

PLANNING COMMITTEE – 20 DECEMBER 2022

Reference Number: 22/00884/RM

Application expiry: 23/12/22

Application Type: S73 Approved Plans

Proposal Description: S73 application to vary condition 1 (Approved Plans) of planning approval 18/00812/RM to vary the layout and landscaping details (Major Development)

At: Land to the East of Prospect House, Highstairs Lane, Stretton

For: Meadowview Homes

Third Party Reps: 1 local resident

Parish: Stretton

Ward: Pilsley and Morton

Report Author: Graeme Cooper

Date of Report: November 2022

MAIN RECOMMENDATION: Grant permission, subject to conditions

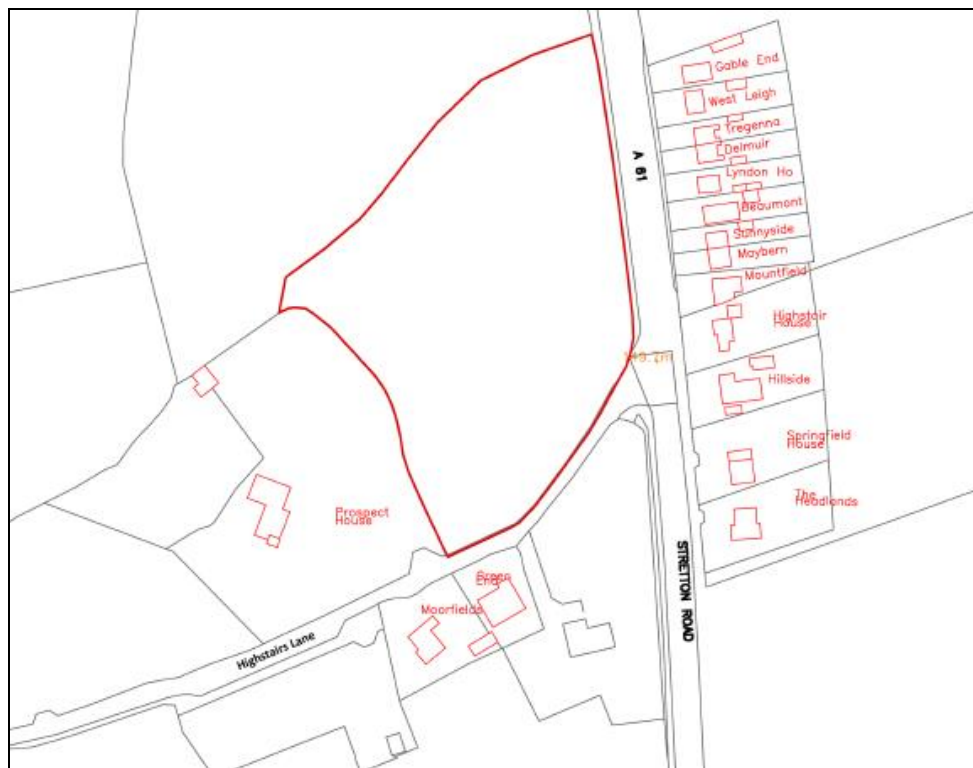


Figure 1: Location plan, with site edged in red

1.0 Reason for Report

- 1.1 Cllr Cooper requested that this and another application at this site be considered by Planning Committee. The reasons being the size and scale of development has increased significantly and committee should assess the changes and the likely impacts on the local area.

2.0 Proposal and Background

Site Description

- 2.1 The application site covers an area of approx 1.15 hectares in size and was formally a field to the north of Stretton. It is bound by a wall which fronts onto the A61 to the east and Highstairs Lane to the south. Access into the site is taken from Highstairs Lane.
- 2.2 To the west is Prospect House, a detached dwelling set in large grounds. The western boundary of the application site is made up of a hedge and wire fencing, with a number of trees located on or close to the boundary protected by tree preservation order (NEDDC TPO 266).
- 2.3 The site has an extant planning permission for 28 dwellings and work has commenced. A hedge which once fronted Highstairs Lane has been transplanted, in line with the original permission, to the northern boundary of the site.
- 2.4 An access has been formed onto Highstairs Lane in line with the permission and, as discussed above, ground works are well under way on site.

Proposal

- 2.5 This is an application made under Section 73 of the Town and Country Planning Act 1990 (as amended) to vary condition 1 (Approved Plans) of planning approval 18/00812/RM to vary the layout and landscaping details.
- 2.6 The reason for the application is due to the site having been purchased by a different developer who wishes to use their own house types as opposed to those originally approved.
- 2.7 A site plan and landscaping details have been submitted for consideration.

Amendments

- 2.8 None.

3.0 Relevant Planning History (not the full site history)

- 3.1 14/00249/OL - Outline planning application (means of access submitted) for residential development and improvements to Highstairs Lane (Major Development) (Departure from Development Plan)(Additional Plans/Information) (S106 agreed)
- 3.2 15/00910/FL - Application to vary condition 3 of 14/00249/OL regarding provision of affordable housing (Conditionally Approved)
- 3.3 17/00768/RM - Approval of reserved matters (layout, scale, appearance and landscaping) for the erection of 28 dwellings pursuant to outline permission 15/00910/FL (Major Development) (Amended Plans) (Refused)
- 3.4 18/00812/RM - Approval of reserved matters (layout and landscaping) for the erection of 28 dwellings pursuant to outline permission 15/00910/OL (Major Development)(Amended Plans) (Conditionally Approved)
- 3.5 19/00501/DISCON - Application to discharge conditions 3 (Affordable Housing), 6 (Boundary Treatments), 7 (Samples), 8 (Ground Levels), 9 (Landscaping Scheme) 13 (Schedule of Landscape Maintenance), 14 (Surface Water drainage), 15 (Foul drainage works), 16 (Temporary Access), 17 (Site accommodation), 18 (Pedestrian Crossing) 19 (Highway improvement works) 20 (New Junction), 27 (Employment and Training), 28 (Public Art), 29 (Sound Insulation and Noise Reduction) and 31 (Intrusive site investigation works) pursuant of 19/00943/FL (Amended Title) (Conditions Discharged)
- 3.6 19/00601/AMEND - Non-material amendment to planning application 18/00812/RM to reduce Chestnut home type roof pitch by 2.5 degrees, omit personnel doors from detached garages, clarify that Plot 14 is brick not stone, clarify first floor windows of Maples plot 2, 3 and 13 and define extents of ornamental string courses (Approved)
- 3.7 19/00943/FL – Application to vary condition 20 (visibility splays) of planning approval 15/00910/FL to formalise within highways impact statement. (Major Development) (Conditionally Approved)
- 3.8 20/01302/DISCON – Application to discharge condition 17 (Site Accommodation) pursuant to planning application 19/00943/FL (Condition Discharged)
- 3.9 21/00621/FL – Application to vary S106 agreement and create Supplemental Deed to allow discounted affordable housing units (Approved)

- 3.10 22/00885/RM - S73 application to vary condition 1 (Approved Plans) of planning approval 17/00768/RM to vary the scale and appearance details (Major Development) (Pending Consideration)

4.0 Consultation Responses

- 4.1 **Parish Council** raised no comments.
- 4.2 **Ward Member** called the application into committee for the reasons raised in section 1.1 above.
- 4.3 **Highways Authority (HA)** note that as part of this proposal, the applicant wishes to amend consented house types. The road layout proposed as part of this application is predominantly the same as consent for planning application 18/00812/RM and, therefore, not a material change. In line with current design guidance, the Highway Authority typically seeks 2no. or 3no. parking spaces per 2/3 bedroom or 4/4+ bedroom dwelling, respectively. Subject to sufficient parking provision being retained, there are no highway objections to the above proposal.
- 4.4 **Environmental Health (EHO)** confirm that any schemes submitted in regards fulfilling ground contamination or noise mitigation conditions should be updated to reflect the proposed layout changes.
- 4.5 **The Coal Authority** raised no objections to this planning application and Condition 31 need not be duplicated on any reissued consent.
- 4.6 **Derbyshire Wildlife Trust (DWT)** compared the submitted landscaping plans to those previously approved. DWT have not identified any significant changes that will affect biodiversity. Minor changes are apparent in the way the root protection areas of the western trees are represented, however the layout appears broadly similar.

Since our previous comments on bat and bird boxes, the British Standard for Integral Nest Boxes BS: 42021:2022 has been published, which requires a far greater number of boxes to be incorporated within developments schemes. Whilst we appreciate that the scheme was approved prior to this, we consider that whilst making amendments to this plan, the opportunity is presented to increase the number of bat and bird boxes incorporated within proposals. Any increase in number would be welcomed and bring the scheme further into line with current guidance. Houses in the north of the site would present ideal options for additional bat and bird boxes with flight lines into open countryside.

Furthermore, DWT consider that a native hedgerow along the site frontage would be more in keeping with the rural surroundings than an evergreen

laurel hedge. Native single-species hedges such as yew, beech or hornbeam could be considered to provide a more formal character than a mixed hedgerow, if desired.

- 4.7 **Yorkshire Water Authority (YWA)** raised no comments.
- 4.8 **Council's Drainage Engineer** raised no comments.
- 4.9 **Council Housing Officer** raised no comments.
- 4.10 **Employment and Skills Officer** raised no comments.
- 4.11 **Council Tree Officer (TO)** has provided three comments on the proposed development. The first was post a site visit to Prospect House, the second was based on the impact of on-site grouting and the last based on new plans submitted by the applicant. Each of these is summarised below:
- 4.12 Following a site visit made to Prospect House on 28th November the TO undertook a tree measuring exercise of the trees along the western boundary of the application site. Especially those trees covered by TPO 266. Measurements were undertaken in line with Annex C of BS 5837:2012 guidance. The TO noted a previous report had chosen to group some trees and the complete omission of a mature Lime. The measurements undertaken by the TO are broadly in line with other reports, with the exception of one Lime tree (T4). The TO is of the opinion that this discrepancy arose due to the position that the measurement was taken from. The new measurements found that the RPA should be larger than the previously agreed RPA. It is important to note that the proposed development does not encroach into the revised nominal RPA and it should be possible to position a protective barrier fence whilst allowing the construction of the development. Soil amelioration is the main concern here. It is also considered that permitted development rights for plots along the western boundary of the site be removed to prevent any further harm to the protected trees.
- 4.13 With regards to grout drilling, the TO considers that Microtunnelling or small diameter piling within the RPA of trees to be retained is usually an acceptable form of intrusion, with a bore diameter 100-300mm being acceptable within the British Standard. The TO confirms that he would have no concerns over the direct effect of drilling on the trees roots. He does however have concerns about the potential for soil compaction from the drilling rig passing within the RPA. Fortunately, these works may have been undertaken within the season of growth dormancy for the trees, and timely intervention through soil amelioration can go a long way in mitigating this concern before the next season of growth in the spring. Soil amelioration measures, such as air spade attendance to reduce soil bulk

density, can be specified to mitigate this potentially compacted soil and I would encourage this is undertaken before the onset of spring.

- 4.14 After reviewing The Protective Fencing Plan (DWG: JH_TPP1/1) looks ideal and appears to demonstrate we can both successfully support the proposal and protect the nominal RPAs of retained trees. The Tree Protection Plan should be subject of condition. It seems the discrepancy between my measurement for T3 (our map) and T11 (their map) is due to the estimation of DBH for this poplar tree rather than an attempt to measure it. The tree was covered in ivy and straddled the barbwire fence line so the TO didn't attempt to take an accurate measurement through fear of injury. The TO was happy to accept the 750mm DBH measurement for T3/T11 which is similar to the RJ Report measurement of 650mm and the JB Report measured at 770mm.
- 4.15 **The Environment Agency (EA)** did not request the planning condition the applicant is seeking to vary. We advise you seek the views of the consultee who requested the condition on the information submitted.
- 4.16 **Derbyshire Community Health Services NHS Trust** raised no comments.
- 4.17 **Council Parks Team** raised no comments.
- 4.18 **Derbyshire Police (Designing Out Crime Officer)** notes that application 22/00884 is to vary the later approved matters of landscaping and layout, and that application 22/00885 is to vary the matters of appearance and scale approved at an earlier time on appeal. Don't have any comments to make in respect of any of these matters, as all of the detail submitted is acceptable from a community safety perspective.
- 4.19 On matters of administration. The site plan legend within 22/00884 has housing numbers which add to 32, not the 28 set out. There looks to be some anomalies with the mix and numbers to resolve. The house type plans listed within 22/00885 has the Bamburgh misspelt as Barnburgh, one Balmoral plan shown as a Barnard and one Richmond plan listed as a Warwick. *[Officer note: An updated site plan was submitted and addresses this annotation error. The old plan is labelled as "superseded".]*
- 4.20 **Councils Refuse Team** raised no comments.
- 4.21 **Lead Local Flood Authority** raised no comments.

5.0 Representations

5.1 The application was publicised by way of neighbour letters and the display of site notices adjacent to the site. A site notice was placed adjacent to the site on a lamppost on Stretton Road, which expired on 9 December. An advert was also placed in the local press on 20 October and expired on 10 November.

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

- Overall the size, scale, layout and density of the development has increased significantly [*Officer note: This is considered in the assessment below*]
- The coverage of buildings on site has materially increased [*Officer note: This is considered in the assessment below*]
- The size of the proposed dwellings has increased [*Officer note: This is considered in the assessment below*]
- Increase in development will have negative impact on the roots of protected trees [*Officer note: The Councils Tree Officer has reviewed the proposals on the trees and this is considered in the assessment below*]
- The agreed RPA previously approved is incorrect [*Officer note: the RPA was agreed on the advice of a qualified arborist*]
- Windows on proposed dwellings will negatively impact existing residents [*Officer note: The impact on neighbours is considered below*]
- Some houses are now 3 storey in scale – in previous appeals the Inspector stated that all dwellings should be 2 storey – the increase will negatively impact neighbours [*Officer note: There are no 3 storey dwellings proposed, it is however noted that the Durham house type has rooms in the roof space, this accounts for 6 dwellings*]
- Frosted windows omitted from plans [*Officer note: Unclear which dwelling is of concern here but it is assumed the objector is referring to plot 7 which includes two upper floor bathroom windows which face south towards Prospect House. An assessment of these windows is considered below*]
- Previous appeal allows 2, 3 and 4 bed dwellings, this scheme now includes 5 bed dwellings [*Officer note: The proposed scheme includes the Hampton (2 units) and Warwick (1 unit) house type which are 5 bed dwellings. An assessment of this impact is considered below*]
- Inaccuracies and/or missing information:
 - Two site plans submitted, one labelled superseded [*officer note: Drawing STRET-001 date scanned 14 October is the latest site plan that members should consider. The same plan dated 6 September has been superseded. This is clearly labelled on the public access site and is retained for public scrutiny in the interest of transparency.*]

- Impossible to determine which house type relates to site plan [*Officer note: The submitted site plan clearly illustrates how many of each house type and where each house type would be on site. It should be noted that the Balmoral and Richmond house types were submitted on 10 October so not with the original suite of plans.*]
- A number of versions of house types and properties which don't relate to the site plan [*Officer note: Unclear which house types are an issue here, but it could relate to the use of (OPP) on the plan. This refers to 'handing' or flipping the proposed house type and is clear to Officer's in assessing the proposal.*]
- Western boundary inaccurate [*Officer note: The red line plan submitted is accurate and Officer's have no reason to believe this is inaccurate.*]
- Tree survey undertaken by John Booth has expired [*Officer note: It is noted that the report by John Booth has expired, however the developer could build out the previously approved scheme in line with that approval. Nevertheless Officer's have requested that the Councils Tree Officer review the proposal.*]
- Work has been underway on site for 6 weeks [*Officer note: The developer is working to an extant permission and having visited the site is undertaking ground works and installing roadways.*]

6.0 Relevant Policy and Strategic Context

North East Derbyshire Local Plan 2014-2034 (LP)

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

SS1 Sustainable Development
 SS2 Spatial Strategy and the Distribution of Development
 SS9 Development within the Countryside
 SDC2 Trees, Woodlands and hedgerows
 SDC3 Landscape Character
 SDC4 Biodiversity and Geodiversity
 SDC12 High Quality Design and Place making
 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.

- 6.3 Essentially, proposals should ‘achieve well-designed places’ (chapter 12), ‘make effective use of land’ (chapter 11) as well as ‘conserve and enhance the natural environment’ (chapter 15).

Other Material Planning Considerations

- 6.4 Successful Places Interim Planning Guidance, adopted December 2013

7.0 Planning Issues

Principle of Development

- 7.1 The principle of development on the site was established through the granting of outline planning permission 14/00249/OL and 15/00910/FL. A material start has been made on site so the approved planning permission remains extant.

Main Issues

- 7.2 The main material considerations with this application are the proposed changes to the layout and landscaping details previously approved under application 18/00812/RM. The proposed changes are considered below.

Layout Considerations

- 7.3 Planning approval 18/00812/RM approved details of the layout and landscaping for 28 dwellings linked to outline approval 15/00910/OL. The previously approved layout can be seen below in Figure 2. The application was considered by members of planning committee in April 2019.



Figure 2: Previously approved layout

- 7.4 The proposed layout differs slightly from that previously granted permission due to changes in the developer and the house types they use being different.
- 7.5 Below in Figure 3 is the proposed layout with the previously approved scheme overlay on the plan in pink. The proposal, the subject of this application, is for 28 units so does not increase the number of properties over that which already has planning permission.
- 7.6 In terms of differences in the layout from that previously approved, the two schemes are very similar. When viewing the site from public viewpoints on Stretton Road and Highstairs Lane the two schemes would have a very similar layout. Some units fronting Stretton Road have had garages omitted increasing the gaps in built form between properties.
- 7.7 The proposed units which front Stretton Road and Highstairs Lane do not appear any closer to the public highways than those previously approved and as such Officer's do not consider that there would be any detrimental impact on neighbouring residents.

Landscaping Considerations

- 7.12 A scheme of landscaping was approved (drawing GL0779 01 Rev F) along with a Landscape Management Plan (GL0779 Rev A) through the course of the 2018 application process. The landscaping scheme included a comprehensive planting schedule and agreed Root Protection Area (RPA) in line with a report prepared on behalf of the Council by John Booth.
- 7.13 A proposed landscaping scheme (drawing GL0779 03) has also been submitted to accompany the revised layout of the site. The scheme includes tree, shrub and hedgerow planting. Amenity and meadow grassland is also included on site. Confirmation has been received that the previously approved landscape management plan will be adhered to.
- 7.14 As discussed above, concern has been raised as to the impact of development on the previously agreed RPA and protected trees. The Council's Tree Officer and case officer visited the site to assess the trees along the western boundary.
- 7.15 It was clear from visiting the site that the previously agreed RPA contained some anomalies and omitted a mature Lime tree. Due to the comments received and the passage of time, the Council's Tree Officer undertook new measurements of the protected trees along the western boundary. These measurements were put to the developer.
- 7.16 As a result of the new measurements, an updated plan was submitted (Drawing JH_TPP1/1) illustrating a revised RPA, see Figure 4 below. Included with this drawing was a Tree Survey Plan (Drawing JH_TSP1/1) and Tree Survey Schedule, prepared by Outline Trees Arboricultural Consultancy.



Figure 4: Proposed revised RPA compared to previously approved RPA

- 7.17 The Councils Tree Officer considered the submitted details and was of the opinion that the proposed Protective Fencing Plan (Drawing JH_TPP1/1) was accurate and protects the nominal RPA's of the retained trees along the western boundary. This should be conditioned accordingly on any decision to approve the revised scheme.
- 7.18 The Tree Officer also noted that on site grouting was underway at the time of the aforementioned site visit. Whilst he has no concern at the impact of grouting on the trees, he is concerned about potential soil compaction. It is suggested that some soil amelioration measures are implemented on site before the onset of Spring. This can be controlled by way of condition on any decision.
- 7.19 Due to the amended RPA extending closer to plots near the western boundary of the site, Officer's consider it necessary to remove permitted development rights for extensions, outbuildings, hardstanding and means of enclosure for plots 1-7 dwellings in the interest of protecting the health and wellbeing of these protected trees.
- 7.20 In addition to the above, DWT requested additional bird and bat boxes to be provided on site and that the laurel hedge fronting Highstairs Lane be amended to a native species. An amended plan is being prepared by the applicant and will take into account these requested changes. Any

submitted plan will be reported to members prior to the planning committee meeting.

- 7.21 The proposed landscaping scheme is broadly in line with that previously approved and offers amendments, which will be submitted prior to the planning committee meeting, in line with the comments of DWT. Furthermore an updated RPA has been agreed between the developer and Council's Tree Officer which is a betterment on that previously approved. As such Officer's consider that the submitted tree protection measures put forward and proposed amended landscaping details are acceptable.

Other Considerations

- 7.22 As part of the 2018 application a Unilateral Planning Obligation (UPO) was agreed in November 2019 between the previous developer and the Council. Included in this UPO was agreement to pay a contribution towards Affordable Housing. The applicant has confirmed that they are aware that this contribution will still be made to the Council.

8.0 Summary and Conclusion

- 8.1 The site already has an extant planning permission for 28 dwellings. This proposal seeks to amend the approved layout and landscaping details.
- 8.2 Amendments to the previously approved layout and landscaping details have been submitted to take into account the site being developed by a different housebuilder who inevitably have different house types.
- 8.3 The layout proposed is broadly the same to that previously approved with subtle changes to the position of the dwellings. Furthermore some garages are removed from the scheme.
- 8.4 In landscape terms it is accepted that the RPA should be updated and that the revised scheme would be broadly in line with that previously approved. Furthermore once an updated landscaping scheme has been put forward addressing the comments of DWT, it is considered that the proposed development would be acceptable, both protecting the trees on the site boundary and also adding valuable landscaping to the site.
- 8.5 There are no technical reasons to outweigh the above conclusions.
- 8.6 Overall it is considered by Officer's that the changes proposed to the layout and landscaping details would be acceptable and in conformity with the Development Plan and National Planning policy.

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 approved shall be carried out in accordance with the details shown on the following drawings unless otherwise subsequently agreed through a formal submission under the Non Material Amendment procedures and unless otherwise required by any condition contained in this decision notice:

- STRET – 001 - proposed site plan; date scanned 14.10.22
- 2016-458 005 rev A - Site location plan
- 2016-458 045 rev E - Hedge Translocation
- 2016-458 014 rev G - Refuse Collection Scheme
- GL0779 - Hedge translocation Method Statement rev A
- GL0779 - Landscape Management Plan rev D
- GL0779 03 - Soft Landscaping proposals; date scanned 06.09.22
[Officer note: this plan will be updated once amended details are submitted]
- Highstairs Lane, Stretton - Mitigation Measures rev 1
- JH_TPP1/1 (Protective Fencing Plan); date scanned 05.12.22
- Scheme for mitigating climate change

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

- 2) Within 14 days of this decision, the revised Root Protection Area (RPA) labelled “October 2022 Fenceline” on drawing JH_TPP1/1 (Proposed Layout; Protective Fencing Plan) shall be protected with fencing, as identified in Figure 1 of the Arboricultural Survey Report & Method Statement, prepared by John Booth dated February 2019. The approved RPA fencing shall be retained in position until all building works along the western boundary of the site have been completed. The area within the fenced/protected area shall not be used for storage or the parking of machinery or vehicles and the ground levels shall not be altered.

[Reason: In the interest of protecting existing trees in accordance with policy SDC2 of the North East Derbyshire Local Plan.]

- 3) Notwithstanding the provisions of Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or

any Order revoking and re-enacting that Order) no extensions (Part 1, Class A), curtilage buildings (Part 1, Class E), hard surfaces (Part 1, Class F) and means of enclosure (Part 2, Class A) shall be erected at Plots 1-7 hereby approved without first obtaining planning permission.

[Reason: To offer protection to the trees covered by NEDDC TPO 266, in accordance with policy SDC2 of the North East Derbyshire Local Plan.]

- 4) Within 14 days of the approved grouting works being completed within the agreed Root Protection Area (RPA) as identified on drawing JH_TPP1/1 (Proposed Layout; Protective Fencing Plan), a scheme of soil amelioration within the RPA shall be submitted to and approved in writing by the Local Planning Authority. The scheme of soil amelioration could include air spade attendance to reduce soil bulk density or similar mitigation works. The agreed scheme of soil amelioration within the RPA shall be implemented in full prior to the 31st March 2023.

[Reason: To mitigate soil compaction and to protect the health and wellbeing of the trees covered by NEDDC TPO 266, in accordance with policy SDC2 of the North East Derbyshire Local Plan.]