

PLANNING COMMITTEE – 14 December 2021

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

Proposal Description: Application to regularise the construction of 2 private ponds (Amended Title)
At: Land To The South East Of Siberia Cottages, Sydnope Hill, Darley Moor

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

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

MAIN RECOMMENDATION: GRANT

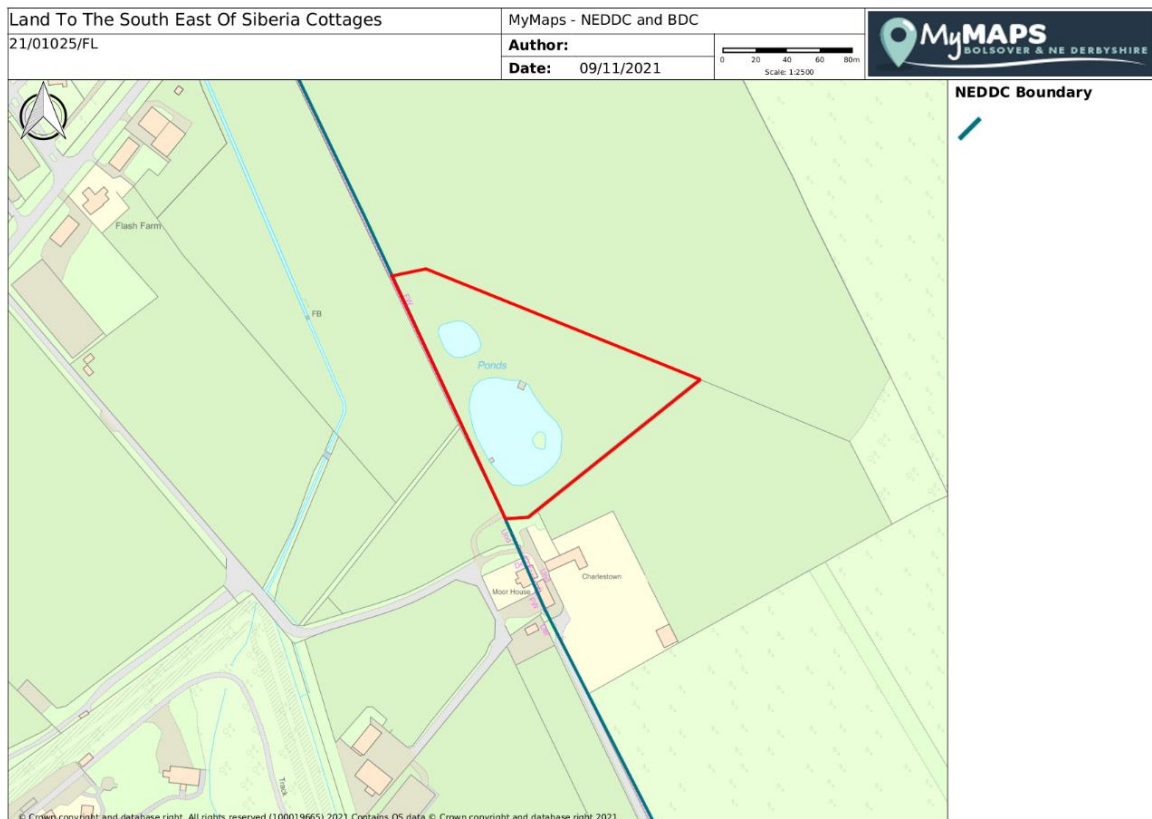


Figure 1: Location Plan

1.0 Reason for Report

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

2.0 Proposal and Background

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

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

3.0 Relevant Planning History

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

4.0 Consultation Responses

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

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

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

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

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

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

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

4.20 Severn Trent Water Authority (STWA)

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

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

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

4.21 Cadent Gas Comment

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

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

4.22 Ashover Parish Council

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

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

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

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

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

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

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

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

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

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

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

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

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

- 4.29 Environmental Health Comments

No Comments

5.0 Representations

- 5.1 Objections

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

- 5.3 Principle of development

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

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

5.4 Biodiversity

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

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

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

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

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

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

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

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

5.8 Impact on Amenity of the Neighbour:

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

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

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

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

6.0 Relevant Policy and Strategic Context

North East Derbyshire Local Plan (Adopted November 2021)

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

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

Ashover Neighbourhood Plan

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

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

The National Planning Policy framework (NPPF)

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

7.0 Planning Issues

Principle of Development

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

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

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

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

Biodiversity

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

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

Design and impact on the countryside

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

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

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

Privacy and Amenity Considerations

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

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

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

Highway Safety Considerations

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

Other Considerations

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

8.0 Summary and Conclusion

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

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

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

9.0 Recommendation

9.1 GRANT Full Planning Permission subject to the following conditions:

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

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

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