of public footpaths, cycling and public transport. Thereafter the Travel Plan shall be implemented in accordance with delivery mechanisms included in the Plan.
- 30 Piling using penetrative methods shall not be carried out other than with the written consent of the local planning authority. If so agreed the development shall be carried out in accordance with the approved details.
- 31 No infiltration of surface water drainage into the ground at the site for any phase is permitted, other than with the written consent of the Local Planning Authority.
- 32 Development shall not commence until details of the means of protecting all waste water infrastructure, during all phases of the development, that is

laid within the site boundary has been submitted to and approved by the Local Planning Authority. If the required protection measures to be achieved via diversion or closure of any part of the infrastructure, the details shall include evidence that the diversion or closure has been agreed with the relevant statutory undertaker for that phase. Furthermore, construction in the relevant section(s) of the site shall not commence until the approved measures have been implemented to the satisfaction of the Local Planning Authority.

- 33 No piped discharge of surface water from the application site shall take place for each phase until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water that has been informed by confirming the viability and location of SuDS techniques as outlined within the Flood Risk Assessment have been completed in accordance with details submitted to and approved in writing by the Local Planning Authority.
- 34 Development shall not commence on any phase of the development until a scheme to ensure that on-site and off-site foul water sewerage, designed to serve the whole development, is of adequate capacity to ensure proper disposal to the receiving public sewer network has been submitted to and approved in writing with Local Planning Authority. The approved scheme shall be fully implemented and subsequently maintained, in accordance with the timing/phasing arrangements embodied within the scheme and the number and type of properties to be constructed within that phase, or within any other period or number of properties as may subsequently be agreed in writing, by the Local Planning Authority.
- 35 Development shall not take place on any phase until a detailed design and associated management and maintenance plan of surface water drainage for that phase, in accordance with the principles outlined within:
- a. Land at Clay Cross, Derbyshire - Flood risk Assessment and Drainage Strategy (Revision 1.0, by St Modwen Developments Ltd.) dated June 2017,
 - b. DEFRA Non-statutory technical standards for sustainable drainage systems (March 2015),
 - c. And Technical Note 'Response to LLFA Comments' dated 22 Feb 2018 and referenced 5122281-ATK-NE-ZZ-TN-D-0001.

have been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design for that phase prior to the first occupation of any building within that phase.

PLA/ NED/23/00189/FL - GRASSMOOR

89/2

3-24

With the agreement of the Chair, the Application was deferred until the next meeting of the Committee so that issues that had been raised recently by the Lead Local Flood Authority could be addressed.

PLA/ Planning Appeals - Lodged and Determined

90/2

3-24

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

PLA/ Matters of Urgency (Public)

91/2

3-24

None.

PLA/ Exclusion of Public

92/2

3-24

RESOLVED - 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).

PLA/ Section 106 Legal Agreements Update

93/2

3-24

Committee received an update on the current 'Section 106' Agreements, or agreements, reached between the Council as Planning Authority with developers to carry out specific work to help offset the impact of new developments on local people.

The report set out details of those agreements where the funding had now been secured. It also included information about Section 106 agreements where the funding had not yet been received or written-off and those where payments have yet to be made as the relevant trigger points for these payments had not yet occurred.

Members discussed the report. As part of this they received updates on specific agreements.

RESOLVED -

- (1) That the information contained within Appendices A, B and C of the report is noted.
- (2) That the contents of paragraphs 2.1 to 2.2 of the report is noted.
- (3) That the Committee receives further updates on the matter approximately every three months.

By Acclamation

PLA/ Matters of Urgency (Exempt)

94/2

3-24

None.

PLANNING COMMITTEE – 14th May 2024

Reference Number: 24/00275/FL

Application expiry: 27/06/2024

Application Type: FULL

Proposal Description: Modifications to an existing public car park including provision of a new access from High Street (A61) (Conservation Area)

At: Masterplan Site Covering Land, Roads and Buildings To The North And West Of Broadleys, Clay Cross

For: North East Derbyshire District Council

Third Party Reps: No comments

Parish: Clay Cross

Ward: Clay Cross North

Report Author: Graeme Cooper

Date of Report: May 2024

MAIN RECOMMENDATION: Grant permission, subject to conditions



Figure 1: Location plan, with site edged in red

1.0 Reason for Report

1.1 As determined by the Planning Manager, this application is being considered at planning committee due to the strategic importance of the proposed development.

2.0 Proposal and Background

Site Description

2.1 The application site consists of a stretch of the A61, an open green space containing a number of mature trees and a public car park.

2.2 The site is located partially within the Clay Cross Conservation Area (brown hatched area) and in an area designated in the Local Plan as a town centre (blue hatched area), see Figure 2 below.

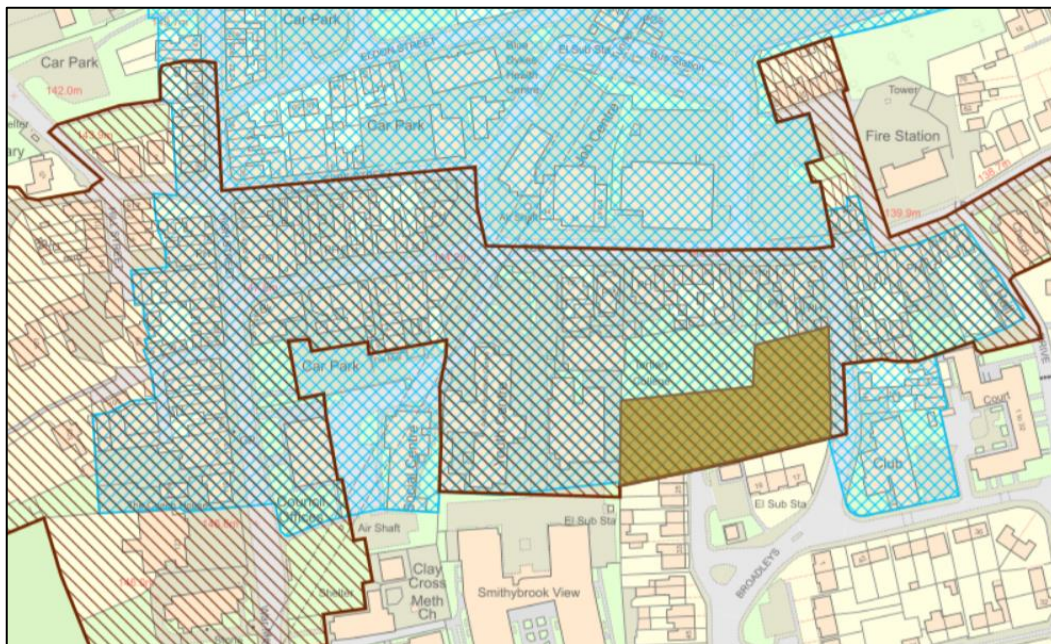


Figure 2: Extract from Local Plan mapping

2.3 Most of the application site is made up of a public car park which serves the town centre and is accessed from Market Street to the north east.

2.4 Buildings to the north back onto the application site and include access and parking which leads out onto Market Street to the north.

2.5 To the west is the A61, High Street which is an important route connecting to Chesterfield to the north and Alfreton to the south. A signalised pedestrian crossing is located close to the car park.

2.6 To the south and south east are parish council offices, a medical centre and the clocktower building. The latter forms part of the wider Clay Cross Town Deal development site.

Proposal

2.7 This application seeks permission to create a new vehicular access from the A61 (High Street) into an existing public car park. The car park will be made up of 21 car parking spaces, two of which will include EV charging points. Bollards will be installed to the east of the car park to prevent vehicles from accessing Market Street.

2.8 To accommodate the access onto the A61, 5 trees will be removed and 2 retained on a reduced area of green space. Two footpaths will be formed from the car park to the A61 to aid pedestrian connectivity.

2.9 On the A61, the signalised, pedestrianised crossing will be moved north towards the junction with Market Street. Figure 3 below illustrates the proposal in more detail.



Figure 3: Proposed site layout

Amendments

2.12 None.

3.0 Relevant Planning History (not the full site history)

3.1 23/00601/FL | Reconfiguration and erection of new extensions to both the Clay Cross Adult Community Education Centre and former DACES building including limited demolition within the Clay Cross Conservation Area. Erection of 16no new build commercial units. Extensive hard and soft landscape proposals around the buildings

including enhancements and modifications to Market Street and Bridge Street (Major Development/Affecting Setting of a Listed Building/Conservation Area/Affecting Public Right of Way/NEDDC) (Amended Plans) (Conditionally Approved – S106 Complete)

- 3.2 24/00074/DISCON | Application to discharge conditions 10 (Levels), 13 (mitigating climate change), 26 (Phase 1 - Land contamination), 29 (Coal Mine Risk), 37 (Written Scheme of Investigation) and 44 (Construction Management Plan) pursuant to planning application 23/00601/FL (Pending Consideration)
- 3.3 24/00078/DISCON | Application to discharge condition 45 (Works in Highway) pursuant to planning application 23/00601/FL (Approved)

4.0 Consultation Responses

4.1 **Ward member** raised no comments.

4.2 **Parish Council** raised no comments.

4.3 **Highways Authority** (HA) have reviewed the Drawing titled A61 Junction Engineering Plan (06847-PL-B-0101 Revision P04) and note the proposals include the creation of a new priority junction into the site from the A61, providing access to a public car parking area with a total of 25 spaces including EV and disabled parking spaces.

4.4 A continuous footway will be provided along the northern side of this access, tying into the existing provision on the A61 and continuing to link through to Market Street. Additionally, a separate pedestrian link directly from the car park to the A61 footway will be provided slightly further north. A relocated signalised pedestrian crossing point is proposed immediately south of Market Street (approximately 22m north of its existing location), accommodated by widening the existing footway to leave a minimum carriageway width of 6.8m.

4.5 Whilst the HA question the merit of the vehicular access junction off the A61 High Street, given it only serves a car park, it is satisfied with the junction geometry and note visibility splays of 2.4m by 43m can be achieved from the proposed access, in line with the Delivering Streets and Places Design Guide (DSPDG). The required 43m signal head visibility splay is also achievable for the relocated pedestrian crossing.

4.6 The swept path analysis for a car and a 7.5 tonne panel van at this access has also been provided and the HA are satisfied with the vehicular tracking, which demonstrates the access and turning areas can be negotiated successfully.

4.7 The HA note the proposed access was previously assessed as part of application 23/00601/FL, however, was removed from the final proposals. The site access was

modelled based on 30 vehicular arrivals in the AM peak and 30 vehicular departures in the PM peak. This is expected to provide a robust assessment, with it being more likely that the parking spaces will be filled and emptied over a longer period of time. The modelling results in Table 6-6 of the PJA Transport Assessment (23/00601/FL) show that the proposed development access onto the A61 is expected to operate within capacity with minimal queuing and delays.

- 4.8 The HA advice is that the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. Based on the information provided, the development therefore does not conflict with the National Planning Policy Framework, subject to conditions requiring the works approved being constructed in line with the approved details, providing the access with adequate visibility splays and the submission of a construction management plan.
- 4.9 **DCC Archologist** raised no comments.
- 4.10 **Coal Authority** raised no comments.
- 4.11 **The Planning Policy and Environment Team (Trees)** was consulted and notes the proposed development requires the removal of T13, T14, T17 and G7. It shall also require a reduction in size of the area of soft landscaping which separates the existing car parking from High Street. Two trees are planned for retention, these are T15 and T16.
- 4.12 T15 and T16 are both species of Cherry. T15 appears to be an early-mature Wild Cherry (*Prunus avium*), and T16 appears to be a small ornamental and cultivated form of Cherry. T15 is significantly larger than T16 and will require a greater RPA than T16. Using the recommended calculations within BS5837:2010, the RPA for T15 is around 50m² with the radius of the nominal circle being 4m. The recommended RPA for T16 is 28m² with the radius of the nominal circle being 3m. The proposed reduction in size of the area of soft landscaping shall reduce the available space to 200m². As such, there appears sufficient area around both T15 and T16 which could remain protected throughout the development of the site.
- 4.13 A shortcut between the pedestrian crossing on High Street and Market Street Car Park, has created a frequently used desire line across the area of soft landscaping and directly between T15 and T16. The desire line appears parallel to the existing footpath immediately south. As the desire line makes its way between the stems of T15 and T16, it also crosses the rooting areas of both trees. The repeated passing of pedestrians walking along this desire line has caused some localised compaction of the soil profile along the route, and this localised compaction is apparent by the limited growth of grass along this line.
- 4.14 Species of Cherry are known to be extremely sensitive to poor soil aeration. As such, they seldom do well in soils which become compacted as this can inhibit soil aeration

and adequate drainage. Compacted soils can also inhibit root development as the increased bulk density of the soil prevents the ability of the growing root to ramify through the soil profile. In addition, intentionally planted examples of Cherry are often bought from nurseries specialising in amenity planting. As such, they are often grafted forms which promote rapid establishment and these type often appear to develop roots close to the soil surface. This habit of surface rooting can result in displacement of nearby hard surfaces. Footpaths with inflexible finishes which are laid in close proximity to amenity planting of Cherry are often displaced.

- 4.15 The officer recommends that consideration is given to ameliorate the soil conditions within the RPAs of T15 and T16 to improve the rooting environment for both T15 and T16. Consideration should be given to installing root barriers, or root deflectors, along the length of the proposed footpath which appears to surround the quadrant of soft landscaping within the current proposal. The installation of root barriers or root deflectors would prevent the potential of surface roots displacing the hard finish of the footpath in future years. The addition of root barriers or root deflectors at the offset would safeguard against costly repairs to the proposed footpath in the future. It would also safeguard against future pressures to prematurely remove the trees because of concerns of continued damage.
- 4.16 The officer therefore recommends that a tree protection condition is included in any decision along with a number of informative notes relating to British standards of tree works.

5.0 Representations

- 5.1 The application was publicised by way of neighbour letters and the display of a site notice. A site notice was placed adjacent to the application site on the A61 which expired on 1st May 2024.
- 5.2 No third-party representations have been received.

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
SS7 Development on Unallocated Land within Settlements with Settlement Development limits
WC4 Retail Hierarchy and Town Centre Uses
SP2 Clay Cross
SDC2 Trees and Hedgerows
SDC4 Biodiversity and Geodiversity
SDC5 Development within Conservation Areas

SDC6 Development Affecting Listed Buildings
SDC7 Scheduled Ancient Monuments and Archaeology
SDC9 Non-Designated Heritage Assets
SDC11 Flood Risk and Drainage
SDC12 High Quality Design and Place Making
SDC14 Land Potentially affected by Contamination or Instability
ID3 Sustainable Travel

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 Clay Cross Regeneration Framework 2025
Key priorities and projects outlined in the framework include (and are not limited to) better physical links between buildings, protection of existing urban quality in the conservation area, high quality landscaping, prioritising pedestrian access, implement town centre parking accessed directly off the A61, protect views of St. Bartholomew's church, improve public realm; and focus public realm improvements including public spaces on the key movement routes, regeneration areas, and parks.
- 6.5 Clay Cross Conservation Area Character Statement; 2010
- 6.6 "Successful Places" Design Guidance, adopted December 2013

7.0 Planning Issues

Principle of Development

- 7.1 Local Plan policy SS1 is an overarching policy and requires all development to contribute to sustainable development in North East Derbyshire, promote the efficient use of land and re-use of buildings and locate development where it is accessible by foot, cycle or public transport, reducing the reliance on the private car. Development should support the local economy by contributing towards business expansion and growth, attracting and supporting a skilled labour force, and improving skills and access for local people to job opportunities. Development should reduce the need for energy in new development and energy efficiency through its lifetime. Any development should promote social and economic well-being of communities and reduce social disadvantages and inequalities. Proposals should create well designed places that are accessible, durable, adaptable and enhance local distinctiveness. They should also protect and enhance the character, quality and settings of towns and villages and heritage assets. Ecological and biodiversity assets should also be protected and/or enhanced. Finally, all development should play a positive role in adapting to and mitigating the effects of climate change by incorporating sustainability

techniques, including through the use of sustainable drainage systems, to contribute to the health and wellbeing of communities and the environment through the location, design and operation of development. These matters should be positively incorporated into the proposed development.

- 7.2 Local Plan policy SP2 focusses on Clay Cross and seeks to ensure that the town maintains its role as the main social and economic focus of the south of the District. Development proposals will be expected to demonstrate how they contribute to the successful delivery of the Clay Cross Regeneration Framework's key priorities and projects. The intention of this policy is to protect and enhance the church of St Bartholomew's including views to and from the church; Protect the existing urban quality within the conservation area; increase accessibility to town centre parking from the A61; Improve the Public Realm by focusing on key movement routes, regeneration areas and the bus station; Encourage uses within the town centre that enhance the offer of the town as an evening destination, particularly arts and cultural uses and social/leisure facilities for young people; and works with partners to deliver regeneration and place-making projects and innovative service delivery for the town centre to benefit the most deprived members of the community.
- 7.3 Policy WC4 of the Local Plan seeks to ensure that development ensures the vibrancy and economic health of the town centre is not harmed. Development will be permitted where it contributes to the diversity of leisure and cultural attractions; helps to create an active, well-used and safe evening environment, with acceptable impacts on residential amenity; helps to address vacant, under-used or derelict buildings within centres; and contribute to an appropriate mix of licensed premises. Proposals for retail and other town centre uses should be consistent in scale with the size and function of the centre and safeguard the retail character and function of the centre.
- 7.4 In view of the above, it is considered by officers that the proposal would result in a positive benefit to Clay Cross and as such the principle of the redevelopment of this part of Clay Cross in the manner set out in the application is considered acceptable, subject to an assessment against the various strands of planning policy as outlined above.

Heritage Considerations

- 7.5 The proposal would see the formation of a new vehicular access from the A61 into an existing car park. The green space included in the application site falls within the Clay Cross Conservation Area. The nearest listed building to the application site is St. Bartholomew's Church, which is a Grade II listed building.
- 7.6 Local Plan policy SDC5 states that development proposals within or impacting upon Conservation Areas will be permitted where they preserve or enhance the character or appearance of the area and its setting. Development proposals should take into account the characteristics and context of the area, in terms of important buildings, spaces, landscapes, walls, trees, and views within, into or out of the area and the

form, scale, size and massing of nearby buildings, together with materials of construction.

- 7.7 Local Plan policy SDC6 supports development that preserves the significance of the heritage asset and its setting.
- 7.8 The NPPF requires Local Planning Authorities to consider the potential direct or indirect impact on heritage assets. Greater weight should also be given to considering the impact of a proposed development where designated heritage assets are involved. A suitable heritage assessment should be submitted to clearly assess the harm to such assets. Substantial harm or loss of significance to assets of the highest significance (i.e. scheduled monuments) should be 'wholly exceptional'.
- 7.9 Section 66 of the 1990 Act states that '...in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'.
- 7.10 Furthermore, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, Local Authorities have a duty to preserve or enhance the character or appearance of a Conservation Area. Moreover, paragraph 199 of the National Planning Policy Framework (July 2021) (the Framework) states that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Any harm to Designated Heritage Assets should require clear and convincing justification in line with paragraph 200 of the Framework. At para 202 of the NPPF, it is stated that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 7.11 A Heritage Assessment has been prepared by Buttress dated June 2023 and was submitted as part of the wider Clay Cross Town Deal application (ref: 23/00601/FL). The Heritage Assessment provides a background to the history of Clay Cross, the conservation area and buildings affected by the proposed development. There is an assessment of significance of the buildings, a summary of works and assessment of the heritage impacts, along with a justification statement.
- 7.12 Works to provide an enhanced area of public open space and new access create an opportunity to enhance the character and appearance of the Conservation Area. St Bartholomew's Church is located approx. 80m to the south of the proposed access and is not considered impacted by this proposal. Whilst some trees would be lost as a result of the proposal, two mature trees would be retained along with the green open space. As such, overall officers conclude that the proposed development would preserve the character or appearance of the conservation area and its setting, and that of St Bartholomew's Church.

Design/Street Scene Considerations

- 7.13 Local Plan policy SDC12 (High Quality Design and Place-Making) requires all new development to be of a high-quality design and make a positive contribution to the quality of the local environment. Development should respond positively to local character and context to preserve and enhance its quality and local identity, create well connected spaces that are easy to navigate and prioritise pedestrian movement facilitating access to public transport. It should also provide well-considered and legible public realm, utilising landmark features and incorporates measures to minimise crime.
- 7.14 The proposal involves the formation of a new vehicular access from the A61 (High Street). This will involve the removal of five trees and loss of a 7.5m wide section of green space which includes an informal public footpath. The scheme also includes bollards placed within the site to prevent traffic from accessing Market Street to the north east. Car parking spaces would be rearranged, with disabled and EV charging points provided. A new footpath will be provided around the car park connecting with High Street. Also included in the scheme are plans to move the pedestrian crossing on High Street approx. 20m north closer to the Market Street junction.
- 7.15 It is proposed that the car park and associated pathways to be created will be constructed from tarmac and paving. The rearranged spaces will be marked out with white lines and bollards will be formed to the east. Existing soft landscaping will be retained but no new landscaping areas are proposed.
- 7.16 During the course of the original application (23/00601/FL) to redevelop the wider town centre, the proposed access from the A61 and works to improve the car park were removed from the scheme. Permission was instead granted for works elsewhere in the town centre to form a new pedestrianised area from Broadleys, pedestrianise Market Street and bring back into use the Clocktower building and the former DACIES building.
- 7.17 The scheme now before members is of much more sympathetic design and retains a large amount of green space and two mature trees. The scheme also includes enhanced pedestrian connectivity, EV charging points and disabled parking spaces. The proposal would ensure town centre parking can be accessed directly off the A61, improve public realm and key pedestrianised routes from the A61 into the town centre in line with the Clay Cross Regeneration Framework.
- 7.18 Subject to the inclusion of conditions relating to the submission of the finished hardstanding details, officers are of the view that the proposed development would respond positively to local character and context to preserve its quality and local identity. The access formation and new footpaths created through the car park onto A61 (High Street) would improve connectivity and connect the car park to the main arterial road running through Clay Cross.

Amenity Considerations

- 7.19 Local Plan policy SDC12 states that development will only be permitted where it protects 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.
- 7.20 Furthermore, policy SDC13 also requires all development proposals will be assessed in relation to their impact on air, light, noise, ground and water pollution.
- 7.21 The proposed development would result in the loss of a modest area of green space and trees, however it will provide a more user friendly access to car parking which will reduce journey lengths for some. The green space will mostly be retained and can continue to be used as an informal green space. New footpaths will provide an enhanced user experience and connectivity through the car park than is currently enjoyed.
- 7.22 There are no residential properties immediately opposite the proposed access which would be adversely impacted by this revised road layout.
- 7.23 Officers therefore conclude that the proposed development would not give rise to a detrimental impact on existing residents, businesses and future users of the site from air, light and noise pollution.

Highway Safety Considerations

- 7.24 The proposed development will involve the formation of a new vehicular access from High Street (A61), rearranged car parking and relocated pedestrianised crossing.
- 7.25 The Highways Authority (HA) were consulted on the proposed plans and note the proposals include the creation of a new priority junction into the site from the A61, providing access to a public car parking area with a total of 25 spaces including EV and disabled parking spaces. A continuous footway will also be provided along the northern side of this access, tying into the existing provision on the A61 and continuing to link to the through to the Market Street. They also note a relocated signalised pedestrian crossing point is proposed immediately south of Market Street (approximately 22m north of its existing location).
- 7.26 The HA are satisfied with the application and the proposed junction geometry at this stage and note adequate visibility splays can be achieved from the proposed access. The required signal head visibility splay is also achievable for the relocated pedestrian crossing. The swept path drawings provided are also considered to demonstrate access and turning areas can be negotiated successfully.
- 7.27 During the course of dealing with application 23/00601/FL the HA noted that the proposed access was modelled based on 30 vehicular arrivals in the AM peak and

30 vehicular departures in the PM peak. The HA consider this a robust assessment and modelling shows that the proposed access onto the A61 is expected to operate within capacity with minimal queuing and delays.

- 7.28 Overall, the HA consider that the impacts of the development on highway safety would be acceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. Therefore, subject to conditions requiring the works approved being constructed in line with the approved details, providing the access with adequate visibility splays and the submission of a construction management plan there is no objection to the proposal from the HA.

Ecological Considerations

- 7.29 The proposed development would result in the loss of some trees and a modest area of green space.
- 7.30 The application was submitted prior to the 2nd April so is exempt from the new Government Biodiversity Net Gain requirements.
- 7.31 Given the location, size of the land affected, and level of the works proposed framed by a main road, two storey buildings and busy car park, officers conclude that the proposed development would not have an overall adverse impact on biodiversity or geodiversity.
- 7.32 The PPET (Tree) officer notes the removal of T13, T14, T17 and G7, along with the retention of T15 and T16. The trees to be retained are Wild Cherry. No objection is made to the proposed development subject to the inclusion of a tree protection condition on any decision. The condition seeks to introduce a root protection area around the retained trees, include protective fencing and methods to improve the rooting environment.

Archaeological Considerations

- 7.33 Local Plan policy SDC7 states that proposals for development that affect heritage assets with archaeological interest will be permitted provided that it can be demonstrated that the development will not be harmful to the archaeological interest of the heritage assets or their settings, having regard to their significance.
- 7.34 The application site lies adjacent to the former route of Ryknield Street roman road. This follows the alignment of High Street and is not within the main body of the application site.
- 7.35 The County Council's Archaeologist has raised no comments.
- 7.36 Officers conclude that the proposed development would not be harmful to any archaeological interest.

8.0 Summary and Conclusion

- 8.1 The proposed development involves the formation of a new access, relocated crossing, new footpaths and rearranged car park arrangement which includes EV car charging points and disabled spaces. It forms part of the wider Clay Cross Town Investment Plan (TIP).
- 8.2 The overall proposal would, in this now amended form, preserve the significance of the nearby Grade II listed St Bartholomew's Church and its setting. It would also preserve the character of the Clay Cross Conservation Area.
- 8.3 In design terms, whilst losing some trees and a modest area of green space it would enhance the connectivity of the car park with the wider town centre and respond positively to local character and context to preserve its quality and local identity.
- 8.4 There are no amenity issues resulting from the proposed development that would lead officers to conclude that the scheme should be refused.
- 8.5 In highway safety terms, no objection has been received from the County Council's Highways Authority and, subject to conditions, it is officers view that the proposed development would not lead to an unacceptable impact on highway safety and the residual cumulative impact on the wider road network would not be severe.
- 8.6 Given the nature of development, officers consider that the proposed development would not have an adverse impact on biodiversity or geodiversity. Furthermore, subject to a condition relating to tree protection measures there is no objection to the works to the trees.
- 8.7 Accordingly, the proposed development is supported by policies of the Development Plan.

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 3 years from the date of this permission.

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

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

- 06847-PL-B-0100 REV P05 (A61 Junction General Arrangement)
- 06847-PL-B-0101 REV P04 (A61 Junction Engineering Plan)
- 06847-PL-B-0105 REV P0 (Existing Site Plan)
- 06847-PL-B-0120 REV P03 (A61 Junction Vehicle Tracking)
- 06847-PL-B-3000 REV P03 (A61 Junction Landscaping)
- 06847-PL-B-S38 REV P03 (A61 Junction Land Dedication Plan)

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

3) Notwithstanding the submitted details, before any above groundwork commences on the new access, a scheme of hard landscaping (including surfacing to the car park, footpaths, bollards, etc) along with a timetable for its implementation shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be completed as agreed.

[Reason: In the interest of the character and appearance of the site and the surrounding Conservation Area.]

4) The Development hereby approved shall not be brought into use until the highway improvements/offsite works/site access works comprising:

- A61 Junction Engineering Plan as shown on drawing no. 06847-PL-B-0101 Revision P04
- A61 Junction General Arrangement as shown on drawing no. 06847-PL-B-0100 Revision P05

Have been constructed and completed.

[Reason: To ensure the safe and free flow of traffic onto the highway.]

5) The development hereby approved shall not be brought into use until visibility splays are provided from a point 0.6m above carriageway level at the centre of the access to the application site and 2.4m back from the near side edge of the adjoining carriageway, (measured perpendicularly), for a distance of 43m in each direction measured along the nearside edge of the adjoining carriageway and offset a distance of 0.6m from the edge of the carriageway. These splays shall thereafter be permanently kept free of all obstructions to visibility over 0.6m in height above carriageway level.

[Reason: In the interests of highway safety.]

- 6) Prior to commencement of the development hereby permitted details of a construction management plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the demolition/construction period. The plan/statement shall include but not be restricted to:
- Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
 - Advisory routes for construction traffic;
 - Any temporary access to the site;
 - Locations for loading/unloading and storage of plant, waste and construction materials;
 - Method of preventing mud and dust being carried onto the highway;
 - Arrangements for turning vehicles;
 - Arrangements to receive abnormal loads or unusually large vehicles;
 - Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

[Reason: In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development.]

- 7) Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority.

Specific issues to be dealt with in the TPP and AMS:

- a. Location and installation of services/ utilities/ drainage.
- b. Details of any construction within the RPA or that may impact on the retained trees.
- c. A full specification for the installation root barriers and root deflectors.
- d. A specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing.
- e. Tree protection during construction indicated on a TPP and construction and construction activities clearly identified as prohibited in this area.
- f. details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires
- g. Boundary treatments within the RPA
- h. Methods to improve the rooting environment for retained and proposed trees and landscaping.

The development thereafter shall be implemented in strict accordance with the approved details.

[Reason: Required prior to commencement of development to satisfy the Local Planning Authority that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality, in accordance with Policy SDC2: Trees, Woodland and Hedgerows and pursuant to section 197 of the Town and Country Planning Act 1990.]

PLANNING COMMITTEE – 14th May 2024

Reference Number: 23/00189/FL

Application expiry: 17/05/24

Application Type: Full

Proposal Description: Residential development of former DCC Highways storage depot to erect 5 detached two storey dwellings and creation of new access (Amended Plans)

At: Highways Storage Lane, Chesterfield Road, Grassmoor

For: DC Homes Limited

Third Party Reps: 5 objections

Parish: Grassmoor, Hasland & Winsick

Ward: Grassmoor

Report Author: Graeme Cooper

Date of Report: April 2024

MAIN RECOMMENDATION: Grant permission, subject to conditions



Figure 1: Location plan, with site edged in red

1.0 Reason for Report

- 1.1 Cllr Cupit requested that this application be considered by Planning Committee due to concerns regarding the potential highways issues in this area along with the scale and density of the proposals.

2.0 Proposal and Background

Site Description

- 2.1 The application site is a triangular shaped site fronting onto Chesterfield Road. Its previous use was a Highways Storage Depot for Derbyshire County Council (DCC). The site has been disused for some time and had become overgrown, but has now been cleared of nearly all vegetation, with the exception of some trees along the eastern boundary and fronting Chesterfield Road.
- 2.2 The site rises from Chesterfield Road into the north east corner. Properties to the north sit adjacent to the application site and the northern boundary is a mix of low brick wall and timber fencing. To the east are open agricultural fields, with the boundary made up of a hedgerow and self-set trees. Opposite the site are existing properties fronting Chesterfield Road.
- 2.3 The site is within the Settlement Development Limit of Grassmoor.

Proposal

- 2.4 This application is for 5 large detached dwellings fronting onto Chesterfield Road. Initial proposals illustrated 5 large dwellings, with one fronting Chesterfield Road and the others backing onto countryside to the south.
- 2.5 A Design and Access Statement, Coal Mining Risk Assessment, Flood Risk Assessment and Biodiversity Reports have been submitted for consideration.

Amendments

- 2.6 Following concerns raised by Officers to the overall layout, design of the proposed dwellings and impact on highway safety amended plans were submitted for consideration.
- 2.7 An amended scheme was submitted which included 4 detached properties fronting directly onto Chesterfield Road, with access to the rear of the site taken from the southern corner of the site. A further dwelling is proposed to the rear of the site and parking for all properties is formed around a turning

area. 2 visitor spaces are proposed parallel to the site access. Pedestrian access to the properties fronting Chesterfield Road would be provided.

- 2.8 Following additional comments from the Highways Authority a further amended plan, drawing PL_01 Rev F was submitted to ensure that the visibility splays from the site were included in the applicant's land ownership. The latest amended layout can be seen in Figure 2 below.



Figure 2: Extract of proposed site layout (taken from drawing PL_01 Rev F)

3.0 Relevant Planning History (not the full site history)

- 3.1 20/00198/OL - Application with all matters reserved for outline permission to construct eight houses (Withdrawn)

4.0 Consultation Responses

- 4.1 **Parish Council** wish to object to this application on the following grounds:

“The land itself and North Wingfield Road adjacent to the proposed development are areas that are prone to flooding and the development will

only make this issue worse in the future. The highways access to the site is on to a busy main road and the Parish Council consider given its position, that this would be dangerous and unsafe.”

- 4.2 The **Parish Council** were re-consulted on amended plans and made the following objection:

“The Parish Council wishes to object to the above application on the following grounds:

The site is on a busy main road and also on a bend where visibility is poor. The Parish Council is concerned that there would be a high risk of a serious accident should the application be approved.

The stretch of road adjacent to the site is prone to flooding. The Parish Council is concerned that the development will only make this problem worse and potentially put houses on the opposite side of the road in danger of being flooded. As mentioned above, the site is on a main road and if more standing water is on the road, this increases the risk of serious accidents.”

- 4.3 **Ward Member** Cllr Cupit raised concern regarding the potential highways issues in this area along with the scale and density of the proposals. It is requested that the application be considered by planning committee.

- 4.4 **Highways Authority** (HA) raised the following comments to the original and amended scheme.

Comments 18/04/23

The Proposed Site Plan illustrates the creation of new vehicular access via North Wingfield Road, which is subject to a 30mph speed limit. Drawing No. PL_01 Rev A demonstrates an access width of 5m which is in accordance with the Delivering Streets and Places Design Guide (DSPDG) for a development of this scale.

The applicant has attempted to demonstrate vehicular visibility splays of 2.4m x 43m on the proposed site plan. However these have been drawn incorrectly and therefore a revised plan should be submitted which demonstrates vehicular visibility splays at a setback distance of 2.4m (measured along the centre-line of the access) back from the near edge of the carriageway to a point offset a maximum of 1m into the carriageway.

Additionally an independent Stage 1 Road Safety Assessment (RSA) with a designers response should also be submitted.

The HA have reviewed parking provision on Drawing No. PL_01 Rev A and it is currently unclear how many parking spaces are allocated to each

dwelling in particular for plots 2/3. Considering the proposed development is for five 4-bed dwellings, in accordance with Part 4 of the DSPDG each dwelling should have a minimum of three parking spaces. Minimum parking size dimensions of 2.4m x 5.5m, with an additional 0.5m if bounded by a wall, fence, hedge, line of trees or other similar obstructions on 1 side, 1m if bounded on both sides.

Consequently, until the above is addressed the HA is unable to determine if the development proposal is acceptable in highway terms.

4.5 *Comments 19/09/23*

The HA note the revised access position, which is illustrated on the Proposed Site Plan. Drawing No. PL_01 Rev D demonstrates an access width of 4.75m, which is in accordance with the Delivering Streets and Places Design Guide (DSPDG) for a development of this scale. The applicant has illustrated vehicular visibility splays of 2.4m x 43m on the proposed site plan. However the visibility splay to the south appears to be impeded by third party land as shown on the image (taken from proposed site plan) on the right. Additionally an independent Stage 1 Road Safety Assessment (RSA) has been submitted, which has also raised the visibility splay to the South as a problem. The applicant is advised visibility splays must remain within the applicant's land and highway land; they cannot encroach into third party land. As such the applicant may wish to shift the access further North to achieve the required visibility splays. Given the quantum of development the proposed parking is acceptable and in accordance with the Delivering Streets and Places Design Guide (DSPDG). The HA is satisfied that the site affords sufficient turning facilities in order to enable vehicles to enter and exit the site in a forward gear. An updated site plan is therefore requested.

4.6 *Comments 02/11/23*

Requested updated plans indicating the visibility splay from the site being included in land under the applicants control.

4.7 *Comments 30/01/24*

Following the submission of additional information the HA notes that the applicant has illustrated vehicular visibility splays of 2.4m x 43m on the proposed site plan (Rev F), which are in accordance with the Delivering Streets and Places Design Guide (DSPDG). As such the HA has no objection to the proposed development subject to conditions relating to the provision of access, parking and turning in line with the approved plans, adequate vehicle and pedestrian visibility splays being provided onto Chesterfield Road, and a condition requiring the submission of a construction management plan before development commences.

- 4.8 **Environmental Health (EHO)** raised no objection subject to conditions covering land contamination and hours of construction due to proximity to existing residential development.
- 4.9 **The Coal Authority** raised no objection subject to the imposition of conditions relating to past coal mining activity.
- 4.10 **Derbyshire Wildlife Trust (DWT)**
Comments 31/05/23
DWT advise that a Preliminary Ecological Appraisal (PEA) should be completed to provide up to date information about the site, including the habitats and species it supports. The field survey work should be undertaken by a suitably qualified and experienced ecologist and be supported by a desk study, which includes obtaining existing records from the local record centre. The format and content of the ecology report should follow current guidelines (CIEEM, 2019 and British Standard BS:42020: 2013). To be sufficient for planning purposes, the report should provide an assessment of impacts, along with details of agreed mitigation and compensation measures (not recommendations). It should also provide details of enhancement opportunities and explain how the development will result in a measurable net gain for biodiversity, in line with guidance within the NPPF 2021. We would be happy to comment on the ecological survey report once it has been produced.
- 4.11 *Comments 16/08/23*
DWT reviewed the submitted PEA, prepared by Elite Ecology dated March 2023. The report confirms the site was cleared since the 2019 survey which found the site to be of a low value habitat. DWT would typically advise that the baseline for biodiversity net gain is calculated using the previous data, in this case, we do not have an objection to using the current baseline. A metric should be completed for the site to demonstrate that a gain can be achieved, in line with local and national policy.
- 4.12 The PEA makes contradicting statements about suitability for reptiles and whether further survey is necessary. We believe that the recommendation for survey may be an error from when the site supported more suitable habitats. We do not consider that reptile presence/absence survey is necessary but rather recommend that a best practice approach is taken to removal of the brush pile and any other habitat features. This can be secured via condition, along with species enhancements.
- 4.13 *Comments 10/04/24*
DWT reviewed the submitted Small Sites Metric, Biodiversity Impact Assessment (BIA) and BNG Statement. It is noted a net loss of 0.3 habitat units is predicted. DWT also note that additional wildlife features will be provided within the proposal.

- 4.14 The BIA sets out the options to secure the additional units required to achieve a gain and states that two are currently being explored (these are assessed in more detail below). Given that there is a reasonable level of confidence that a net gain can be achieved, DWT consider it acceptable to secure this via a suitably worded condition. Any offsite gain will have to be secured by way of a legal agreement. Given the limited extent of onsite gains, a detailed Landscape Plan including management prescriptions would be suitable and subject to conditions relating to BNG provision, nesting birds, site clearance methods and species enhancement DWT have no objection to the proposal.
- 4.15 **NEDDC Streetscene** raised no comments.
- 4.16 **Lead Local Flood Authority (LLFA)** initially noted that the proposal is a minor application and as such no formal comments are made. However a number of advisory/informative notes are recommended for inclusion on any decision issued by the LPA. However given the site specific conditions further comments were requested.
- 4.17 *Comments 12/04/24*
The LLFA reviewed the submitted details and raised a number of questions relating to the FRA, proposed outfall from site, the expected surface water discharge rate, existing surface water discharge rate, clarity on the drainage calculations and if there will be an increase in the impermeable area on site.
- 4.18 Following the submission of additional drainage information on 23/04/24 the LLFA were reconsulted and raised no objection to the proposed development subject to conditions.
- 4.19 **Yorkshire Water Authority (YWA)** raised no comments.
- 4.20 **Council's Drainage Engineer** was consulted on the proposed development and understands the concerns regarding flooding to this area but realistically the development will be reducing the amount of surface water runoff onto the highway and the issue with highway flooding isn't the applicants to deal with. The officer reiterates the comments of the LLFA and as long as the developer demonstrates the appropriate level of treatment stages from the resultant surface water discharge, in line with Table 4.3 of the CIRIA SuDS Manual C753¹ we have no reason to object.
- 4.21 **Forward Planning and Development Team** raised no comments.

¹ [The SuDS Manual \(unisdr.org\)](https://www.unisdr.org/)

- 4.22 **Derbyshire Swift Conservation Project** note that the submitted Preliminary Ecological Appraisal (PEA) omits any recommendation for biodiversity enhancements in the form of integrated nest bricks despite best-practice guidance stating that ecological enhancement for declining urban bird species should take the form of Swift bricks integrated into the façade.
- 4.23 Integrated nest bricks are preferable to external nest boxes as they become a permanent feature of the building, require zero maintenance, are aesthetically integrated with the design of the building, are less vulnerable to vandalism and have better thermal regulation with future climate change in mind. Additionally, such bricks are considered a universal nest brick for urban bird species, including red-listed species such as Common Swift, House Sparrow, House Martin, and Starling.

5.0 Representations

- 5.1 The application was publicised by way of neighbour letters and the display of a site notices adjacent to the site. A Site notice was placed adjacent to the application site on Chesterfield Road which expired on 7th April 2023. The application was on the weekly list which expired on 10th April. Amended plans were submitted and consultees re-consulted for 14 days. This consultation period ended on 12th July 2023.
- 5.2 Five objections have been received from a single resident making the following comments objecting to the proposed development:
- Negative impact on the mature trees
 - Site cleared having detrimental impact on ecological features
 - Negative impact of proposal on wildlife
 - Water run-off onto Chesterfield Road could cause localised flooding
 - Standing water on Chesterfield Road is a regular occurrence
 - New home owners could be stranded if flooding occurs again
 - Proposed development would make flooding issues on Chesterfield Road even worse
 - Chesterfield Road in this location is a chicane and potentially unsafe for vehicles exiting the site
 - Poor visibility onto Chesterfield Road from the site
 - Further housing in Grassmoor unnecessary
 - Scheme does not include any affordable housing [*Officer note: there is no requirement contained in National and Local planning policies requiring development of this scale to provide affordable housing*]
 - Strain on local amenities, such as doctors and schools.

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
- SS7 Development on Unallocated Land within Settlement with defined Settlement Development Limits
- LC4 Type and Mix of Housing
- SDC2 Trees, Woodlands and Hedgerows
- SDC3 Landscape Character
- SDC4 Biodiversity and Geodiversity
- SDC11 Flood Risk and Drainage
- SDC12 High Quality Design and Place Making
- SDC14 Land potentially affected by Contamination or Instability
- ID3 Sustainable Travel

National Planning Policy Framework (NPPF)

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

Other Material Planning Considerations

6.3 Successful Places Interim Planning Guidance, adopted December 2013.

7.0 Planning Issues

Principle of Development

7.1 The application site is a former County Council Depot within the Settlement Development Limit of Grassmoor.

7.2 Local Plan policy SS1 considers sustainable development in the District and development proposals will support the local economy by contributing towards business expansion and growth; reduce the need for energy in new developments and ensure that it can use energy efficiently through the lifetime of the development; create well designed places; protect and enhance the character, quality and setting of heritage assets; and play a positive role in adapting to and mitigating the effects of climate change and take into account land stability risks and where necessary incorporate mitigation measures to address the risk.

- 7.3 Local Plan policy SS7 states that all development proposals on sites within Settlement Development Limits that are not allocated in the Local Plan or in a Neighbourhood Plan, will be permitted, provided that the proposed development:
- a. Is appropriate in scale, design and location to the character and function of the settlement; and
 - b. Does not result in the loss of a valued facility or service unless it can be demonstrated that it is no longer viable, or is not the subject of a Community Right to Bid; and
 - c. Is compatible with, and does not prejudice any intended use of adjacent sites and land uses; and
 - d. Accords with other policies of the Plan.
- 7.4 In view of the above, the principle of development is considered acceptable in this case subject to an assessment against the various strands of planning policy as outlined above.

Design/Street Scene/Landscape Considerations

- 7.5 Policy SS1 of the LP states that development proposals will “*create well designed places that are accessible, durable, adaptable and enhance local distinctiveness*”.
- 7.6 Local Plan policies and the NPPF consider that the design and layout of new housing development should be considered in the context of the immediate and wider locality. The local pattern of streets and spaces, building traditions, materials and ecology should help to determine the character and identity of any development. Specifically, Local Plan policy SDC12 seeks to ensure new development meets the highest standards of urban and architectural design, positively contributing to the quality of the local environment.
- 7.7 The application site is located in the Settlement Development Limit for Grassmoor and is a former county highways depot and has become overgrown. Existing residential development sits to the north west and south west of the site.
- 7.8 The immediate street scene in this location is a mix of detached houses and bungalows to the west, semi-detached properties to the north west and hipped roofed semi-detached properties opposite. To the south east is also a row of terraced properties. There is also a mix of red brick and rendered properties.
- 7.9 The latest amended layout as seen in Figure 2 above illustrates 5 dwellings on a triangular shaped site on the edge of Grassmoor. The proposed

dwellings will be 3, 4 and 5 bed, two storey dwellings. A red brick finish, with soldier course detailing and grey roof tile is illustrated, details of which can be controlled by condition.

- 7.10 Access is taken from Chesterfield Road and will serve all 5 dwellings, with parking provided to the rear of the site. 4 properties will front onto Chesterfield Road and have a pedestrian access only. Figure 3 below illustrates the proposed street scene view from Chesterfield Road.



STREET SCENE ELEVATION SCALE: 1:100

Figure 3: Proposed street scene view

- 7.11 The site slopes from the rear down to Chesterfield Road, with properties on a new development to the north positioned in an elevated position to this site. An indicative levels plan (see Figure 4 below) has been submitted showing the changes in levels across the site. Full levels details will need to be submitted to and approved by the Local Planning Authority, this can be controlled by way of condition.

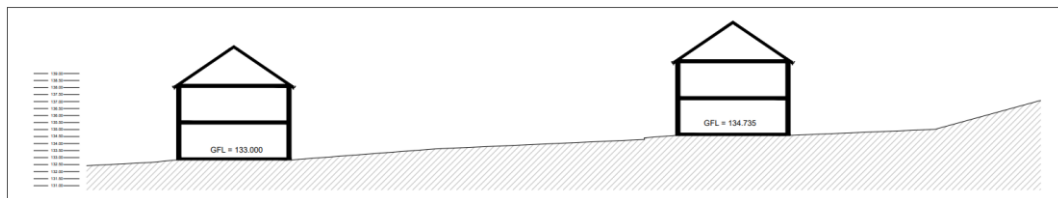


Figure 4: Indicative site levels

- 7.12 The submitted plans illustrate a low brick boundary wall fronting Chesterfield Road and a feature wall, brick piers and infill timber to the side of the access road into the site. A 1.8m high timber fencing will frame the rear gardens of the properties. No specific boundary treatment details have been submitted between the application site and No.333 to the north, and as such full boundary treatment details will need to be submitted at a later date. This matter can be addressed by way of condition.
- 7.13 Landscaping details submitted with the application are limited to the retention of trees and hedgerow along the south eastern boundary of the site. A single tree fronting the site will have to be removed to accommodate the development. It is considered that there is sufficient space within the site to accommodate some native landscaping, details of which can be controlled by condition.

- 7.14 Access into the site is by a private tarmac drive which leads to a turning point and a number of parking spaces, including two parallel parking spaces on the access road. The submitted details are unclear how these will be surfaced and as such it is considered necessary to require these details are controlled by a condition.
- 7.15 Overall officers consider that, subject to conditions, the proposed development would be of a design and layout which would be in keeping with the surrounding street scene.

Privacy and Amenity Considerations

- 7.16 The nearest residential properties are those to the north and opposite the site on Chesterfield Road.
- 7.17 Local Plan policy SDC12 includes a requirement for new development to “*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*” and to create open space which is overlooked and development which is inclusive to all.
- 7.18 The Council’s Successful Places Planning Guidance provides guidance on separation distances, gardens sizes and the general layout of development to avoid loss of privacy for existing and future residents.
- 7.19 The proposal is now for 5 detached dwellings, with 4 fronting onto Chesterfield Road and the other set to the rear of the site. All dwellings will be accessed via a single point of access in the southern corner of the site. Parking is provided to the rear of the site, with properties fronting Chesterfield Road having a direct pedestrian access.
- 7.20 No.333 Chesterfield Road sits to the north west of the site, sits side onto the application site and has a blank side elevation. The primary view from this property is onto Chesterfield Road and to the east into their own private rear garden. The boundary between this property and the application site is made up of a low brick wall and will need enhancing. No details have been submitted but these details can be covered by way of condition. The separation between the proposed development and No.333 is considered acceptable. The proposed dwelling in this position has one side facing ground floor window which will serve a utility room. Rear facing upper floor windows will have angled views into the far extent of the garden to No.333 and back towards No.27 and 29 Farmhouse Way. The properties on Farmhouse Way are in excess of 21m away and as such it is considered by officers that this relationship would be acceptable.

- 7.21 The other properties to the north of the application site which could be impacted by the proposed development are numbers 27 and 29 Farmhouse Way. These properties are set up higher than the application site. The proposed dwelling which would be sited to the rear of the application site includes no upper floor side facing windows which would face towards these properties. Furthermore rear facing windows proposed in the dwelling to the rear of the site would face into its own rear garden. Any elevated views from upper floor windows would face into a front parking area associated with numbers 25 and 27, officers consider this relationship acceptable.
- 7.22 The proposed dwellings fronting Chesterfield Road will be set back approx. 24m from properties opposite, which accords with the separation distances contained in the Council's Successful Places Interim Planning Guidance.
- 7.23 The proposed access onto Chesterfield Road is located in a similar position to the existing access. Properties opposite are likely to have some disturbance from the comings and goings of vehicles into the application site, however given the scale of development officers do not consider that this would be harmful.
- 7.24 Internally, the proposed development includes a row of 4 dwellings fronting Chesterfield Road and another to the rear of the site, these are set approx. 26m apart. Due to the levels on site the dwelling to the rear of the site will be in an elevated position compared to those fronting the site, however the minimum separation distance being 21m as set out in the Council's Successful Places Interim Planning Guidance. As such, it is considered that the layout to be acceptable in privacy and amenity terms.
- 7.25 The proposed dwellings are a mix of 3, 4 and 5 bedroom properties. The Council's Successful Places Interim Planning Guidance requires 3 bed dwellings to be provided with 70sqm of private amenity space and 4+ bedroom dwellings with 90sqm. 4 properties appear to comfortably meet this guidance, with a single dwelling having approx. 80sqm of private outdoor amenity space. Whilst this falls just marginally short of the required 90sqm, officers note that not all residents desire large gardens and it is not considered a strong enough reason to refuse the proposed development on this matter alone.
- 7.26 In view of the above, Officers consider that the proposed development would protect the privacy and amenity of existing occupiers and create a good quality of privacy and amenity for future occupants.

Highway Safety Considerations

- 7.27 The proposal is for 5 dwellings with a single point of access from Chesterfield Road. Within the site 14 car park spaces are proposed and the dwelling to the rear of the site will have an integral garage measuring 3m x 5.5m. Two additional informal parallel parking spaces are provided adjacent to the access road and a turning area is also provided within the site to allow vehicles to turn around and exit the site in a forward gear. No information is provided as to how refuse bins will be presented, but this matter can be addressed by way of condition.
- 7.28 Officers note the concerns of residents regarding the nature of Chesterfield Road in this location and the visibility from the application site.
- 7.29 The Highways Authority (HA) have noted the latest amended plans and that vehicular visibility splays of 2.4m x 43m are now achievable onto Chesterfield Road in line with the Delivering Streets and Places Design Guide (DSPDG). Subject to conditions, no objection is raised to the proposed development.
- 7.30 Officers note the above comments and have to weigh the comments of the HA with the concerns raised by residents. The applicant has confirmed safe visibility splays from the site can be achieved and Officers are of the view that an acceptable refuse collection scheme can be controlled by way of condition.
- 7.31 Overall officers conclude that, subject to conditions, the proposed development would not lead to an unacceptable impact on highway safety and the residual cumulative impact on the wider road network would not be severe.

Drainage Considerations

- 7.32 The site falls in Flood Zone 1 with the lowest probability of flooding. A small area to the south of the application site is identified as at low risk of surface water flooding.
- 7.33 Guidance on Gov.uk² confirms the site is in Flood Zone 1 and part of the site frontage is at a low risk of surface water flooding (see Figure 5 below). Based on the site being at risk in the southern corner from surface water flooding and the proposed development would change its vulnerability classification it is considered that a Flood Risk Assessment (FRA) is required.

² [Flood risk information for this location - Flood map for planning - GOV.UK \(flood-map-for-planning.service.gov.uk\)](https://www.gov.uk/guidance/flood-risk-information-for-planning)



Figure 5: Extent of low risk of surface water flooding on Chesterfield Road

- 7.34 A FRA, prepared by Botham’s Architectural Design has been submitted and considers potential flood risk on and adjacent to the site. The FRA accepts the risk of historical surface water flood risk on Chesterfield Road. The proposed development will be designed to control surface water and limit surface water running off the site. The FRA concludes that the proposed development, subject to a carefully designed surface water drainage scheme, will not create additional flood risk within or adjacent to the application site.
- 7.35 Officers note the objections raised stating that water run-off from the site enters Chesterfield Road and are aware of footage of flooding on the highway from 2007 and more recently from October 20th 2023. Notwithstanding this, Officers do not consider that this is evidence that flood risk is likely to be exacerbated by the proposed development.
- 7.36 The LLFA note that the highway to the southwest of the site has between a 3.3% and 1% chance of surface water flooding during any year under the current conditions on the site. Therefore surface water flooding will very likely occur on the highway to the southwest of the site whether the proposal proceeds or not. The LLFA conclude that surface water generated by the proposed development will be capable of being captured in the sustainable drainage system and released at controlled rate. As a result, the LLFA have no objection to the proposed development, subject to conditions.
- 7.37 The Councils Drainage Engineer commented that they understand concerns with regards to localised flooding on Chesterfield Road, but they were of the view that the proposed development is more likely to reduce the amount of surface water runoff onto the highway and the issue with highway flooding isn’t the applicants to deal with. They have no objection to the proposal.

- 7.38 Yorkshire Water raised no comments.
- 7.39 No objection has been received from any statutory consultee and as such Officers are of the view that, subject to conditions, the proposed development can be adequately drained and will not adversely affect the local environment, amenity or public health.

Land Contamination/Land Stability Considerations

- 7.40 A Coal Mining Risk Assessment has been submitted, prepared by GRM Development Solutions Ltd dated 31st January 2020. The report sets out risks within the site from coal mine workings. No land contamination reports have been submitted with the application.
- 7.41 The Coal Authority reviewed the submitted details and raised no objection to the proposed development subject to conditions relating to the developer undertaking intrusive site investigations prior to work commencing on site.
- 7.42 The Councils EHO raised no objection to the proposal subject to conditions covering land contamination and construction working hours.
- 7.43 Officers conclude that there are no technical reasons relating to land contamination or land stability that would preclude development.

Ecological Considerations

- 7.44 A Preliminary Ecological Appraisal (PEA) prepared by Elite Ecology, dated March 2023 has been submitted for consideration. The report makes a number of recommendations about habitats, trees and wildlife corridors. It recommends that if no works commence within 6 months of the date of the report a badger survey be undertaken. No removal of trees or hedgerows should be undertaken during nesting season and no artificial lighting should be shone onto the surrounding trees. Hedgehog gaps should be provided. Site enhancements for birds, bats, flora and invertebrates should be considered. It is important that biodiversity Net Gain needs to be ensured within the scheme of works.
- 7.45 A Biodiversity Impact Assessment, prepared by Futures Ecology dated March 2024 has been submitted and states that the proposal would result in a loss in habitat biodiversity on site as such 3 potential recommendations have been outlined by the ecologist to make up 0.5 habitat units to ensure a net gain resulting from the proposed development. These options include utilising off site land under the applicant's control, biodiversity credit purchase from a third party habitat bank or secure credits from the

governments statutory biodiversity credits. This can be secured by condition at this stage and then by legal agreement at a later stage.

- 7.46 DWT initially commented on the submitted PEA and recommended that the recommendations made in the report can be controlled by way of condition but required a BNG assessment be undertaken for the site.
- 7.47 Following the submission of a Small Sites Metric, Biodiversity Impact Assessment (BIA) and BNG Statement, DWT were reconsulted. They note that a net loss of 0.3 habitat units (20.96%) is predicted and that additional wildlife features will be provided within the proposal.
- 7.48 DWT note that the submitted BIA outlines 3 options for off site habitat mitigation as described above. DWT understand that there is capacity for Wild Solutions can provide the required units. Given that there is a reasonable level of confidence that a net gain can be achieved, DWT consider it acceptable to secure this via a suitably worded condition. Any offsite gain will have to be secured by way of a legal agreement. Given the limited extent of onsite gains, a detailed Landscape Plan including management prescriptions would be suitable and subject to conditions relating to BNG provision, nesting birds, site clearance methods and species enhancement DWT have no objection to the proposal.
- 7.49 The Derbyshire Swift Conservation Project notes that the PEA omits any recommendation for biodiversity enhancement in the form of integrated nest bricks despite best-practice guidance stating that ecological enhancement for declining urban bird species should take the form of Swift bricks integrated into the façade. A condition to cover this request can be included in any decision issued by the LPA.
- 7.50 Based on above, officers consider that, subject to conditions, the proposed development would protect and enhance biodiversity.

Other Considerations

- 7.51 No reference is made in the proposed development to the provision of mitigating climate change. Officers consider that this matter can be controlled by way of condition on any decision.

8.0 Summary and Conclusion

- 8.1 The application site is within the Settlement Development Limits for Grassmoor where new residential development is acceptable in principle.

- 8.2 The proposal for 5 dwellings would complement the site and the surrounding street scene and offer a scheme of development that would respect the countryside edge in this location.
- 8.3 The proposed development would protect the privacy and amenity of existing occupiers and create a good quality of privacy and amenity for future occupants.
- 8.4 In highway safety terms, officers conclude that, subject to conditions the proposed development would not lead to an unacceptable impact on highway safety and the residual cumulative impact on the wider road network would not be severe.
- 8.5 Technical matters such as site drainage, land stability, land contamination and ecology/biodiversity can be addressed by suitably worded conditions or informative notes.
- 8.6 Overall, Officers conclude that the development is in accordance with the policies (and land allocation) contained in the Local Plan. The application should be determined in accord with it unless material matters suggest otherwise.
- 8.7 Accordingly, there are not considered to be any matters to outweigh the Development Plan and so the proposal is recommended for approval subject to conditions.

9.0 Recommendation

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

Conditions

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

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

- 2) Unless otherwise required by any condition contained in this decision notice the development hereby permitted shall be carried out in accordance with the details shown in the following plans:
 - PL_01 Rev F (Amended Site Plan)
 - PL_02 Rev A (Amended Site Location Plan)

- PL_03 Rev C (Amended House Type 1)
- PL_04 Rev C (Amended House Type 3)
- PL_06 Rev A (Amended House Type 2 - Rear plot)

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

Construction Details

- 3) Notwithstanding the submitted details, before development commences, details of the existing ground levels, proposed finished floor levels of the dwellings and the proposed finished ground levels of the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.

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

- 4) Before above ground work starts, precise specifications (including the manufacturer, range and colour details where applicable) or samples of the walling and roofing materials to be used, shall be made available on site for inspection, and subsequent written approval, by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.

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

- 5) Before above ground work starts, a plan illustrating the position, design and materials of hard landscaping in shared public areas (including driveway, turning area and parking areas) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the occupation of any dwelling and shall be retained as approved thereafter.

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

Landscaping

- 6) Before above ground work 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) a schedule of proposed native plant species, size and density and planting locations and
- d) an implementation programme.

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

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

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

Boundary Treatments

- 8) Notwithstanding any submitted details, before above ground work starts a plan to show the positions, design, materials, height and type of boundary treatments to be erected and/or retained shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the occupation of each dwelling and shall be retained as approved thereafter.

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

Climate Change

- 9) Before above ground work starts, a scheme for mitigating climate change through the sustainable design and construction of the dwellings including the provision of sources of renewable energy shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the approved climate change scheme shall be implemented in full and retained as such thereafter.

[Reason: In the interest of delivering sustainable development and in accordance with the North East Derbyshire Interim Sustainable Buildings Policy, policies SS1 and SDC12 of the North East Derbyshire Local Plan and the National Planning Policy Framework.]

Environmental Health

- 10) Construction works on the site and deliveries to the site shall be undertaken only between the hours of 07:30 to 18:00 Monday to Friday and 07.30 to 13:00 on Saturdays. There shall be no work undertaken on site or deliveries to the site on Sundays or bank/public holidays.

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

Land Contamination

- 11) Development, other than that required to be carried out as part of an approved scheme of remediation, must not commence until;

a. A Phase I contaminated land assessment (desk-study) shall be undertaken and approved in writing by the local planning authority.

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

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

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

[Reason: To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water.]

12) Before the commencement of the development hereby approved:

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

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

[Reason: To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water.]

13) No dwellings hereby approved shall be occupied until:

a. The approved remediation works required by condition 12 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, which have not previously been identified, then all works shall be suspended until the nature and extent of the contamination is assessed and a report submitted and approved in writing by the local planning authority and the local planning authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated through the process described in condition 11(b) to 12 above and satisfy condition 13(a) above.

c. Upon completion of the remediation works required by conditions 12 and 13(a) above a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show

the site has achieved the approved remediation standard, together with the necessary waste management documentation shall be included.

[Reason: To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water.]

Land Stability

- 14) No development shall commence until;
- a) a scheme of intrusive site investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;
 - b) 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 made safe and stable for the development proposed.

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

[Reason: The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework.]

- 15) 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.

[Reason: The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and

stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework.]

Drainage

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

[Reason: In the interests of the satisfactory drainage of the site.]

- 17) Before development starts, a scheme for the provision of foul drainage works shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full before the development is brought into use and shall be maintained as such thereafter.

[Reason: In the interests of the satisfactory drainage of the site.]

- 18) 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. Haigh Huddleston & Associates. April 2024. *Proposed Development off Chesterfield Road, Grassmoor*. E07/1624/MH/PW/8179.
 - b. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015), "including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team"
- have been submitted to and approved in writing by the Local Planning Authority.

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

- 19) 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 56 Reference ID: 7-056-20220825 of the planning practice guidance.

[Reason: To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the

hierarchy of drainage options. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

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

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

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

Highway Safety

21) The Development hereby approved shall not be occupied until the access, parking and turning facilities have been provided as shown on drawing no. PL_01 Rev F titled proposed site plan.

[Reason: To ensure conformity with submitted details.]

22) The development hereby approved shall not be occupied until visibility splays are provided from a point 0.6m above carriageway level at the centre of the access to the application site and 2.4m back from the near side edge of the adjoining carriageway, (measured perpendicularly), for a distance of 43m in each direction measured along the nearside edge of the adjoining carriageway and offset a distance of 0.6m from the edge of the carriageway. These splays shall thereafter be permanently kept free of all obstructions to visibility over 0.6m in height above carriageway level.

[Reason: In the interests of highway safety.]

23) The Development hereby approved shall not be occupied until pedestrian visibility splays of 2m x 2m measured perpendicularly back from the back of footway shall be provided on both sides of the access.

These splays shall thereafter be permanently kept free of all obstructions to visibility over 1m in height above the adjoining ground level.

[Reason: To ensure motorists have clear and unrestricted views of approaching pedestrians when pulling out onto the adopted highway, in the interest of highway safety.]

24) Prior to commencement of the development hereby permitted, details of a construction management plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the demolition/construction period. The plan/statement shall include but not be restricted to:

- Parking of vehicle of site operatives and visitors (including measures taken to ensure
- satisfactory access and movement for existing occupiers of neighbouring properties during
- construction);
- Advisory routes for construction traffic;
- Any temporary access to the site;
- Locations for loading/unloading and storage of plant, waste and construction materials;
- Method of preventing mud and dust being carried onto the highway;
- Arrangements for turning vehicles;

[Reason: In the interests of safe operation of the adopted highway in the lead into development both during the demolition and construction phase of the development.]

25) Prior to commencement of the development hereby permitted, details for the storage of refuse bins and collection of waste from the site, including any bin presentation areas, shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details and the facilities retained for the designated purposes at all times thereafter.

[Reason: To ensure that each property is provided with adequate bin collection arrangements clear of the public highway.]

Ecology

26) Prior to commencement of development, a strategy for achieving the required biodiversity net gain shall be submitted to and approved in writing by the Local Planning Authority.

The strategy shall deliver the number of units specified in the Small Sites Metric submitted as part of the application (dated 20th February 2024). Sufficient information shall be provided with regards to habitat creation/enhancement prescriptions and 30 year objectives for management and monitoring. A schedule for submitting monitoring reports to the Local Planning Authority shall also be included.

The approved strategy shall be implemented in full and in accordance with the approved details and shall be retained in that manner thereafter.

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

- 27) No tree, scrub or hedgerow clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.

[Reason: In the interest of protecting nesting birds. All in the interests of policy SDC4 of the North East Derbyshire Local Plan.]

- 28) Prior to the commencement of works (including clearance of habitats and refugia piles) a Method Statement for Site Clearance shall be submitted to the Local Planning Authority to safeguard common reptiles and amphibians. This shall include reasonable avoidance measures, seasonal timings and instructions in the event animals are discovered. The Method Statement shall be implemented in full, and a short statement of compliance submitted at the end of site clearance works.

[Reason: In the interest of protecting wildlife during site clearance works. All in the interests of policies SDC2 and SDC4 of the North East Derbyshire Local Plan.]

- 29) The Prior to building works commencing above foundation level, a Species Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. Approved measures shall be implemented in full and maintained thereafter. The Plan shall clearly show positions, specifications and numbers of features, which will include (but are not limited to) the following:
- universal nest boxes at ratio of 1:1, in line with British Standard 42021:2022.
 - integrated bat boxes in at least 2x dwellings.

- insect bricks in at least 2x dwellings and / or towers in public open space.
- fencing gaps 130 mm x 130 mm to maintain connectivity for hedgehogs in all gardens.

[Reason: In the interest of enhancing biodiversity, all in the interest of policy SDC4 of the North East Derbyshire Local Plan.]

Planning Committee 14th May 2024

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: Grassmoor, Hasland & Winsick Parish

APPLICATION: 23/00189/FL

CASE OFFICER: Graeme Cooper

1. SOURCE OF COMMENTS: Elaine & Eamonn Chapman

DATE RECEIVED: 04/05/24

SUMMARY:

I write to you to highlight our concerns regarding the planning application 23/00189/FL. DCC Highways Storage Depot.

Whilst we appreciate the positive development of this land, we have concerns about the infrastructure in place to support such a development. Mainly the inadequate drainage around this area.

The road has experienced severe flooding where the development is planned, the drains are unable to cope with the amount of water already running through them. This development will only add to the pressures placed on these drains risking further road flooding and risk to properties on the road at a lower level.

Could we ask that consideration is given to this risk and changes to the highway layout and drainage are improved to prevent further episodes of flooding.

Please see photos (below) of previous flooding outside this land in October 21 and Oct 23.



OFFICER COMMENTS:

These comments are noted and matters relating to flooding have been addressed in the officer report to members.

2. SOURCE OF COMMENTS: Cllr Durrant

DATE RECEIVED: 08/05/24

SUMMARY:

I am writing in regards to the above planning application within Grassmoor and concerns by local residents.

I have significant concerns regarding the placement of the entrance to the proposed estate. While the Highways authority is correct in saying that the area is 30mph this does not present a realistic image of the area. The 30mph zone starts only a few metres further up dropping from a 40mph road and drivers frequently drive at speed in this area and so an additional junction in a high traffic area would present significant risk to pedestrians and drivers.

Furthermore, the risk flooding in the area cannot be understated, the land aides in the drainage of the road and other houses and construction of an additional estate would risk pushing these flood waters onto existing resident properties. While the council drainage engineer has stated that the surface water runoff is not the applicants to deal with, I feel planning must take into account the public interest of existing residents that will be adversely affected by this construction. The reality is that additional floodwater in adverse weather conditions could increase the risk of flooding reaching the existing properties on North Wingfield Road. I will further stress that this land was sold without planning permission and so there is no reason to grant as standing.

Accepting this application would fail to take into account the wishes of existing residents and most importantly the safety of their properties from flood damage as well as the safety of existing road users and pedestrians and I would urge the planning committee to reject this application.

Kind regards
Michael Durrant
Councillor for Grassmoor
North East Derbyshire District Council

OFFICER COMMENTS

Comments relating to highway safety and flood risk are noted by officers. The application site is within the settlement development limit for Grassmoor where the principle of development is acceptable. There has been no objection to the proposal from DCC Highways Authority or the Lead Local Flood Authority and as such there is no technical reason to refuse the proposed development. The officer report to members deals with all the points raised above.

PARISH: Clay Cross

APPLICATION: 24/00275/FL

CASE OFFICER: Graeme Cooper

1. SOURCE OF COMMENTS: Coal Authority

DATE RECEIVED: 02/05/24

SUMMARY:

The application site does fall within the defined Development High Risk Area; however, I can confirm that the nature of development is listed as exempt from Version 7, January 2023 of the Coal Authority's Guidance for Local Planning Authorities.

Accordingly, there is no requirement under the risk-based approach that has been agreed with the LPA for a Coal Mining Risk Assessment to be submitted with any planning application or for the Coal Authority to be consulted on this proposal.

OFFICER COMMENTS:

These comments add no new material considerations to the application before members of planning committee.

2. SOURCE OF COMMENTS: DCC Archaeologist

DATE RECEIVED: 07/05/24

SUMMARY:

The proposal site is adjacent to and partly on the line of the Rykniel Street Roman road (Derbyshire HER MDR5165 and MDR10207) which follows the current A61, and also on the basis of historic mapping crosses the line of a row of 19th century terraced workers houses running along the street frontage.

It is unlikely that remains of the Rykniel Street road are preserved except at considerable depth, and it is likely that the proposed works to the carriageway will simply be within the zone of previous disturbance associated with modern make-up of the road surface. I do not therefore envisage any impacts to Roman road remains if any are present in this location.

The row of terraced houses was within the zone of landscaping and trees adjacent to the road frontage – and this area also has active services visible. I therefore anticipate that any remains of the workers' housing here would be disturbed to a considerable extent, particular within the upper horizons of the site. Much of this zone is to remain undisturbed with trees retained and the proposed access road running at the southern edge. I do not anticipate that there would be meaningful

impact to buried archaeology from the likely groundworks associated with the access road in this location.

On balance therefore I conclude that there is no need for archaeological involvement in these proposals under the policies at NPPF chapter 16.

OFFICER COMMENTS:

These comments are noted and add no new material considerations to the application before members of planning committee.

3. SOURCE OF COMMENTS: Parish Council

DATE RECEIVED: 10/05/24

SUMMARY:

Objections and comments made by Clay Cross Parish Council to Planning Application 24/00275/FL for modifications to an existing car park including provision of a new access from High Street A61.

- Object to the movement of the road crossing from its original position where there is ample access from the curtilage on both sides of the road to a position that is limited for space and would pose a problem for families/people who used prams/pushchairs or users of motorised scooters/chairs.
- The Parish Council agrees with the Highway Authority and questions the merit and need for a vehicular access junction off the A61 High Street as it will require extensive works, disruption to traffic flow, will be very expensive and will only provide an access to and from a car park.
- The Parish Council supported the Planning Application 23/00601/FL and were happy when this application was removed from that final proposal.
- The Parish Council has received awards for its upkeep and maintenance of the green space verging the A61 especially from the Clay Lane/Thanet Street junction through to the site of this planning application. The removal of 5 trees and some greenspace to facilitate an alternative car park access is viewed as unacceptable and the Parish Council will object to this.

The Parish Council has a robust Tree Management Policy (June 2022) which states that they will maintain a safe and viable tree stock ensuring consistency with regards to requests to prune and maintain. The policy states that trees will not be removed unless there is a demonstrable arboricultural, safety or legal reason for the removal. The Parish Councils Greenspace Tree Management Policy states that they will aim to create a varied and sustainable tree population in the parks and open spaces for reasons of aesthetics and for the benefit of the biological diversity of the town, assisting in offsetting the carbon capture and support the Climate Change initiative.

- Although not a planning matter, it would appear that this is another uncosted idea by individuals who have been presented with millions in regeneration monies.

OFFICER COMMENTS:

These comments are noted and add no new material considerations to the application before members of planning committee.

North East Derbyshire District Council

Planning Committee

14 May 2024

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 J Wreghitt - Two storey side and rear extension with Juliet balcony, single storey rear extension, Velux roof light and a new vehicular access (re-submission of previously refused application 23/00439/FLH)(Conservation Area) at 29 Main Road Cutthorpe Chesterfield S42 7AJ (24/00157/FLH)

Planning Officer – (AP) Susan Wraith Susan.Wraith@ne-derbyshire.gov.uk

Mr J Smith - Demolition of existing bungalow and erection of 2no semi detached two storey dwellings and 1no detached two storey dwelling (Revised scheme of 22/01216/FL) at Huntingdon Brackenfield Lane Wessington Alfreton DE55 6DW (23/00621/FL)

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

1.2 Enforcement Appeals Lodged

The following appeals have been lodged: -

24/00011/ENFNOT - Appeal against Enforcement Notice for building operations comprising the erection a building located forward of the principal elevation at Summerley Cottage Summerley Road Summerley Apperknowle Dronfield S18 4BA (22/00339/ODA)

Planning officer – Julian Hawley Julian.Hawley@ne-derbyshire.gov.uk

24/00012/ENFNOT – Appeal against Enforcement Notice for without planning permission, building and engineering operations to the rear and side of Summerley Cottage at Summerley Cottage Summerley Road Summerley Apperknowle Dronfield S18 4BA (22/00339/ODB)

Planning officer – Julian Hawley Julian.Hawley@ne-derbyshire.gov.uk

1.3 **Appeals Allowed**

The following appeal has been allowed: -

Mr Bryn Richards - Two storey side extension and single storey rear extension at 92 Thanet Street Clay Cross Chesterfield S45 9HS (23/00663/FLH)

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

1.4 **Appeal Dismissed**

No appeals have been dismissed.

1.5 **Appeals Withdrawn**

No appeals have been withdrawn.

2 **Conclusions and Reasons for Recommendation**

2.1 N/a.

3 **Consultation and Equality Impact**

3.1 N/a.

4 **Alternative Options and Reasons for Rejection**

4.1 N/a.

5 **Implications**

5.1 **Finance and Risk Implications**

N/a.

5.2 Legal Implications including Data Protection

N/a.

5.3 Human Resources Implications

N/a.

6 Recommendations

6.1 N/a.

7 Decision Information

<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>	<p>No</p>
<p>Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)</p>	<p>No</p>
<p>District Wards Significantly Affected</p>	<p>None</p>
<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</p>	

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)

Report Author	Contact Number
Katie Spelman	01246 217172

North East Derbyshire District Council

Planning Committee

14th May 2024

Proposed Confirmation of tree Preservation Order 296 (296/2023) in respect of an Ash Tree adjacent to Eckington Friendship Club, Berry Avenue Eckington.

Report of the Planning Manager (Development Management)

Classification: This report is public

Report By: Stephen Kimberley

Contact Officer: Adrian Kirkham

PURPOSE / SUMMARY

- Tree Preservation Order 296 was made in its provisional form on 18th December 2023. The effect of this 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.
 - One duly made objection has been received.
 - No representations of support have been received.
 - The Planning Officer believes that there is a foreseeable threat to the tree. This would likely result in the loss of the tree should TPO 296 not be confirmed in the interests of amenity.
-

RECOMMENDATIONS

1. To confirm TPO 296/2023 in respect of a single Ash Tree situated adjacent to Eckington Friendship Club Berry Avenue Eckington

Approved by the Portfolio Holder – Cllr Pickering, Cabinet Member for Environment and Place

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 the tree.

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 checked="" type="checkbox"/> Other <input 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 Planning Officer undertook an initial inspection of the tree adjacent to the Eckington Friendship Club on the 29th November 2023. This was in response to an application made under 23/00989/CATPO to undertake works to the tree. The inspection was undertaken from the public domain along the B6052 High Street and the adjacent Berry Street.
- 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. This was considered to be the case here to protect the tree from inappropriate work.

- 1.3 A Tree Preservation Order (TPO 296), specified by an individual tree was subsequently made and served on 18th December 2023. The effect is that the provisional Order applies for six months or until confirmed or modified.

2. Details of Proposal or Information

- 2.1 The land on which the tree sits is an open area of grass which surrounds the Eckington Friendship Club (Community Church). It is positioned adjacent to the main road to the front of, and close to the car park of, the Rose and Crown.

There is a Pelican crossing immediately to the south of the tree's location and part of the canopy overhangs this and the adjacent roadway. In November 2023 an application was received from the owner giving notification to fell the Ash Tree as it lies within Eckington High Street Conservation Area (23/00989/CATPO refers).

An application under the same legislation was allowed in 2020 but this was for a crown lift, crown clean and removal of dead stubs (20/00150/CATPO refers).

The application in respect of 23/00989/CATPO stated that the owner wished to fell the tree as it was occasionally dropping branches on to the pavement, that there was some ash dieback (DB) in the crown and that the roots were lifting a concrete path and showing cracks on drainage inspection hatches. They advised they would plant some fruit trees in place of the tree. No arboriculturists report or other information was provided to support the application.

- 2.2 The Planning Officer inspected the tree on the 29th November 2023. At that time there was little evidence of any branches having fallen. Due to the time of year there was also no evidence of Ash DB. Cracks in the nearby concrete path were noted but no major upheavals in the path.

Following the site visit and review some evidence of Ash DB has been identified.

It was also determined that whilst part of the canopy may cross into the Conservation Area the main trunk of the tree was not within the Conservation Area.

The assessment of DB showed the remaining crown as being approx. 75% whereas the normal intervention level would be at a level of 50% remaining crown. Additionally, research in Denmark indicates that the majority of Ash trees suffering from DB in a woodland setting have survived for over 10 years. In addition, as the tree is not in a woodland site, it is likely to survive longer due to factors such as the lack of secondary fungi.

- 2.3 An assessment of the tree was undertaken (a TEMPO assessment) which identified the tree was meriting protection by formal TPO as it provided a high level of amenity to the area.

3 Location Plan and Photos

3.1 The tree is located at T1 as shown in Figure 1 below.



Figure 1: TPO 296 in its currently provisional form and showing the position of T1 which is described within the First Schedule of the Order.

3.2 The tree is shown in Figures 2 – 6 below.



Figure 2: From the High Street looking westwards



Figure 3: Looking Eastwards



Figure 4: From Berry Avenue.



Figure 5: Streetview photo from May 2023 showing the base of the tree and position of concrete path to side.



Figure 6: Streetview photo from May 2023 showing the crown of tree.



Figure 7: Photo from April 2024 showing new pathway

4 Representations

4.1 One **Objection** has been received which raises the following for consideration:

1. Whist acknowledges that the mature Ash tree adds to the biodiversity of the area there are concerns regarding the potential danger to inhabitants of the local area. The tree frequently drops branches and there are concerns that someone may be significantly injured if hit by one of these branches. As the canopy also stretches over the adjacent road and car park of the Rose and Crown, passing traffic and cars parked nearby may also be damaged.
2. There is also evidence that tree roots are damaging a nearby pathway.
3. The recent application under 23/00989/CATPO to fell the tree was refused. The applicant believes that the tree is not within the Conservation Area and therefore not covered by that legislation.
4. The owner is already addressing the potential loss of biodiversity by planting six fruit trees in part of their grounds.

5 Officer Comment

5.1 No evidence has been submitted either in the original application or in the objection letter to support the allegations made. It is acknowledged that branches may be shed but this is the case with all trees. The risks of branches

falling can be mitigated by works other than the felling of a tree. It is noted that the 2020 application was partly for the removal of dead branches so as to minimise the risks of falling branches for pedestrians.

It is considered that should this Tree Preservation Order be confirmed an application for a crown lift, clean and removal of dead branches similar to that approved in 2020 would be likely to receive permission and so mitigate many of the issues raised regarding safety raised.

- 5.2 No evidence was submitted in 2023 to support any potential other damage. On site, whilst cracks are visible, there is no sign of any major upheaval. It is noted that at the time of a site visit in April 2024 the concrete pathway had been replaced by a tarmac surface pathway (Figure 7).
- 5.3 It is accepted that the main trunk of the tree is not within the Conservation Area. Whether or not the tree is within the Conservation Area has no influence on its amenity value, which is considered significant. However, the threat to the tree is increased by the fact it is not within a Conservation Area making it more important that a Tree Preservation Order be served to protect the tree.
- 5.4 Improvements to an area's biodiversity are always welcomed but this additional activity does not impact on or reduce the amenity value of this tree. It is also considered that due to the maturity and size of the tree it offers a much greater biodiversity impact that may not be offset by the identified fruit trees.

6 Reasons for Recommendation

- 6.1 A tree preservation order (TPO) is normally made to protect trees in the interests of amenity, and this involves an assessment of the tree's 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 would bring a reasonable degree of public benefit in the present or future. In this case, Officers consider that the tree offers a significant level of amenity to the area being readily visible from public viewpoints along the highway. The trees have been assessed by the Planning Officer and are considered worthy of the special protection afforded by a TPO in the interests of amenity.
- 6.2 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 Planning Officer believes there is a foreseeable risk of losing the tree if it is not formally protected.

7 Alternative Options and Reasons for Rejection

- 7.1 To decide to not make the TPO. This option is not recommended because it would leave the tree unprotected and could lead to the tree being removed which would be detrimental to local amenity.

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