

Agenda Item No. 4.1

**DERBYSHIRE COUNTY COUNCIL
REGULATORY – PLANNING COMMITTEE**

3 December 2018

Report of the Strategic Director – Economy, Transport and Environment

- 1 PROPOSED PERMANENT CHANGE OF USE OF PART OF AN AGRICULTURAL FIELD TO PLAY AREA FOR SCHOOL USE AND TEMPORARY CHANGE OF USE TO A SITE COMPOUND TO ENABLE THE CONSTRUCTION OF THE CLASSROOM BLOCK (GRANTED UNDER PLANNING PERMISSION CD3/0218/97) IN THE INTERIM PERIOD ON LAND ADJACENT TO ST OSWALD’S CHURCH OF ENGLAND PRIMARY SCHOOL, MAYFIELD ROAD, ASHBOURNE
APPLICANT: DERBYSHIRE COUNTY COUNCIL
CODE NO: CD3/0718/28**

3.1184.13

Introductory Summary This report considers an application for a permanent change of use of part of an agricultural field to a play area for educational use as well as the construction of a temporary vehicular access into the field for use with the construction compound associated with the construction of a three classroom block on land adjacent to St Oswald’s Church of England Primary School, Mayfield Road, Ashbourne. The application site is located within Ashbourne Conservation Area and close to a Grade I listed building, the parish church of St Oswald. Large groupings of other listed buildings are also close by.

The proposed development would bring public benefit through the expansion of the existing school’s facilities which are currently under pressure as a result of new housing development in the town. The development would result in harm to the character and appearance of the Ashbourne Conservation Area and the setting of St Oswald’s church, a Grade I listed building and Derbyshire Dales District Council has raised an objection to the proposal on these grounds.

The proposal does not accord fully with relevant policies contained in the Derbyshire Dales Local Plan and in the National Planning Policy Framework and the proposal would result in harm to heritage assets including one of exceptional importance, although such harm would be less than substantial. The proposal would also result in landscape and visual impacts. Some of these impacts could be minimised through the imposition of conditions

although they would not prevent the impacts altogether. The law requires that the Council, in determining planning applications, must give special regard is to the preservation of affected heritage assets which are represented by listed buildings, including impacts on their settings (Government planning guidance affirms that this is a matter of great weight), and must give special attention to its effects on any Conservation Area. This report has been produced in recognition of the special importance of the issue of harms to the listed buildings heritage and Conservation Area which are associated with the application in this case, as well as the benefit of the contribution to the public primary education service provision that the proposal would bring. The application site is the only available land adjoining the school which could possibly serve its purpose. The Government also places great weight on the expansion and improvement of schools. It is considered that, in this instance, the application can be recommended for approval, subject to conditions, on the basis that the value of the benefit is sufficient to outweigh the limited extent of the harm to the listed heritage asset.

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

(2) **Information and Analysis** This report relates to an application for the permanent use of part of an existing agricultural field adjacent to St Oswald's Church of England (CE) Primary School, Mayfield Road, Ashbourne as a school play area and for its temporary use (including the construction of a new site access) as a site compound to enable the construction of the classroom blocks granted under planning permission code no CD3/0218/97.

Site and Surroundings

The application site is south-west of the existing school site on open agricultural land. The site is steeply sloping (north-west to south-east) and is bounded by mature hedgerow along its south-eastern edge and, beyond that, Mayfield Road. Land to the north and west is also in agricultural use, forming part of the same field parcel as the application site. A public footpath (Ashbourne Footpath No. 1), which links Bellevue Road and Mayfield Road, currently follows a roughly south-west to north-east alignment through the site. The north-eastern end of the footpath terminates at an historic iron kissing gate identical to one on Bellevue Road.

The nearest residential properties are located approximately 65m to the west on Bellevue Road. Beyond that, there are dwellings further to the north, also on Bellevue Road.

The site is in the Ashbourne Conservation Area. It is also directly opposite the parish church of St Oswald's, a Grade I listed building, and its associated gate posts (Grade II* listed) and churchyard walls (Grade II listed). The site is also close to a large grouping of other listed buildings (Grades I, II* and II) located

further along Church Street (from which Mayfield Road extends) and on School Lane (Grade II* and II listed) which form part of the historic centre of Ashbourne and make up the core of the Conservation Area. Of these, Nos 38 (Grade II), 40 (Grade II) and 72 (Grade II) Church Street, Pegg's Almshouses (grade II*), Owlfield's Almshouses (Grade II*), The Mansion (Grade I), the Summerhouse (Grade II) and an area of cobbled pavements (Grade II) are considered to form a group with the Church and its associated listed structures.

There are no statutory or non-statutory nature conservation designations within the application site or its immediate vicinity. The nearest Local Wildlife Site (LWS) is the Henmore Brook Complex LWS (of interest for flowing water and its water vole population) which is 140m to the south-east from the site at its nearest point. The wider field is identified as a potential Local Wildlife Site (pLWS) referred to by Derbyshire Wildlife Trust as Mayfield Road Fields North (ref. DD049/3).

The Proposal

The application is proposing a permanent change of the use of the application site, from its historic and continuing agricultural use as part of a field (which is outside development control) to a new use as a play area for the adjacent school, with some associated construction work. The application also includes proposals for the construction on the site of a temporary vehicular access and construction compound associated with the construction of three new classroom blocks at the school that were granted planning permission by this Authority in May 2018 (code no: CD3/0218/97).

The land that would have the permanent change of use has a surface area of approximately 0.1036 of a hectare (ha). The area would be bounded by a mix of native hedgerow, 1.2m high post and rail stock fencing to the outside edge of the proposed hedgerow and dark green 1.2m high weldmesh metal fencing to the inside. Within the proposed play area, a series of ramps, roughly following the contours of the site on a north-west to south-east alignment, would be created. The ramps, which would be accessible to all users, would be surfaced with recycled tyres bound in resin and would be dark brown in colour. The ramps would be edged with railway sleepers that would act both as retaining walls and as seating areas. Seven level areas of lawn, wildflower meadow and five hard surfaced activity spaces would be created within the site to facilitate play and learning. It is also proposed to plant fruit trees to create an 'orchard' along the ramps, as well as along the southern boundary of the play area. Two gritstone walls would be erected in the south of the proposed play area. The first of these would form the southern boundary of the site. The second wall would be located slightly to the north of the proposed new boundary wall and would follow the contours of the land in this location. The proposed new play area would be set back a short distance from the existing boundary between the field and the highway to enable the diverted

footpath to travel along this route. One timber gate would be positioned between the existing hedgerow on Mayfield Road and the southern boundary of the play area to prevent livestock entering this section of the diverted footpath. Access between the proposed play area and the existing school site would be via a new opening in the existing boundary wall between the field and the school site.

The proposed construction of the temporary vehicular access, internal haul road and construction compound would involve the removal of a 24m stretch of hedgerow along the Mayfield Road site frontage close to the existing school site and the creation of a vehicular access with 2.4m x 90m visibility splays in each direction. A hatched area (measuring 2.4m x 30m) would be created on the highway immediately along the site frontage for the management of construction related deliveries etc. The existing cast iron kissing gate would be temporarily removed from site and put aside for re-use once the classroom development was complete. Soils within the construction compound area would be stripped and hardcore laid. Two metres high heras fencing wrapped in green canvas would be erected around the compound area for the duration of the classroom construction period. The compound would include site cabins and storage areas for construction materials. The public right of way would also be subject to a temporary closure for the duration of the works.

But for the creation of the new access onto Mayfield Road, the proposed construction compound and the use of the land to the rear of the existing school site, if achievable separately, might potentially have fallen within a category of permitted development under Part 4 Class M of Schedule 2 of the Town and Country Planning (General Permitted Development Order) (England) 2015. However, Mayfield Road is a classified road, therefore, this element of the proposal could not have any have planning permission conferred on it by this Order.

Background information

Primary age education provision within the town of Ashbourne has recently undergone a reorganisation by the Council as Local Education Authority (LEA) to create three primary schools with a shared normal area. The reorganisation was undertaken following a resolution by Cabinet at its meeting on 3 November 2015 (Minute No. 377/15 refers) and a subsequent statutory four week consultation, and came into effect in September 2017. Under the reorganisation, the schools that were then called St Oswald's Infant and Nursery School, Hilltop Infant School and Parkside Junior School all extended their teaching age ranges to become the three Primary Schools for the area. The reorganisation was considered by the LEA to create a more integrated educational experience for primary level pupils, ensuring that they would not need to change schools between the infant and junior stages. The LEA also considered that the change would improve the accountability measures for each school. The change also formed part of a wider strategic plan on the part

of the LEA to address future expansion requirements at each school that might be needed as a consequence of housing development in the Ashbourne area.

The application for the three classroom block at the St Oswald's school site (granted permission in May 2018 subject to conditions under permission code: CD3/0218/97) formed part of this strategic plan, addressing existing problems with the school's teaching accommodation, as well as providing increased space to accommodate the predicted increase in pupils resulting from the new development. As set out in the report to Cabinet of 3 November 2015, the change from an Infant and Nursery school to a Primary school has also seen the school change its pupil admissions number (PAN), primarily to deal with the increase in development in the Ashbourne area. Previously, when operational as an Infant and Nursery School, the school had a PAN of 45 for each of the three years with a net capacity of 135 pupil places. Following the change to a Primary school, the school currently has a PAN of 25 pupil places per year (of which there are 7) with a net capacity of 210. At the current time, the school has 156 pupils on roll.

The school operates on a restricted site, with insufficient external space to provide facilities to teach physical education (PE). At the current time, all PE teaching is undertaken at the nearby Ashbourne Leisure centre. This arrangement is expected to continue in the future, irrespective of the outcome of this application. Notwithstanding this arrangement, the anticipated construction of the new classroom blocks, would result in a significant reduction in the restricted area for external play space which now exists at the school, as well as increased pupil capacity. This application seeks to address this space deficiency by providing pupils with external areas on the application site that they can use during break times. It is also proposed that the external space be used for informal external teaching purposes, e.g. forest school.

The previous application for planning permission for such a change of use of the land (code no: CD3/0517/14) was granted permission, but subject to conditions on a temporary three year basis, rather than permanently as requested in its supporting documents. At that time, there was a lack of a comprehensive assessment of the redevelopment needs of the school site as a whole. A three year period from granting of permission was considered to be appropriate, to enable the LEA to explore alternative locations for more permanent provision of external play space for the school. Information provided in support of this application provides details of an alternative location to the proposed play area, located to the rear of the existing school site.

Information provided by the applicant indicates that this area has been discounted as appropriate by the school primarily due to the significant height difference (2m) in ground levels between the school buildings and this area.

The application documents provide the following justification for this reasoning:

‘To the school, a long and/or steep flight of steps is not acceptable, for many reasons. These include a need for equal access, safety generally and especially in bad weather.

A ramp would need to be in the region of 30 metres long to provide accessible access, and this would be both impractical and prohibitively expensive.

The current scheme works with the existing landscape as far as possible, and continues the existing line of built form along the street edge, albeit heavily planted with fruit trees.

The alternative suggested would intrude into the field outside this line of built form, and it was considered, would be visually very intrusive, however well planted.

It would be “behind” the school, and not feel integrated with the rest of the site, but rather, an isolated area, difficult to supervise, and not easy to access for impromptu teaching sessions with the potential for becoming a neglected area of the site for these reasons.

Furthermore, The Diocese, who owns the land, was consulted and was not willing to allow the school the use of this land’.

As a consequence of the granting of the planning permission under the application code: CD3/0218/97, an application for an Order for diversion of the section of footpath through the site (under Section 257 of the Town and Country Planning Act 1990), was approved by the County Council’s Regulatory - Licensing and Appeals Committee on 24 July 2017 (Minute No. 17/17 refers) and the resulting Order was confirmed on 2 November 2017. The diversion works have not yet been undertaken pending the outcome of this application and, therefore, this diversion has not yet come into effect.

Consultations

Local member

Councillor Simon Spencer (Dovedale) and Councillor Steve Bull (Ashbourne) have been notified.

Derbyshire Dales District Council

Planning

The District Council objected to the proposal on the following grounds:

'The land in question is within the Ashbourne Conservation Area and is important in forming and enhancing the setting of the grade I listed church. The proposal is to provide an enclosed area (38mx27m) of the sloping field to the south-west of the school building forming a geometric, rectangular, shape. This is to provide land for 'outdoor school use'. The area identified is to be enclosed by way of a 'simple metal fence on three sides, the fence is behind a hedge'. The height of the proposed metal fence is not clear and this requires clarification. Within the site a series of proposed pathways, and some retaining walls, are to be constructed following the general lines of the existing contours. Within the site a significant amount of planting, including trees/fruit trees are to be undertaken. The existing public right of way which crosses diagonally across the application site appears to be being proposed to be re-routed down its south-western side and along the rear of the existing hedge line adjacent to the main road.

The school buildings (un-listed) and the land to the south-west are all included within the Ashbourne Conservation Area. Its landscape character is recognised in the Conservation Area Appraisal (2008) where it is stated 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. The footpath crossing diagonally across the site affords an intimate experience of this open agricultural land so close to the town centre. 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 both its particular character and appearance and is a significant and important element of 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, the potential for archaeological interest on this land.

The proposed land-form alterations or modifications to create level pathways and associated retaining walls and the installation of metal fencing will involve some excavation works which may have an impact on archaeological interest... A metal fence (estate type fencing?) may appear out of context within this agricultural field and a post and wire fence may be deemed more appropriate.

The proposed separation and inclusion of this parcel of land, currently part of a larger agricultural field/space, and the associated fencing, hedging, tree planting and formation of walkways and retaining walls will substantially and significantly alter the character of this piece of land. In that regard, there would be a finding of harm to this part of the Conservation Area and to the setting of the grade I parish church. It is considered that that harm would not be deemed

substantial harm. In that regard, the finding of harm would need to be weighed against the public benefits of the proposal’.

Environmental Health Officer

The Environmental Health Officer (EHO) had no objections to the proposals

Ashbourne Town Council

Has raised no objections to the proposal.

Historic England

Historic England (HE) did not offer any comments about the proposal except to suggest that this Authority seeks the views of its own specialist conservation and archaeological advisors.

Derbyshire Wildlife Trust

The Trust commented that it is essential that old grassland, such as is found in the field, is preserved and managed appropriately and advised that no further encroachment into the field be permitted in the future. The Trust noted and welcomed the compensatory measures to restore the haul route and increase the botanical diversity of the remainder of the field, requesting that these be secured by condition and implemented in full. The Trust also noted that the proposed management of the wider field would help to achieve targets to manage and restore lowland meadow within the lowland Biodiversity Action Plan (BAP).

Highway Authority

Derbyshire County Council, in its statutory role as the Highway Authority, raised no objections to the permanent change of use of the land to a play area, subject to the proposed diversion of the public right of way going through the appropriate consent process*.

With regard to the proposed construction of the temporary access, the Highway Authority originally noted that the classroom construction posed a number of logistical problems and that alternative options for the location of the access/construction compound were limited. Whilst it was considered that the proposals were generally acceptable from a highways perspective, the Authority highlighted a number of issues for further consideration. These related to the use of a banksman during deliveries; moving the proposed access to the south-west to ensure a minimum 7.5m clearance from the existing tactile paving crossing point; and formal closure of the vehicular access and the reinstatement of the highway margin.

Following the submission of further information, including the relocation of the proposed temporary access, the Highway Authority has confirmed that it has no objection to the proposals subject to the imposition of conditions.

The Authority also noted that the public footpath would need to be subject to a formal temporary closure for the duration of the construction works which would need to be the subject of a separate application.

* Note: An application for an order to divert Ashbourne Footpath No 1 under Section 257 of the Town and Country Planning Act 1990, as amended, was approved by the County Council's Regulatory - Licensing and Appeals Committee on 24 July 2017 (Minute No. 17/17 refers) and the Order was confirmed on 2 November 2017. The Diversion will not take effect until such time as the new route is certified as having been provided to the satisfaction of the Authority.

Cadent Gas, Severn Trent Water Ltd and Western Power

Were consulted with a request for comments by 30 August 2018. No response had been received at the time of writing.

Publicity

The application has been advertised by press notice (Derbyshire Times), by site notice and neighbour notification letters with a request for observations by 7 September 2018. Two representations, one objecting to the proposals and one voicing support, have been received as a result of the publicity. The issues raised can be summarised as follows:

- The development would change the rural character of this part of Ashbourne to a more urbanised approach into the town.
- The development would create a potential conflict between the need to fence the play area securely to ensure that grazing livestock could not enter it and the obtrusive nature of such fencing.
- The development is well considered and will enhance the facilities for pupils at the school for years to come.

Planning Considerations

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications must be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. In relation to this application, the relevant policies of the development plan are contained in the policies of the adopted Derbyshire Dales Local Plan (2017) DDLP. Other material considerations include national policy, as set out in the 2018 National Planning Policy Framework (NPPF), and associated Planning Practice Guidance (PPG). The 2011 joint policy statement "planning for schools development" by the Secretary of State for Communities and Local Government (then Mr Eric Pickles) and the Secretary of State for Education (then Mr Michael Gove) (PSS) is also of relevance.

The Development Plan

The policies of the DDLP that are most relevant to the development are:

S1: Sustainable Development Principles.
S2: Settlement Hierarchy.
S3: Development within Defined Settlement Boundaries.
S8: Ashbourne Redevelopment Strategy.
S10: Local Infrastructure Provision and Developer Contributions.
PD1: Design and Place Making.
PD2: Protecting the Historic Environment.
PD3: Biodiversity and the Natural Environment.
PD5: Landscape Character.
PD6: Trees, Hedgerows and Woodlands.
PD7: Climate Change.
HC14: Open Space and Outdoor Recreation Facilities.
HC15: Community Facilities and Services.
PHC19: Accessibility and Transport.

Ashbourne Neighbourhood Plan

A draft Neighbourhood Plan for Ashbourne is in the process of becoming part of the development plan, as provided by the Town and Country Planning Act 1990 (as amended by the Localism Act 2011). A steering group on behalf of Ashbourne Town Council consulted on a Draft Ashbourne Neighbourhood Development Plan (dANP) over six weeks from 6 November 2017, under Regulation 14 of the Neighbourhood Planning (General) Regulations 2012. A final plan is yet to be submitted to Derbyshire Dales. The dANP does include draft policies that are of relevance to this proposal, however, at this stage, no more than limited weight should be given to their relevance. The policies of the dANP most relevant to this proposal are:

DES1: Design.
DES2: Conservation Area.
COM1: Community Facilities.

National Planning Policy Framework

The NPPF sets out the Government's planning policies for England and how these should be applied. It states that the purpose of the planning system is to contribute to the achievement of sustainable development and the framework as a whole contains a presumption in favour of sustainable development. The term 'sustainable development' is defined as 'meeting the needs of the present without compromising the ability of future generations to meet their own needs'. The NPPF goes on to say that achieving sustainable development means that the framework has three overarching objectives - economic, social and environmental - which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).

Those sections of the NPPF that are particularly relevant to this proposal are:

Section 2: Achieving sustainable development.

Section 7: Requiring good design.

Section 8: Promoting healthy and safe communities.

Section 12: Achieving well designed spaces.

Section 16. Conserving and enhancing the historic environment.

The Need for and Benefits of the Development

As noted above, the applicant is seeking a permanent change of use of the land from agriculture to a play area for the adjacent school. The application seeks to address the increased shortfall in external open space that would result from the approved development of the additional three classrooms at the school, as well as the increase in pupil capacity that this would bring, in line with the school's recent re-categorisation as a Primary school.

The NPPF attaches importance to meeting any needs to create, expand or alter schools to allow for sufficient choice of places. Paragraph 94 states that *'It is important that a sufficient choice of school places is available to meet the needs of existing and new communities'*. Planning authorities are expected to take a proactive, positive and collaborative approach to these needs.

The PSS is also supportive of delivery of development that will widen choice in education and encourages planning authorities to make full use of their planning powers to support state-funded schools applications. The PSS specifies that this should include *"engaging in pre-application discussions with promoters to foster a collaborative approach to applications and, where necessary, the use of planning obligations to help to mitigate adverse impacts and help deliver development that has a positive impact on the community"*.

The PSS also states that *'The Government is firmly committed to ensuring there is sufficient provision to meet growing demand for state-funded school places, increasing choice and opportunity in state-funded education and raising educational standards... The Government wants to enable new schools to open, good schools to expand and all schools to adapt and improve their facilities. This will allow for more provision and greater diversity in the state-funded school sector to meet both demographic needs and the drive for increased choice and higher standards.'*

DDLPP Policy S8 states that it will seek to promote the sustainable growth of Ashbourne whilst safeguarding its important role as a historic market town. It will do this by protecting and enhancing the unique character of Ashbourne (including its historic environment) whilst also seeking to meet its future development needs. The policy also states that it will support enhancements to key community services and infrastructure to meet the needs of the local population and support growth by working with partner organisations to enable

improvements to school capacity in the area through the safeguarding of sites for existing and future educational purposes.

DDLDP Policy S10 states that it will ensure that infrastructure (defined as social, physical and green spaces) will be in place at the right time to meet the needs of the District and to support the development strategy. The release of land for development will be informed by capacity in the existing local infrastructure to meet the additional requirements arising from new development. This includes facilitating enhancements to the capacity of education establishments throughout the Plan Area.

DDLDP Policy HC15 seeks to maintain and improve the provision of local community facilities and services including schools. This will be achieved by supporting proposals which protect, retain or enhance existing community facilities (including multi-use and shared schemes).

dANP Policy COM1 is supportive of proposals for new communities facilities where they would not result in significant adverse effects in terms of residential amenity, traffic safety or congestion and where they comply with the other policies of the dANP. Development of existing community facilities will be supported provided their community value is maintained or enhanced.

The proposed development would appear to address growing outdoor play space needs at the school, associated with the provision of modern and improved teaching/administrative accommodation as permitted by the planning permission under application code: CD3/0218/97, to provide necessary infrastructure (in the form of pupil places) to help serve expected demographic changes from new development in the area. The applicant has taken a strategic approach to the planning of pupil places by looking holistically at primary level education provision for the area, to which the St Oswald's Primary school is now set to make a greater contribution. The proposed development would make the school fitter for this purpose. In principle, therefore, the development would accord with policies S10 and HC15 of the DDLDP, as well as the NPPF and the PSS in respect of education infrastructure. The proposal would also meet the high level requirements of DDLDP Policy S8 in terms of necessary infrastructure provision in Ashbourne. However, the proposal's overall acceptability needs to be considered against all other development plan policies. The key issues that need to be considered include:

- location of the development;
- landscape and visual impacts;
- impacts on heritage assets;
- archaeology;
- impacts on ecology; and
- highways.

Location of the Development

The applicant has provided information about the use of an alternative plot of land (located immediately to the rear of the main school building at the north-eastern end of the school site) which, whilst still located within the Conservation Area, would potentially be less visually sensitive than the application site and which has previously been suggested as a preferred alternative by the Council's heritage advisors as well as members of the OPUN design review panel during the review of the proposed classroom block.

The supporting information states that the alternative site was not considered appropriate due to the significant level changes of c.2m between it and the existing school site; the significant engineering works required to render this space accessible to all pupils and the consequent disproportionate land take required for ramped access (estimated at 30m) as a result. The applicant also felt that this land would also be both physically and visually isolated from the rest of the site of the school, making it hard to supervise and access. The landowner has also confirmed that it would not be willing to make this land available for school redevelopment.

Under those circumstances, with the exception of the provision of off-site play facilities which have not been put forward as an alternative and which are not under consideration here, I accept that the only available location for the play area, if it were to go ahead as a physical extension to the school site, would be the current application site.

Landscape and Visual Impacts

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

In this context, I consider this land to be of significant value both for the amenity it provides in itself to the settlement of Ashbourne and for its relationship to the heritage assets as identified above. The land is visible, mainly through glimpsed views, to the users of Mayfield Road (pedestrians and motorists), as well as being fully visible to the users of the footpath crossing the site. The supporting information provided by the applicant 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 the area.

In the context of its proposed use, the design of the proposed play area would result in a well-designed, pleasant and robust environment in which pupils at the school could learn and play safely, and this would undoubtedly be of great benefit to the school. It would, however, also see the division of an otherwise open parcel of land and this, combined with the use of hard surfacing materials and the introduction of fruit tree and other amenity planting, would result in a more heavily cultivated, less pastoral appearance in this part of the field which would result in adverse landscape and visual impacts. Some of these impacts could, I consider, be minimised through preventing further built development, the use of appropriate boundary treatments and a reduction in the amount of tree planting proposed. This would not entirely resolve the fundamental landscape and visual impacts associated with the loss of openness. These issues are considered further below.

The proposed play area would be bounded by a native mix hedgerow which would then be reinforced by 1.2m high dark green metal fencing along its inner edge and 1.2m high post and rail fencing around the outside. This would result in a double line of fencing which would be visually intrusive in this sensitive landscape. This is not considered acceptable. Whilst protection for the hedgerow would be required during establishment, I do not consider that such protection would need to be permanent. I would therefore recommend a condition that requires the stock fencing to be temporary and removed once the hedgerow was established. I also consider that the colour of the metal fencing is important in this visually sensitive location and would recommend that any metal fencing be black rather than the dark green proposed as this is generally more visually recessive and is considered appropriate within sensitive locations within Conservation Areas. The applicant has confirmed that gritstone would now be used for the proposed walling along the southern edge of the proposed play area rather than the limestone walling as originally proposed. This is considered acceptable and would visually tie in with the stone used within the school site and the immediate surrounding area.

The play area would be made up of a number of level areas interconnected via ramped walkways that would weave their way through the site. The level play areas would have a variety of surface treatments varying from resin bound tyre crumb, to amenity grassland to meadow. The scheme also makes provision for significant (30 no) tree planting to take place. Ultimately, the surface treatments, ramps and sleepers would be largely screened from view by the boundary hedgerow, although they would be more visible until such time as the hedgerow had reached some maturity. The proposed planting of 30 trees in what is a relatively small area would, however, significantly alter the openness of the land and its relationship to the adjacent pastoral land which it currently forms a part of. Such a proliferation of trees might also need considerable maintenance work from time to time once the play area became operational. I would therefore recommend any permission to be subject to a

condition to require a revised and simplified soft landscaping scheme before the play area is constructed.

With regard to the proposed construction of a temporary access, the creation of the temporary compound and the removal of a section of the existing hedgerow along Mayfield Road, these would all result in adverse landscape and visual impacts for the duration of the construction period. Such impacts would be temporary, however, decreasing over time until, once the replanted hedgerow along Mayfield Road had become fully established, they would be negligible.

In summary, in respect of landscape and visual impacts, the development would lead to the loss of openness of the site and its surrounding area. Whilst some of these impacts are capable of being mitigated, and as referred to above, these mitigation measures could be secured via condition, the development would still result in a change to the currently open character of the field. Under those circumstances, the proposal would adversely impact the landscape character of the area and would not accord with the requirements of Policy PD5 of the DDLP.

Heritage Impacts

The proposed development would be within the Ashbourne Conservation Area and close to the parish church of St Oswald (12th century with some pre-Norman inclusions) which is a Grade I listed building, the Grade II* listed 17th century churchyard gate posts and piers and the Grade II listed churchyard walls. The application site is also in the vicinity of a great number of other listed buildings (of Grades I, II* and II), located along Church Street and School Lane, which form the core of the historic town centre. Grade I listed buildings, which comprise c. 2.5% of all listed buildings nationally, are considered to be of exceptional interest. Grade II* buildings, which make up c. 5.8% of all listed buildings, are considered to be particularly important buildings or of more than special interest. The proposal is therefore considered to affect both the settings of listed buildings of exceptional and more than special interest, as well as the Conservation Area it is situated in.

Accordingly, sections 66(1) and (72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, require respectively that in the determination of this application ‘*special regard*’ is had to ‘*the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses*’, and that ‘*special attention*’ is paid to ‘*the desirability of preserving or enhancing the character or appearance of a conservation area*’.

The Government policy concerning heritage assets and these statutory requirements, now contained in the 2018 NPPF at paragraphs 189 -202, is essentially similar to that which was in the 2012 NPPF. Paragraph 190 of the NPPF expects local planning authorities to identify and assess the particular

significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset), taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal. Paragraph 192 of the NPPF expects planning authorities to take account of a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness.

Although there is no statutory definition of 'setting' it is described in the NPPF glossary as *'The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral'*.

As the NPPF indicates, in considering a development proposal, what has to be assessed with regard to the setting is the effect that any change to the setting from the development would have on the heritage significance of the asset concerned. Paragraph 193 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, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Paragraph 194 states: *Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification. (Substantial harm to or loss of: a) grade II listed buildings...should be exceptional; b) assets of the highest significance, notably grade I and II* listed buildings should be wholly exceptional.'* Paragraph 195 provides that except in certain exceptional circumstances, 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 total loss is necessary to achieve substantial public benefits that outweigh that harm or loss.* Paragraph 196 provides 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 [the asset's] optimum use.* These NPPF paragraphs therefore recognise that to reach a decision to grant permission in a case of 'less than substantial' harm need not involve so much public benefit to weigh against the harm as would be needed in a case of 'substantial' harm. Nevertheless, even

“less than substantial” harm to the significance of a heritage asset is an important consideration, which sections 66 and 72 require considerable weight to be given to (as court judgments referred to below have emphasised).

Policy PD2 of the DDLP seeks to conserve heritage assets in a manner appropriate to their significance, taking into account the desirability of sustaining and enhancing their significance and ensuring that development proposals contribute positively to the character and appearance of the character of the built and historic environment. It appears to mainly concern the expectations of the district council with regard to proposals affecting the historic environment and promotes protection of designated and non-designated heritage assets and their settings including, inter alia, listed buildings, conservation areas and archaeological sites or heritage features.

dANP Policy DES2 states that development affecting Ashbourne Conservation Area and its setting must preserve or enhance the character and appearance of the conservation area. The policy also requires that particular attention should be paid to impacts on the main streets, including Church Street; and the 146 listed buildings.

The applicant has provided a Heritage Impact Assessment (the HIA) which identifies those heritage assets (both the designated conservation area and listed buildings, and non-designated buildings) closest to the application site that it considers may be more directly affected by the proposals. The HIA considers that the church is at risk of being the most affected heritage asset inside the Conservation Area, but suggests that through the open nature of the scheme, the introduction of an orchard feature, and lack of built development, the open character of the area would be maintained and that, as a result, the development would not adversely affect the setting of the Grade I parish church or the other heritage assets identified.

Whilst I am mindful of the content of the HIA, I am unable to agree with all its comments about the impacts of the proposal. The authors appear to regard their design concept as providing “*a means to both enhance and preserve the setting of the proposals and mitigate against any potential impact from the development*”, Whilst their design approach may be sympathetic to mitigation of impacts on protection of the heritage assets, it is still unrealistic to suppose that the development could avoid producing harmful consequences in some respects for both the Conservation Area, and the Grade 1 listed church in its setting.

The Ashbourne Conservation Area Appraisal (CAA) (Derbyshire Dales District Council 2008) includes detailed descriptions and appraisals of the Conservation Area. The application site sits in an area identified as Zone 1 and which is considered to be made up of three distinct elements, St Oswald’s, The Meadows and Church Street. ‘St Oswald’s’ comprises the

grounds of the nearby almshouses, the church hall and the churchyard itself. 'The Meadows' is made up of the undeveloped open fields either side of Church Street, which the application site is part of, whilst Church Street is centered on the main thoroughfare in this part of the town. I consider that the key elements of the Conservation Area, in this case its undeveloped pastoral character, also form the key elements of the setting of the Grade I listed church and its associated grounds. The churchyard at its south-western end is notable for its open, rural character which would seem to run seamlessly into the adjacent Meadows to the west and east of Mayfield Road/Church Street. This open character being representative of the approach into Ashbourne from the south and markedly different from the very urban character of the rest of Church Street.

The proposal would see the alteration and enclosing off of part of one of these meadows and, whilst the application does not propose any substantial built development, the urbanisation of this land through hard landscaping and its use by the pupils of the school would result in a significant alteration, and as a consequence, harm to its open character. Tree planting on the scale proposed would also impact significantly on its open character. Derbyshire Dales District Council, in its response, indicated that there would be harm to the Conservation Area and the setting of the church but that such harm would be less than substantial. As discussed in the landscape and visual impact section above, whilst some of these impacts are capable of mitigation, such measures would not fully prevent the harm.

In summary, in respect of heritage assets, the proposal would result in less than substantial harm to the Conservation Area and Grades I, II* and II listed buildings as a result of the loss of openness and the urbanisation of the existing semi-rural character and to historic earthworks. It would therefore be contrary to draft Policy DES2 of the dANP; Policy PD2 and partially contrary to Policy S8 of the DDLP in that it will cause harm and have an adverse effect on the setting of a listed building and the Ashbourne Conservation Area. It would also be contrary to Paragraph 192 of the NPPF in that the proposals would not preserve that local character and distinctiveness which contributes to the heritage asset or its setting. The proposal would also conflict with the legislative requirements of sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in that it would not preserve the setting of the listed buildings or preserve and enhance the character and appearance of the conservation area.

According to paragraphs 193 and 194 of the NPPF, where there would be harm to the heritage assets (including through potential effects on the setting of the heritage asset), there should be a clear and convincing justification for the development to take place at the location and, if this is demonstrated, the harm weighed against the public benefits of the proposal. This issue is considered further in the main conclusion below.

Archaeology

The development also has the potential to impact on archaeology within the site, particularly during the construction of the temporary compound and access. The applicant has submitted an archaeological desk-based assessment which identifies features within the application site and its surrounding area corresponding to former field boundaries, a hollow way, and a platform which may either be associated with the construction of the school or possible earlier activity on the site. The assessment confirms that these earthworks, and any associated below-ground remains would be lost where they would be affected either by the temporary vehicular access or the proposed play area. I note the findings of the assessment and have no reason to doubt the conclusions therein. In the event that planning permission were to be granted, I would recommend the imposition of a condition requiring a Written Scheme Investigation be submitted to ensure that archaeological earthworks and belowground remains are recorded before the commencement of development, as per the requirements of NPPF Paragraph 199.

Ecology

Policy PD3: Biodiversity and the Natural Environment of the DDLP seeks to protect, manage and, where possible, enhance biodiversity by not permitting any development proposal which would directly or indirectly result in significant harm to biodiversity unless it can be demonstrated that there is no appropriate alternative site available; all statutory and regulatory requirements have been met and appropriate conservation and mitigation measures are provided. Such mitigation measures should ensure, as a minimum, no net loss and, wherever possible, net gain for biodiversity.

The applicant has undertaken an ecological assessment (including Phase 1 habitat survey) of the site. With regard to habitats, the report states that the wider field in which the application site sits is semi-improved neutral grassland of sufficient quality to meet the criteria for a LWS in the 'Wildlife Site Selection Guidelines' produced by Derbyshire Wildlife Trust in 2011 and a Local BAP (LBAP) habitat (lowland meadow) under the Lowland Derbyshire LBAP (Lowland Derbyshire Biodiversity Partnership, 2011). The report further notes that this quality is not consistent in all areas, with the areas affected in the proposed play area/compound and temporary access track being of lesser value. Two hedgerows fall within the application site, one (hedgerow 1) forming the current boundary between the field and Mayfield Lane; the other (Hedgerow 2) running to the rear of the existing school site, forming the boundary between the school and the field. Hedgerow 1, which is approximately 200m in length, is described as being species rich but does not meet the ecological criteria for an Important Hedgerow under The Hedgerow Regulations 1997. Hedgerow 2 is described as a gappy and overgrown species-poor hedgerow, dominated by hawthorn. Two mature hawthorn trees lie within the site. No invasive species were identified during the survey work.

With regard to protected species, the report assessed the site for the presence of bats, nesting birds, badger, great crested newts and reptiles. The site was considered sub-optimal for reptiles, great crested newts and badger. No structures or trees were assessed as being suitable roosting habitat for bats, although the hedgerows and landscape in the vicinity of the site were assessed as suitable foraging habitat. The trees and hedgerows were considered suitable for nesting birds, the grassland was considered sub-optimal for this purpose.

The proposed development would result in the permanent loss of approximately 0.2ha of semi-neutral grassland and the temporary loss of approximately 24m of species-rich intact hedgerow. The report sets out a number of mitigation measures to compensate for these losses. With regard to the grassland, it proposes the erection of fencing around the site compound to prevent a wider area than the application site becoming damaged; re-seeding the access road following the construction phase with an appropriate grassland seed mix; sowing yellow rattle in the wider semi-improved neutral grassland to reduce grass dominance and increase species diversity and nature conservation value; and reviewing the current management regime of the field to ensure that the proposed mitigation measures are successful. The report considers that, with these measures in place, the loss of the grassland would be compensated with some potential for biodiversity gain.

With regard to the hedgerow, the report notes that the section of hedgerow to be lost does not appear to be as old as the remaining hedgerow that would be unaffected by the development. Mitigation measures include undertaking the hedgerow removal during the winter months (outside the bird nesting season); the re-instatement of the hedgerow using native species including hawthorn, hazel, dogwood and dogrose; and the reinstatement of the hedgerow to the rear of the school site using a wider range of native species to enhance the diversity of the hedgerow. The report also recommends restricting external lighting to minimise impacts to foraging bats in the vicinity of the site.

I note the above and find no reason to doubt the conclusions of the ecological assessment. I further note that Derbyshire Wildlife Trust has raised no objections in this regard. Under those circumstances, and subject to the mitigation measures being carried out as per the report, I am satisfied that the proposal would accord with Policy PD3 of the DDLP and the NPPF in respect of nature conservation.

Transport and Traffic

DDLP Policy HC19: Accessibility and Transport is the relevant policy in relation to the impacts of development on the highway network. Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway

safety or the residual cumulative impacts on the road network would be severe.

It is not considered that the permanent change of use would result in any adverse highway impacts. One footpath will need to be permanently diverted as a result, but it is noted that this diversion Order is already in place following the grant of temporary planning permission during 2017. The proposals would result in temporary disruption to the highway network for the duration of the construction of the previously approved classroom block at the site, particularly along a stretch of the highway that is not subject to parking restrictions. I note, however, that the highway authority does not raise any objections to this, subject to the proposed access point being sufficient distance from the existing tactile crossing point, temporary signing identifying the location of the access and conditions relating to the closure of the access and the reinstatement of the highway margin following the construction activities. Mindful of additional pressures put on the highway during school drop off/pick up times, I would also recommend a condition restricting construction deliveries to the site to periods outside school opening/closing times. This would ensure that there would be no danger to pupils or other users of the school.

Subject to the conditions recommended below, I am satisfied that the development would not be detrimental to highway safety and would accord with Policy HC19 of the DDLP and the NPPF.

Conclusions

The development would bring some significant public benefit through the provision of increased external play space for St Oswald's Primary School, which operates on a physically restricted site. The restriction is already a hindrance to the provision of satisfactory play space for the school, but this difficulty would be compounded if the construction of a new three classroom block was to go ahead without a reasonable increased play space facility having been found. As set out in both the NPPF (Paragraph 94) and the PSS, the Government attaches great importance to the expansion and improvement of facilities at existing schools. The development would also assist in the realisation of a strategic plan on the part of the LEA to ensure that primary level education provision within the town of Ashbourne was fit for purpose and able to cope with the increasing pressure on places resulting from new development in the area prior to the construction of a planned new primary school. I accept that there is a need for the development in this context and consider that it would help achieve the overarching aims of the NPPF in terms of its economic (through the delivery of essential infrastructure) and social (through the delivery of improved community facilities) objectives. I also accept that, if the additional play space is to form part of the wider school site rather than being located off-site, there is no other viable alternative location than that which is currently proposed.

The development would, however, also result in adverse landscape and visual impacts, harm to the settings of the Grade I listed church of St Oswald and its associated curtilage structures (Grade II* and Grade II listed in their own right), and harm to the character and appearance of the Ashbourne Conservation Area. Such harms would result from the sub-division of an existing field, the introduction of hard landscaping materials and a planting scheme that would fundamentally impact on land ('The Meadows') that is of note (both as part of the Conservation Area and with regard to forming the setting of the nearby listed buildings) specifically for its openness and predominantly agricultural character. The harm to The Meadows is capable of mitigation to reduce some of the loss of openness (through the restriction of built development, a significant reduction in tree planting within the site and the use of appropriate materials) and can be controlled via condition. Despite these mitigations, however, a level of harm to the heritage assets would still occur. Derbyshire Dales District Council has objected to the proposal stating that there would be harm to the heritage assets, although notes that such harm would not be substantial.

Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (reflected in Paragraph 193 of the NPPF), require that when considering the impact of a proposed development on the significance of a designated heritage asset, special regard or attention should be given to the asset's conservation (and the more important the asset, the greater the weight should be). These requirements are clearly engaged in respect of this proposal. In this context, since St Oswald's Church is a Grade I listed building, it is considered to be of exceptional interest. Its gates and gateposts are Grade II* listed and are therefore considered to be particularly important with more than special interest. Harm to each of these heritage assets would lead to the loss of an irreplaceable resource.

Paragraph 196 of the NPPF states that where harm to the significance of a heritage asset is 'less than substantial' then *"this harm should be weighed against the public benefits of the proposal, including securing its [the asset's] optimum use"*.

Several reported High Court and Appeal Court Judgments since 2014 have provided clarification and confirmation on how local planning authorities and planning inspectors need to treat the requirements of sections 66 and 72 when deciding on applications that may lead to harm to heritage assets, whilst having regard to relevant NPPF policy. The Judgments generally highlight the exceptional nature of what the sections require. They make it clear, when these sections are engaged, the decision maker must treat the desirability of preserving the settings of listed buildings and/or the character and appearance of conservation areas as considerations of special importance, to which considerable weight should be attached rather than merely being an 'ordinary' material considerations, to which it can simply apply such weight as

it sees fit. ‘*Preservation*’ in these contexts encompasses avoiding harm to the heritage interest of the asset(s), even where the harm would be less than substantial. Mr Justice Lindblom in the case of *R (Forge Field Society) v. Sevenoaks DC* [2014] EWHC 1895 (Admin) provided the following explanation: ‘*When an authority finds that a proposed development would harm the setting of a listed building or the character or appearance of a conservation area, it must give that harm considerable importance and weight*’. The decision goes on to say (at Paragraph 49):

‘This does not mean that an authority’s assessment of likely harm to the setting of a listed building or to a conservation area is other than a matter for its own planning judgment. It does not mean that the weight the authority should give to harm which it considers would be limited or less than substantial must be the same as the weight it might give to harm which would be substantial. But it is to recognize, as the Court of Appeal emphasized in Barnwell, that a finding of harm to the setting of a listed building or to a conservation area gives rise to a strong presumption against planning permission being granted. The presumption is a statutory one. It is not irrebuttable. It can be outweighed by material considerations powerful enough to do so. But an authority can only properly strike the balance between harm to a heritage asset on the one hand and planning benefits on the other if it is conscious of the statutory presumption in favour of preservation and if it demonstrably applies that presumption to the proposal it is considering.’

There is harm to the setting of St Oswald’s Church and its associated curtilage structures, which are Grade I (exceptional interest), Grade II* (particularly important with more than special interest) and Grade II (special interest) listed buildings and the Ashbourne Conservation Area (special architectural and historic interest). It is the Council’s duty as decision maker for this application (by sections 66 and 72 of the Listed Buildings Act) to give special regard to the desirability of preserving the affected settings of these listed buildings and the character and appearance of the Conservation Area. For giving this special regard, guidance is given in paragraphs 193 to 196 of the NPPF on the appropriate weighting of harm to the heritage assets according to the levels of harm and the heritage importance of the assets, and evaluation of the public benefits from the proposal. In short, due to the importance and exceptional importance of the affected assets which is indicated by their statutory listings, even with the level of harm being considered by the statutory experts to be ‘less than substantial’, this harm still deserves to be given particular consideration and accorded great weight. Since there is demonstrated to be a public benefit from the development, this must also be weighed up in the decision making.

I do not dispute that the ‘harm’ to the settings of the listed buildings, and the Conservation Area, would indeed be at a ‘less than substantial’ scale, whilst remaining considerations of great weight. The public benefits from the

development are tangible. I regard the public benefits to be delivered by this proposal as being a factor of sufficient weight to justify a recommendation for approval subject to conditions as detailed below, even having special regard to the desirability of preservation of the setting of the listed building and of preserving and enhancing the character and appearance of a Conservation Area, (as required by sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990), and having regard to the other impacts associated with the development as referred to in this report.

The application is therefore recommended for approval subject to the conditions listed below.

(3) **Financial Considerations** The correct fee of £426 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.

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.3.1184.13
Application documents from the Director of Property dated on 24 July 2018, as supplemented by additional drawings received on 16 August 2018 and 17 October 2018, email correspondence from GRT Architecture dated 10 October and 17 October 2018.
Correspondence from Derbyshire Dales District Council dated 7 August and 28 August 2018; letter from Historic England dated 7 August 2018; correspondence from the Lead Local Flood Authority dated 17 August 2018; letter from Derbyshire Wildlife Trust dated 11 October 2018; correspondence from the Highway Authority dated 12 October 2018 and correspondence from Ashbourne Town Council dated 21 November 2018. Representations from interested parties of various dates.

(7) **OFFICER'S RECOMMENDATION** That the Committee resolves that planning permission for application code number CD3/0718/28 be **granted** subject to the conditions set out below:

- 1) The development hereby permitted shall be begun before the expiration of three years of the date of this permission.

Reason: The condition is imposed in accordance with Section 91 of the Town and Country planning Act 1990.

- 2) Notice in writing of the following events shall be provided to the County Planning Authority within seven days of the event taking place:
 - Commencement of development.
 - Commencement of construction of the temporary access/construction of the compound.
 - Cessation of use of temporary compound.
 - Commencement of construction of play area.
 - Completion of play area construction works.
 - Date the play area will be taken into use.

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

- 3) The development shall take place in accordance with the details set out in the application for planning permission and the accompanying documentation registered as valid on 24 July 2018, as supplemented by additional drawings received on 16 August 2018 and 17 October 2018, email correspondence from GRT Architecture dated 10 October and 17 October 2018 unless otherwise modified or amended by the conditions of this planning permission. For the avoidance of doubt the drawings and documents are:
 - Drawing no 013 entitled 'Site Location Plan'
 - Drawing no 020 Rev A entitled 'Proposed Temporary Site Compound'
 - Drawing no 900 – PA001 Rev A entitled 'Proposed General Layout'
 - Drawing no 900 – PA002 Rev A entitled 'Play Area - Proposed General Layout'
 - Drawing no 014 entitled 'Existing Block Plan'
 - Drawing no 015 entitled 'Existing Plan – Land Adjacent to School'
 - Drawing no 016 entitled 'Existing Sections A-A and B-B'
 - Drawing entitled 'Fixed Seats'
 - Drawing entitled 'Activity Spaces'
 - Drawing entitled 'Concept'
 - Drawing entitled 'The Countryside'

- Drawing entitled 'Hedges'
- Drawing entitled 'Fruit Trees'
- Drawing entitled 'Walls and fences'
- Drawing entitled 'Proposed levels for Compound'
- Drawing entitled 'Plan View' (black and white)
- Drawing entitled 'Ramps'
- Drawing entitled 'Section AA'
- Drawing entitled 'Section BB'
- Document entitled ' Construction Specification for Crushed Limestone Footpaths'
- Construction Management Plan (ref:E2242) Version 2 produced by Tomlinsons dated 17 October 2018
- Drawing entitled 'Site Logistics Plan'
- Document entitled 'Traffic Management Plan Rev 0' dated 1 August 2018
- Document entitled 'Design and Access Statement Rev B' dated June 2018
- Document entitled 'Heritage Impact Assessment Rev A' dated June 2018
- Tree Survey and Arboricultural Impact Assessment dated 11 June 2018
- St Oswald's CE Primary School Ecology Report produced by BSG Ecology dated July 2018 (ref P18-403) as revised 2 November 2018
- Archaeology desk based assessment (Ref 18/018) produced by Phil Sidebottom Archaeological Consultancy dated October 2018

Reason: To ensure conformity with the details of the application that is approved and to clarify its scope.

Removal of Permitted Development Rights – General

- 4) 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 impact on the Conservation Area and the setting of the Listed Building.

Hours of Operation

- 5) No construction work at the site shall take place outside the following hours:

0700 hours to 1900 hours Mondays to Fridays; and
0800 hours to 1300 hours on Saturdays.

There shall be no working at any time on Sundays, Bank and Public Holidays except by agreement with the County Planning Authority. All construction deliveries must halt between the following hours:

0815 hours to 0915 hours Monday to Friday; and
1500 hours to 1600 hours Monday to Friday.

Any equipment which needs to be operated outside the hours specified above shall be acoustically screened in accordance with a scheme to be submitted to an approved in writing by the County Planning Authority. That scheme shall then be implemented as approved.

Reason: In the interests of the health and wellbeing of the users of the school, to ensure highway safety and in the interests of local amenity and the environment.

Highway Safety

- 6) The temporary construction access to Mayfield Road shall be laid out generally in accordance with drawing numbers 020 Rev A and C1 Rev A comprising an access 6m wide with 2.4m x maximum achievable visibility splays in each direction, the area in advance of the sightlines remaining free from any obstructions to visibility over 1m high relative to the nearside carriageway channel level and so maintained for the duration of the construction works.

Reason: In the interests of highway safety.

- 7) The gradient of the access shall not exceed 1 in 12 within existing highway limits.

Reason: In the interests of highway safety.

- 8) Within 28 days of the completion of construction activities on site, the temporary access shall be permanently closed and the highway margin and boundary reinstated, in accordance with a scheme that has been submitted to and received the prior written approval of the County Planning Authority.

Reason: In the interests of highway safety.

External Lighting

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

Reason: To minimise the impacts on heritage assets and in the interest of the protection of bats.

Materials

- 10) Prior to the commencement of the construction of the new play area, a scheme providing precise details of the hard landscaping materials to be used, including samples of the materials, shall be submitted to the County Planning Authority for its prior written approval. The scheme shall provide the following:
- (i) Details of the gritstone to be used and pointing details (where appropriate).
 - (ii) Details of the hard surfacing to be used on ramps and hard surfaced play areas.
 - (iii) Details of the railway sleepers.
 - (iv) Details of the treatment of the entrance, including pointing treatment, between the existing school grounds and the play area.

Reason: In the interests of visual amenity, the character and appearance of the Conservation Area and the setting of the listed buildings.

- 11) Prior to any other works taking place, the wrought iron kissing gate identified on drawing no 020 Rev A entitled 'Temporary Site Compound' shall be carefully dismantled and stored in a safe and secure location, the details of which shall have been provided to the County Planning Authority in advance of the dismantling, for the duration of the construction period. Following the completion of the construction period, the kissing gate shall be reinstated on site in the location identified above and in accordance with a method statement that shall have been submitted to and received the prior written approval of the County Planning Authority.

Reason: In the interests of preserving and enhancing the Conservation Area in this location and to prevent damage to the kissing gate.

- 12) With the exception of the temporary heras fencing used during the construction period, no new fencing at the site shall exceed 1.2 metres in height.

Reason: In the interests of maintaining the open character of the area, the character and appearance of the Conservation Area and the setting of the Listed Building.

- 13) All metal fencing at the site shall be black in colour.

Reason: In the interests of maintaining the open character of the area, the character and appearance of the Conservation Area and the setting of the Listed Building.

- 14) There shall be no permanent fencing erected to the external edge of the new hedgerow planting to the curtilage of the play area. Any temporary stock fencing shall be taken down after a period of five years from the planting of the hedgerow or until such time as the new hedgerow planting has become established to the satisfaction of the County Planning Authority (following confirmation in writing) whichever is the sooner.

Reason: In the interests of maintaining the open character of the area, the character and appearance of the Conservation Area and the setting of the Listed Building.

Archaeology

- 15) a) No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the County Planning Authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the County Planning Authority. The scheme shall include an assessment of significance and research questions; and
1. the programme and methodology of site investigation and recording;
 2. the programme for post investigation assessment;
 3. provision to be made for analysis of the site investigation and recording;
 4. provision to be made for publication and dissemination of the analysis and records of the site investigation;
 5. provision to be made for archive deposition of the analysis and records of the site investigation; and
 6. nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under (a) above.
- c) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under (a) above and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: In the interests of the protection of the archaeological resource.

Ecology

16) At all times, the development shall be undertaken in accordance with the recommendations set out in Section 4 of the 'St Oswald's CE Primary School: Ecology Report' undertaken by BSG Ecology dated July 2018 as revised 2 November 2018. In particular, the following shall be undertaken:

- the protection of the wider grassland through fencing (Section 4.9);
- re-seeding the temporary access route following the completion of the construction works, improving grassland management and sowing yellow rattle (sections 4.10-4.11);
- the use of native and wildlife friendly species in the garden area (section 4.13); and
- the use of native species for the reinstatement of hedgerows 1 and 2 (sections 4.16 and 4.18).

Reason: In the interests of biodiversity and the local environment.

17) No site clearance or construction work shall take place between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a careful, detailed assessment of the site for active birds' nests immediately before work is commenced and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. The written confirmation shall be submitted to the County Planning Authority within 7 days of the assessment.

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

Landscaping

18) Within six months of the date of this permission, a detailed landscaping scheme, which shall be largely based on the information set out on drawing no entitled 'Plan View' (black and white), but showing a reduced number of trees shall be submitted to the County Planning Authority. The scheme shall include details of the following:

- planting species/size/spacings of trees etc;
- planting species, mixes, spacings of hedgerow plants in replacement hedgerows 1 and 2;
- grassland mixes for the lawn and meadow grassland areas;
- management and maintenance regimes for the play area, tree and hedgerow planting and the reseeded temporary access track; and
- a programme of implementation.

The scheme shall then be implemented as approved.

Reason: To ensure that the site is suitably landscaped and in the interests of visual amenity and the environment.

- 19) For the first five years following the implementation of the landscaping scheme, planting shall be maintained and any shrubs or trees which die or become seriously damaged, diseased or are missing, shall be replaced with plants of the same species or such alternative species that shall have been approved in writing beforehand by the County Planning Authority (for the avoidance of doubt 100% replacement is required).

Reason: To ensure that the site is suitably landscaped and in the interests of visual amenity and the environment.

Statement of Compliance with Article 35 of the Town and Country Development Management Procedure 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. The applicant has 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.

During the determination of the application, the applicant was requested to provide additional information relating to the need for the development as well as technical information relating to the proposals. The applicant provided this information without delay. The applicant also agreed to extend the timescale for the determination of the application.

Due to the information provided by the applicant, it was not necessary to include any pre-commencement conditions and, therefore, the provisions of Section 100ZA of the Town and Country Planning (Pre-Commencement Conditions) Regulations 2018 do not apply.

Footnotes

- 1) This permission, granted under the terms of regulation 3 of the Town and Country Planning General Regulations 1992, is for the sole benefit of Derbyshire County Council and can only be implemented by that Authority.

Highway Authority

- 2) Pursuant to Section 127 of the Highways Act 1980, no work may commence within the limits of the public highway to close any

redundant accesses and to reinstate the footway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice regarding the technical, legal, administrative and financial processes involved in Section 127 Agreements may be obtained by contacting this Authority via email – highways.hub@derbyshire.gov.uk. The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 127 Agreement.

- 3) Pursuant to sections 149 and 151 of the Highways Act 1980, steps shall be taken 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 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.
- 4) Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway, measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
- 5) Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport and Environment at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp, e-mail highways.hub@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190.
- 6) The application site is affected by a public Right of Way (Footpath number WD4/1/1 Ashbourne on the Derbyshire Definitive Map). The route must remain unobstructed and on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 01629 533190 and asking for the Rights of Way Duty Officer. Please note that the granting of planning permission is not consent to divert or obstruct a public right of way. If it is necessary to temporarily obstruct a right of way to undertake development works then a

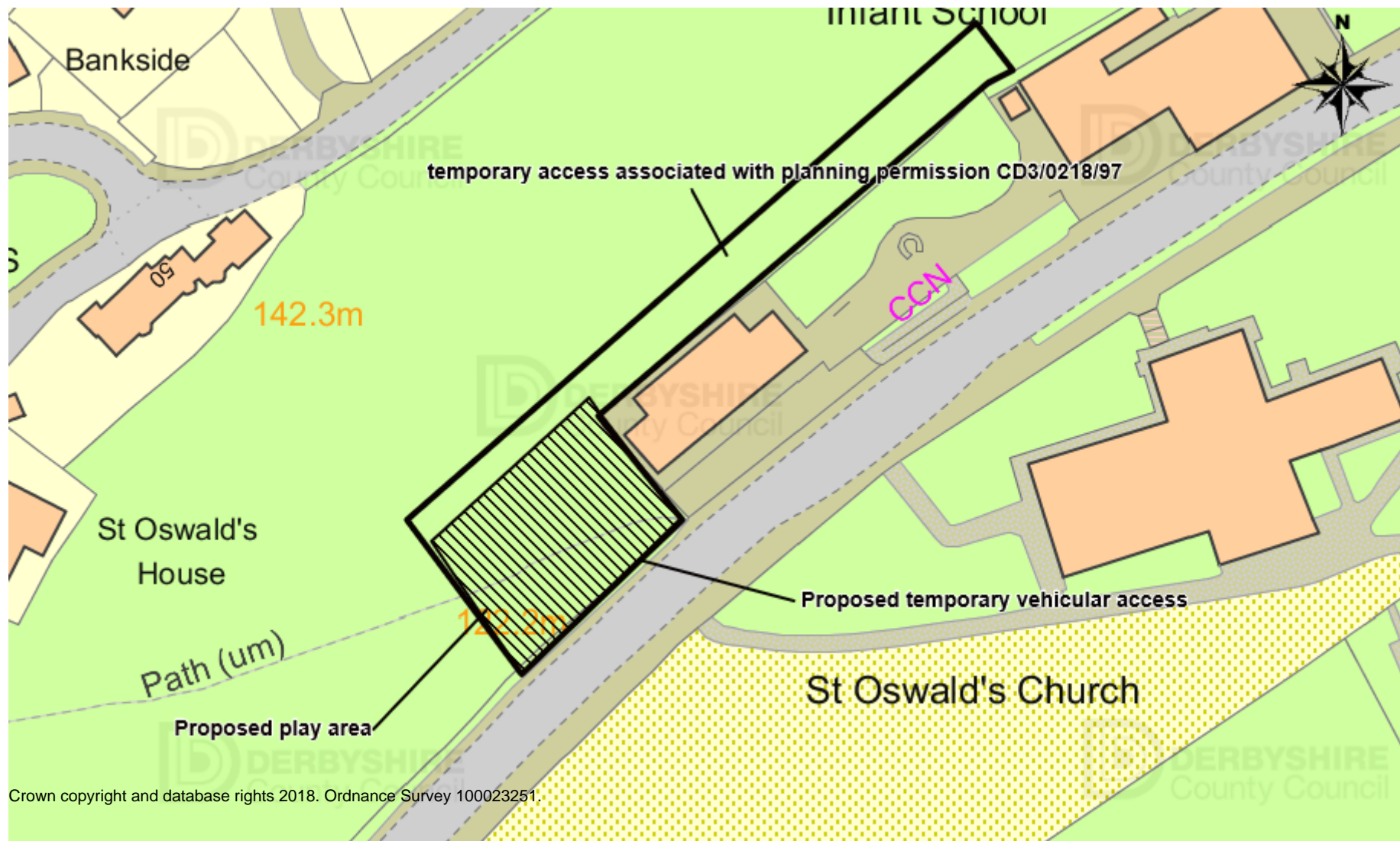
temporary closure is obtainable from the County Council. Please contact 01629 533190 for further information and an application form. If a right of way is required to be permanently diverted then the Council that determines the planning application has the necessary powers to make a Diversion Order. Any development insofar as it will permanently affect a public right of way must not commence until a Diversion Order (obtainable from the Local Planning Authority) has been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the County Council.

- 7) The Highway Authority recommends that the first 6m of the proposed access should not be surfaced with a loose material (i.e. unbound chippings or gravel etc). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the developer.

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

Mike Ashworth
Strategic Director – Economy, Transport and Environment

Proposed development on land adjacent to St Oswald's CE Primary School, Mayfield Road, Ashbourne - CD3/0718/28



22-Nov-2018