



Applicant:
Jon Petcher

Ref. No. DMPA/2021/1063
Made valid on: 5 July 2021

DECISION NOTICE

Description and location of proposal: Outline application (matters of access to be considered now with matters of layout, scale, appearance and landscaping reserved for later consideration) for the erection of two dwellings at Land adjacent to 497 Burton Road, Midway, Swadlincote, DE11 0DQ

Decision made: In exercise of its powers as the Local Planning Authority under the Town and Country Planning Act 1990 and related subordinate legislation, South Derbyshire District Council hereby gives notice that permission/consent for the proposal as described above is hereby **Approved subject to the following Conditions:**

1. (a) Application for approval of the reserved matters listed at condition 2 shall be made to the local planning authority before the expiration of three years from the date of this permission; and
(b) The development hereby permitted shall be commenced before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To conform with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. Before any development is commenced the further approval of the local planning authority is required with respect to the following matters (herein referred to as the reserved matters) on an application made in that regard:

- (a) appearance,
- (b) landscaping,
- (c) layout, and
- (d) scale.

Reason: This permission is granted in outline under the provisions of Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015 and section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

3. The development hereby permitted shall be carried out in accordance with plan(s)/drawing(s) ref:

Application form received 5th July 2021;

Location Plan received received 5th July 2021; and

Access details only, as shown on Proposed Site Plan drawing 201, received 5th July 2021.

unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Steffan Saunders

Authorised Officer of the Council

Date: 14 January 2022

Reason: For the avoidance of doubt and in the interests of achieving sustainable development.

4. No development, including preparatory works, shall commence until the new vehicular and pedestrian accesses to Burton Road have been constructed. The accesses shall be laid out in accordance with the approved plans, constructed to base level, drained and visibility sightlines of 43m in both directions measured to the nearside edge of the carriageway, as measured from a point located centrally and 2.4m back into the access. The area within the sightlines shall thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level.

Reason: To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway.

5.
 - a) No development shall commence until a scheme to identify and control any contamination of land or pollution of controlled waters has been submitted to and approved in writing by the local planning authority, and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of Section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated' (herein referred to as 'the Guidance'), unless the local planning authority dispenses with any such requirement specifically and in writing.
 - b) Prior to occupation of the development (or parts thereof) an independent verification report which meets the requirements given in Box 2 of Section 3.1 of the Guidance shall be submitted to and approved in writing by the local planning authority. With the prior written agreement of the local planning authority pursuant to part (a) of this condition, this may be carried out on a plot-by plot basis.
 - c) In the event that it is proposed to import soil onto site in connection with the development, this shall comply with the specifications given in Box 3 of Section 3.1 of the Guidance.
 - d) If required by the conceptual site model, no development shall commence until monitoring at the site for the presence of ground gas and a subsequent risk assessment which meets the requirements given in Box 4, Section 3.1 of the Guidance has been completed in accordance with a scheme first submitted to and approved in writing by the local planning authority.

Reason: To protect the health of the public and the environment from hazards arising from previous uses of the site and/or adjacent land which might be brought to light by development of it, recognising that failure to address such matters prior to development commencing could lead to unacceptable impacts even at the initial stages of works on site.

6. No development shall take place until a scheme of dust mitigation measures and the control of noise emanating from the site during the construction period has been submitted to and approved in writing by the local planning authority. The approved measures shall be implemented throughout the construction period.

Reason: To protect the residential amenities of nearby occupiers.

7. No development shall take place until details of the proposed finished floor levels; ridge and eaves heights of the dwellings hereby approved have been submitted to and approved in writing by the local planning authority. The submitted levels details shall be measured against a fixed datum and shall show the existing and finished ground levels, eaves and ridge heights of surrounding property. The development shall be carried out as approved.

Reason: To ensure the proper siting of the dwelling in relation to the surrounding land levels, and to show the relationships with adjacent properties in the interests of the visual amenity of the site and residential amenity of nearby occupiers.

8. No development, including preparatory works, shall commence until a scheme for the protection of trees and hedgerows has been submitted to and approved in writing by the local planning authority. Such a scheme shall be based on best practice as set out in BS 5837:2012 and ensure that no vehicles can access, and no storage of materials or equipment can take place within, the root and canopy protection areas. The approved scheme of protection shall be implemented prior to any works commencing on site and thereafter retained throughout the construction period.

Reason: To maintain the visual and environmental quality of the site and surrounding area.

9. No laying of services, creation of hard surfaces or erection of a dwelling shall commence until a scheme for the drainage of surface water from the site has been submitted to and approved in writing by the local planning authority. The scheme shall be carried out in conformity with the approved details prior to the first [occupation of each respective [dwelling served by the surface water drainage system.

Reason: In the interests minimising the likelihood of flooding incidents and damage to the environment, property or life.

10. Each dwelling shall be constructed and fitted out so that the estimated consumption of wholesome water by persons occupying the dwelling will not exceed 110 litres per person per day, consistent with the Optional Standard as set out in G2 of Part G of the Building Regulations (2015). The developer must inform the building control body that this optional requirement applies.

Reason: To ensure that future water resource needs, wastewater treatment and drainage infrastructure are managed effectively, so to satisfy the requirements of policy SD3 of the Local Plan.

11. Except in an emergency, no demolition, site clearance, construction, site works or fitting out shall take place other than between 08:00 hours and 18:00 hours Mondays to Fridays, and between 08:00 hours and 13:00 hours on Saturdays. There shall be no such activities whatsoever on Sundays, public holidays and bank holidays.

Reason: To protect the residential amenity of nearby occupiers.

12. Prior to the first occupation of the dwellings hereby approved, provision shall be made within the development for a re-charge point for electric vehicles. The charging points shall be provided with an IP65 rated domestic 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. This socket shall be located where it can later be changed to a 32amp EVCP. Alternative provision to this specification must be first submitted to and approved in writing by the local planning authority. The electric vehicle charging points shall be provided in accordance with the stated criteria prior to the first occupation or use of the respective dwellings and shall thereafter be maintained in working order and remain available for use throughout the life of the development.

Reason: In the interests of protecting and enhancing air quality through reducing and minimising emissions from vehicles.

13. As part of a Reserved Matters application, the number, size, layout, and location of car parking spaces must be submitted to, and approved in writing by, the local planning authority. Before the first occupation or use of the development these parking spaces shall be provided in accordance with the approved details and thereafter retained for the sole use of parking for the development hereby approved.

Reason: To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway(s) and to ensure that the facilities provided are reserved for the benefit of the development for which they are specifically required.

14. Any access gates/bollards/chains/other means of obstruction shall be hung to open inwards and set back a minimum distance of 5m from the near channel edge of the adjacent carriageway. Any sidewalls/fences/hedges adjacent to the access shall be splayed at an angle of 45 degrees from each of the outside gateposts to the front boundary of the site.

Reason: In the interests of highway safety enabling vehicles to safely draw off the highway before the gates/obstruction is opened.

15. Prior to the construction of a boundary wall, fence or gate, details of the position, appearance and materials of such boundary treatments shall be submitted to and approved in writing by the local planning authority. The boundary treatments shall be completed in accordance with the approved details before the respective dwellings to which they serve are first occupied or in accordance with

a timetable which shall first have been submitted to and approved in writing by the local planning authority.

Reason: In the interests of the character and appearance of the area, in particular to maintain the character of public realm as secured under the plans hereby approved.

16. During the period of construction there should be no clearance of vegetation by burning, or disposal of other materials by burning owing to the proximity of neighbouring sensitive receptors.

Reason: To protect the residential amenities of the nearby occupiers.

You are advised of the following matters:

- a. Informative ref: I002 - Section 127 – Closure of existing access Pursuant to Section 127 of the Highways Act 1980, no works may commence within the limits of the public highway to reinstate the footway and redundant vehicular access without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice regarding the technical, legal, administrative and financial processes involved in Section 127 Agreements may be obtained by contacting the County Council via email – highways.hub@derbyshire.gov.uk. The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 127 Agreement.
Informative ref: I003 - Section 149 / 151 - Mud on highway Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
Informative ref: I005 - Section 184 Licence Planning permission does not give you approval to work on the public highway. To carry works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk, email highways.hub@derbyshire.gov.uk or telephone 01629 533190.
- b. Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under, The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.
- c. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. Further information is also available on The Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority. Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com.

In dealing with the application, and further to pre-application advice where that has been given, the Local Planning Authority has positively sought to determine the application in a timely fashion and so promote the delivery of sustainable development in the District. Where practicable, feasible and necessary, and irrespective of the above decision, officers have made proactive attempts to find solutions to identified issues or to improve the quality of the development through negotiation with applicants and/or their nominated representatives, in order to foster the delivery of sustainable development and objectives of the Development Plan.

Changes in intention: any deviation from the approved plans/drawings and/or details should be discussed with the Local Planning Authority in advance. This includes circumstances where the applicant/developer subsequently identifies inaccuracies with the approved documents or conflict with other regulatory requirements. A formal application to amend the proposals or secure a revised permission may be necessary. Failure to secure necessary approval may result in the commencement of enforcement proceedings.

Scope of this decision: this is a planning decision notice which, unless expressly applied for and stated in the description of development above, conveys no decision of associated planning consent (such as listed building or advertisement consent); nor does it convey a decision under, or override, supersede or negate, any other legislation or the need to comply with restrictive covenants under Civil Law. In particular the necessary approval under the Building Regulations and the Public Health Acts must be obtained before the carrying out of building works. Where the adopted highway, including verges and pavements, is to be altered, the Local Highway Authority (Derbyshire County Council) should be contacted to establish its requirements.

Right of appeal to the Secretary of State: if you are aggrieved by the decision of the Local Planning Authority to refuse permission or consent for your proposal or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990, subject to the following:

- if this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, any appeal must be made within 28 days of the date of this notice;
- if an enforcement notice is subsequently served relating to the same or substantially the same land and development as in your planning application, any appeal must be made within 28 days of the date of service of the enforcement notice, or within 6 months (12 weeks in the case of a householder or minor commercial appeal, the latter as defined by Part 1 Article 2 of the Town and Country Planning (Development Management Procedure) Order 2015) of the date of this notice, whichever period expires earlier;
- if this is a decision on an application for consent to cut down, top, lop, uproot or otherwise destroy a tree or trees protected by a tree preservation order, or for a decision on a lawful development certificate for proposed works to a listed building, any appeal must be made within 28 days of the date of this notice;
- if this is a decision on an application for advertisement consent, any appeal must be made within 8 weeks of the date of this notice;
- if this is a decision on an application for householder or minor commercial development (the latter as defined by Part 1 Article 2 of the Town and Country Planning (Development Management Procedure) Order 2015), any appeal must be made within 12 weeks of the date of this notice;
- in all other cases, except for a decision on a lawful development certificate for an existing or proposed use or development, any appeal must be made within 6 months of the date of this notice.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

Appeals must be made using a form which you can get online at www.gov.uk/planning-inspectorate or from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. The Secretary of State need not consider an appeal if it seems to them that the Local Planning Authority could not have granted planning permission or consent for the proposal or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order. In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based their decision on a direction given by the Secretary of State. If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details can be found online at www.gov.uk/planning-inspectorate.

Street naming and numbering: the applicant and/or developer is reminded of the Council's responsibility to issue official addresses for all residential and business premises within South Derbyshire. All new addresses are allocated in line with our street naming and numbering guidance available at www.southderbyshire.gov.uk and you are advised to engage with the Council as soon as possible to enable the issuing of any street and property names/numbers to be created by this development. Any number and/or property name that is associated with identifying individual properties must be displayed in a clear, prominent position that can be read from the roadside. It is the developer's responsibility to erect the appropriate signage once the building(s) is/are ready for occupation. There are two types of the name plate the Council uses: Type A carries the Council's crest, whilst Type B does not. You are advised that the Types are usually expected in the following locations:

- Type A: on classified (A, B and C) roads, at junctions with classified roads, and at the commencement of local distributor roads (roads acting as through routes within developments);
- Type B: intermediate name plates along local distributor roads, on collector roads (roads which run within a development providing access and linking small access roads and access ways), on access roads (roads serving a small number of houses which may also have a surface shared by pedestrians and vehicles), and access ways which have a different name from their access road; all unless at a junction with a classified road (where Type A will be expected instead).

High speed communications: the applicant and/or developer is strongly encouraged, as part of the delivery of any premises on the site, to provide full fibre broadband connections (i.e. from streetside cabinet to the property). Further details of initiatives to support the provision of full fibre connections as part of broadband installation at the site can be obtained from Digital Derbyshire on broadband@derbyshire.gov.uk.

Fire safety in new buildings: the applicant/developer is encouraged to install a sprinkler system in any new premises created on the site in order to reduce the risk of danger from fire to future occupants and property.

Purchase Notices: if permission is refused or granted subject to an unacceptable condition, and the owner of the property claims that the property has consequently become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development/work which has been or would be permitted, the owner may serve on the Council a purchase notice requiring that Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Enquiries: Any correspondence or enquiries concerning this decision should be sent to planning@southderbyshire.gov.uk quoting the above reference number.