

Officer: Stuart Hammond

Ref. No. DMPA/2022/1775

Valid date: 04/11/2022

Applicant: C and E McDonagh

Agent: Alan Yarnwood Planning

Proposal: Erection of a 4 x stable stableblock, hardstanding manure storage area and associated new access onto Acresford Road all for equine use Clover Park, Acresford Road, Netherseal, Swadlincote, DE12 8AP

Ward: Seales

Site Description

The application site comprises an area of land extending to approximately 0.1ha, situated within a larger field, also within the applicant's ownership. The field is situated to the southeast of Acresford Road, approximately 100m south west of The Cricketts Inn public house. The A444 runs parallel with the northeastern/eastern field boundary. The field is bound to the southwest by a water course named Hooborough Brook. The field is bound to the west by a complex providing Gypsy and Traveller pitches who are the applicants. The field is currently accessed by an upgraded existing access point onto Acresford Road to the southwest of the site. The existing access provides access to the pitches and has been slightly widened and enclosed by solid fencing and gates and an internal driveway has been created, leading from the highway access point and continuing through the complex of pitches to the site.

The adjacent complex, has consent for a single Gypsy and Traveller pitch, approved in October 2018. Further to this, this site has since been subject to a successful permission at appeal to create additional Gypsy and Traveller pitch and erection of amenity building and associated parking area. This development is located in the south western part of the field, adjacent to the access point. There are a number of further touring caravans, which totalled 5 during the site visit.

For the field within which the site is proposed, there is historic permission on the site and field for use as a paddock and two stableblocks granted under permission 9/2008/0829/U which the application sets out as recently removed.

This application is for permission for a stable block located in the north/northwest of the field adjacent to the Acresford Road. Originally the application sought an element of retrospective permission insofar as it sought to regularise an existing access track made from hardcore and rubble running through the field. This is now no longer part of the application as set out below and as such these works would need to be removed or regularised in a further application. The application now seeks access from Acresford Road immediately to the west of the stables thus reducing the built

footprint of development in the countryside and moving development away from the Hooborough Brook.

The application form outlines that at the time of making the submission the use of the land was 'equestrian'. There are concerns from the local Councillor Wheelton regarding 'non equestrian' operations from the site, including the storage of rubble and hardcore within the field.

A native hedgerow forms the northwestern highway boundary, with the field boundary to the south formed by the winding Hooborough Brook. Of the application site, the stable block and access is entirely within Flood Zone 1, but land to the south is within Zone 2 and 3 as it nears the Hooborough Brook. The Hooborough Brook also defines the administrative boundary between South Derbyshire and North West Leicestershire. The site is within the countryside, and whilst it is not subject to any landscape designations, it is situated within the catchment of the River Mease Special Area of Conservation (SAC), the National Forest and nearby established trees which are covered by a Tree Protected Order.

The Proposal

As set out above the application has been amended since its submission. The application no longer seeks to use the access originally created to serve the Gypsy and Traveller pitches to the west, and hardcore currently in the field to comprise of an access track when the stable block was proposed to be in the eastern corner of the field.

It now seeks to provide a new access and the stable block is located solely in Flood Zone 1.

Consequently, the development description has been revised to reflect these amendments and is now:

Erection of a 4 x stable stableblock, hardstanding manure storage area and associated new access onto Acresford Road all for equine use

The stable block will provide three stables and a 'tack room'. The stable block will be covered by a pitched roof which will overhang the accesses to the stable, creating an open covered space. The stables will be accessed from the south and a blank elevation to the north. Around the stable will be an area of permeable hard surface area formed by 100mm compacted clean hardcore at ground level. This will then create the access track which will provide access through the existing hedgerow to Acresford Road.

The existing hardcore and rubble in the field to the south of the site is not part of this application.

A timber fence on the eastern side of the field is also proposed to be removed and replaced with hedgerow.

Applicant's Supporting Information

The application has been supported by the following information:

Application Form

Sets out the application is retrospective and seeks to regularise a stable block of 65sqm with an access track.

Revised Location Plan w/ Flood Risk Zones

Sets out the redline of the application site encompassing the stableblock and access track within the wider field which is outlined in blue given that it is under the same ownership. Outlines that the site is located solely within Flood Zone 1.

Final Layout Rev 2 - Drawing No. RY.M.23.1B

Sets out the stable block on plan, areas of additional planting, areas of permeable surfacing dimensions of layout on plan, planting details and access details at a scale of 1/500.

Final Elevations and Plans Rev 2

Sets out the stable block at a scale of 1/100 @A4.

Flood Risk Assessment (FRA)

This document sets out that the of the application site the stable block is entirely within Flood Zone 1, whilst the access track is located within Flood Zone 2 and 3. It is set out that the proposal will not put anyone or any property at risk. Access remains possible from the wider field which is located in Flood Zone 1. Nevertheless, access will not be necessary and only intermittently.

River Mease Impact Statement

This document sets out that given the historic permission and past lawful use as a paddock and two stable blocks via permission 9/2008/0829/U the provision of one stableblock does not give rise to an increase in equestrian activity or potential impact to the River Mease Special Area of Conservation (SAC).

The document goes on to set out that no additional surface water run off or change in the nature of surface water will arise. All hard surfaced areas will be created in clean stone and will be permeable. Run off from the roof of the stable block will be created and collected for use as drinking water for the horses. Given the use no foul will arise.

Further Letter

Setting out further information requested for validation is submitted – FRA and Impact Statement. Confirms that all hard surfacing will be at ground level with no level changes or engineering works, and this application does not undermine the discharge of wider conditions associated with the appealed application – 2019/1048

Summary of Recommendation

It is recommended that the application, as amended is approved, subject to conditions.

Publication and Consultation

The application was publicised via one round of consultation running from 12th January 2022 until 2nd February 2022, during which letters were sent to neighbours.

The application was consulted upon with the following bodies and statutory consultees who provided the subsequent comments below. Given the development was revised during the application's determination and the range of matters raised by the application, there has been further direct correspondence with a number of statutory consultees to address comments and confirm conditions.

On this basis, the application is considered to have been publicised in accordance with national and local legislation on consultation.

At the time of writing the application has received numerous responses summarised as follows:

Seales Ward: Councillor Wheelton – Comments

A number of emails have been received by Councillor Wheelton setting out that there are a number of local concerns regarding unlawful operations occurring on the site and wider land regarding storage of hardcore and rubble and HGV movements on site.

Netherseal Parish – Objection

Objection on the ground of development location and impact to River Mease, and highway and access issues.

Overseal Parish – No objection

Considered their meeting on Thursday 3rd February and confirmed no comment to make on it.

North-West Leicestershire – No objection

With reference to your consultation on the above, I am writing to advise you that North West Leicestershire District Council has no objections to the proposals, provided your Council are satisfied that the proposed development complies with the relevant development plan policies.

Environmental Health Officer – No objection / Condition advice

Following a dialogue advice was sought by Officers regarding concerns of contaminant issues arising from unclean hardstanding being used in the development. In response the EHO advised the following condition:

Prior to the construction of any new areas of hardstanding, details of surfacing and hardcore materials shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the source and a chemical analysis of the materials to be imported. The areas of hardstanding shall be constructed in accordance with the approved details.

Reason: To ensure the quality of hard standing material does not give rise to unacceptable impacts on the river Mease given the SSSI Impact Area designation at this location

County Highways Authority – No objection subject to conditions

With regards to the proposed access onto Acresford Road it is considered that as the access is located close to the change in speed limit the visibility splay to the north needs to be 60m and to the south it needs to be 120m. These visibility splays are shown on Drawing No. RY.M.23.1B and the proposed access is therefore acceptable.

Taking the above into account the highway authority has no objections to the application subject to the following conditions being imposed should approval be granted.

1. No development, including preparatory works, shall commence until the new vehicular and pedestrian access to Alfreton Road has been constructed. The junction shall be laid out in accordance with the approved plans (Drawing No. RY.M.23.1B), constructed to base level and with visibility sightlines of 60m to the north and 120m to the south both 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.

2. The development hereby permitted shall not be occupied until such time as the access has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with the National Planning Policy Framework (2019)

3. Any entrance gates shall be set back a minimum of 10m from the highway boundary, must open inwards, and maintained at that distance for the life of the development unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure parked vehicles do not overhang the adjoining public highway, thereby adversely affecting highway users

Environment Agency – No objection

We have no fluvial flood risk objections to the proposal as shown on Final layout Rev2 Drawing No. RYM 23.18 (submitted 17 Mar 2023).

However, due to previous ground level raising being undertaken on site in the flood plain as shown on drawing No. Block Plan (Scale 1/500 submitted on 29 Dec 2021), the proposed development will only meet the National Planning Policy Framework's requirements in relation to flood risk if the following planning conditions are included in order to mitigate the impact of these previous unpermitted works, and protect the flood plain from any further inappropriate development.

Protect Efficient Workings of the Floodplain

Condition 1

The development shall not be occupied until the ground levels previously raised in order to create the 'Track and stable hard standing' shown on Block Plan (Scale 1/500 submitted on 29 Dec 2021), are reinstated to those existing prior to the commencement of the Block Plan site layout, in order to mitigate the impact of these previous unpermitted works.

Please Note, the above should include the removal of all material brought onto site and placed in the flood plain, as shown on the Flood Map for Planning (attached, Ref Clover Pk Acr, dated 17 Jan 2022) to a location outside of the flood plain, in Flood Zone 1. In the absence of the removal of this material a Compensatory flood storage scheme would need to be submitted, in order to mitigate any flood plain storage lost within the Blue line land ownership (as shown on the Location Plan submitted 29 Nov 2021) as this could result in an increase in flood risk both on and off site.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reasons

- To reduce the risk of flooding to the proposed development and future occupants*
- To prevent flooding elsewhere by ensuring that compensatory storage of flood water is NOT required*

Condition 2

Upon completion of the ground reinstatement works and prior to first occupation, an 'as built' topographical survey of the area of floodplain reinstatement shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Environment Agency.

Reason

To ensure that the floodplain reinstatement area is returned to the ground levels existing prior to the commencement of the Block Plan (Scale 1/500 submitted on 29

Dec 2021) site layout.

Condition 3

There shall be no raising of ground levels or erection of any building, structure or any other such obstruction to flood flows within the area of floodplain reinstated as part of the development of this site and hereby approved under conditions XX above, unless otherwise agreed in writing by the Local Planning Authority in consultation with the Environment Agency.

Reason

To safeguard the efficient workings of the area of floodplain as shown on the Flood Map for Planning from inappropriate development (attached, Ref Clover Pk Acr, dated 17 Jan 2022).

Natural England - No objection subject to conditions mitigating impact on River Mease

As discussed, I have summarised Natural England's Advice with regards to this application (DMPA/2021/1775).

- *With regard to surface water, all of the ground surfaces will be permeable; the only additional impermeable surface will be the small stable roof. Roof water is proposed to be harvested and used for drinking water for horses. This removes the pathway for roof water to run off and reach the River Mease SAC, except in the event that the rainwater harvesting system is full. Nonetheless, Natural England consider that the risk of significant impacts from roof water periodically discharging to ground from the stable roof when the harvesting system is full is insignificant. This is due to a number of reasons:
 - A) *Roof water contains minimal pollutants (Chapter 26 of the [CIRIA SuDS Manual](#) states the pollution hazard level associated with surface water runoff from roofs is low to very low)*
 - B) *The volume of water potentially discharging to ground is extremely small due to the small roof area and likelihood that the majority of runoff will be captured and used for horses drinking water.*
 - C) *The hardstanding surrounding the outside of the stables is to be permeable in nature, making it likely that runoff from the roof will be allowed to infiltrate before running off towards the River.**
- *Finally, as noted in our previous advice, where manure is stored under cover and on impermeable hardstanding, the risk of nutrients leaching to the River Mease SAC is insignificant.*

We recommend that conditions are applied to ensure the rainwater harvesting system is implemented, and that manure is to be stored under cover and on impermeable hardstanding.

Landscape Officer - No objection subject to conditions

Where new development takes place, it should be well related to the existing landscape infrastructure that integrates the proposal with the wider landscape. NPPF

advises that all development should be seeking Biodiversity Net Gain. With consideration to the submitted documents and the proposed site context, with the increase development of the courts, we have the following comments.

- a) A Landscape Plan showing 3 No native species trees to be planted to the right of the stable block. The species and size of the trees to be stated on the plan. We require enhancement of the biodiversity, that will mitigate for the increased development of the site, by the planting of trees, shrubs and wild flower meadows. With the use of native species, with consideration to improving local biodiversity including hedgehogs, birds, bats, and bees etc. The applicant is advised to seek the services of a Landscape Architect.*

Derbyshire Wildlife Trust (DWT) – No objection subject to conditions

I confirm that providing the biodiversity enhancement measures are implemented in full we have no objection to the proposed development.

Arboricultural Officer – No objections subject to conditions

I advise the 10m gap in the hedge is filled with 100% hawthorn to make a stock proof barrier. However, if you have had to approve the original specification with 25% other species the hedge will still establish. The planting of the 2 oak, 2 beech and 2 birch as 2.5 to 3.0m 8/10cm girth standards is satisfactory.

Public Responses

Three public objections have been received in objection to the proposal as follows:

My concern for this application is that the work has already started on the track and it looks like bricks and rubble have again been used as a base. This is what happened on the main site when they moved on with total disregard for the building regulations and planning permission and for the protection of the River Mease. They have not adhered to rules and regulations so far so how do we know that they are willing to do this now. My other concern is the that the noise level from the families is also considerable, with dogs constantly barking and people shouting and screaming late into the night/early morning, so when they have more access to the bottom field this is closer to residential properties and therefore, I fear the noise level will be even worse. Also, before they moved on site, they left a horse tethered up without water for weeks on end and standing in mud in all weathers, so I have concerns as to how well they are going to treat their horses/animals in the future. They put up a fence against the regulations of the Council, again doing as they want, but I see from the plans they are supposed to remove the bottom fence and replace with hedging. I hope this is at their cost and not the tax payers and that it will be fast growing and be left tall enough to cut out noise and the view of the rubbish they like to leave about the site, as this is the gateway into Derbyshire and is not a pretty site, The fencing that they were told not to put up along the side of Acresford Road but went ahead anyway does actually help a little with the noise and the view, however the hedging in front of it needs to be left longer and not cut so far back to further help with covering the fence and view of the site and helping with noise.

I support the Netherseal parish councils concerns about this application and think they will fully express the complex issues more thoroughly.

This land has been particularly wet especially that lower down at similar level to Hooborough brook. What is the material used to construct the track and is this of suitable quality to be used next to the water course. The level of the track is now higher creating a barrier to the water from Hooborough brook at high flows which seems to contradict the current national natural flood policies.

I will respond to the consultation about this partially retrospective planning application but have a couple of questions that would help me to understand the process. The environmental impact of the continued development of this site continues to cause concern for me.

Within the current application, the River Mease impact statement states that “the site is within a paddock which has a lawful use for equestrian purposes so there is no change of use. The paddock previously contained two stable blocks granted permission under ref 9/2008/0829/U, which have recently been removed”.

This application in 2008 is for change of use of temporary stables and food store into permanent buildings. My question is does the fact that the land is for equestrian purposes mean that stables can be built anywhere on the site? The location of the previously temporary stables is in a totally different place on the site to where the proposed new stable block is to be situated.

In addition, in PA/2012/9, the Report on the Impact on the River Mease SAC clearly states that “stables create a greater risk of pollution through run-off from stockpiled manure leaching into groundwater and the water course”:

https://planning.southderbyshire.gov.uk/documents/PA/2012/9_2012_0570%20Report%20on%20Impact%20of%20River%20Mease.pdf

Can you confirm that Natural England have been consulted on this current application and whether they have continued oversight of the mitigations that were put in place for the site as a whole.

Relevant planning history

The relevant planning history for the Site and surrounding is set out below:

9/1992/0231: Retention of shed, shelter and stable. Approved 24 July 1992.

9/2003/0748: Erection of block of 3 stables. Withdrawn.

9/2007/0243: Formation of vehicular access. Approved 30 April 2007.

9/2008/0829: Change of use of existing temporary stables and food store into permanent buildings with equine hardstanding. Approved 30 September 2008.

E/2011/00022: Enforcement Notice against breach of planning control relating to the use of the land as a Gypsy site, removal of the caravan, portable toilet, hardcore material and reduction in height of the timber close boarded fence at the access where adjacent to the highway.

Appeal (APP/F1040/C/11/2158251 decided 17 February 2012) dismissed as a result of the absence of evidence to show that the development would not impact adversely on the River Mease SAC.

The Inspector however, considered that the development would not cause any harm to the rural landscape or in visual terms subject to the imposition of conditions. The site was considered to be in a reasonably sustainable location and that there would be no material harm to highway safety from its limited usage.

9/2012/0570: Retrospective application for the change of use from equestrian land to residential gypsy site for one pitch. Refused 26 June 2013.

This application was refused following the Council undertaking surveys of the site and drainage at the request of Councillors, for the following reason: "Insufficient detailed information has been submitted to demonstrate that connection to the mains sewer under the A444 is achievable. Without that connection it is likely that an alternative drainage system would be required for which no detail has been submitted, which could have an adverse impact on the integrity of the River Mease Special Area of Conservation and Site of Special Scientific Interest, contrary to Local Plan Saved Environment Policy 11 and paragraphs 7, 17, 109 and 118 of the National Planning Policy Framework."

This decision was subsequently appealed (APP/F1040/A/13/2201414) and allowed 17 July 2014.

The main issue considered by the Inspector was the effect of the development on the integrity of the River Mease SAC and Site of Special Scientific Interest (SSSI), having particular regard to whether a connection to the main sewer could be achieved. The evidence before the Inspector included no objections from the Environment Agency, Severn Trent Water and Natural England such that they were satisfied that a connection to the main sewer is feasible. Such a connection was considered sufficient to ensure the appropriate management of foul effluent from the development in accordance with the Water Quality Management Plan. This together with the removal of contaminated material and its replacement with clean inert material, the Inspector concluded that the development would ensure no adverse impact of the River Mease SAC and SSSI.

9/2018/0616: Change of use from equestrian land to residential gypsy caravan site with one pitch. Approved 17 October

2018 E/2018/00110: Stop Notice: The formation of a concrete base and engineering operations to alter the land levels both of which constitute unauthorised operational development, without planning permission. Served 29 August 2019.

E/2018/00110: Enforcement Notice: Without planning permission the formation of a concrete base and engineering operations to alter the land levels both of which constitute development

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), S3 (Environmental Performance), S6 (Sustainable Access), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF7 (Green Infrastructure)

2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in the Countryside), and BNE7 (Trees, Woodland and Hedgerows)

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

The Conservation of Habitats and Species Regulations 2017

Planning considerations

Taking into account the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issues central to the determination of this application are:

- The principle of the development;
- Biodiversity and Ecology (River Mease);
- Flood Risk and Drainage;
- Landscaping and visual impact;
- Other Matters;
- Conclusion and Planning Balance

Planning Assessment

The Principle of Development

Insofar as the principle of development is concerned, in accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the development plan, which in this case includes the adopted South Derbyshire Local Plan Part 1 and Part 2. The application site is situated within the countryside. Policy SDT1 'Settlement

Boundaries and Development' explains that within Rural Areas development will be limited to that considered acceptable inter alia by Policy BNE5.

BNE5 states:

Outside of settlement boundaries (as defined in policy SDT1) within the Rural Areas of the district planning permission will be granted where the development is:

- i) allowed for by policies H1, H22, E7, INF10, H24, H25, H26, H27 or H28; or*
- ii) otherwise essential to a rural based activity; or*
- iii) unavoidable outside settlement boundaries; or*
- iv) considered to be infill that is in keeping with the character of the locality and represents the infilling of a small gap for not normally more than two dwellings, within small groups of housing; and*
- v) will not unduly impact on: landscape character and quality, biodiversity, best and most versatile agricultural land, and heritage assets.*

The supporting text to the policy states:

In addition development will be supported that provides facilities essential to rural based activities, which includes forestry, agriculture, equestrianism and outdoor recreation.

The stable block and access is proposed to be used for equestrian use. The wider boundary work is to replace fencing back to the original hedgerow to tie into the existing. The proposal is considered to be in line with Policy BNE5 insofar as a stableblock and equestrian use is considered a rural based activity. Indeed, the amendments are considered to reduce the development in the countryside which better helps align the proposal with the policy objective.

Further to this however is the point V) of BNE5 which sets out further considerations in determining if the proposal is in line with the policy. These are considered in turn below.

Biodiversity and Ecology

Regarding biodiversity and ecology, the application site is located within the catchment of the River Mease SAC, with the Hooborough Brook (a tributary of the Mease) forming the boundary of the applicants' ownership to the west of the application site.

The site is within influencing distance of the River Mease SAC and SSSI and therefore requires an appropriate assessment to be undertaken under the Habitats Regulations to determine whether, in view of the sites conservation objectives, the development (either alone or in combination with other developments) would have an adverse effect on the integrity of the site. If adverse impacts are anticipated, potential mitigation measures to alleviate impacts should be proposed and assessed. Development is only deemed appropriate if it can be demonstrated that there would be no adverse effect on the integrity of the SAC. Water quality is a key issue in relation to the River Mease SAC, with potential sources of pollution arising from discharges to the catchment from foul effluent and contaminants.

Public consultation has also given rise to various concerns within the letters of representation over potential impacts on the SAC and on grounds of pollution entering the nearby watercourse.

The proposal is for the stableblock and new access. The existing storage of rubble and hardcore does not form part of this application and therefore assessment.

On the basis of the Habitats Assessment undertaken as part of this application, it is considered that, if unmitigated or poorly designed, the development could potentially lead to an increase in surface water runoff or sediment flows into the Hooborough Brook, which provides direct connectivity to the SAC. However, in this case, the risks posed can be addressed through mitigation measures which have been considered and consulted upon with Natural England who are the statutory body who provide advice on this matter.

With regards to surface water drainage, it is considered that all the ground surfaces proposed will be permeable; the only additional impermeable surface will be the stable roof and tarmacked access as requested by the Highways Authority.

Natural England has advised that roof water should be harvested and used for drinking water for the horses and management of the wider paddock. This is considered suitable mitigation to remove the pathway for roof water to run off and reach the River Mease SAC. Consequently, a condition seeking the details and implementation of such will be added to any decision.

In the event that the rainwater harvesting system is full, Natural England consider that the risk of significant impacts from roof water periodically discharging to ground from the stable roof when the harvesting system is full is insignificant. Consultation has advised this is due to a number of reasons:

- A) *Roof water contains minimal pollutants (Chapter 26 of the [CIRIA SuDS Manual](#) states the pollution hazard level associated with surface water runoff from roofs is low to very low)*
- B) *The volume of water potentially discharging to ground is extremely small due to the small roof area and likelihood that the majority of runoff will be captured and used for horses drinking water.*
- C) *The hardstanding surrounding the outside of the stables is to be permeable in nature, making it likely that runoff from the roof will be allowed to infiltrate before running off towards the River.*

Natural England also raised the possible contaminants arising from the storage of manure. In response, the proposal sets out that manure will be stored on an impermeable area, and as requested by Natural England a condition requiring details of coverage to this area will be attached. On this basis, Natural England confirmed in their consultation that - *the risk of nutrients leaching to the River Mease SAC is insignificant.*

Given the mitigation and considerations above Natural England have raised no objection to the proposal.

The application has also been consulted on with Derbyshire Wildlife Trust who confirm that subject to implementation of the proposed planting and reinstatement of hedgerow this would lead to an enhancement of biodiversity.

On the basis of the stage 2 Habitats Regulations Assessment and the suggested mitigation, it is considered that the proposed development would not have a demonstrable impact on the River Mease SAC, and as such complies with the Conservation of Habitats and Species Regulations 2017, paragraph 174 of the NPPF and policies SD3, BNE4 and BNE5 of the Local Plan.

Flood Risk of the Hooborough Brook and Drainage

The application was consulted on with the Environment Agency given the presence of the Hooborough Brook and its immediate vicinity (areas of the field to the south of the site) being within Flood Zones 3 and 2 – the functional flood plain. The application site and proposed development has been revised to now be solely located within Flood Zone 1. Again, with regards to surface water drainage, it is considered that all the ground surfaces proposed will be permeable; the only additional impermeable surface will be the stable roof and tarmacked access as requested by the Highways Authority. The proposal would not give rise to any foul drainage.

The EA raised no objection to the proposal in terms of fluvial flood risk, but did comment on the ground level raising that has been undertaken on site in the flood plain – i.e. the previous access track. They advise conditions that would apply to the wider field. The wider field is within the ownership of the applicant given the blue line plan submitted with the application; indeed, the application was previously retrospective for an element of this storage as an access track. This development requires removal to protect the functional flood plain. On this basis, the LPA considers that conditions can be attached and that they would meet the six tests set out by the National Planning Policy Framework.

On this basis, in terms of flood risk and drainage the proposal does not give rise to any issues. The permeable nature of the hardstanding will be conditioned and wider elements giving rise to flooding concerns will in part also be addressed. Overall, subject to conditions it is considered that the development is in compliance with the NPPF and policies SD3, BNE3 and INF7 of the Local Plan.

Landscape and Visual Impact

The site lies within the defined countryside. Whilst not protected by any specific landscape designation, the countryside is defined by being outside of the defined settlement boundaries of Policy SDT1 within which areas are urban and built up. On this basis, the landscape character of the countryside is open, rural and development is associated with rural uses. The most pertinent policies are that of BNE5 and BNE7 of the LP2 and the Landscape and Trees SPD/guidance documents.

The proposal includes the reintegration of hedgerow on the eastern boundary as well as the planting of 6 new trees immediately to the east of the stables. The submitted

information has been revised to now provide planting schedules for these elements in response to comments by the Councils Landscape Architect.

The information was then again considered and no objection subject to conditions is raised by either the Landscape Architect or Arboricultural Officer. DWT have also been consulted on the proposal who advise that the measures will result in an enhancement of biodiversity on site.

The stableblock itself and built footprint of the development is considered to be of a scale and design which reflects the proposed use and would not give rise to any undue impacts on the landscape character. It is considered that it will be largely obscured by the existing hedgerow and additional tree planting. In addition, a condition will be added to agree the materials to ensure the building is high quality and reflects the rural area.

On this basis, the application subject to conditions is considered to result in no undue impact on landscape character in line with BNE5 of the local plan.

Other matters

The proposal is not considered to give rise to any undue impacts on neighbouring amenity given the proposal and surrounding uses. It is noted that objectors have raised existing operations and activities from the Gypsy and Traveller pitches, but these are not part of this application and therefore cannot be assessed or controlled as part of this application.

Conclusion & Planning Balance

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

In terms of the Local Plan, this is considered to comprise SDDC Local Plan Part 1 (LP1) and SDDC Local Plan Part 2 (LP2), which is considered to be up to date in terms of the relevant policies set out above. On this basis, Paragraph 11 of the NPPF is not 'triggered'.

The site is located within the countryside. The proposal is for a stable block and access to support equestrian use which is considered as rural activity. The proposal has been considered in terms of its biodiversity, landscape impact and drainage and flood risk. Subject to conditions no objections have been raised by any consultees. On this basis, the proposal is not considered to impact the River Mease and its designations, not unduly impact the landscape character of the area and not give rise to flooding issues, indeed it offers an opportunity to remove the prior retrospective elements which in part are giving rise to concerns by the EA, Councillors and local objectors.

The new access was a revision sought by the LPA to in part reduce the built footprint in the countryside and move development away from the floodplain. The access has been assessed by the Highways Authority and subject to conditions no objections are raised.

Concerns around wider activities on site are noted and in part as per the conditions raised by the EA have where possible been addressed by conditions. Other matters fall outside of this application.

For these reasons, the proposed development is considered to be in accordance with the adopted development plan, overarching policies of the NPPF and wider guidance set out in the NPPG, and none of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Equality Implications

Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

APPROVE subject to the following conditions:

1. The development hereby approved shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the following plans/drawings 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.

- Application Form
- Revised Location Plan w/ Flood Risk Zones
- Final Layout Rev 2 - Drawing No. RY.M.23.1B
- Final Elevations and Plans Rev 2
- Flood Risk Assessment (FRA)
- River Mease Impact Statement
- Further Letter

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

Pre Commencement

3. No development shall commence until details of all external materials for the stable block on the approved drawing no. Final Layout Rev 2 - Drawing No. RY.M.23.1B shall have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.

Reason: For the avoidance of doubt and in the interests of achieving high quality design in line with Policy BNE1

4. No development shall take place until details of the hardstanding and cover of the area proposed to store manure has been submitted to and approved in writing by the local planning authority. These details shall include an implementation programme drawings and sections of the cover structure and materiality. The development shall be carried out in accordance with the approved details.

Reason: For the avoidance of doubt, protection of the River Mease from contaminants and in the interests of achieving high quality design in line with Policy BNE1

5. If separate access than that shown in approved plans Drawing No. RY.M.23.1B is to be used for the purposes of construction, no development, including preparatory works, shall commence until the new vehicular and pedestrian access to Acresford Road has been constructed. The junction shall be laid out in accordance with the approved plans (Drawing No. RY.M.23.1B), constructed to base level and with visibility sightlines of 60m to the north and 120m to the south both 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.

Prior to incorporation

6. Prior to the construction of any new areas of hardstanding, details of surfacing and hardcore materials shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the source and a chemical analysis of the materials to be imported. The areas of hardstanding shall be constructed in accordance with the approved details.

Reason: To ensure the quality of hard standing material does not give rise to unacceptable impacts on the river Mease given the SSSI Impact Area designation at this location

7. Details of the rainwater recycling system shall be submitted to and approved in writing by the Local Planning Authority prior to any above grade works commencing onsite. The details shall also demonstrate the capacity and maximum level of recycled water that can feasibly be provided to the development. Where approved the rainwater / grey water recycling system shall be carried out strictly in accordance with the details so approved, installed and operational prior to the roof of the stable block to which they form part or the first use of the space in which they are contained and shall be maintained as such thereafter.

Reason: To ensure the sustainable use of water.

Prior to Occupation

8. The development hereby permitted shall not be occupied until such time as the access has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with the National Planning Policy Framework (2021)

9. The development shall not be occupied until the ground levels previously raised in order to create the 'Track and stable hard standing' shown on Block Plan (Scale 1/500 submitted on 29 Dec 2021), are reinstated to those existing prior to the commencement of the works to implement Block Plan site layout, in order to mitigate the impact of these previous unpermitted works.

The above should include the removal of all material brought onto site and placed in the flood plain, as shown on the Flood Map for Planning (attached, Ref Clover Pk Acr, dated 17 Jan 2022) to a location outside of the flood plain, in Flood Zone 1. In the absence of the removal of this material a Compensatory flood storage scheme would need to be submitted, in order to mitigate any flood plain storage lost within the blue line land ownership (as shown on the Location Plan submitted 29 Nov 2021) as this could result in an increase in flood risk both on and off site.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements as agreed under Condition 4. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants and to prevent flooding elsewhere by ensuring that compensatory storage of flood water is not required

10. Upon completion of the ground reinstatement works as required by Condition 9 and prior to first occupation, an 'as built' topographical survey of the area of floodplain reinstatement shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Environment Agency.

Reason: To ensure that the floodplain reinstatement area is returned to the ground levels existing prior to the commencement of the Block Plan (Scale 1/500 submitted on 29 Dec 2021) site layout.

Compliance Conditions

11. All planting, seeding and turfing comprised in the approved Drawing No. RY.M.23.1B shall be carried out in the first planting and seeding seasons prior to the stables being brought into use; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure high quality planting in line with Policy BNE4

12. Tree planting shall follow the approved Drawing No. RY.M.23.1B in terms of location and shall be to the specification of a minimum of 2.5 to 3.0m 8/10cm girth standards

Reason: To ensure high quality planting in line with Policy BNE4

13. Demolition or construction works shall take place only between 9am and 5pm on Monday to Friday and between 9am and 12pm on Saturday. Construction work of any kind shall not take place at any time on Sundays or on Bank or Public Holidays.

Reason: In the interests of safeguarding amenity

14. Any entrance gates shall be set back a minimum of 10m from the highway boundary, must open inwards, and maintained at that distance for the life of the development unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure parked vehicles do not overhang the adjoining public highway, thereby adversely affecting highway users

15. There shall be no raising of ground levels or erection of any building, structure or any other such obstruction to flood flows within the area of floodplain reinstated as part of the development of this site and hereby approved under

conditions 9 and 10 above, unless otherwise agreed in writing by the Local Planning Authority in consultation with the Environment Agency.

Reason: To safeguard the efficient workings of the area of floodplain as shown on the Flood Map for Planning from inappropriate development (attached, Ref Clover Pk Acr, dated 17 Jan 2022).

16. No development shall occur until the accesses for construction purposes have been provided in accordance with a detailed design first submitted to and approved in writing by the Local Planning Authority. The detailed design shall also include appropriate visibility sightlines and measures for warning other highway users of construction traffic entering or emerging from the site access. The access shall be retained in accordance with the approved scheme throughout the construction period free from any impediment to its designated use, and subsequently removed and the adopted highway made good after the construction has ceased.

Reason: To ensure safe and suitable access for all users, in the interests of maintaining highway efficiency and safety, recognising that even initial preparatory works could bring about unacceptable highway safety impacts.

17. Prior to the completion of development including preparatory works the details of any fencing (including temporary) including the specification of suitable mammal gaps shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of safeguarding against harm to protected species during the period of construction and throughout the life of the development.

18. The premises and access shall be used for equine use and for no other purpose (including any other purpose in any wider Classes of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: In the interests of safeguarding against possible unlawful development within the defined countryside.

19. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no sheds or amenity/utility buildings, or other buildings or structures, walls, fences or other means of enclosure other than those shown on the approved plans or those approved under condition 2 above shall be erected on the site unless details of their size, materials and location shall have previously been submitted to and approved in writing by the local planning authority.

Reason: In the interests of safeguarding against possible unlawful development within the defined countryside.

20. If, during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To protect and prevent the pollution of controlled waters, future end users of the land, neighbouring land, property and ecological systems from potential pollutants.

Authorised Officer: Steffan Saunders

13/07/2023