

Item No. 1.2

Ref. No. [DMPA/2024/0479](#)

Valid date: 28/03/2024

Applicant: Daniel Castledine

Agent: Lowe Architects

Proposal: Outline application (matters of access, layout, scale, appearance and landscaping reserved for later consideration) for the erection of x3 pairs of semi-detached affordable dwellings with associated works at Field House, Coton Park, Linton, Swadlincote, DE12 6RE

Ward: Linton

Reason for committee determination

This application is presented to Committee at the request of Councillor Alistair Tilley as local concern has been expressed about a particular issue.

Executive Summary

The site is located outside of but immediately adjacent to the defined settlement boundary of Coton Park Village. As the six houses proposed are to be affordable (which will be secured with a Section 106 Agreement), the development is considered to accord with Policy H1 of the Local Plan which allows for limited housing adjacent to Settlement Boundaries.

No objections have been received from any statutory consultee. Concern has been raised by residents and the Parish Council about foul drainage. Severn Trent Water Limited have raised no objection to the proposal subject to conditioning details of foul and surface water drainage. Subject to this condition, it is considered the proposal accords with the Local Plan.

The development will provide six affordable dwellings in a location where such housing is much needed.

The proposal is considered to accord with the Local Plan and there are no material considerations that indicate otherwise.

For these reasons, on balance, the proposed development is considered to be in accordance with the adopted development plan and the NPPF.

Site Description

The application site was formerly part of the garden of Field House and is overgrown with brambles and scrub vegetation. It has an area of 0.16 hectare. There is a dilapidated building beside the north eastern (rear) boundary. The site slopes down from the road and Badger's Hollow Recreation Ground to the rear of the site is at a lower level than the site. There is a hedgerow including some trees beside the front, south western site boundary, hedgerow on the north western boundary and some trees on the rear, north eastern boundary. A 1.8m high close boarded fence is located beside the south eastern neighbouring house. There are three modern houses to the immediate south east and a barn to the north west, with a dormer bungalow beyond. Access is via an unmade single width track and vehicular access to the site is currently from the southern end. A TPO woodland is located to the south west of the site.



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The proposal

The application is made in outline (with all matters reserved for future consideration) and proposes the construction of six affordable dwellings. The dwellings are indicatively proposed as three pairs of semis with plots 1-4 having four bedrooms and plots 5 and 6 having five bedrooms.

Applicant's supporting information

The applicant has submitted the following documents in support of the application:

Design and Access Statement – This scheme and layout as proposed are indicative of a policy compliant scheme in accordance with the Technical housing standards – nationally described space standards. The indicative site plans and house types are compliant with planning requirements for car parking and gardens. The scheme as proposed could benefit from an additional property as the gardens are over double the size that is required for planning, however the scheme as shown is proposed taking on advice from South Derbyshire Strategic Housing Manager supporting 6 no 4 bed semi-detached affordable dwellings. The current scheme is indicative, reserving all matters to allow the site to be more attractive to a potential registered provider, who then has the flexibility of proposing their own house types and planning schemes should they wish. The scheme would be offered to the Local Authority should they wish to take on the site. Most dwellings have front and rear gardens with the exception of losing front gardens for parking. The appearance of the site with front landscaped areas to each plot and ample rear gardens is generally a replication of that of the existing street scene. The dwellings are proposed to be three storey with the second floor in the roofspace making them no taller than a standard two storey house. Each dwelling would have private off-road parking for 3 no cars. The rear boundary trees will be retained. Brown close boarded fencing will be used throughout and there will be some brick boundary walls in certain locations. The houses would have side end gables, with a triple corbel detail up the gable verge. The proposal is to have plastic verges for ease and maintenance. The front and rear corners at eaves height will be corbeled out to allow for a fascia to sit between to form the main front and rear eaves. The windows will have soldier coursing to all heads and proprietary window cills. All windows will be white UPVC. The houses would be masonry built from a mixed red multi brick and flat modern concrete tiles, with black rain water goods and dark grey fascias. The proposal has been designed to maximise levels of energy efficiency including the provision of high levels of natural day light, high levels of insulation, energy saving lighting, high performance glazing and limiting water consumption - this will be achieved through the specification of low flow and efficient water fittings and/or appliances to minimise demand. During the construction period, a range of measures will be put in place to encourage the sustainable use of materials including giving preference to the use of locally sourced materials, using recycled material and aggregates where appropriate, sourcing timber from sustainable sources, providing environmental awareness training for staff and complying with the Considerate Constructors Scheme.

Arboricultural Impact Assessment & Site Specific Arboricultural Method Statement (including Tree Protection Plan) - recorded the details of 9 individual trees, 3 tree groups and 1 section of hedgerow. It is considered that there will be no significant loss of any perceived amenity value to the immediate street scene, or the general character of the area, associated with the proposed tree removals (four trees and hedgerow on front south western boundary to be removed). Planted appropriately, new trees and/or shrubs can help mitigate the loss of canopy cover, which could provide an increase in the level of arboricultural interest that currently exists. Some suggested species will increase the current range of woody species and assist in enhancing the existing level of biodiversity at the site, whilst also being considered to be appropriate for the potential locations within the site. The use of tree protection fencing, has been recommended. Provided that the protective measures are put in place prior to the commencement of the project and maintained throughout its duration, the projected RPAs of the retained trees, their locations and immediate growing environments and the likelihood of them being detrimentally impacted by the proposals are not considered to present any significant constraints. It is considered that provided the recommendations, measures and guidance detailed within the report are followed and adhered to throughout the duration of the project, there will not be any foreseeable, adverse effect on the longevity or condition of the retained trees and that consequently, there are no objective and demonstrable arboricultural reasons as to why this project cannot be implemented.

Preliminary Ecological Appraisal –

- No active badger setts or signs of any badger activity within the site or the immediate wider area.
- No species of bat were observed or evidence of bats using the site for any purpose was identified.
- No potential is considered as being offered for roosting bats.
- Foraging and roosting potential is identified in adjacent land and woodland.
- No evidence of Great Crested Newts on the site; either aquatic or terrestrial.
- No evidence of reptiles was found on the site.
- No evidence of active avian nest sites at the time of the surveys.
- No evidence of the presence or use of the site by protected species.
- No evidence of any significant or protected ground flora observed within the site.
- Low Ecological Value is considered as being offered by the site.

The following plans have been submitted:

- Site plans as existing – 0132PL001 Rev P01
- Indicative site plans as proposed - 0132PL003 Rev P02
- Site plan - 0132PL010
- 5 bedroom plots 5-6 – 0132PL012 Rev P01
- 4 bedroom plots 1-2 and 3-4 – 0132PL011 Rev P01

Relevant planning history

9/2002/0292 Outline Application (all matters to be reserved) for the erection of five houses on land adjoining Field House - refused 29 May 2002 as outside the defined settlement, prominent intrusion in the countryside and in an area deemed to be unsustainable.

Adjoining site (to south east):

9/2002/0697 Outline Application (all matters to be reserved) for the residential development of land adjoining Field House - granted 21 November 2002

9/2003/0502 The erection of a detached house (approval of reserved matters of planning permission 9/2002/0697/O) on Plot 1 - refused 14 July 2003 as scale, mass and design of the dwelling out of character with the existing built development and would have an adverse impact on the streetscene and landscape.

9/2014/0078 Outline application (all matters to be reserved) for the residential development of up to three dwellings on Land Adjacent to Field House - granted 16 April 2014

9/2016/0857 Approval of reserved matters of planning permission ref: 9/2016/0078 for the erection of 3 no 4 bedroomed dwellings - approved 26 October 2016.

Responses to consultations and publicity

Derbyshire County Highway Authority - No objections - It is noted that this is an outline application with matters of access, layout, scale, appearance and landscaping reserved for later consideration. It is noted that Coton Park along the site frontage is unadopted and is therefore a private road. The proposal is acceptable in principle. Access, parking and manoeuvring issues will be fully considered as part of a future reserved matters application should approval be granted.

Severn Trent Water Limited - no objection subject to conditioning drainage plans for the disposal of foul and surface water and implementation of the approved scheme before the dwellings are first occupied. Informatives recommended regarding sewer connections requiring a formal application to the Company and prior to building, it needing to be determined whether STW has assets within the site vicinity.

Lead Local Flood Authority - no comments to make as minor application.

Derbyshire Wildlife Trust (20/5/2024) – requested Preliminary Ecological Appraisal (PEA) be submitted.

(27/01/2025) - No statutory or non-statutory sites are present within the application site or immediately adjacent to. The site lies within the Impact Risk Zone (IRZ) for River Mease Site of Special Scientific

Interest (SSSI) but the proposed development does not meet any of the identified risk criteria which would trigger a consultation from Natural England and negative impacts to designated sites are considered highly unlikely. The PEA states that the site comprises predominantly unmanaged bramble scrub with rotting cut and wood piles, considered to be of 'Site' value in a geographical context. The PEA does not reference the presence of a native hedgerow along the south-western boundary; however, it is considered that the hedgerow is not important under the Hedgerow Regulations 1997, based upon satellite imagery. However, the hedgerow does qualify as a habitat of principal importance under Section 41 of the NERC Act 2006, as it comprises more than 80% native species. Whilst the hedgerow can be removed, it is advised that permanent loss of the hedgerow would represent a net loss in biodiversity and the loss of a habitat of principal importance. Compensatory planting of the same length of hedgerow (or greater) should be undertaken by the applicant, using native species (hawthorn, alder, oak and holly). Habitats within the site are considered suitable for nesting birds, badgers, bats, herptiles and hedgehog. Lack of assessment of suitability of trees to be removed (from south western boundary) for roosting bats has been provided so further such details are requested. Impacts to nesting birds, foraging and commuting bats, badgers, herptiles and hedgehog are considered to be low. Conditions are recommended in relation to a Construction Environmental Management Plan, badger survey, a lighting strategy to safeguard nocturnal wildlife and a Biodiversity Enhancement Plan.

Coal Authority – site falls within the Coal Authority's defined Development Low Risk Area so no comments to make.

National Forest Company – site area below threshold requiring National Forest planting.

SDDC Landscape Officer - Within design & access statement (5.0 Landscape) it refers to mature trees along the rear boundary of the site to be retained. A full arboricultural assessment of existing trees/hedgerow within the site should be completed including a more detailed plan of the landscape to be retained. Provision of details of methods to be applied to protect the retained landscape during construction works is required and additional tree planting / soft landscaping should be considered to the front of the properties. Large lawned areas specify areas to contain an appropriate mix wildflower/bulbs to increase biodiversity of site. Include details of implementation and maintenance of all proposed new landscaping.

SDDC Tree Officer - Tree survey records details of 9 individual trees, 3 tree groups and a section of hedgerow. It is anticipated that 2 ash trees T1 & T3, an oak T5, hedge line H6 and hawthorn T9 are required to be removed to implement the development proposals. The report recommends measures to protect remaining trees including a Tree protection Plan, and an Arboricultural Method statement that outlines erection of tree protection fencing. The report has been carried out to a satisfactory standard, and the residential development proposals will have no detrimental impact on the condition of the remaining trees.

SDDC Strategic Housing – 08/05/2024 These x 6 units would be supported as 100% affordable rented homes – they are located in an area of high demand and the Council have very few larger properties left in the HRA within the District. The Council would consider acquiring the homes directly from the developer subject to the following:

1. They were block and brick construction (traditional construction)
2. Accessed directly off an adopted highway
3. They were 5 bedroom properties (x 2 rooms and additional velux window to top floor minus the second ensuite)
4. The Council could negotiate additional fire safety elements into the build (i.e. fire doors / hardwired smoke alarms etc).

11/10/24 make advisory comments regarding floor plans and layout submitted.

30/01/25 Having reviewed the revised drawings, and on the condition that the units are built using traditional block and brick construction, support the application.

SDDC Environmental Health – no comments or concerns.

Linton Parish Council – Objects: unadopted road serves the site and suffers from significant traffic and parking issues. Adding more housing would exacerbate these problems with additional vehicle

movements and demand for on-street parking. The road network is not suitable to accommodate further intensification from new development.

Other recent housing developments in the area have highlighted major deficiencies with the existing sewerage infrastructure. The last new homes required independent sewage treatment systems which proved to be poorly designed, resulting in sewage flooding gardens and the Badger's Hollow Recreation Ground. Subsequent connections to the main sewer were only allowed on the basis that the system was operating at full capacity due to the undersized pipework. The nearby Coton Park treatment plant is at full capacity and discharging sewage during periods of heavy rainfall. Additional housing would overload this already overstretched infrastructure.

The site is in an area that has natural groundwater springs, making it unsuitable for onsite sewage treatment systems like septic tanks or package plants. This was demonstrated by the failed systems from the most recent development, which had to be connected to the mains sewer despite being told the sewers were at capacity.

The top corner of Badger's Hollow Recreation Ground has recently been planted by the Parish Council, with trees specifically to help absorb the high volumes of surface water runoff that occurs between November and April each year from natural springs on the proposed development land. Building over this area would block this drainage route and increase flood risk to the Recreation Ground and surrounding areas.

The proposed development is unsustainable and should not be permitted outside of the defined Settlement Boundary.

Public comments

The following objections have been raised:

- a) No need for development and not wanted
- b) Will exacerbate problems (including access for refuse trucks and ambulances, cars parking on pavement and safety issues) with already busy road in terms of traffic and parking
- c) Insufficient parking proposed and existing housing owned by Council/Housing Associations should have driveways added
- d) Three houses built adjacent park on road making driveway access difficult
- e) Road poorly maintained and suffers from potholes and pavement is broken
- f) Thought site was earmarked for parking for houses built adjacent
- g) Loss of green space
- h) Lack of local services e.g. schools, doctors etc
- i) Increase in noise in very quiet semi-rural location once houses built and during construction
- j) Impact of construction vehicles – no turning area so will reverse down road which is dangerous
- k) Disruption to existing residents when service connections made as none exist at site
- l) Surface and foul water disposal queried as no mains drains available and surface water drain running down centre of road to Coton Park would require water to be pumped uphill from site to be utilised. Plots barely large enough for soakaways and biodigesters and ground not suitable for soakaways – evidenced by failure of biodigesters at 113, 115 and 117 Coton Park.

Relevant policy, guidance and/or legislation

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan for the purposes of this application comprises the South Derbyshire Local Plan Part 1 (LP1) adopted in June 2016 and the South Derbyshire Local Plan Part 2 (LP2) adopted in November 2017. Material considerations include, albeit not limited to, the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG), together with the South Derbyshire Design Guide (SPD).

The relevant Development Plan policies are:

(2016) South Derbyshire District Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H20 (Housing Balance), H21 (Affordable Housing), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), and INF2 (Sustainable Transport).

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

Local Plan Review

On 10 March 2025 the South Derbyshire Local Plan Part 1 Review was published for its period of formal representations under Regulation 19 (of the Local Plan Regulations) prior to submission to the Secretary of State (The Publication Version). This is the version of the Local Plan that the Council intends to submit for examination and it is a material consideration in the determination of planning applications.

The weight to be attached to emerging local plans is set out in paragraph 49 of the NPPF.

With regard to paragraph 49a), the plan is at an early stage of preparation having not reached examination. In terms of 49b), there remain unresolved objections to the plan from its Regulation 18 consultation and the period for comments under regulation 19 will not expire until 25 April 2025. Although the plan is in general conformity with the NPPF (paragraph 49c), it has been published to benefit from the transition arrangements set out in paragraph 234 of the NPPF, meaning the Local Plan will be examined under the 2023 version of the NPPF. For all these reasons, the weight to be attached to policies in the publication version of the Local Plan is low.

Where there is any conflict between policies in the publication version of the Local Plan and existing adopted Local Plan policies, the decision should be taken in line with the adopted Local Plan policies.

Paragraphs 50 and 51 of the NPPF are also relevant which clarify that refusals of permission in line with emerging policies will seldom be justified before a plan has been submitted for examination. The plan is intended to be submitted for examination in Autumn 2025.

The relevant local guidance is:

South Derbyshire Design Guide (2017)
South Derbyshire Housing Position Paper (2020)
South Derbyshire Planning Obligations – A Guide for Developers and Applicants Supplementary Planning Document (2024)

The relevant national policy and guidance is:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- National Design Guide (NDG)

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 considered to be:

- Principle of development;
- Highways and access;
- Layout and design;
- Residential amenity;

- Biodiversity and trees;
- Drainage and flood risk; and
- Other matters;

Planning assessment

The principle of development

The site is located outside of but immediately adjacent to the defined settlement boundary of Coton Park Village.

Policy H1 of the Part 1 Local Plan sets out the settlement hierarchy which distributes new development outside of the allocations and settlement boundaries. Urban areas, including areas adjacent to Derby, are at the top of the hierarchy. Fourth out of five tiers in the hierarchy are Rural Villages. Within the Rural Villages, development of exceptions or cross subsidy (affordable housing) sites which are adjacent to the settlement boundary will be allowed as long as not greater than 15 dwellings.

Policy H21 of the Part 1 Local Plan provides further guidance on rural exception sites and confirms development will be permitted where:

- i) The homes meet a clearly identified local need;*
- ii) the development provides a majority of affordable homes;*
- iii) the need cannot reasonably be met within the development limits of the village concerned or the sub-market area the site falls within as detailed in the SHMA; and*
- iv) the development is in a scale relative to the settlement size and facilities available particularly public transport and does not have any unacceptable adverse impacts on the natural and built environment.*

The following addresses the above criteria in turn:

i) Strategic Housing have advised that the development site is located in an area of high demand and the Council have very few larger properties left in the Housing Revenue Account (HRA) within the District.

ii) All six dwellings proposed will be affordable and this will be secured with a Section 106 Agreement.

iii) There are considered to be no other sites available in the village or sub-market area.

iv) There have been no objections from any technical consultees including highways. Two bus services per hour serve the village. The development is considered to have no adverse impacts on the natural or built environment as appraised further below. The site has no policy designations regarding its value in terms of landscape or biodiversity, and there are no heritage considerations.

On this basis, the site is considered to be sustainable and capable of accommodating the proposed development. The principle of residential development is considered acceptable in this instance.

Highways and access

The road serving the site is private. The nature and condition of the access road (contains pot holes, unsurfaced and no pavements) is noted. However, County Highways raise no objection to the application and confirm that access, parking and manoeuvring issues will be fully considered as part of a future reserved matters application. On the indicative plans, four spaces have been shown for the pair of five bedroomed houses and three spaces for each of the four bedroom houses. It is considered that the site can accommodate satisfactory parking provision and access arrangements for the proposed six dwellings without detriment to highway safety. Access for construction vehicles would be managed as part of a Construction Management Plan. Accordingly, a refusal on highway safety grounds could not be substantiated and the proposal is considered to accord with Policy INF2 of the Local Plan.

Layout and design

The application is in outline only and all matters (access, layout, scale, appearance and landscaping) are reserved for future approval.

An indicative layout has been submitted which demonstrates that the site is capable of accommodating the six dwellings with sufficient parking provision and amenity space. A development which complied with the Design Guide SPD will be sought at reserved matters stage.

Overall, it is considered that the proposal could deliver a scheme at reserved matters stage that would be in line with policy BNE1 of the Local Plan.

Residential amenity

In terms of policy compliance, it is considered the site is of a suitable size and shape to accommodate the proposed development so as to be in accordance with Local Plan Part 1 Policy SD1 which seeks to support development that does not lead to adverse impacts on the amenity of residents. Suitable boundary treatments and window positioning would ensure the amenity of adjacent neighbours is protected. The dwellings would be located to the north west of the closest neighbour (no. 117) thereby minimising loss of sunlight.

Environmental Health have raised no objection to the development but in light of the quiet nature of the area and concerns raised by residents, construction hours are recommended to be controlled by condition to protect residential amenity.

It is considered that the proposal could deliver a scheme at reserved matters stage that would be in line with policy SD1 of the Local Plan.

Biodiversity and trees

Local Plan Policy BNE3 (biodiversity) supports development which contributes towards protecting or improving local biodiversity or geodiversity and delivering net gains in biodiversity wherever possible. Policy BNE7 manages trees, woodland and hedgerows.

The application site does not have any statutory or non-statutory nature conservation designations directly associated with it and the habitats present are generally of lower biodiversity value. As the application was submitted prior to 2nd April 2024 and is a minor development, the proposal does not have to provide 10 per cent Biodiversity Net Gain. However, existing boundary vegetation is proposed to be retained (the front boundary hedgerow and trees will be removed to enable development of the site) and this retained vegetation will be supplemented to create benefit to biodiversity. Derbyshire Wildlife Trust have not raised an objection to the application, subject to conditions and a further bat survey for roosting bats. It is considered that a further bat survey is unnecessary as the PEA advised there was no potential for roosting bats on the site. The applicant proposes to include bat boxes in each gable end and this can be conditioned.

The Council's Tree Officer raises no objection to the proposed tree removal – three trees and a hedgerow are to be removed from the front, south west boundary. None of these trees or the hedgerow are category A. Tree protection measures will be conditioned in respect of the trees on/adjacent the rear, north east boundary.

It is considered that in terms of biodiversity and impact on trees, the proposal accords with the objectives of the NPPF and policies BNE3 and BNE7 of the Local Plan, subject to the imposition of conditions.

Drainage and flood risk

The site is not at risk from flooding, being located in Flood Zone 1. Due to the minor nature of the proposal, the LLFA have not provided any comments on the proposal. Severn Trent Water Limited have raised no objection to the proposal subject to details of foul and surface water drainage and implementation being conditioned. The concerns about drainage of the site are noted, particularly in

light of the issues associated with foul drainage of the adjacent development to the south east. However, drainage is a matter covered by the Building Regulations and no statutory consultee has objected to the proposal in this regard. In addition, the drainage authority (Severn Trent Water) has to ensure provision is made for connection to the mains sewer. The application site is also higher than the site to the south east allowing for falls to be more achievable.

As the site is located within Flood Zone 1 (sites with the lowest risk of flooding), it is considered the proposal accords with the objectives of the NPPF and policy SD2 of the Local Plan Part 1 in terms of drainage and flood risk, subject to the imposition of conditions.

Other Matters

The need for the development is not a relevant planning consideration in general terms, albeit the Strategic Housing Team at SDDC have advised that this proposal is in an area of high demand.

The site is not designated as green space and was formerly garden.

It is considered that six additional houses would not cause significant issues in relation to the capacity of local services.

A water consumption condition will be included to ensure efficient use of water by occupiers of the development.

A S106 Agreement will be used to ensure the housing provided on site is affordable and thus in compliance with policies contained within the Local Plan.

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). This 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 outside the settlement boundary, but immediately adjacent to it and six affordable houses are proposed which accords with the requirements of the Local Plan.

The number of units proposed is considered to be a benefit as it will help the Council to meet its housing targets and maintain a 5-year housing supply. An additional benefit is the provision of six affordable units which are in high demand.

For these reasons, on balance, the proposed development is considered to be in accordance with the adopted development plan and the NPPF.

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, noting that conditions or obligations have been attached where meeting the tests for their imposition. 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

- a) Grant delegated authority to the Head of Planning and Strategic Housing to conclude negotiations on and complete an agreement under Section 106 of the Town and Country Planning Act 1990 so as to secure the planning obligation outlined in this report; and

B. Subject to A, approve the application subject to the following conditions:

1. (a) Application for approval of the reserved matters listed at condition 3 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. The development hereby permitted shall be carried out in accordance with the drawing referenced Site plans as existing – 0132PL001 Rev P01 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.

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

3. 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) access,
 - (b) appearance,
 - (c) landscaping,
 - (d) layout, and
 - (e) 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).

4. No development, including preparatory works, shall commence until details of the finished floor levels of the buildings hereby approved, and section drawings to show the proposed ground levels of the site relative to the finished floor levels, adjoining land levels and properties to the north west and south east, have been submitted to and approved in writing by the Local Planning Authority. Such details shall be supplemented with locations, cross-sections and appearance of any retaining features required to facilitate the proposed levels. The development shall be constructed in accordance with the approved details.

Reason: To protect the amenities of adjoining properties and the appearance of the area generally, recognising that site levels across the site as a whole are crucial to establishing infrastructure routeing/positions, in accordance with local planning policy SD1.

5. No development shall take place until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for the storage of plant and materials, site accommodation, loading, unloading of goods' vehicles, parking of site operatives' and visitors' vehicles, routes for construction traffic, hours of operation, method of prevention of debris being carried onto highway and any proposed temporary traffic management.

Reason: In the interests of safe operation of the highway in the lead into development, both during the demolition and construction phases of the development, in accordance with local planning policy INF2.

6. No development shall take place (including ground works, vegetation clearance and movement of plant, machinery and materials) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The

CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts on habitats and species during construction.
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of safeguarding against harm to wildlife throughout the construction period, in accordance with local planning policy BNE3.

7. No development, including site clearance, shall commence until a detailed badger survey for any recently excavated badger setts on the site or within 30 metres of the site boundary has been undertaken. The results and any mitigation measures shall be submitted to the Local Planning Authority for approval. Mitigation measures shall be implemented in accordance with the approved details.

Reason: To minimise the impact of the development on protected species, in accordance with local planning policy BNE3

8. Prior to building works commencing above foundation level, a Biodiversity Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. Approved measures shall be implemented in full and maintained thereafter. The Plan shall clearly show positions, specifications and numbers of features, which will include (but are not limited to) the following:
 - universal nest boxes at ratio of 1:1, in line with British Standard 42021:2022.
 - integrated bat boxes.
 - insect bricks / towers.
 - fencing gaps 130 mm x 130 mm to maintain connectivity for hedgehogs.
 - details of compensatory hedgerow planting and proposed management
 - summary of ecologically beneficial landscaping.

Reason: In order to safeguard and enhance habitat on or adjacent to the site, in order to secure an overall biodiversity gain, in accordance with local planning policy BNE3.

9. No construction of a building or hard surface, setting of site levels or installation of services/utilities shall take place until drainage plans for the disposal of foul and surface water flows have 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 drainage system.

Reason: In the interests of minimising the likelihood of flooding incidents and pollution of the environment, in accordance with the NPPF and local planning policy SD2.

10. 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 dwelling to which they serve is 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, residential amenity and in accordance with local planning policy BNE1.

11. Prior to the installation of external lighting fixtures, a lighting strategy shall be submitted to and approved in writing by the Local Planning Authority. This should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. The lighting scheme shall be installed in accordance with the agreed details.

Reason: To safeguard bats and other nocturnal wildlife by avoiding light spill on sensitive habitats in accordance with local planning policy BNE3.

12. The development shall proceed in accordance with the recommendations at section 6 of the Tree survey, Arboricultural Impact Assessment & Site Specific Method Statement (Outline Trees) dated 16 December 2024 and in accordance with the tree protection measures as shown on the Tree Protection Plan (Appendix C) of this survey.

Reason: In the interests of safeguarding existing habitat and the visual amenities of the area, in accordance with local planning policy BNE7.

13. During the period of construction, no ground, construction or fitting out works shall take place and no deliveries shall be taken at or dispatched from the site other than between 0800 and 1800 hours Monday to Friday and 0800 and 1300 hours on Saturdays. There shall be no construction works (except for works to address an emergency) or deliveries on Sundays or Bank Holidays.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers, in accordance with local planning policy SD1.

14. No removal of trees, hedges or shrubs shall take place between 1st March and 31st August inclusive unless a survey to assess the nesting bird activity on the site during this period and a scheme to protect the nesting birds has first been submitted to and approved in writing by the Local Planning Authority. Thereafter, no trees, hedges or shrubs shall be removed between 1st March and 31st August inclusive other than in accordance with the approved bird nesting protection scheme.

Reason: In order to safeguard protected and/or priority species from undue disturbance and impacts, in accordance with local planning policy BNE3.

15. 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, in accordance with local planning policy SD3.

Informatives:

- a. This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990. All formal submissions to discharge obligations of the undertaking or agreement, or queries relating to such matters, must be made in writing to s106@southderbyshire.gov.uk with the application reference included in correspondence.
- b. The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:

(a) a Biodiversity Gain Plan has been submitted to the planning authority, and

(b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be South Derbyshire District Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. Based on the information available, this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because the permission which has been granted is for development which is exempt being:

Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) as the application for planning permission was made before 2 April 2024.