

## **Committee Report Item No: 8.1**

**Application No: 23/01631/OUT**

**Type: Outline (with access)**

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### **1. Application Details**

**1.1. Address:** Land west of Royal Hill Road, Spondon

**1.2. Ward:** Spondon

**1.3. Proposal:**

Residential development including access arrangement for up to 90 dwellings.

**1.4. Further Details:**

Link to application:

<https://docs.derby.gov.uk/padocumentserver/index.html?caseref=23/01631/OUT>

#### **Brief description**

This application relates to a green field site, which relates to agricultural land, that lies west of Royal Hill Road in Spondon. The land all sits within the Chaddesden Spondon Green Wedge. The site area is 4.5 hectares and is grazing land subdivided by mature hedges and trees. There are four trees which are covered by Tree Preservation Order. The land levels are sloping downhill north to south. To the west are three detached dwellings served by a private access road and the existing residential area around Royal Hill Road to the east comprises mainly of two storey dwellings. To the south is Springfield Primary School and to the north is a covered reservoir. Land to the west and north of the site is agricultural and includes Brookfield Farm. There are public footpaths which run to the north and south of the application site.

Outline permission is sought for the erection of up to 90 dwellings, with means of access only to be approved. All other matters are reserved to a future application. A vehicular access would be formed onto Royal Hill Road towards the southern end of the site. Pedestrian links with the existing public rights of way would also be created, with three to the south and one to the north of the site. An illustrative layout plan has been submitted with the application which shows an indicative housing layout in the central part of the site, with open spaces and surface water attenuation in the northern spur and to the southern boundary with retention of TPO trees and some hedges.

The application is supported by a set of technical documents, a Design and Access Statement and a Landscape and Visual Assessment.

### **2. Relevant Planning History:**

None relevant.

### **3. Publicity:**

- Neighbour Notification Letters
- Site Notice
- Statutory Press Advert

*This publicity is in accordance with statutory requirements and the requirements of the Council's adopted Statement of Community Involvement.*

**4. Representations:**

***In line with the Data Protection Act and associated legislation this appraisal should not include details, or seek to identify through repeating specific comments, the individuals who have objected, supported or made general comments about the application. Therefore, to maintain anonymity, the relevant planning grounds of objection, support or comment have only been included in broad terms. It is important to note that all comments received have been fully considered as part of the application process and included in the overall 'planning balance' exercise.***

117 Third Party objections have been received to the application, including one from Cllr Smale. The main issues raised are set out below:

- Vehicular access to the site is narrow and not adequate to serve the proposed housing
- Proposal would increase traffic congestion in the local area
- No through road on Royal Hill Road, so traffic would cause congestion and danger for pedestrians
- The site is close to primary school and development will increase traffic using the school
- Insufficient car parking and poor access to bus routes
- Impact on wildlife, including bats in the area
- Increase pressure on local amenities, shops and schools.
- Noise impacts from construction works
- Drainage infrastructure is insufficient and would result in increased flooding
- Loss of green space in Green Wedge
- Poor access to Spondon village
- Houses already on the market
- Loss of historical hedges

Objection received from CPRE:

- Green Wedge should not be developed for housing and provide link between urban areas and countryside
- Footpaths to north and south of site would become urban passageway bordered by housing
- Narrow gap between settlements
- Land should continue to be used for agriculture
- Green Wedge has important ecological and recreational value

**5. Consultations:**

**5.1. Highways (Development Control):**

Revised comments 24/4/2024:

No Objection to the proposals, subject to conditions.

Further Observations:

As previously stated according to the application form, the proposals are Outline, with only access being determined at this stage.

Following Highways Development Control's observations of 05/01/2024, the applicant has submitted a revised plan (101/P1 ~ Proposed Footway Link Details). These are sufficient to satisfy Highways Development Control (HDC) that suitable access into the site can be achieved.

These observations should be read in conjunction with those made by my colleague in Transport Planning; and remain related to the ability of the applicant to create "safe and suitable" access rather than the impact of the development as a whole upon the highway network.

The applicant/developer and Local Planning Authority should note that; any planning approval granted does not give implied or tacit technical approval for any of the highway drawings (including the junctions); such approval and subsequent agreements (under Sections 278 and 38 of the Highways Act) fall outside of the Planning Approvals process.

Application drawing (101/P2) shows the provision of a 5.5m wide access into the site, with 2m wide footways on either side; together with 2.4m x 43m visibility splays, albeit that there will be the need to remove all the existing hedge line to achieve the visibility splay on the southern arm (this is not a highways issue). This hedge is either within the applicant ownership/control or is highway and I concur that these are necessary and should be deliverable (subject to conditions and agreements).

To the north the proposals are to link onto Public Footpath "Spondon 6"; and to the South onto Public Footpath "Spondon 7". The revised drawing shows details of how the proposals would be linked to the rights of way.

A site visit ascertained that the path "Spondon 7" is in poor condition and at certain times of the year could be impassable. As it is intended that the links be provided to improve sustainable access into the site, in particular in the direction of the local school, the Highway Authority considers that it would be appropriate for the applicant to make good a section of the path (between the most westwards access and Royal Hill Road).

This would be done through an appropriate highway agreement (which falls outside of the planning approvals process) but can be appropriately conditioned.

Highways Development Control has No Objection to the proposals, subject to the suggested conditions.

**5.2. Highways (Transport Planning):**

Revised comments 26/03/2024:

Initial observations were issued in December 2023 which identified that prior to determination, the applicant needed to submit further details of all proposed pedestrian accesses on the site boundary i.e., proposed widths, gradients, surfacing and connections with the adjacent Public Right of Way network.

Furthermore, that the distance the site is from a regular bus service is of concern, and that mitigation i.e., planning obligation will be required to maximise future residents' ability to readily travel by bus locally, but also into the City Centre, and destinations further afield.

Since then, a meeting has been held to discuss the aforementioned issues in greater detail, and further information provided by the applicant for consideration

Pedestrian and Cycle Access:

The detail on updated drawing, RHR-BWB-GEN-XX-DR-TR-101-P3 is sufficient for the purposes of securing planning permission and can be duly conditioned.

Transport Planning would still wish to see an improvement to the length of Spondon Footpath 7, from the furthest proposed linkage to its junction with Royal Hill Road in terms of its surfacing; it is evident that the development will lead to greater usage, and an attractive, well-maintained route is key to encouraging its use. At the time of writing, there has not been a definitive response to this request since it was made but if required, this could be a preoccupation condition.

Bus Service:

To recap, the submitted Transport Assessment (TA) has highlighted that the Spondon Flyer is no longer in operation leaving the Ilkeston Flyer 1, which operates along Moor Street between Cotmanhay and Derby via Ilkeston as the only frequent bus service, operating every 15 minutes at peak times.

Service 9/9 C2 offers a very limited weekday service at 2 hourly intervals between Derby and Long Eaton via Spondon. There was also a trial shuttle bus service operating earlier in 2023 around Spondon, which the TA has identified but this has now ceased. Consequently, the nearest bus stop provision for future residents is at least 800m from the site entrance on Royal Hill Road, which is over double, the recommended maximum walking distance as advised by Buses in Urban Developments<sup>3</sup> (CIHT, 2018).

Therefore, to maximise future residents' ability to readily travel by bus locally, but also into the City Centre, and destinations further afield a monetary contribution is sought of £180,090 in line with Appendix B Financial Contributions Matrix 2023-24 of the Council's revised Planning Obligations Supplementary Document (SPD). This would be used to introduce a bus service to serve the closest bus stops to the development site, and to provide quicker connections to the faster Ilkeston Flyer service which runs along the A6096. At the time of writing, there has not been a definitive response to this request since it was made in writing last month and is awaited. (See commentary in Section 106 Obligations in Section 6 below).

**5.3. Highways (Land Drainage):**

This application has a small amount of flooding associated with a watercourse along the southern boundary of the site. This has been modelled and the development has been designed to avoid the flooded area. Other sources of flooding have also been considered and the development will not require flood resilient measures. It will, however, require the treatment and reduction of surface water runoff from the site.

The Local Lead Flood Authority requires the reduction of the runoff to the greenfield rate. This rate should be calculated using the actual impermeable area of the development, rather than the overall site area which would be a good deal larger.

A condition requiring the use of SuDs should be added to any approval. The SuDS design should include above ground features such as swales and attenuation storage and the arrangements for on-going maintenance of the various features.

**5.4. Environmental Services (Health – Pollution):**

Noise impacts:

I am concerned that the proposed residential units would be exposed to noise from the school close and high levels of traffic noise from roads close by. For the reason given above, I would have very serious concerns of detriment that will be caused to future occupiers of the proposed residential units due to noise. If planning permission is granted, I would recommend that the recommended condition is attached to require a noise assessment be undertaken and any mitigation works required to be agreed.

Site Contamination:

The site is historically agricultural and unlikely to pose any particular risks from contamination. Nonetheless, the proposed use is considered to be 'sensitive' and in light of some contamination risks associated with agricultural processes, a degree of site assessment and sampling is recommended in order to ensure that the land is suitable for the proposed use and would therefore recommend that conditions are attached to the permission to require Phase I and Phase II Site Investigation assessments be carried out.

Air Quality:

The site is located well away from any notable sources of air pollution and the development is therefore unlikely to create any new significant exposures from the erection of dwellings in this location. The construction of 90 dwellings does have the potential to increase local traffic emissions, however given the nature of the location and the significant distance from any known areas of high air pollution, the air quality impact of the development is expected to be low, when considered against national and local planning policy. Given the above, it is deemed that air quality does not need to be a significant consideration in determination of the application. Furthermore, no planning conditions are deemed to be necessary in the interests of air quality mitigation.

**5.5. Natural Environment (Trees):**

In principle there is space for development however the impact on the existing trees and hedges cannot be assessed without the supply of a BS5837:2012 tree survey and supporting documents. (Schedule of trees, TCP and AIA). Whilst a tree survey and TCP has been supplied an AIA has not been supplied.

The layout of the development must follow BS5837 Figure 1 - the design and construction process and tree care' flow chart. This shows the logical sequence of events that should be followed in order to achieve a harmonious and sustainable relationship between trees and structures. Using the methodology set out in the BS Survey will help to ensure that development is suitably integrated with trees and that potential conflicts are avoided. I note that within the tree survey the project arboriculturalist makes reference to T22 (their tree survey number) and whether it is protected by TPO No.179 (T10 within the order). T10 of the order appears to have been miss-plotted within the TPO and I am of the opinion that T10 of the order is T22 within the tree survey.

I would prefer to see an AIA at this stage so that the impact of potential development is fully assessed and realised now and not as an afterthought once plans have been drawn up. However as long as the applicant follows figure 1 of BS5837 whilst drawing up plans and submits the subsequent AIA and AMS (including TPP) for approval at the reserved matters stage I have no objection. The supply of an AIA and AMS must be conditioned.

It must be noted that the access arrangements (being determined here) will necessitate the removal of part of east boundary hedge. This is acceptable in terms of BS5837. An appropriate condition must be applied to ensure that works to the hedge must be done outside of the bird nesting season or carried out under ecological supervision.

With regards to landscaping the appropriate/applicable elements of BS8545 should be used when designing a landscape scheme. Elements of BS5837:2012 Trees in relation to design, demolition and construction – Recommendations, are also applicable. A landscape schedule and plan must be conditioned. This must not be an afterthought. Incorporating SUDs elements into tree pit design must be considered.

With regards to supplying a suitable landscape/tree planting scheme the following must be provided: Scaled plan showing all existing vegetation and landscape features to be retained and trees and plants to be planted.

- A schedule detailing species, sizes and numbers/densities of all proposed trees/plants.
- Soil assessment.
- Stock type: container grown/bare root/root balled
- Design of tree pit to include:
  1. Provision of access to adequate soil volumes to support the tree through to independence in the landscape and beyond (may include soil cells).

## **Committee Report Item No: 8.1**

**Application No: 23/01631/OUT**

**Type: Outline (with access)**

- 
2. Target soil volumes for each tree must be supplied and actual soil volume must be shown on the landscape plan. Where soil volume is available adjacent to a tree pit this must be conducive for tree root function.
  3. Provision of root deflectors and or root barriers if appropriate.
  4. Irrigation pipe (if used).
  5. Method of securing.
  6. Whether tree protection is being used (cage/guard).
  7. Method of tree pit finish must be supplied: i.e. mulch (including depth) or tree grille/grids.

### **5.6. Derbyshire Wildlife Trust:**

The application is accompanied by sufficient information to allow the Council to assess the potential impacts of the development on biodiversity including protected species, species of nature conservation concern, habitats of recognised importance and designated sites (including both statutory and non-statutory sites). The Ecological Appraisal (EA) has included a full desktop study and habitat survey work undertaken at the optimal time of year. Bat surveys have included emergence surveys of several buildings and tree inspection where needed.

#### **Impacts and Biodiversity Net Gain**

Royal Hill Hedge Local Wildlife Site (DE096)

The EA has correctly identified the presence of a Local Wildlife Site (Royal Hill Road Hedge DE096) to the south of the development site. The hedgerow should be unaffected by the development as both the Illustrative masterplan and Landscape masterplan indicate a buffer of green space and / or SUDS between the development and the hedge. In addition, the EA has also referenced the retention and protection of the LWS.

#### **Habitats**

The site is composed of a series of small fields divided by hedges and tree lines. The grassland vegetation has been assessed as species poor 'modified' grassland. The hedgerows all qualify as Habitats of Principal Importance and vary from Low to High value in terms of the Hedgerow Grading and Evaluation System (HEGS). However, none are sufficiently diverse to qualify as Important Hedgerows under the criteria set out in the Hedgerow Regulation Act 1997. There are also small areas of scrub and scattered trees.

All the habitats have also been assessed within Defra's Biodiversity Metric 4.0. The type and extent of each habitat together with the condition assigned to each of the habitats is acceptable. A baseline value has been calculated and this is considered an accurate reflection of the habitats on site. The development will result in the loss of all the modified grassland and hawthorn scrub as well as the loss of 300m of hedgerow. In total five hedgerows are impacted with the complete loss of hedgerow 2 which is 210m.

## **Committee Report Item No: 8.1**

**Application No: 23/01631/OUT**

**Type: Outline (with access)**

---

### **Mitigation and Compensation Proposals**

The ecological assessments and metric set out the proposed mitigation and compensation for the loss of habitats and hedgerows on site. This includes an area of more species rich grassland in the north (other neutral grassland), areas of modified grassland, a sustainable drainage system, trees and an orchard. Regarding the loss of hedgerows, the proposals include planting 570m of new hedgerow and the enhancement of 480m of retained hedgerow.

With regard to the creation of species rich grassland the meadow mix N5 Long season meadow mix is referenced in the documents. This mix includes some plant species that are better suited to calcareous soils. There may be other seed mixes available better suited to the soil conditions and this should be considered when drawing up the full details for enhancement.

### **Metric Net Gain summary**

Biodiversity Metric 4.0 calculates a net gain of over 10% for both habitats and hedgerows on-site. The Trading Rules within the metric calculation have been satisfied and there are no errors showing in the submitted metric.

### **Outstanding and / or other issues**

There are no significant gaps in the ecological assessment that require further survey work at this stage. Where issues have been identified these will need to be addressed via suitable conditions for mitigation and compensation. Conditions are recommended below.

Trees T1 and T2 will need to be felled under supervision of a licensed bat ecologist. Details should be included as part of the CEMP.

Biodiversity Metric 4.0 calculates a net gain of over 10% for both habitats and hedgerows on-site. The Trading Rules within the metric calculation have been satisfied and there are no errors showing in the submitted metric.

A pre-commencement badger survey is required and a pre-commencement barn owl survey is required (see condition).

### **Swifts – Integrated Nest Boxes Information/Advice**

The newly published British Standard (BS 42021:2022 Integral nest boxes – Selection and installation for new developments) provides specifications on the number and type of integral boxes that should be sought within new developments. For example: 1. To provide new and enhanced opportunities for nesting, the number of integral nest boxes on new residential developments shall at least equal the number of dwellings, i.e. the ratio of integral nest boxes to dwellings is 1:1. 2. External nest boxes are additional to the installation of integral nest boxes on new developments and should not be included as part of the 1:1 ratio. This is also supported by the National House Building Council Foundation, the standard-setting body for new homes: "Section 8.1 Nest sites for birds (page 42): "Provision of integral nest sites for swifts is through hollow chambers fitted into the fabric of a building while in construction. Although targeting swifts they will also be used by house sparrows, tits and starlings so are considered a 'universal brick'"



## **Committee Report Item No: 8.1**

**Application No: 23/01631/OUT**

**Type: Outline (with access)**

---

Additionally, section 174(b) of the revised National Planning Policy Framework (NPPF, 2019), states: “To promote and enhance biodiversity and geodiversity, plans should: ...identify and pursue opportunities for securing measurable net gains for biodiversity...” and is explained further by the accompanying guidance notes (NPPF, Natural Environment Guidance, paragraph 023): “...relatively small features can often achieve important benefits for wildlife, such as incorporating ‘swift bricks’ and bat boxes in developments...”

We would therefore recommend the inclusion of integrated swift bricks into the development on the ratio of 1 per dwelling which in this case would be 90 integrated swift bricks.

### **Conclusions and recommendations**

The development does not impact on any designated nature conservation sites or irreplaceable habitats and no bespoke compensation needs to be agreed in relation to the loss of habitats of very high distinctiveness (as defined by Defra in the metric). The proposals set out to address the loss of habitat and hedgerow on the site have been demonstrated via the BNG Assessment, EA and metric to provide a > 10% net gain for habitats, hedgerows and watercourses in line with the NPPF. These proposals also meet the mandatory 10% net gain requirement that came into effect on 12th February. However, it is noted that this application was submitted prior to that date and therefore does not necessarily have to demonstrate a > 10% net gain. The fact that the development does not impact on any designated nature conservation sites or irreplaceable habitats and no bespoke compensation needs to be agreed in relation to the loss of habitats of very high distinctiveness (as defined by Defra in the metric). The proposals set out to address the loss of habitat and hedgerow on the site have been demonstrated via the BNG Assessment, EA and metric to provide a > 10% net gain for habitats, hedgerows and watercourses in line with the NPPF. These proposals also meet the mandatory 10% net gain requirement that came into effect on 12th February. However, it is noted that this application was submitted prior to that date and therefore does not necessarily have to demonstrate a > 10% net gain. The fact that the development has chosen to provide the mandatory gain should ensure a better outcome for biodiversity and reduces the risk that some of the compensation measures fail to achieve their targets.

Impacts on protected species are assessed to be relatively low, but some pre-commencement survey work is advisable as well as avoidance and mitigation measures and targeted enhancements.

If the Council is minded to approve the application conditions are recommended.

## **Committee Report Item No: 8.1**

**Application No: 23/01631/OUT**

**Type: Outline (with access)**

### **6. Relevant Policies:**

#### **6.1. Relevant Policies:**

The Derby City Local Plan Part 1 - Core Strategy was adopted by the Council on Wednesday 25 January 2017. The Local Plan Part 1 now forms the statutory development plan for the City, alongside the remaining 'saved' policies of the City of Derby Local Plan Review (2006). It provides both the development strategy for the City up to 2028 and the policies which will be used in determining planning applications.

#### **Derby City Local Plan Part 1 - Core Strategy (2017)**

CP1a)	Presumption in Favour of Sustainable Development
CP2	Responding to Climate Change
CP3	Placemaking Principles
CP4	Character and Context
CP6	Housing Delivery
CP7	Affordable and Specialist Housing
CP16	Green Infrastructure
CP17	Public Green Space
CP18	Green Wedges
CP19	Biodiversity
CP2	Delivering a Sustainable Transport Network
MH1	Making it Happen

#### **Saved CDLPR Policies**

GD5	Amenity
H13	Residential Development – General Criteria
E12	Contamination
E24	Community Safety
T10	Access for Disabled People
T15	Protection of Footpaths, Cycleways and Routes for Horses

The above is a list of the main policies that are relevant. The policies of the Derby City Local Plan Part 1 – Core Strategy can be viewed via the following web link:

[https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/environmentandplanning/planning/localplan/evidencebase/Core-Strategy\\_ADOPTED\\_DEC-2016\\_V3\\_WEB.pdf](https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/environmentandplanning/planning/localplan/evidencebase/Core-Strategy_ADOPTED_DEC-2016_V3_WEB.pdf)

Members should also refer to their copy of the CDLPR for the full version or access the web-link:

[https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/environmentandplanning/planning/localplan/part1/CDLPR\\_2017.pdf](https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/environmentandplanning/planning/localplan/part1/CDLPR_2017.pdf)

## **Committee Report Item No: 8.1**

**Application No: 23/01631/OUT**

**Type: Outline (with access)**

---

An interactive Policies Map illustrating how the policies in the Local Plan Part 1 and the City of Derby Local Plan Review affect different parts of the City is also available at – <http://maps.derby.gov.uk/localplan>

*Over-arching central government guidance in the NPPF is a material consideration and supersedes earlier guidance outlined in various planning policy guidance notes and planning policy statements.*

### **6.2. Applications involving the provision of housing:**

The Local Plan (consisting of the policies of the DCLP1 and the saved policies of the CDLPR) covers the period 2011 to 2028 and was adopted on 25 January 2017. The policies of the local plan have been reviewed in line with Regulation 10a of the Town and Country Planning (Local Planning) (England) Regulations 2017 and paragraph 33 of the NPPF, the provisions of which require Local Plan policies to be reviewed at least every 5 years. The officer led review was endorsed by the Council's Cabinet on 8 December 2021.

The review found that, apart from the housing target elements of policy CP6 (Housing Delivery), the policies of the Local Plan remain consistent with national policies, including the latest updates to the NPPF and can be given weight in decision making.

Policy CP6 sets a housing requirement of 11,000 new homes over the 17 year Plan period (647 dwellings annually). However, in December 2020, Government amended its 'Standard Method' for calculating Housing Need to include a 35% uplift in the top 20 largest urban areas in England which includes Derby. The standard method housing need calculation for Derby City now stands at 1,263 dwellings a year and this is significantly higher than the CP6 requirement. Therefore, the housing requirement in Policy CP6 is out of date.

A further consequence of the significant increase in housing requirement, brought about by the change to the standard method, is that the Council can no longer demonstrate a 5 year supply of housing land as required by the NPPF (NPPF paragraph 74 (footnote 39) refer). The current supply of deliverable sites is sufficient to provide 3.88 years of dwellings against the annual 1,263 requirement.

For the purposes of decision making, the lack of a demonstrable 5 year housing land supply means that the presumption in favour of development and the tilted balance set out in the NPPF is invoked (paragraph 11 footnote 8 of the NPPF).

Paragraph 11d of the NPPF requires that where there is no 5 year supply this means granting planning permission unless –

- i. The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole

As this proposal involves the provision of housing, the application is being considered in terms of its accordance with NPPF paragraph 11d and other material

## **Committee Report Item No: 8.1**

**Application No: 23/01631/OUT**

**Type: Outline (with access)**

---

considerations. This does not mean that the policies of the Local Plan are ignored but that their requirements can be considered, and given weight, where they accord with the policies of the NPPF.

Other material considerations to weigh in the planning balance are that the Council's housing needs have increased significantly and as such the benefits of delivering housing carry greater weight. Also, the degree to which the Council is unable to demonstrate a 5 year supply is material. A housing land supply of 3.88 years is a significant shortfall and therefore very significant weight should also be applied in favour of applications that can contribute to increasing this supply.

The implications of the tilted balance on the officer recommendations are discussed further in the officer appraisal section of this report below.

### **7. Officer Opinion:**

#### **Key Issues:**

In this case the following issues are considered to be the main material considerations which are dealt with in detail in this section.

#### **7.1. Principle of residential development**

#### **7.2. Green Wedge Impact**

#### **7.3. Highways Impact**

#### **7.4. Trees and Biodiversity**

#### **7.5. Design and Amenity**

#### **7.6. Other Environmental Impacts**

#### **7.7. Section 106 Agreement**

#### **7.8. Conclusion**

### **7.1. Principle of residential development**

Outline permission is sought for residential development of up to 90 dwellings, with all matters reserved except for means of access, on a green field site off Royal Hill Road in Spondon. The site is currently agricultural land used for grazing and is located adjacent to an existing residential area and within the Green Wedge which separates Chaddesden and Spondon. The site also includes hedgerows and trees, some of which are covered by a Tree Preservation Order. There is a covered reservoir to the north east of the site which does not form part of the proposal. There are Public Rights of Way, footpaths which run to the north and south of the site.

The proposed development would deliver a substantial amount of new housing for the Spondon area of the city. The site sits on the edge of an existing area of suburban style housing, around Royal Hill Road and would contribute towards the wider need for housing delivery in the city. The tilted balance requires consideration of the benefits and adverse impacts. Given the quantum of housing which is proposed, there would be significant benefits afforded by this development through the provision of new housing alongside an existing area of housing. Policy CP7 sets out requirements for affordable housing to be provided on sites above the threshold

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of 15 dwellings. The Council has extremely significant needs for affordable housing and any affordable housing which will be provided through the development is also afforded weight in terms of benefits of the proposal. Given that Policy CP6 is out of date and there is no longer a five year supply of housing in the city, the benefits of delivering a large amount of housing, must be given significant weight in the tilted balance. The provision of new housing which would be delivered, would meet the intentions of the NPPF, unless the adverse impacts of the development would significantly and demonstrably outweigh the benefits.

## **7.2. Green Wedge Impact**

The proposed development of major new housing would be located within the Chaddesden and Spondon Green Wedge and for this reason the proposal is contrary to the provisions of Policy CP18 of the Derby City Local Plan – Part 1. This Green Wedge provides an important strategic function by forming a generally open and undeveloped area between the two largely residential areas of the city. Green Wedges define the urban structure of distinct neighbourhoods within the city and allow the open countryside to penetrate into the urban area. They are a long-established feature of the city and Green Wedge land has been protected from unacceptable built development for many years. Policy CP18 seeks to protect the wedges from inappropriate development and criterion (a) lists the uses which the Council consider to be appropriate and housing development, as is proposed, is not considered to be an appropriate use. Criterion (b) adds additional considerations to ensure that suitable development does not endanger the open and undeveloped character of the wedge. Consideration in this instance should be given to scale, siting, design, materials and landscape treatment; in addition, development should not lead to an excessive increase in numbers of people, traffic or noise.

The Green Wedge policy is still considered to be relevant and up to date and consistent with the aims of the NPPF. Accordingly, weight can therefore be given to the policy, given its consistency with national policy and has been successfully tested at previous planning appeals. The question is whether there are any material considerations which would override Policy CP18 to the extent that the proposed development in the Green Wedge should be allowed.

There are a number of material considerations which come into play with this proposal. The housing requirement in the city is very significant and exceeds the amount set out in the adopted Local Plan. The Council has begun to prepare a new Local Plan which will need to address this housing need, although the preparation of the plan is in its early stages and it will be some time before a fully evidenced new plan is made available to inform the decision making process. The city's supply of deliverable housing sites is highly material and is currently to be 3.88 years. In addition, the extent of the shortfall of housing supply is also material as is the amount of contribution the proposed development of up to 90 homes could make towards the city's housing supply. This proposal would contribute significantly towards the current shortfall. In this case, it is highly material that Paragraph 11 of the NPPF requires a 'tilted balance' to be applied. The benefits of the housing development must be identified and weighed against the adverse impacts of the proposal, which includes the loss of Green Wedge, which are given relevant weight, in the balancing exercise. The impacts and benefits afforded by the proposed development are set out below

## **Committee Report Item No: 8.1**

**Application No: 23/01631/OUT**

**Type: Outline (with access)**

---

and must be considered in the tilted balance, against the loss of the Green Wedge and Policy CP18.

In the applicant's Landscape and Visual Assessment, the impact of the development on the Green Wedge is assessed and it considers that the proposed built form would extend close to the existing built up settlement on the edge of Spondon and would retain undeveloped land up to Chaddesden to maintain separation between the two areas of the city. The penetration of the countryside into the city would be retained between the two settlements and no linkages are proposed to physically join those urban areas.

It is acknowledged that the form and extent of the proposed housing development sits up to the western edge of the existing Royal Hill Road housing area in Spondon and would not extend by a substantial distance towards Chaddesden. A clear break would be preserved, of agricultural land between the two residential areas, such that the open countryside would continue to penetrate into the city from north to south. It is also worth noting that the proposed development would not extend as far west, towards Chaddesden as the existing housing at the western extent of West Road, which lies to the south of Springfield Primary School. Geographically, the proposed housing would not project further into the Wedge than the existing urban form around West Park School.

The function and character of the Green Wedge in this part of the city, which is to provide separation between the distinct areas of the city, Chaddesden and Spondon and allow the countryside to extend into the urban area, would be safeguarded by this proposal. A sufficient width of the Green Wedge to the west of the development site would also be maintained in its current agricultural use.

In terms of benefits which would be afforded by the development and which must be considered in the tilted balance, the applicant is proposing to deliver green infrastructure enhancements on the site, through landscape planting and on-site open space provision, which would provide a net gain in biodiversity within the development and improve the quality of the green infrastructure and open space in this part of the Green Wedge, for the benefit of existing and future residents.

The proposal would result in development of part of the Green Wedge, which is contrary to policy. However, there are mitigating factors in this instance, which would justify the proposed development of up to 90 dwellings in this location, at the eastern edge of the Green Wedge. This is subject to the housing layout, which would be submitted through reserved matters submission, abutting up to the existing the built form and alongside the existing highway.

In this instance, the proposed development of housing along a small section on the eastern side of the Green Wedge, would result in a limited urbanising impact on the Wedge and accordingly the proposed delivery of a large number of houses, must be given significant weight in the context of having no five year supply of housing.

Although the proposal is contrary to local plan policy CP18, the key to determining the application is the consideration of Paragraph 11dii of the NPPF. With no 5 year housing supply, 11dii of the national policy requires that applications involving the supply of housing are granted unless the adverse impacts of doing so would

## **Committee Report Item No: 8.1**

**Application No: 23/01631/OUT**

**Type: Outline (with access)**

---

significantly and demonstrably outweigh the benefits, when assessed against the benefits of the Framework as a whole.

As discussed, the proposal offers some significant benefits, including 90 new homes, new accessible public open space and construction jobs for the duration of the build. The proposal also includes a quantum of affordable homes and these should be seen as an additional benefit given the Councils need for this type of housing.

As this is an Outline application the full details are not yet known and we can only consider the principles. Clearly, development in the Green Wedge is contrary to policy and that policy still has weight as part of the development plan. However, in this specific case, it is material that a viable and functional Green Wedge can be maintained which will continue to provide the main roles of the separation of the distinct character areas of Spondon and Chaddesden and continue to allow the penetration of open countryside to the north into the city. As the proposed housing development is constrained to the eastern part of the wedge, it would form an urban extension to the built area of Spondon, becoming part of that suburb, without compromising the role and function of this particular Green Wedge.

The requirement, and provision of biodiversity net gain means that the loss of any biodiversity value of the land will be more than compensated for and so this is not an adverse impact.

### **7.3 Highways Impact**

Means of access is being determined under this outline application, which is for up to 90 dwellings. The development would be served off a single vehicular access from Royal Hill Road, which is a residential road which comes to an end, a short distance to the north. There is a private drive serving three dwellings to the north of the site, close to the proposed access. The access road would be a 5.5 metre width with 2 metre footways on both sides. Permission is also being sought for the formation of four separate footpath/ cycle links to existing public rights of way abutting the north and south boundaries of the development site. There would be three to the south and one to the north to provide pedestrian connections with the existing footpath network. The indicative layout also shows the provision of a shared cycle and pedestrian route through the development site, linking with the north and south connections to the public rights of way.

A Transport Assessment and Travel Plan have been submitted in support of the application. This confirms that the bus transport provision for Spondon, has been reduced and the current services which included this area are now more limited. The nearest bus stop which would serve the development is at least 800m away, which is in excess of the recommended walking distance. As a result, a contribution to be secured through a Section 106 Agreement has been agreed with the applicant to allow a bus service to be introduced, which would be more accessible to future residents as well as existing residents of Royal Hill Road.

The Highways Officer considers that there would be no significant impacts on the highway network arising from the development, in terms of traffic generation. The proposed access arrangement to the development is accepted and the proposed footpath links are also acceptable, subject to the path to the south of the

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development site being upgraded for cyclists and pedestrians up to Royal Hill Road. It is currently an unsurfaced track and in a poor condition, so Highway colleagues require the surface to be improved as part of the development scheme, with the works being undertaken by the applicant under a Section 278 Agreement. This has been agreed in principle by the applicant and would be secured through a planning condition attached to the permission.

Overall, the proposal would achieve a safe and suitable access for the residential development and enhance pedestrian and cycle linkages with the wider streetscene, through improved connections to the existing public footpaths. Bus transport provision would also be enhanced, through an agreed financial contribution, to enable improved public transport links with Spondon district centre and beyond to the city centre. There are also no concerns raised with regards to highway safety. The development would therefore satisfactorily meet the transport objectives in Policy CP23 of the DCLP – Part 1 and the overarching highway requirements in the NPPF.

#### **7.4 Trees and Biodiversity**

The site is agricultural fields, subdivided by established hedgerows and some individual trees which are mainly within hedges. A Tree Survey and Constraints Plan has been submitted with application and these show that some of the trees are assessed as being Category A and B. Four of the trees are protected by a Tree Preservation Order. All of the TPO trees and much of the hedges are proposed to be retained as part of the development proposal, although since the application is in outline only, the indicative layout could be altered as part of any reserved matters submission. Having said that, there is clearly scope to maintain a substantial portion of the green infrastructure within the proposed development of 90 dwellings.

The Tree Officer does not raise any objections to the proposals, although there is concern that an Arboricultural Impact Assessment has not been submitted at outline stage. However, given that layout and siting of the development is not being considered under this application, this assessment can reasonably be secured with the reserved matters submission. Provided that the detailed scheme accords with the arboricultural requirements of BS5837 and retains as much of the significant hedge and trees as possible then I am satisfied that the proposed development would be acceptable in principle. There are no concerns raised with regard to the removal of hedge to form the vehicular access and footpath linkages. A suitable landscaping scheme can also be secured through the reserved matters proposal.

In terms of biodiversity, the site is currently grassland, subdivided into small fields with hedgerow and some trees and small areas of scrub. An Ecological Appraisal and Biodiversity Net Gain Assessment have been provided to assess the habitat value of the site. The proposed housing development would result in a loss of some of this habitat and biodiversity, although there would be retention of some of these features through the formation of open spaces and a surface water drainage pond.

Derbyshire Wildlife Trust supports the assessment given in the appraisal and notes that the hedgerows on the site are of some significance. Some hedgerow would be removed to form the development, although it is accepted that there would be enhancement and formation of hedgerow and areas of species rich grassland within the site, which would provide appropriate compensation for the loss of habitat



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resulting from the development. Conditions are recommended to provide habitat features within the development and secure a management plan for on-site biodiversity.

The BNG Assessment which has been provided calculates a net gain of over 10% for both habitats and hedgerow on site. This assessment is accepted by DWT and is a welcome mitigation for the habitat loss which would result from the development. It should be noted that this BNG assessment was submitted prior to the new Regulations for major sites coming into force on 12 February 2024.

With regard to the impacts of the development on biodiversity, habitat and trees, I am satisfied that there would not be any significant harm and any adverse impacts would be mitigated through compensation measures for new planting and habitat creation to achieve a net gain in biodiversity. The proposal would therefore meet the intentions of Policies CP16 and CP19 of the Derby City Local Plan – Part 1.

## **7.5 Design and Amenity**

Policies CP3 and CP4 of the DCLP – Part 1 and saved Policy H13 of the City of Derby Local Plan Review seek high quality design and efficient use of land in residential development. Saved Policies H13 and GD5 both require development to safeguard amenity of both existing and future residents.

Since this application is in outline only, matters of scale, siting and landscaping are reserved for a future application. An indicative site layout has been submitted with the application, which gives an indication of how the proposed housing and associated landscape features would be set out. This suggests that around half of the site would comprise the development of new housing and this is shown in a central position within the site and the rest would be highway, open space and green infrastructure (including Suds drainage).

A Landscape and Visual Assessment has been provided with the application and this suggests that the site is currently well screened and enclosed from long range views of the site, by existing built form and landscape features. Rising land levels to the north, mean that the northern part of the site is the most visible from the wider landscape. This is shown in the indicative layout as being laid out for open space, with landscape planting and retention of trees and hedgerow. The new housing is proposed to be sited alongside the existing residential settlement to the east of the site and therefore should not be unduly prominent in views from the Green Wedge and the wider townscape. The retention and enhancement of tree cover and hedgerow features would also assist in softening the visual impact of the development on to integrate it into the existing streetscene.

The Design and Access Statement sets out the design principles for the proposed development, which is in outline. It suggests up to 90 dwellings, which would be sited up to the eastern boundary, alongside Royal Hill road and the existing housing area within Spondon. Open space would be formed along the southern boundary and the northern section of the site which is adjacent to the covered reservoir. A mix of house types are suggested, which would sit adjacent to the existing houses on the former Royal Hill Farm. An element of affordable housing is also proposed to be delivered on the site, which would meet an identified housing need and fit in with the

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appearance and design of the rest of the proposed house types. Suburban style housing would be consistent with the typical two storey houses and bungalows in this part of Spondon and would be in keeping with the residential character of the local area. Overall, the site is capable of achieving an acceptable form of residential development, which would provide a high quality living environment and urban design, which fits in with the general character and form of housing in the local streetscape.

In terms of residential amenity, there are not likely to be any significant harmful impacts on existing houses adjacent to the site. The neighbouring properties served off the private road directly to the east of the site would be in closest proximity to the new housing on the development. However, they are sufficient distance to allow for their amenity and privacy to be safeguarded as much as possible to ensure that a good quality living environment is maintained. The details of any housing layout would be assessed at reserved matters stage, when the amenities of existing residents will be fully considered. At this stage, I am satisfied that the proposed residential development would be satisfactorily formed on the site, without substantial adverse impacts on the living environment of neighbouring houses.

In relation to potential noise impacts on future residents of the site, the Environmental Health Officer has raised concerns that the new housing could be exposed to high levels of noise disturbance from the neighbouring primary school and from nearby road network. For these reasons, a comprehensive noise assessment is recommended to be secured through a suitable planning condition to determine the level of likely noise impacts on residents of the development and any sound insulation measures, which may be required at detailed design stage. A suitable noise mitigation scheme to be agreed at reserved matters should be sufficient to address these concerns and ensure that a suitable living environment is provided for future occupants.

Overall, the proposal is capable of forming a housing scheme, which achieves a high quality design and efficient use of land, as well as providing a good living environment for future residents and without significant harm to amenities of existing properties. In principle, I am satisfied that the development proposed would therefore meet the design principles and amenity requirements set out in Policies CP3 and CP4 of the DCLP – Part 1 and saved Policies H13 and GD5 of the CDLPR.

## **7.6 Other Environmental Impacts**

### **Flood Risk & Drainage**

A Flood Risk Assessment and Sustainable Drainage Report have been submitted in support of the application. The Councils Land Drainage Officer has noted that there is some potential flood risk resulting from a watercourse, which appears to be a drainage ditch along the southern boundary of the site. This does not appear to be of significant concern. The Officer does however require that a SuDs surface water drainage strategy be implemented to reduce surface water run off, resulting from the development which can be secured through a suitable planning condition. A surface water attenuation feature is proposed to be included in the development in the south west corner of the site and details of this feature should be provided as part of any reserved matters submission.

## **Committee Report Item No: 8.1**

**Application No: 23/01631/OUT**

**Type: Outline (with access)**

---

Subject to a planning condition to secure an appropriate surface water drainage scheme the development is considered to meet the flood risk and drainage intentions set out in Policy CP2 of the DCLP – Part 1 and the Technical Guidance for flood risk.

### **Site Contamination**

The application site is green field and in agricultural use, although the Environmental Health Officer considers the site to be sensitive, in the light of a contamination risk associated with agricultural processes, which may have taken place historically on the land. For these reasons, a Phase I site contamination assessment for the site is requested to be secured through a suitable planning condition. If this reveals any contamination present, then a Phase II assessment and any required remediation works would be required to be carried out. Subject to the required planning conditions being imposed and complied with, the proposed development would minimise risk to public safety and accord with the requirements of saved Policies E12 and GD5 of the CDLPR.

### **7.7 Section 106 Agreement**

A policy compliant Section 106 package of contributions, based on the adopted Planning Obligations Supplementary Planning Document (2018) for up to 90 residential units, has been agreed by the applicant. The following contributions for the proposed housing development have been agreed:

- On-site affordable housing provision
- Financial contributions towards: primary and secondary education (if no spare capacity at the time of reserved matters application), transport, major open space, community centres, sports facilities and health facilities.

### **7.8 Conclusion**

This proposal seeks outline permission with means of access only for residential development of up to 90 dwellings on a green field site west of Royal Hill Road in Spondon. Vehicular access would be formed off Royal Hill Road and four pedestrian/cycle links are proposed to link with the public rights of way network. The site is designated as Green Wedge, which separates the Chaddesden and Spondon areas of the city.

The development would deliver a large quantum of new housing in the Spondon area, which would make a positive contribution towards the city's housing need. It would also deliver new affordable homes. Although the proposal is contrary to CP18 of the development plan, there are material consideration in play which affect decision making in this case.

The NPPF directs that the tilted balance must be applied because the proposal is for the provision of housing and the Council cannot demonstrate a five year housing supply. The NPPF therefore requires that an application should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. This requires applying weight to the various benefits and adverse impacts and then considering them in the context of the tilted balance. As this is an outline

## **Committee Report Item No: 8.1**

**Application No: 23/01631/OUT**

**Type: Outline (with access)**

---

application, only the principle of the residential development and the highway impacts can be considered, since all other details are currently unknown.

The main benefits would be the provision of a large number of new homes in a sustainable location, adjacent to, and therefore forming a new part of the built area of Spondon, and a quantum of affordable housing units, which would be provided in the context of a very significant housing need, resulting from increased dwelling numbers required in the standard method. There would be benefits, through the on-site provision of biodiversity net gain, new accessible public open space, through landscape planting and habitat creation. There would also be temporary economic benefits from construction, through job creation and economic investment in infrastructure. Bus service

There are also adverse impacts arising from the proposed development of housing, through the development of part of the Chaddesden Spondon Green Wedge, which is contrary to Policy CP18 of the DCLP – Part 1.

However, given the significant housing need and absence of a five year supply, the implications for development in this Green Wedge must be afforded substantial weight in the tilted balance. Crucially, the function and character of the Green Wedge in this part of the city has been considered and the development would maintain a sufficient, functional width of the Wedge to the west of the site to allow adequate separation between the residential areas of Spondon and Chaddesden. The proposed housing would also adjoin the existing residential settlement around Royal Hill Road and form a limited extension to it, such that the main purpose and function of the wedge in this location would be preserved.

In the overall planning balance, it is considered that whilst the principle of the residential development of this site, within the Green Wedge, is contrary to policy, that taking account of the 'tilted balance' the adverse impacts, including loss of a relatively small part of the Green Wedge in this particular instance, do not significantly and demonstrably outweigh the benefits of the scheme and that in terms of its impacts on the local highway network, biodiversity and trees, flood risk and site contamination, residential and visual amenity the scheme is acceptable. In this policy context the proposal is finely balanced, but applying the significant weight of the tilted balance it is recommended that outline permission be granted with the recommended conditions and accompanying Section 106 agreement.

## **8. Recommended decision and summary of reasons:**

### **8.1. Recommendation:**

- A. To authorise** the Director of City Growth and Vibrancy to negotiate the terms of a Section 106 Agreement to achieve the objectives set out below and to authorise the Director of Corporate Governance, Property and Procurement and Monitoring Officer to enter into such an agreement.
- B. To authorise** the Director of City Growth and Vibrancy to **grant permission** upon conclusion of the above Section 106 Agreement.

## **Committee Report Item No: 8.1**

**Application No: 23/01631/OUT**

**Type: Outline (with access)**

---

### **8.2. Summary of reasons:**

In the overall planning balance, it is considered that whilst the principle of the residential development of this site, within the Green Wedge, is contrary to policy, that taking account of the 'tilted balance' the adverse impacts, including loss of a relatively small part of the Green Wedge, in this particular instance, do not significantly and demonstrably outweigh the benefits of the scheme and that in terms of its impacts on the local highway network, biodiversity and trees, flood risk and site contamination, residential and visual amenity the scheme is acceptable. In this policy context the proposal is finely balanced, but applying the significant weight of the tilted balance, outline permission is granted with the recommended conditions and accompanying Section 106 agreement.

### **8.3. Conditions:**

#### **Pre-commencement Conditions:**

1. Standard condition (outline permission time limit)

**Reason:** Time Limit reason

2. Standard condition (reserved matters)

**Reason:** To accord with relevant legislation

3. Construction Management Plan to include highway dilapidation survey, wheel washing and sweeping, parking for materials deliveries, construction and operations personnel, delivery times routing of vehicles to be approved.

**Reason:** In interests of highway safety and residential amenity

4. Construction details for internal road network, including parking and turning, access widths, gradients, surfacing, lighting and structures, visibility and drainage to be approved.

**Reason:** In the interests of highway safety

5. Vehicular access to be constructed to minimum of binder course level before development commences.

**Reason:** In interests of highway safety

6. Detailed Suds drainage strategy to be submitted and agreed.

**Reason:** To minimise flood risk and provide satisfactory drainage solution.

7. Phase I contamination assessment to be submitted and agreed.

**Reason:** To minimise risks to human health

8. Phase II contamination assessment to be submitted and agreed if Phase I concludes one is required. Remediation statement to be submitted where required and implemented.

**Reason:** To minimise risks to human health.

## **Committee Report Item No: 8.1**

**Application No: 23/01631/OUT**

**Type: Outline (with access)**

---

9. Arboricultural Impact Assessment and Arboricultural Method Statement for trees to be submitted and agreed.

**Reason:** To ensure appropriate protection of trees during construction

10. A Construction Environmental Management Plan for biodiversity to safeguard biodiversity features during construction to be approved and implemented.

**Reason:** To protect biodiversity features during construction.

11. A badger survey for any recent badger setts on or close to the site to be carried out and results/ licencing to be agreed.

**Reason:** In interests of safeguarding protected species

12. A barn owl survey to be carried out on site, outside nesting season and 6 months prior to development commencing and results to be agreed.

**Reason:** In interests of safeguarding protected species

### **Pre-occupation Conditions:**

13. A detailed landscaping scheme for development, to include tree and hedge planting details, species and numbers of planting, including details of soil volumes.

**Reason:** In interests of visual amenity and biodiversity

14. Biodiversity Species Enhancement plan for impacts and mitigation to be submitted and agreed with reserved matters.

**Reason:** To protect and manage biodiversity as part of the development

15. Remediation strategy to be implemented in full and validation report to be submitted and agreed.

**Reason:** To minimise risks to human health

16. Comprehensive noise assessment to be submitted and agree and any mitigation scheme shall be agreed and implement pre-occupation.

**Reason:** To safeguard residential amenity from excessive noise impacts of traffic

17. Improvement works to the public right of way (Spondon 7) to be carried out from most western connection point to Royal Hill Road

**Reason:** To promote sustainable travel.

## **Committee Report Item No: 8.1**

**Application No: 23/01631/OUT**

**Type: Outline (with access)**

---

### **8.4. Informative Notes:**

#### Highway works:

In order to carry out the off-site works required you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act. Please contact: [HighwaysDevelopmentControl@derby.gov.uk](mailto:HighwaysDevelopmentControl@derby.gov.uk)

It is an offence under S148 and S151 of the Highways Act 1980 to deposit mud on the public highway. The applicant/developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's/developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

Due to the nature of the application; the highway authority considers that it will be appropriate to assess the adjacent highway in respect of the potential for a claim for compensation made under Section 59 of the Highways Act 1980.

The applicant/developer should (prior to commencement of works) arrange for the joint 'dilapidation survey' of the highway in the vicinity of the site; to be carried out with the representative of the Highway Authority. Contact [StreetPride; maintenance.highways@derby.gov.uk](mailto:StreetPride@maintenance.highways@derby.gov.uk) tel 0333 2006981.

#### Integrated Nest Boxes

The newly published British Standard (BS 42021:2022 Integral nest boxes – Selection and installation for new developments) provides specifications on the number and type of integral boxes that should be sought within new developments. For example: 1. To provide new and enhanced opportunities for nesting, the number of integral nest boxes on new residential developments shall at least equal the number of dwellings, i.e. the ratio of integral nest boxes to dwellings is 1:1. 2. External nest boxes are additional to the installation of integral nest boxes on new developments and should not be included as part of the 1:1 ratio. This is also supported by the National House Building Council Foundation, the standard-setting body for new homes: "Section 8.1 Nest sites for birds (page 42): "Provision of integral nest sites for swifts is through hollow chambers fitted into the fabric of a building while in construction. Although targeting swifts they will also be used by house sparrows, tits and starlings so are considered a 'universal brick'"

Additionally, section 174(b) of the revised National Planning Policy Framework (NPPF, 2019), states: "To promote and enhance biodiversity and geodiversity, plans should: ...identify and pursue opportunities for securing measurable net gains for biodiversity..." and is explained further by the accompanying guidance notes (NPPF, Natural Environment Guidance, paragraph 023): "...relatively small features can often achieve important benefits for wildlife, such as incorporating 'swift bricks' and bat boxes in developments..."

**Committee Report Item No: 8.1**

**Application No: 23/01631/OUT**

**Type: Outline (with  
access)**

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**8.5. S106 requirements where appropriate:**

- On-site affordable housing provision
- Financial contributions towards: primary and secondary education (if no spare capacity at the time of reserved matters application), transport, major open space, community centres, sports facilities and health facilities.

**9. Application timescale:**

The target date for determination has been extended by agreement with the applicant to the 7 June 2024.



