

PLANNING COMMITTEE – 28 July 2020

Reference Number: 20/00285/FL

Application expiry: 31 July 2020

Application Type: Full planning permission

Proposal Description: Change of use from manège to commercial sale of vehicles (Affecting Setting of a Listed Building/Amended Title/Amended Plans)

At: 2 Town End, Shirland

For: Mr Oughton - Rightvan Ltd

Third Party Reps: Reps from 1 local resident

Parish: Shirland & Higham

Ward: Shirland

Report Author: Graeme Cooper

Date of Report: 1 July 2020

MAIN RECOMMENDATION: Grant, subject to conditions

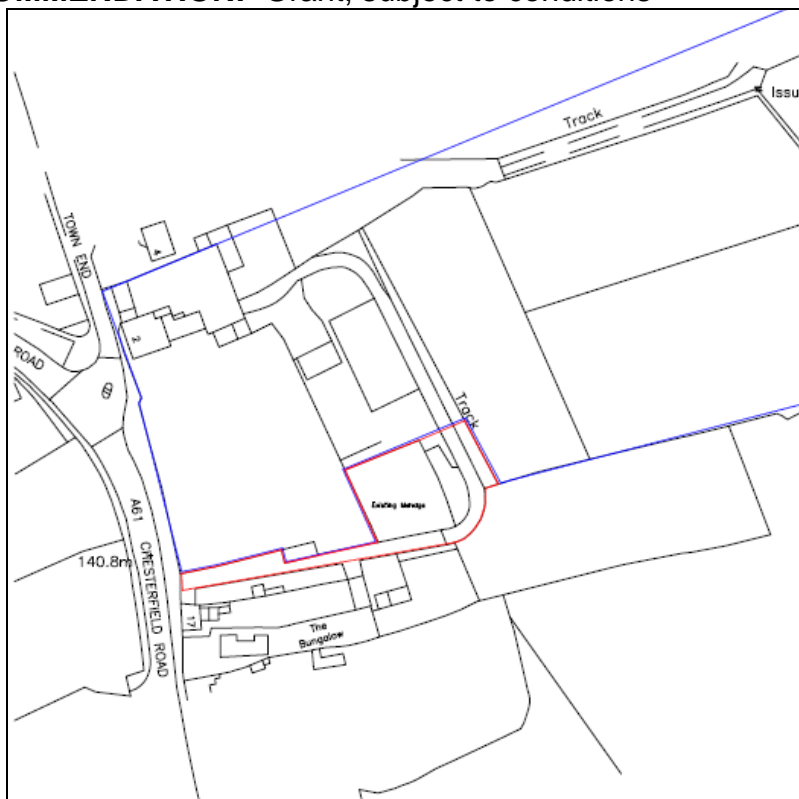


Figure 1: Location plan, with site edged in red and other land under the applicants ownership edged in blue

1.0 Reason for Report

- 1.1 The local ward member contacted Officers during the course of the application to formally request that it be considered by members of planning committee for reasons relating to the site access being dangerous and the use being inappropriate in the setting of a listed building. One local resident has raised a number of objections to the proposal. Members of planning committee are therefore required to determine the application in line with the Councils constitution.

2.0 Proposal and Background

Site Description

- 2.1 The application site forms the grounds of 2 Town End, Shirland, a Grade II Listed Building. The dwelling sits fronting the highway to the north west corner of the site, with a range of outbuildings extending from the building.
- 2.2 Large grounds, containing a number of protected trees are located to the south of the listed building. A track, with two timber gates, provides access to the dwelling from Main Road to the south and extends around the southern and eastern perimeter of the grounds, leading to a turning area close to the dwelling. A secondary access is located closer to the house on Town End.
- 2.3 In the south east corner of the grounds is a riding arena, which forms the application site. To the north of the riding arena are the grounds and orchard of the listed building. To the east of the main dwelling and north east of the application site are outbuildings and a former tennis court.
- 2.4 An attractive formal stone wall frames the site to the west, south and separates the site from Main Road, a busy arterial road connecting Chesterfield to Alfreton. Mature trees sit adjacent to the western and southern boundary of the site.
- 2.5 The application site sits partially within the Settlement Development Limit (access and dwelling) for Shirland and open countryside (riding arena only).

Proposal

- 2.6 Permission is sought for the change of use of a riding arena to vehicle storage area. The storage of vehicles would be linked to an established business which buys and sells high-end camper vans. The business is linked to the occupier of the dwelling.
- 2.7 The applicant has confirmed the following:

- Land to be used for the storage of vehicles. The applicant would primarily store high-end camper vans at the site which would then be sold online.
- Vehicles would be delivered on an individual basis on a highly sporadic basis. It is estimated that, as a maximum, five vehicles a week would be delivered.
- All sales and initial negotiations would take place online or over the telephone. The applicant would operate from a home office within Shirland House.
- There would be occasional visits to the site by customers but, on average, it is estimated that the maximum number of these would be 1 per day. All visits would be strictly appointment only.
- The existing landscaping which surrounds the site would be retained in full.
- There would be no staff employed at the site.

Amendments

- 2.8 Updated plans have been submitted illustrating a passing place along the access track, which include the removal of a section of Laurel hedge.

3.0 Relevant Planning History

- 3.1 18/01082/OL - Outline Planning application with all matters reserved for two dwellings (resubmission of 18/00607/OL) (Amended Plans/Information) **(Conditionally Approved)**.

[OFFICER NOTE: this approval includes use of part of the access into the application site only]

- 3.2 91/00872/FL - Erection of a block of five stables, a block comprising single stable and tack room and a building for use as garden/hay store **(Conditionally Approved)**
- 3.3 88/01091/LB - Listed Building Consent for internal and external alterations to stables **(Conditionally Approved)**
- 3.4 88/01092/FL - Conversion of loft and stables into ancillary flat **(Conditionally Approved)**
- 3.5 80/01272/FL - Rebuild barn **(Conditionally Approved)**

4.0 Consultation Responses

- 4.1 The **Parish Council** raised the following comments:

“The Parish Council do not feel that this application is appropriate given the nature of the location (the setting of a listed building) and the intended use as a commercial business adjacent to a residential area.”

- 4.2 County **Highways Authority** initially raised concerns relating to the access width and details submitted. It was requested that the track be widened for the first 15m. Space within the site for parking and maneuvering was also requested.

Amended plans were submitted illustrating the removal of a section of hedge adjacent to the highway to increase the width of the access track. An informal passing place can also be provided 14m into the site. The Highways Authority considered these submitted amended plans and considered that the changes proposed would improve space for vehicles to pass should they meet within the site. No objections are raised subject to conditions relating to improvements to the access width by removing the section of hedge, the business being operated by the occupant of 2 Town End, the business operating on an appointment only basis and there being no gates located across the site frontage.

- 4.3 The **Councils Environmental Health Officer** raised comments regarding noise and odour matters, which are covered in more detail in the assessment below.

5.0 Representations

- 5.1 The Local Ward Member raised concerns at the access into the site being dangerous and the use inappropriate to the setting of the listed building. The application has been called into planning committee for these reasons.

- 5.2 The application was publicised by way of neighbour letters and the display of a site notice – A number of material objections have been received from one neighbour and can be summarised as follows:

- Loss of privacy from large vehicles being used along track, they can see over boundary fence
- Access track serving applicants property is also used by The Bungalow (they have a historic right of access along this track)
- Access into site is in close proximity to neighbouring property (17 Main Road)
- Visual and noise implications on objectors property and approved dwellings to east
- Access is unsafe for business use proposed
- Loss of hedgerow to front of site would be harmful to character of the area and on neighbouring properties
- Visual impact on neighbouring properties

6.0 Relevant Policy and Strategic Context

North East Derbyshire Local Plan (Adopted November 2005)

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

- GS1 Sustainable Development
- GS5 Settlement Development Limit
- GS6 Open Countryside
- GS7 Change of Use
- NE1 Landscape Character
- NE7 Protection of Trees and Hedgerows
- BE9 Development in the Vicinity of a Listed Building
- E8 Employment Development in Other Areas OR
- E9 Employment Development in the Countryside
- T2 Highway Access and the Impact of New Development
- T9 Car Parking
- T5 Walking and Cycling

Emerging North East Derbyshire Local Plan (Under Examination)

6.2 The emerging Local Plan (eLP) was submitted for examination in May 2018, with public hearings taking place in November/December 2018 and March 2019. The Inspector issued her interim findings in letters dated 18 February and 21 March, 2019. Following local elections in May 2019, the Council paused the Plan, pending consideration of its options around housing numbers and Green Belt release. On 27 February, 2020 the Council announced the un-pausing of the Plan to allow it to proceed to the next stage of consultation on the Main Modifications. It is expected that this consultation will take place in Spring, with Plan adoption by the end of 2020.

6.3 The emerging Local Plan is therefore at an advanced stage and should be attributed appropriate weight in decision making.

6.4 The following emerging policies of the eLP are material to the determination of this application:

- SS1 Sustainable Development
- SS7 Development on Unallocated Land within Settlements with defined Settlement Development Limits
- SS9 Development in the Countryside
- SDC2 Trees, Woodlands and Hedgerows
- SDC3 Landscape Character
- SDC6 Development Affecting Listed Buildings

SDC12 High Quality Design and Place Making
SDC13 Environmental Quality
SDC14 Land potentially affected by Contamination or Instability
ID3 Sustainable Travel
ID7 Greenways and Public Rights of Way

National Planning Policy Framework (NPPF)

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

Other Material Planning Considerations

- 6.6 Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that Local Planning Authorities have special regard to the desirability of preserving Listed Buildings including their setting.
- 6.7 Successful Places Interim Planning Guidance, adopted December 2013.

7.0 Planning Issues

Principle of Development

- 7.1 Local Plan Policy GS6 states that developments in the open countryside should be considered acceptable subject to the following criteria:
- a) the development is for the operation of a use appropriate to such a location;
 - b) it is in keeping with the character of the countryside;
 - c) it causes minimal disturbance to farming and minimises the loss of agricultural land, particularly that of the best and most versatile quality;
 - d) it does not require major new or improved infrastructure provision;
 - e) it causes minimal problems of noise, disturbance and pollution and other environmental impact; and
 - f) it does not represent a prominent intrusion into the countryside.
- 7.2 Local Plan Policy GS7 states that planning permission for change of use will be permitted provided that the use, scale or type of operation will not have an adverse effect upon the character of the area or neighbouring land uses.
- 7.3 Local Plan Policy E9 states that planning permission will be granted for employment development within the Use Classes B1, B2 and B8 which involve either proposals for the conversion of existing buildings or new build development provided that the use is appropriate to such a countryside location. The proposed development does not fall into any of

- these Use Classes and is closely linked to the SDL of Shirland, as such consider Policy E8 to be more relevant in this instance. Local Plan policy E8 supports changes of use providing it does not have an unacceptable effect on the character of the surrounding area through visual impact, noise or pollution resulting from the development or from traffic generated. Adequate parking and access provision will also be required.
- 7.4 The proposal sits in the grounds of a Grade II Listed Building, as such Local Plan Policy BE9 is relevant. It states that development affecting the setting of a Listed Building will only be permitted if it preserves or enhances its setting, and includes where appropriate the retention of trees and other landscaping features.
- 7.5 The National Planning Policy Framework (NPPF) states at paragraph 80 that *“decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development”* Paragraph 83 goes on to state that *“decisions should enable the sustainable growth and expansion of all types of business in rural areas.”* However paragraph 84 of the NPPF is clear that *“development should be sensitive to its surroundings, not have an unacceptable impact on local roads.”* Furthermore in the same paragraph the NPPF supports *“the use of previously developed land and sites that are physically well-related to existing settlements.”*
- 7.6 The NPPF is clear at paragraph 109 where it states that *“development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*
- 7.7 In view of the above, the principle of development is considered to be acceptable.

Street Scene and Landscape Considerations

- 7.8 The proposed development would involve the change of use of a riding arena into storage and sale of vehicles in association with a business use. Initially no changes were proposed to the boundary or landscaping on site, however to form a more appropriate access into the site a 21m section of Laurel hedgerow would be removed. The applicant has confirmed that the surfacing of the riding arena would be changed to crushed limestone and no amendments are required to the boundary treatments framing the site. No gates would be required.
- 7.9 The site is residential in character, with large grounds associated with the Grade II Listed Building located to the north. A number of outbuildings are

located close to the property and a tennis court sits to the north. The property falls within a residential setting, flanked to the north and south by residential properties within the SDL of Shirland. Main Road sits to the west of the site and open countryside to the east. Access into the site is taken from the south along a narrow track which also serves the main dwelling. This track abuts up to the access associated with 17 Main Road, which has outline planning permission for two dwellings to the rear.

- 7.10 In addition to the aforementioned Local Plan policies which consider the change of use and countryside policies, Local Plan policy NE1 states that the varied and distinctive landscape character of the District should be conserved and/or enhanced. Development proposals that would result in the loss of distinctive features that contribute towards and add value to the landscape character of an area will not be permitted.
- 7.11 The site contains a number of protected trees, with Local Plan Policy NE7 stating that development will not be granted where it would have a direct or indirect effect on established trees. The proposal would not impact upon any protected trees within the application site. However the scheme would result in the removal of a 21m section of hedgerow. Removal of this section of hedge would reveal a section of wall which forms the boundary of the orchard associated with the applicant's property.
- 7.12 The proposed changes are limited to the removal of a non-native Laurel hedgerow, this would result in a traditional stone wall being revealed. Changes to the use of the riding arena would not be visible from public viewpoints. Officers consider that the proposed alterations and change of use, by virtue of its scale and type of operation would not have an adverse effect upon the character and appearance of the surrounding street scene and character of the area. Furthermore, the proposed works would not have an adverse effect upon the surrounding landscape character in this location.

Impact on Setting of Listed Building

- 7.13 The property is a Grade II Listed Building, with the listing mentioning the house itself and attached stable building as being of particular importance. As such, there is a requirement under Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that Local Planning Authorities have special regard to the desirability of preserving Listed Buildings including their setting.
- 7.14 Local Plan Policy BE9 states that development affecting the setting of a Listed Building will only be permitted if it preserves or enhances its setting, and includes where appropriate the retention of trees and other landscaping features.

- 7.15 The proposal involves the change of use of a riding arena which is well screened from public views from the A61 to the west and from wider viewpoints in the countryside to the east. Furthermore, views of the listed building from the riding arena are impossible due to the level of planting within the orchard to the south of the building. No trees would be removed as part of the development, but a 21m stretch of hedgerow would be removed at the site entrance to accommodate a wider access into the site and provide for a passing place.
- 7.16 A hedge removed would be mostly Laurel, a non-native species. Its removal would reveal the original stone wall which frames the orchard to the south of the listed building. No new, modern boundary treatments are required.
- 7.17 Officers consider that the retention of the majority of hedgerow along the access track and stone wall framing the listed building would preserve the setting of the listed building. Furthermore, views of the storage/sales area would be impossible from public viewpoints and well screened from the listed building, as such Officers are satisfied that the proposed change of use and alterations to the access would preserve the setting of the listed building.

Privacy and Amenity Considerations

- 7.18 The applicant seeks to store vehicles on the site of a riding arena to be sold online via their established business. The business would be linked to the adjacent dwelling and run solely by the occupier, details of which are:
- Land to be used for the storage of vehicles. The applicant would primarily store high-end camper vans at the site which would then be sold online.
 - Vehicles would be delivered on an individual basis on a highly sporadic basis. It is estimated that, as a maximum, five vehicles a week would be delivered. There would be occasional visits to the site by customers but, on average, it is estimated that the maximum number of these would be 1 per day. All visits would be strictly appointment only.
 - The existing landscaping which surrounds the site would be retained in full.
 - There would be no staff employed at the site.
- 7.19 The Councils Environmental Health Officer (EHO) was consulted on potential noise and odour matters. The EHO considers that the scale of the proposed use would have a limited impact on neighbouring residents from noise or fumes. The EHO accepts the proposed restrictions put forward by the applicant. The EHO also requests that the use is limited to the storage/sales only and there shall be no mechanical use or use of

- power tools. Cleaning and polishing of vehicles should only be allowed. The hours of operation should also be restricted to the usual working day to restrict noise impacts at unsociable hours. These requests can be restricted by way of condition.
- 7.20 Concern has been raised by a local resident as to the comings and goings associated with such development. Officers note that any user of tall vehicles entering the site would be able to look over a short section of low fence back towards 17 Main Road. Officers also note the proximity of the access to the neighbouring property.
- 7.21 Officers have noted this relationship with the neighbour and the applicant has confirmed that there will only be 5 deliveries per week and occasional customer visits. There will be no additional staff on site. Any vehicles using this access may be able to see over this short section of low fence between the neighbouring property and the driveway. However it is highly unlikely that vehicles will be stationary for any length of time and will be concentrating on either entering or exiting the site, as such Officers do not consider that this relationship would be harmful to neighbouring resident's privacy and amenity. Furthermore it is noted that planning permission has been granted for two dwellings to the east, with access taken immediately to the north of the neighbour's property. However it is appreciated that this approval is in outline only.
- 7.22 In view of the above, Officers consider that the small scale of the operation on site, restricted by conditions limiting the deliveries and customers visiting the site, along with conditions limiting the use of power tools and the hours of operation will ensure that the proposed development would not be detrimental to the neighbouring residents privacy and amenity.

Highway Safety Considerations

- 7.23 The proposal involves the change of use of a riding arena into the storage of high end camper vans for retail sale. It is envisaged that there will be up to 5 deliveries per week, occasional (appointment only) customer visits and there would be no additional members of staff.
- 7.24 The County Highways Authority (HA) was consulted and note that the site is accessed from Main Road, a classified road subject to a 30mph limit. Due to the wide footway at the access point, visibility in both directions is acceptable. The HA note that deliveries would be sporadic, however how vehicles would be delivered is unclear. The application site is located along a narrow track which also serves the main dwelling, should 2 vehicles meet then they may be required to reverse onto the public highway. The HA requested that the access road be widened and appropriately bound with any gates set back from the highway. The HA question whether a condition can be included on any decision restricting

the number of customers into the site. The HA request that this is considered to minimise the potential vehicle conflict. The HA note that 20 spaces would be provided on site, however the plan provided only illustrates 7 cars parked within the site. A revised plan is requested demonstrating sufficient space within the site for the storage of vehicles, together with customer parking along with manoeuvring within the site.

- 7.25 Amended plans were submitted illustrating a widened access track and passing place. This widened access arrangement would be provided by removing a 21m section of hedgerow adjacent to the highway.
- 7.26 The applicant has also confirmed that deliveries will be driven into site or brought in on a low loader under his ownership. Customers will come to site by appointment only and sufficient parking and turning is available within the site. Furthermore he points out that the existing dwelling has another point of access to the north, so residents do not have to use this point of access.
- 7.27 The HA considered the amended plans and are of the opinion that they overcome their concerns, subject to conditions restricting the deliveries into the site, customers coming to site by appointment only and the business not employing anyone other than the occupants of 2 Town End. It was also requested that the applicant submit a parking and maneuvering plan before development commences. Officers also consider that there should be no gates within 10m of the highway boundary to avoid instances of a vehicle with trailer extending onto the public highway.

Land Contamination Considerations

- 7.28 The Councils EHO was consulted and noted that no ground works would be necessary as such no further land contamination action is required.

Other Considerations

- 7.29 Concern has been raised by a third party at the submitted plans not being an accurate depiction of land under the applicant's ownership. However the applicant has confirmed in writing that to the best of his knowledge he owns the land forming the application site. As such Officers are satisfied that they are able to determine the application and any boundary disputes are private matters that are not material to the determination of this application.

8.0 Summary and Conclusion

- 8.1 The riding arena lies in open countryside, with the access track falling within the Settlement Development Limit for Shirland. Local and National Planning Policy supports business growth in such a location.

- 8.2 The site is well screened from public viewpoints and the only proposed change to the site is the removal of a section of Laurel hedge to increase the width of the access track from Main Road and provide a passing place. This will reveal an attractive boundary wall to the listed buildings orchard. Officers are satisfied that these alterations to the site and change of use would not be detrimental to the character and appearance of the site and the surrounding street scene. Furthermore the proposed use, its scale and type of operation will not have an adverse effect upon the character of the area.
- 8.3 Officers are satisfied that the proposed change of use and alterations to the site entrance, including removal of a section of Laurel hedge would preserve the setting of the listed building.
- 8.4 Subject to restrictive conditions outlined in the assessment above, Officers are satisfied that the proposed use, by virtue of its scale and type of operation would not be detrimental to the privacy and amenity of existing neighbouring residents or land uses.
- 8.5 The HA consider that changes to the site entrance and the introduction of a wider section of driveway to allow vehicles to pass each other would overcome any highway safety concerns.
- 8.6 For the reasons above, it is considered that the proposed development would comply with the North East Derbyshire Local Plan, emerging Local Plan and guidance contained in the NPPF.

9.0 Recommendation

9.1 Grant permission subject to the following conditions:

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

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

- 2) The development hereby approved shall be carried out in accordance with the submitted plan drawing numbers:
 - 2204-2 (Site Layout Plan, date scanned 17th March 2020)
 - 2204-3 (Location Plan, date scanned 17th March 2020)
 - 2204-3 (Location Plan with Passing Place annotated, date scanned 24th June 2020)

unless otherwise specifically agreed through a formal submission under the Non Material Amendment procedures and unless otherwise required by any other condition in this decision notice.

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

- 3) The site subject of this application shall be used for the storage and sale of vehicles only.

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

- 4) The area for the storage and sales of vehicles shall be surfaced with crushed limestone, and retained as such thereafter.

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

- 5) Prior to the change of use the subject of the application, the existing access track onto Main Road shall be widened, generally in accordance with drawing 2204-3-3, with the additional removal of the first section of hedge (marked in green for the first 21m into the site and including the 'passing place') located between the highway and proposed passing place, so as to provide space within the site to vehicles to pass should they meet.

[Reason: In the interest of highway safety, all in accordance with Policy T2 of the North East Derbyshire Local Plan.]

- 6) Notwithstanding the submitted details, prior to the change of use taking place, a plan to show vehicle parking, customer parking, maneuvering areas and revised access track surfacing shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first use of the site. Thereafter the customer parking and turning areas shall be kept clear at all time and not used for any other purpose other than parking and maneuvering.

[Reason: In the interest of highway safety, all in accordance with Policy T2 of the North East Derbyshire Local Plan.]

- 7) There shall be no vehicular gates or other barriers located within 10m of the highway boundary and any gates shall be designed as to open inwards only.

[Reason: In the interest of highway safety to avoid instances of a vehicle and trailer projecting onto the public highway, all in accordance with Policy T2 of the North East Derbyshire Local Plan.]

- 8) The business hereby approved shall be operated by the owner of 2 Town End, Shirland only and there shall be no other persons employed at the site.

[Reason: In the interest of highway safety, all in accordance with Policy T2 of the North East Derbyshire Local Plan.]

- 9) There shall be no more than 5 vehicle deliveries per week.

[Reason: In the interest of highway safety, all in accordance with Policy T2 of the North East Derbyshire Local Plan.]

- 10) Customer appointments to the site shall be limited to 1 per day. These shall be made strictly by appointment only. A log shall be retained of appointments and submitted to the Local Planning Authority on an annual basis, on or within 28 days of the anniversary of the permission hereby approved being granted.

[Reason: In the interest of highway safety and ensure the proposed use does not have an adverse effect upon the character of the area or neighbouring land uses, all in accordance with Policies GS6, GS7 and T2 of the North East Derbyshire Local Plan.]

- 11) No power tools, equipment or machinery shall be used on site, other than the use of portable hand tools is permitted. Manual cleaning and polishing of vehicles is allowed.

[Reason: In the interest of protecting the amenity of neighbouring residential properties and land uses, all in accordance with Policies GS6 and GS7 of the North East Derbyshire Local Plan.]

- 12) Appointments and deliveries to site shall only take place between the hours of 08:00 and 18:00 Monday to Friday, and 08:00 and 13:00 on Saturdays. There shall be no appointments or deliveries on Sundays or Public Holidays.

[Reason: In the interest of protecting the amenity of neighbouring residential properties and land uses, all in accordance with Policies GS6 and GS7 of the North East Derbyshire Local Plan.]

Informatives:

- a) DISCON
- b) NMA
- c) The Highway Authority recommends that the first 5m of the modified track should not be surfaced with a loose material (i.e. unbound

chippings or gravel etc). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the householder.