

Agenda Item No. 4.1

**DERBYSHIRE COUNTY COUNCIL
REGULATORY – PLANNING COMMITTEE**

4 September 2017

Report of the Strategic Director – Economy, Transport and Communities

- 1 PROPOSED CHANGE OF USE OF PART OF AN AGRICULTURAL
FIELD TO EDUCATIONAL USE AT MAYFIELD ROAD, ASHBOURNE
DE6 1AS
APPLICANT: DERBYSHIRE COUNTY COUNCIL
CODE NO: CD3/0517/14**

3.1184.9

Introductory Summary

This application is for a change of use from agriculture to an educational use at land at Mayfield Road, Ashbourne. The proposal relates to the adjacent St Oswald's Infant and Nursery School and its forthcoming change to become a primary school. The proposal is considered to offer some local public benefit.

The proposal includes the erection of an agricultural post and wire fence with sheep netting, approximately 1.2 metres in height around the proposed site boundary. This would also include a timber single swing gate on the boundary close to the Mayfield Road hedge. A hedge is also proposed on the inside of the fenced area.

It is considered that, as proposed by the applicant on a permanent basis, the change of use would result in harm to Ashbourne Conservation Area and the setting of a Grade 1 listed building. It is also considered that it would also not accord with the requirements of the National Planning Policy Framework (NPPF) and the development plan in respect of landscape, visual and open space policies.

In considering the local public benefit brought by the scheme, whilst there would be harm, it is recommended that planning permission be granted subject to a temporary three year condition and other conditions. Such a temporary period would enable the applicant to give full overall consideration to the future open space and other site area needs of the school site and to secure any appropriate planning approvals. The temporary three year period would also ensure that any harm to the heritage assets would be kept to a minimum and also be fully reversible.

(1) **Purpose of Report** To enable the Committee to determine the application.

(2) **Information and Analysis** This application is for a change of use from agriculture to an educational use on land at Mayfield Road, Ashbourne. The proposal is associated with St Oswald's Infant and Nursery School, which is immediately adjacent to the application site, which is due to be designated as a primary school this September. The proposed development would include the erection of a 1.2 metres high agricultural timber post and wire fence, with sheep netting, around the proposed site boundary. It would also include a timber single swing gate on the boundary close to the Mayfield Road hedge. A hedge is also proposed on the inside of the fenced area. The proposed development would also involve the removal of one hawthorn tree adjacent to the Annex building in order to facilitate access into the existing school site. The proposed development is situated within the Ashbourne Conservation Area and close to a number of listed buildings including the Grade I listed St Oswald's Church.

The proposed site is partially visible from the public highway due to its steeply sloping topography. The site is partially screened from views from Mayfield Road by an existing hedgerow along the site frontage. A public right of way (PRoW) currently runs from Dark Lane/Belle Vue Road to Mayfield Road through the application area.

Post Application Submissions

The applicant has provided additional and corrected information following the submission of the planning application. This information included a revised application form, planning supporting statement and Heritage Statement.

Consultations

Local Member

Councillor Spencer was requested to respond by 3 May 2017.

Ashbourne Town Council

Ashbourne Town Council raised no objections to the proposal but commented that *"the existing Local Plan 2005, this is protected green site, and is also protected in the Neighbourhood Plan which will involve a technical amendment"*.

Historic England

No comment.

Derbyshire Dales District Council

Derbyshire Dales District Council (DDDC) objected to the proposals making the following comments:

“The land in question is recognised as Important Open Space (Policy SF2) with attendant requirements/criteria relating to potential development. Its landscape character is recognised in the Conservation Area Appraisal (2008) where it states that this land ‘remains relatively undisturbed’ and ‘this agricultural field is steeply sloping and used as permanent pasture for livestock’. The character of the area is recognised as a ‘green wedge’ of sloping land providing a pastoral character to this part of the Conservation Area. At its upper part land providing a pastoral character to this part of the Conservation Area. At its upper part the path also provides many panoramic views/vistas across this part of the town. In essence, the historical preservation of the open land around the parish church has conserved its particular character and appearance and is a significant and important element of the both the setting of the parish church and this part of the conservation Area. An Archaeological Assessment of the town (2001) states that this land ‘appears to contain some earthworks, one of which may be a hollow way’. There is, therefore, potential for archaeological interest on this land.

The proposals do not appear to include for any land-form alterations or modifications etc. The installation of any agricultural post and wire fence will involve some excavation works but this may not endanger archaeological interest (refer to comments by the Development Control Archaeologist). Such a type of fence (at 1.2m high) would not appear overtly out of place as a divisional boundary between two areas of agricultural land, however, it is assumed that once the enclosed land is non-agricultural it will be maintained in a very different way and in that regard will take on a very different character to the rest of the adjoining land. Concern is also raised that there may also be free-standing educational elements placed within it.

The submitted statement states that the proposed educational use ‘will not impact visually on the open space that exists’ and that the enclosure of this part of the field will not jeopardise nor harm the protection of important open space’. It is considered unlikely that this will be the case and a visual and physical change in character and appearance will occur within the enclosed area.

There remain, a number of un-resolved issues relating to the potential impact of this enclosure and future use of the land within it on the setting of the parish church and on this part of the Conservation Area.

Derbyshire Dales District Council raises an objection against the application.”

Publicity

The application has been advertised by site notice and by press advert (Ashbourne Telegraph) on 26 July 2017. One representation was received declaring an objection against the proposal.

"I wish to OBJECT to this proposal as it is currently submitted. This is a particularly attractive area of open space, which adds great visual value to the approach to Ashbourne from the west along Mayfield Road, and to the setting of St Oswalds Church. As noted by the District Council in their objection, the planning application implies that the only change will be a fence around the site, but as the site is steep and sloping, it seems very likely that there will need to be significant 'cut and fill' in order to make the site useable for children as a recreational area. This could amount to an engineering operation which would be development in its own right, and would definitely result in a visual impact which could be harmful to this very important area of open space, and to the setting of nearby Listed Buildings. The application should not be taken forward without details of the likely changes to landform and any play structures that might follow the change of use. As such I OBJECT to the application as currently submitted."

These issues are discussed further in the 'Planning Considerations' Section below.

Planning Considerations

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning applications are determined in accordance with the development plan unless there are any material considerations which indicate otherwise. In respect of this application, the relevant development plan policies are contained in the adopted Derbyshire Dales District Local Plan 2005 (DDLP) and Ashbourne Neighbourhood Plan (ANP) (2017). The NPPF and the associated Planning Practice Guidance are also material considerations.

The DDLP policies of the development plan are expected to be replaced soon, though adoption of a new Derbyshire Dales local plan for the period up to 2033; this would be based on a draft local plan for the district (outside the National Park area) which the District Council has produced, although certain alterations which have been recommended to it on behalf of the Secretary of State as the outcome of a public hearing on the draft plan held in May 2017, which are still subject to consultation. Therefore it is appropriate in principle at this time to give some weight to any considerations from this emerging new local plan which might be relevant to the considerations of any particular application. However the District Council, whilst commenting in detail on this application has not referred to any emerging plan as raising any particular

issues concerning it. The emerging plan is understood to be generally in line with relevant aspects of the NPPF, the current protective policies under the DDLP which are specifically addressed below are understood to be reflected in broadly equivalent or clearer protective provisions under the emerging plan (which would include a specific policy on protection of the historic environment, PD2), and the emerging plan policy S9, which proposes an 'Ashbourne Development Strategy' includes a specific provision to seek to protect and enhance the historic environment. Therefore it is not considered that the emerging local plan raises any distinctive issues so as to significantly affect the material considerations relating to this particular application.

Policies

The principal planning policies relevant to this planning application are:

Derbyshire Dales District Adopted Local Plan (2005) Policies

SF1: Development within Settlement Frameworks Boundaries.

SF2: Protection of Important Open Spaces.

SF5: Design and Appearance of Development.

SF6: Protection of the Best Agricultural Land.

NBE16: Development Affecting A Listed Building.

NBE21: Development Affecting a Conservation Area.

L9: Safeguarding Public Rights Of Way.

CS3: Provision of New Community Facilities and services.

National Planning Policy Framework (2012)

Paragraphs 132-134: Conservation and enhancement of the historic environment.

Paragraph 126: Conserving and enhancing the historic environment.

Paragraph 74: open space, sports and recreational buildings and playing fields.

Paragraph 58: Requiring good design.

Paragraph 14: Presumption in favour of sustainable development.

Ashbourne Neighbourhood Plan (2017 – 2033) (February 2017) Policies

DES1: Design.

DES2: Conservation Area.

COM 1: Community Facilities.

Need for and Benefits of the Development

This proposal for development under this application is understood to relate to the approval by Cabinet in May 2016 of *"the reorganisation of primary education in Ashbourne to create three primary schools serving a single shared normal area"*. This followed a statutory consultation on a proposal for reorganisation of the primary phase education in Ashbourne, with effect from September 2017. Under this approval, St Oswald's Infant and Nursery School, Hilltop Infant School, and Parkside Junior School are to extend their

teaching age ranges to become the primary schools. The LEA considers that this will create a more integrated educational experience for primary level pupils, ensuring that they would not need to change schools between infant and junior stages. The change would also improve the accountability measures for each school and is part of LEA strategic planning to address expansion that might be needed as a consequence of housing developments.

The application states that the land to the south-west of the Annex building was identified as the most accessible point for all persons including those with mobility difficulties, without the need for significant civil engineering works.

The application states that the current proposal would enable the school to comply with the recommendation and would allow the school to be designated as a Primary School.

The accompanying information further states that the change is "*a significant and huge public and sustainable public benefit*". This is because parents currently have difficulties transporting their children to different schools which "*results in traffic congestion within Ashbourne both in the mornings and afternoons during term time*".

The Council as Local Education Authority (LEA), for all schools it maintains, is required by law to provide suitable outdoor space, for (a) physical education in accordance with the school curriculum and (b) outside play. "Advice on standards for school premises" published by the Department for Education, includes advice in respect of this requirement. This advice cross-refers to an 'area guidelines' departmental publication which contains (as Part B) a guide on establishing site area requirements, including for outdoor space provision. It appears that the LEA has recognised a need to reassess the provision of suitable outdoor space provision at the school, since the primary school designation would be expected to result in changes to the age profile of its pupils, and that the change of use has been proposed in this context.

Policy CS3 of the DDDL P relates to the provision of new community facilities and services. It permits development that would provide new community facilities if the proposed facility is well related and accessible to the community it is intended to serve; the proposed development would not have an adverse impact on the character and appearance of its surroundings and it is in scale and character with its surroundings and the immediate or wider landscape. Whilst the current proposals relate to the alteration or expansion of an existing community facility, the policy is still considered relevant here.

The ANP (pages 18 and 29) makes reference to the school's change to primary status by 2017, as well as the other infant and junior schools within Ashbourne. This document further explains that the change to primary school

status would enable the school to provide improved facilities and plan for future growth.

In light of the above, I acknowledge that the development would meet a need and, in that context, would accord with parts of DDDL Policy CF3 and the ANP. However, the proposal's acceptability needs to be considered against all other development plan policies. The key issues that need to be considered include:

- Impact on open space.
- The impact of the development on heritage assets including the setting of nearby listed buildings and the Ashbourne Conservation Area.
- Impact on landscape and visual amenity.
- The ecological impact of the development.
- Impact upon existing public right of way.
- Impact on the highway.

Protection of Open Space

The site is identified on the proposal map and in Appendix 2 of the DDDL as Important Open Space which has been given special protection. The entire site area is subject to DDDL Policy SF2: Protection of Important Open Spaces which seeks to maintain, reinforce or improve the land's undeveloped character and does not permit development proposals where:

- (a) the site does not make an important contribution to the character or appearance of the settlement or;*
- (b) the proposed development does not result in the loss of important views into or out of the settlement or;*
- (c) the site does not make any contribution to the special character or appearance of a conservation area or;*
- (d) the site has no importance as local public amenity either in terms of its landscape qualities, or its use as an informal space for passive or active recreation."*

The proposed development would involve the erection of 1.2 metres high fencing and the effective compartmentalisation of part of the existing wider agricultural land. It would also see the use of the land by the pupils of the adjacent school as school playing field which would effectively visually extend the urbanised area of the town into this land.

The application site is identified as providing important views into Ashbourne in the Ashbourne Conservation Character Area Appraisal; its open undeveloped character is also identified in that document as being a key characteristic of this part of the wider Ashbourne Conservation Area. The site's character is recognised as a 'green wedge' of sloping land providing a pastoral character to this part of the Conservation Area.

Despite the applicant's views to the contrary, I am of the view that the impacts associated with the operational educational use of the land would lead to significant alterations to the character of the application site. Such alterations would include:

- the loss of the existing pastoral grassland management with a more formalised grass maintenance regime – this would lead to an automatic sense that this land was in some way different, more developed from the surrounding pasture land;
- the sub-division of the land in such a visible location with post and wire stock fencing would break up the open character of the area and introduce an incongruous feature into the landscape;
- the operational use of the land as a school play area would physically and visually extend the urban parts of the town into this previously undeveloped area;
- indirect impacts associated with the proposals, i.e. the necessary diversion of the footpath which runs through the application site and the potential impacts associated with this should not be underestimated (initially requested to be 2 metres wide tarmac surface with timber handrails, kissing gates and stepped sections) would be harmful;
- the inevitable creep of school play equipment, ornamental planting, structures etc although this latter issue could be controlled via the conditioned removal of permitted development rights.

In conclusion, in respect of DDDLP Policy SF2: Protection of Important Open Spaces, whilst I accept that there is a public benefit to the proposal, I do not consider that the proposal accords with DDDLP Policy SF2 or ANP Policy DES2.

Heritage Assets

The proposed development would be located within a highly sensitive location within Ashbourne. It is within the Ashbourne Conservation Area, and within the setting of St Oswald's Church, which is a Grade 1 listed building. There are also a large number of other listed buildings in the vicinity of the site.

The Planning (Listed Buildings and Conservation Area) Act 1990 Section 66(1) of the Act provides: *"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."*

In addition to this, Section 72(1) confers a general duty on local planning authorities in respect of conservation areas. It states: *"In the exercise, with respect to any buildings or other land in a conservation area, of any [functions*

under or by virtue of] any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

The DDDL contains several relevant policies in relation to the protection of heritage assets:

Policy NBE16: Development Affecting A Listed Building which states:
"Planning permission for development will only be granted where it does not have an adverse impact upon the special character or setting of a listed building".

Policy NBE21: Development Affecting A Conservation Area which states:
"Planning permission for development proposals within or adjacent to a Conservation Area will be granted provided that they preserve or enhance the character or appearance of the area".

The ANP identifies St Oswald's Church as one of the *"examples of what Ashbourne needs to protect, enhance and promote"*. The ANP highlights the importance that *"Development must not lose that essential character of a town within a setting of green hills and important strategic views particularly of the town's conservation areas and its listed buildings"* (ANP, pages 17 and 34).

The proposed development would be located in the Ashbourne Conservation Area. The Ashbourne Conservation Area Character Appraisal describes that part of the conservation in the vicinity of the application site (Zone 1) as *"... the undeveloped meadows which lie to either side of Church Street in the extreme south west of the Conservation Area....This hedgerow runs virtually uninterrupted for nearly 500 metres. Not only does it provide an attractive boundary feature to the Conservation Area but contributes hugely to the environmental quality and character of Bellevue Road and Dark Lane...Access to the meadow can be gained via an iron kissing gate that opens onto the public footpath which crosses the meadow diagonally towards the school....The meadow itself slopes steeply down towards Church Street providing a green backdrop to the school further to the east. The field is down to permanent grassland for the grazing of livestock and the main feature is a lone mature sycamore tree that stands in splendid isolation towards its western end. .."* (Conservation Area Appraisal, 2008, page 68).

The application site is also close to St Oswald's Church, a Grade 1 listed building. The Meadows, of which the application site is part, are considered to form an important, undeveloped, part of the wider Conservation Area which forms part of the entrance in Ashbourne from the south. The undeveloped nature of the area is also one of the key elements that contributes to the setting of St Oswald's Church.

The application states that the proposed change of use would not result in any built development and that, as a result, there would be no adverse impacts to the setting or character of the nearby heritage assets. Whilst I acknowledge that the only built development would be the 1.2 metres high post and rail fencing, as set out above in the section relating to open space, I consider that the proposed change of use, if permanent, would ultimately result in significant incremental changes which would essentially extend the urbanised area into this land, primarily through the use of the land by pupils at the school.

I also retain concerns over the compartmentalisation of this land which would erode the historic integrity of what is a long-standing area of open pasture. Such compartmentalisation, and the associated proposed educational use (including changes to the maintenance regime), would have the potential to lead to additional incremental damage to this sensitive historic landscape and setting to the numerous nearby listed buildings and undesignated heritage assets which contribute to the character of the Conservation Area.

In light of the above, I consider that as the proposal would not 'preserve and enhance' and would therefore result in harm to the character and appearance of this part of the wider Ashbourne Conservation Area and the setting of the St Oswald's church, it would therefore not comply with the requirements of the NPPF or policies NBE16, NBE21 and CF3 of the DDDL. I note the comments of DDDC regarding the appearance of small ancillary structures and play equipment, but consider that this latter issue could be adequately dealt with via condition.

Substantial Harm/Less than substantial harm

Paragraph 132 of the NPPF, in the section dealing with the conservation and enhancement of the historic environment, states: *"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly Exceptional".*

Paragraph 133 of the NPPF states: *"Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve*

substantial public benefits that outweigh that harm or loss, or all of the following apply:

- *the nature of the heritage asset prevents all reasonable uses of the site; and*
- *no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- *conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and*
- *the harm or loss is outweighed by the benefit of bringing the site back into use”.*

Paragraph 134 of the NPPF says that “[where] a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use”.

The proposal would have the potential to result in harm to the character and appearance, and would therefore neither preserve nor enhance the character and appearance of the Ashbourne Conservation Area. The proposals would also not preserve the setting of St Oswald's Church. In respect of the question raised by these NPPF test as to whether the proposals would result in 'substantial harm' or 'less than substantial harm', I am of the view that they would result in 'less than substantial harm'. Whilst I note that the proposals would alter the current open and pastoral nature of the site, significant amounts of pastoral land would still remain. The development would not result in the total destruction of the open character of the area and would not involve significant amount of built development. Under those circumstances, I am of the view that that element of the significance of the heritage asset which is conferred on it through the open pastoral setting would still be partially retained, albeit in an altered form.

Set against the above is the identified public benefit which the development would provide. Such benefits are considered to be quite localised, however, and not so significant as to outweigh the harm cause to the heritage assets. .

The current application does not set out in any detail how the site might be utilised for informal play and for physical education, nor does it provide any detailed assessment of alternative locations that might be considered for outdoor space for the school (despite the sensitive nature of the site location). Whilst the provision of such details could have been helpful to the task of assessing the need and public benefit associated with the proposal, I do not believe that any such details would significantly alter the analysis which the Officer Recommendation is based on.

It is understood that the LEA is also needing to consider other potential development at the school, as would be needed to enable it to expand to accommodate anticipated rises in pupil numbers. However such potential development would be considered under a separate application and should not be taken into consideration in the assessment of this proposal. Under such an application, the need for provision of sufficient outdoor space would be just one of the important considerations, but the topic would then be examined holistically in relation to that proposed development as a whole (not on an isolated or piecemeal basis, as is clearly inevitable in the case of the application now under consideration).

Granting permission for this proposal, even on the basis of a temporary change of use for a period of three years as recommended in this report, should help to resolve the immediate outdoor space provision concerns relating to the school becoming a primary school. This relatively short period would ensure that no significant and permanent visual changes to the site resulting from intensive amenity style management would occur. Such a period should also be sufficient to allow the LEA to for identifying options for providing alternative outdoor space for pupils of the school as from the expiry of the period, and submitting for determination any application for planning permission in this respect.

Landscape and Visual Impact

The proposed development would conflict with some parts of the requirements of DDDL Policy SF5 in respect of local distinctiveness and sense of place. The site is identified as part of a green wedge, agricultural land and important open space. This site has managed to preserve its historic character. The proposed development would not preserve this nor would it enhance the quality in respect of landscape character. In addition to this, the open space site as a whole would be less distinctive and have an adverse impact on the sense of place created by the site. The development would therefore be considered a departure from the development plan.

The land, the subject of this application, occupies a prominent location abutting Mayfield Road, one of the main routes into Ashbourne from the west/south-west. I note that whilst the 'Landscape Character of Derbyshire' defines this land as part of the urban fabric of the town, it also forms a part of small enclave of open farmland surrounding the school to the north and west. In many ways, the land still displays many attributes with the adjacent Landscape Character Types of the Peak Fringe and Lower Derwent National Character Area; the Wooded Slopes and Valleys and Settled Farmlands, with pastoral land-use on moderate to steep slopes, hedgerow boundaries and scattered trees.

In this context, I consider this land to be of significant value to both the settlement of Ashbourne, the Conservation Area, and the setting of St

Oswald's Church. The land is also visible from the users of Mayfield Road (pedestrians and motorists), as well as the users of footpaths crossing the site. The supporting Heritage Impact Statement confirms that using map regression, this parcel of land has remained much unchanged in its current form since the mid-1800s if not earlier, which further reinforces the historic context of this area.

The application states that associated with the proposed change of use would be the erection of stock proof post and wire fencing to create a secure boundary for pupils. No details have been provided relating to the management of the land within the fenced area, although there are no proposals to undertake engineering works or build other structures at this time. Any such proposals would comprise operational development which would need to form the subject of a separate planning application, to be assessed on its own merits.

In conclusion in respect of landscape and visual impacts, whilst the proposal does not include any engineering works to create a level playing area or any erecting of any structures on the land except for the stock proof fencing, the compartmentalisation of this land and a different management regime, which would result in a more heavily cultivated, less rural, appearance of this part of the field, would lead to adverse landscape and visual impacts. Such impacts would have the potential to be compounded by any proposals for further development at the site or its vicinity.

Ecology

This proposal would see the loss of approximately 0.24 hectare of agricultural land, currently permanent pasture, to instead be used for school playing fields. The proposals have the potential to compromise any ecological value within the existing grassland, with subsequent amenity management reducing any interest to negligible levels.

The application is supported by an ecological appraisal, which, amongst other things, covers the grassland in the application area. The report confirmed that no designated sites would be affected and noted that the primary habitat affected by the current proposals consists of non-species rich semi-improved neutral grassland. The report concludes that the loss of grassland within the application area would not result in a significant adverse ecological impact. Whilst there are areas of more species rich grassland and hedgerows in the vicinity of the site, these would not be directly affected by the proposals. Bat activity was observed within the site and the hedgerows and grasslands around the site were considered to offer foraging opportunities for bats. No other protected species were identified at the site or in the immediate vicinity and the report concludes that the development would not result in adverse impacts in respect of protected species. The report concludes that the loss of

0.24 hectare of species poor grassland would not be significant in ecological terms.

I consider that the ecological assessment was undertaken in line with an appropriate methodology and would agree with its conclusions. I am therefore satisfied that, subject to the imposition of conditions relating to ground nesting birds, bats and compensation for the loss of grassland, the proposals would be acceptable from an ecological perspective. The development would accord with DDDL Policy SF1.

Highways Impacts

The development would not require a new access to be created into the site from Mayfield Road as access would be via the existing school site. There is an existing PRow, which currently crosses the application site which is subject to an application for a Diversion Order.

Subject to achieving acceptable alternative arrangements for the PRow, I am satisfied that there are no specific highway safety objections to the proposals and consider that it would accord with policies SF1 and LS9 of the DDDL in this respect.

Conclusions

The County Council recognises that some educational and social benefits are associated with St Oswald's becoming a primary school. It is also acknowledged that the school is relatively restricted in its existing open space provision and that this may be exacerbated by the wider age range it will serve as a primary school. However, the development would not preserve or enhance the heritage assets, and I do not consider that the public benefit of the development on a permanent basis would outweigh the 'less than substantial harm' it would have on them. Taking all of the factors into consideration, the Officer Recommendation is for granting permission subject to conditions including a condition to limit duration of the use to three years only, for the reasons set out in the Officer's Recommendation.

(3) **Financial Considerations** The correct fee of £385 has been received.

(4) **Legal Considerations** This is an application submitted under the terms of the Town and Country Planning General Regulations 1992 for development which the Authority itself proposes to carry out.

Section 542 of the Education Act 1996 requires that where a school is maintained by the Council as Local Education Authority (LEA), the LEA shall secure that the school premises conform to standards that are prescribed by regulations made under the Act. The current regulations in force in this respect for England are the School Premises (England) Regulations 2012.

The requirements under these regulations are fewer than those under the 1999 regulations which they replaced, and were designed to be clearer and less exacting. They include the following prescribed standard in respect of open space (regulation 10):

*Suitable outdoor space must be provided in order to enable -
 (a) physical education to be provided to pupils in accordance with the school curriculum; and
 (b) pupils to play outside.*

By regulation 2 (interpretation), in the regulations, 'physical education' includes the playing of games, and "Any requirement that anything under these Regulations must be 'suitable' means that it must be suitable for the pupils in respect of whom it is to be provided, having regard to their ages, numbers and sex and any special requirements they may have", and for the purposes of the regulations "a pupil has special requirements if the pupil has any needs arising from physical, medical, sensory, learning, emotional or behavioural difficulties which require provision which is different from that generally required by children of the same age in schools other than special schools".

"Advice on standards for school premises" published by the Department for Education (March 2015), gives non-statutory advice on how to meet the regulations. In relation to outdoor space, it includes a reference to an 'area guidelines' departmental publication as a source of advice on the sizes of spaces [which contains (as Part B) a guide on establishing site area requirements, including for outdoor space provision, with tables for calculating minimum recommended areas]. The Advice also states: "Some schools will be on restricted sites and will not have enough outdoor space to meet requirements. In these situations pupils will need to be provided with access to suitable off-site provision".

I do not consider that there would be any disproportionate impacts on anyone's human rights under the European Convention on Human Rights as a result of this permission being granted subject to the conditions referred to in the Officer's Recommendation.

(5) Environmental and Health Considerations As indicated in the report.

Other Considerations

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, property, social value and transport considerations.

(6) **Background Papers** File No. 3.1184.9

Application, Public Footpath No. 1 Existing Arrangement, Public Footpath No. 1 Proposed Arrangement, Location Plan (First Phase of Land released to DCC), Location Plan (Planning Application), Ecology Report, Notice Under Article 13, Cover email, Planning Supporting Statement and Heritage Impact Statement.

(7) **OFFICER'S RECOMMENDATION** That the Committee resolves that planning permission be **granted** subject to the following conditions, each to be imposed for the following reasons:

Commencement

- 1) The development shall be commenced within three years from the date of this permission.

Reason: This condition is imposed in accordance with section 91 of the Town and Country Planning Act 1990

Duration

- 2) This permission is only for the temporary period of three years expiring on the third anniversary of the date of commencement of the development under this permission as notified under condition 3 below. On or before that date, the educational use of the site under this permission shall cease, fencing and gates to be erected shall be removed the section of stone walling to be removed to facilitate access to the application site shall be replaced, and the land comprising the site shall be reinstated to its current condition as pasture land.

Reason: The proposed use, by reason of the sensitive location of the site in a conservation area and proximate to listed buildings, would not preserve or enhance the character of the Ashbourne Conservation Area or the setting of the Grade 1 listed St Oswald's Church. The proposal does not fully accord with policies SF2, NBE16 and NBE21 of the adopted Derbyshire Dales Local Plan (2005). Accordingly, permission is granted for only the 3 year period prescribed by this condition to enable the provision of outdoor space for the school at the site for this temporary period in order that the harm will not be more permanent. The three year duration specified by this condition is considered also to be an appropriate period within which the school and the Council as Education Authority might identify any proposals for suitable further open space provision for the school in a less sensitive location and submit any application for planning permission which they might require.

- 3) Notice of the commencement of the development shall be provided to the County Planning Authority at least seven days prior to the start of works on site.

Reason: To enable the County Planning Authority to monitor the development in the interests of the amenity of the area.

- 4) The development shall be carried out in accordance with details contained in the planning application and accompanying documents dated 25 May 2017 from the Director of Property, unless otherwise modified or amended by conditions of this planning permission. For the avoidance of doubt, the documents are:

- Application for planning permission 1APP form dated 9 March 2017.
- Drawing No. 15005251/A/108 Rev B– Public Footpath No. 1 Existing Arrangement.
- Drawing No. 15005251/A/208 Rev C – Public Footpath No. 1 Proposed Arrangement.
- Drawing No. 15005251/A/51 – Location Plan (First Phase of Land released to Derbyshire County Council).
- Drawing No. 15005251/A/11 – Location Plan (Planning Application).
- Ecology Report dated August 2016.
- Notice under Article 13 dated 25 May 2017.
- Cover email dated 7 July 2017.
- Planning Supporting Statement dated 24 July 2017.
- Heritage Impact Statement dated 24 July 2017.

Reason: To ensure that the development is carried out in conformity with the details of the application, unless otherwise required by Derbyshire County Council in the interest of the local amenity.

Removal of Permitted Development Rights – General

- 5) Notwithstanding the provisions of Part 7 Class M of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 [or any order revoking and re-enacting that Order with or without modification], no ancillary equipment or free standing structures that might thereby be permitted shall be installed, extended or erected on the site.

Reason: To enable the County Planning Authority to adequately control, monitor and minimise the impacts on the amenities of the local area and to minimise the impact upon the Open Space, Conservation Area and the Setting of a Listed Building, and to comply with policies SF2, NBE16 and NBE21 of the adopted Derbyshire Dales District Local Plan (2005).

Ecology

- 6) No external lighting shall be erected at the site.

Reason: In the interest of preserving and enhancing the character of the listed building, the Conservation Area and in the interest of protecting bats.

- 7) There shall be no removal of vegetation that may be used by breeding birds during the bird breeding season (i.e. March to September inclusive), unless a recent survey has been undertaken by a suitably qualified ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site have been submitted to and received the written approval of the County Planning Authority. The scheme shall be implemented as approved.

Reason: In the interest of the protection of breeding birds.

- 8) In the event that the development is not commenced within one year of the date of this planning permission, a further protected species survey and mitigation of the site shall be carried out to update the information previously submitted with the application. The new survey and mitigation information shall be submitted to the County Planning Authority prior to the commencement of the development as permitted. The development shall then be implemented in accordance with the approved protected species survey and mitigation strategy.

Reason: To provide protection to legally protected or rare species and to enable the County Planning Authority to monitor the development.

Landscape and Ecological Management Plan

- 9) Within two months of the date of this permission, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the County Planning Authority. The LEMP shall include:
- (a) method statements for grassland seeding methods, maintenance and management where required, along with a timetable/schedule;
 - (b) an annotated map(s) illustrating the measures to mitigate/enhance ecology and landscape on the site.

The site shall be maintained for a minimum of five years following completion of the proposed works and the reinstatement of the site. The development shall be implemented in accordance with the approved LEMP.

Reason: To ensure that the open space is maintained.

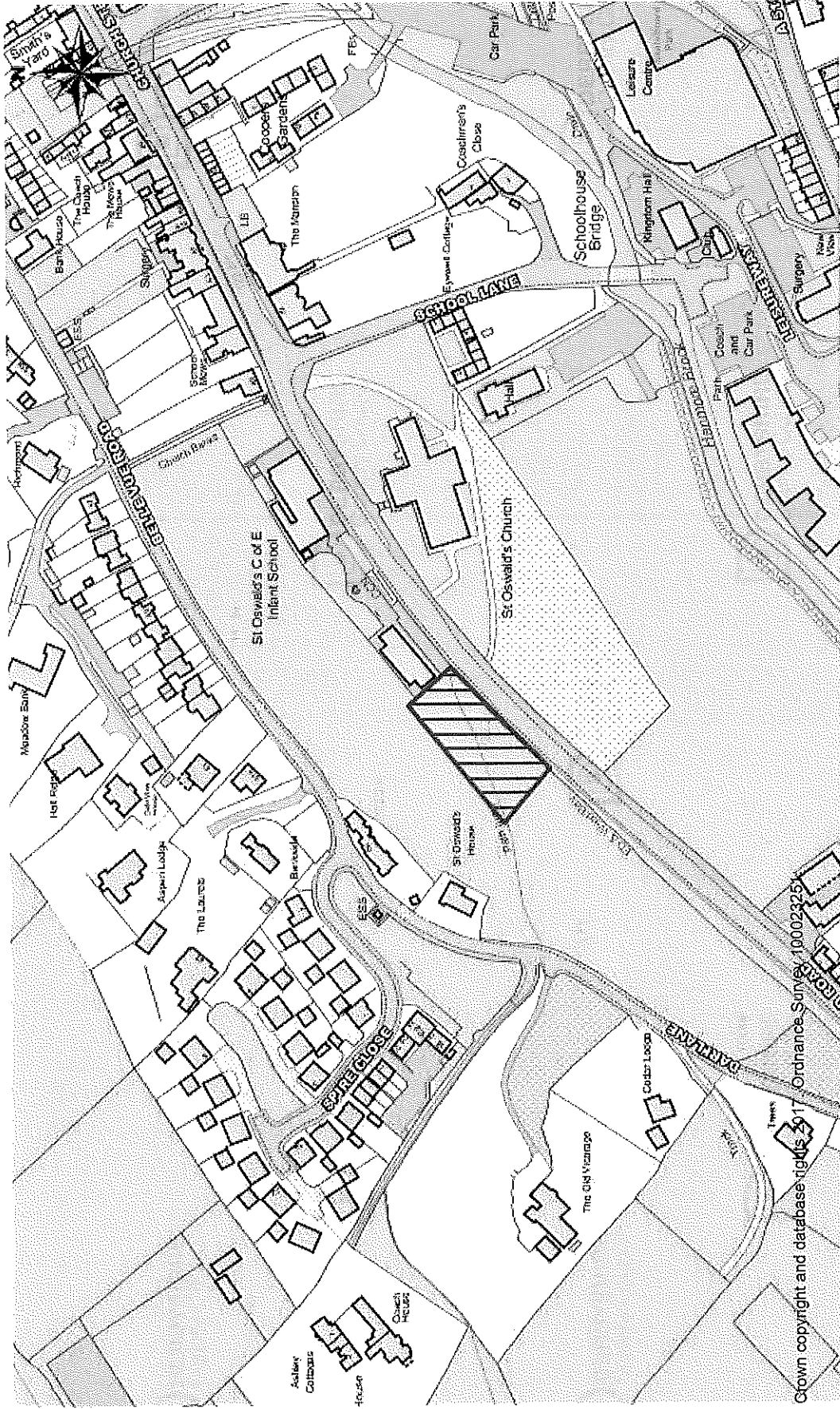
**Statement of Compliance with Article 35 of the Town and Country
(Development Management Procedure) (England) Order 2015**

The Authority worked with the applicant in a positive and pro-active manner based on seeking solutions to problems arising in the processing of planning applications in full accordance with this Article, having necessary regard to the particular sensitivities of the application site and its location, and accordingly indicated its concerns in these respects to the applicant. The applicant had engaged in pre-application discussions with the Authority prior to the submission of the application. The applicant was given clear advice as to what information would be required.

Signed..... Date.....

Mike Ashworth
Strategic Director – Economy, Transport and Communities

CD3/0517/14 St Oswald Primary School - Change of use of agricultural land to educational use



Ordnance Survey 100023251



50 m
Scale = 1 : 2500

23-Aug-2017

