

## **6. FULL APPLICATION, ERECTION OF TWO AFFORDABLE LOCAL NEED DWELLINGS LAND OFF HARDY LANE TIDESWELL NP/DDD/1220/1143 / JK**

**APPLICANT: ELLERT**

### **Summary**

1. This is a resubmission following refusal of a previous scheme for 3 affordable houses in October 2020 under application No NP/DDD/0620/0548. The refused scheme proposed removal of one tree with a detached house sited near the front of the site and a pair set back in the middle of the site.
2. The site is a rectangular walled area of open green space within Tideswell village and the Conservation Area. It contains six mature trees covered by Tree Preservation Order (TPO) and a small block of dilapidated flat roofed prefab garages.
3. Alongside the open space, the trees are significant structural features in the public realm and together they make a considerable contribution to the special character and appearance of the local streetscene along Sherwood Road and thereby to the significance of the Tideswell Conservation Area.
4. This revised proposal retains all the trees, seeks removal of the garages and the erection of a pair of semi-detached houses with four parking spaces. The houses and parking spaces would still be sited on the root protection areas and underneath the canopies of the trees. This would cause immediate harm to the protected trees through damage and disturbance to their root protection area. It would also be a medium to long term threat to the life of the trees resulting from the inappropriate siting of housing, parking and gardens underneath the canopy of mature trees; such uses being fundamentally incompatible with preservation of the trees.
5. Although of simple traditional design and use of natural materials the layout of the houses within the plot does not reflect the established pattern of development in the immediate locality and would therefore detract from, instead of conserve, the special character and appearance of the local area.
6. There are other more appropriate sites identified within the village for development of affordable housing to meet local needs without the harm identified on this site.
7. The public benefits arising from the provision of affordable housing would not outweigh the loss of biodiversity, the adverse impact on the streetscene and the harm identified to the Conservation Area. The proposal is therefore recommended for refusal.

### **Site and Surroundings**

8. The application site is located within Tideswell Village and forms a roughly rectangular plot of land bounded by stone walls lying on the east side of Sherwood Road at its junction with Hardy Lane. Sherwood Road is a quiet residential street running broadly north-south along the hillside to the west, and parallel with, the main road (B6049) through the village. Hardy Lane is a minor lane which narrows to a footpath after the site entrance which links Sherwood Road down to Fountain Square and the Main Street.
9. The plot of land contains six mature trees covered by Tree Preservation Order along with a small block of three flat roofed sectional precast concrete garages (unused). The garages lie toward the front of the site but are at a lower level than Sherwood Road due to the drop in level from Sherwood Road as the site slopes west to east down the site. Vehicular access is off Hardy Lane, via a gateway located a short distance down from

Sherwood Road, after which Hardy Lane narrows appreciably. A bollard located just past the access, restricts vehicular access after which Hardy Lane is a public footpath.

10. The land is untended which will enhance its biodiversity interest and some sections of the boundary wall need repair. Although the garages are in a dilapidated condition they are not prominent in the street scene being lower than Sherwood Road. The overall appearance of the site is therefore that of a green wooded space with the mature trees adding large structural features which contribute significantly to the special character and appearance of both the streetscene and the Conservation Area.
11. The site is surrounded by residential dwellings with a detached house; Stanley Croft to the immediate north whose large garden about the northern site boundary. To the west across Sherwood Road terraced cottages line the street frontage. Across Hardy Lane to the south sits Hardy House a Grade II Listed Building which also takes access off Hardy Lane opposite the site entrance. To the east, the site backs onto the rear garden of a lower dwelling.

### **Proposal**

12. Full Planning permission is sought for the demolition of the garage block and the erection of two semidetached affordable houses to meet local needs. Vehicular access would remain off Hardy Lane with alterations to boundary walling to provide visibility splays. A parking and turning area for four vehicles is shown.
13. The pair of 3 bed semi-detached houses would be centrally located within the plot and sited with the southern gable end directly fronting onto Hardy Lane. Private amenity space would comprise rear gardens covering the eastern third of the site.
14. The houses would be constructed from natural limestone walls under a blue slate roof with natural gritstone quoins and full stone surrounds to all door and window openings. Windows and doors would be painted timber.
15. The houses would have a floor area of approximately 89.2 sq. metres and are intended to meet the wider community need for affordable housing identified in the 2017 Tideswell Housing Need Survey.
16. All the protected trees on site are shown to be retained.

### **RECOMMENDATION:**

17. That the application be **REFUSED** for the following reasons:
  1. **Significant harm to TPO protected trees from the construction of houses within the root protection areas and underneath canopies resulting in immediate damage to remaining protected trees contrary to Policies DMC13, GSP1-3 & L1. This would be highly likely to result in dieback, or death of the trees along with likely significant pressure from future residents for removal or lopping of trees if the development were to proceed.**
  2. **The proposed layout and the design of the houses, especially the wide gable and steep roof pitch does not adequately reflect the established pattern of development in the locality and would harm the valued character and appearance of the local built environment and the streetscene contrary to Policies GSP1-3 & DMC3.**

- 3. The harm to local biodiversity contrary to Policy GSP1-3, DMC11 from the loss of semi natural green space and the adverse impact of the development on the protected trees which would all suffer immediate and longer term damage from development within their root protection areas which would shorten their lifespan and likely result in pressures for removal and/or significant alteration to their crowns from any future residents were the development to go ahead.**
- 4. Harm to the significance of the Conservation Area from the loss and damage to the protected trees and the poor layout/design which is not outweighed by the public benefit arising from the limited provision of affordable housing contrary to Policies DMC5, 7 and 8.**
- 5. Inadequate information to support the application; the submitted Tree Report is now out of date and contains some inaccuracies/inconsistencies.**

### **Key Issues**

18. The impact of the proposed dwellings upon the valued characteristics of the National Park, in terms of siting, layout, design, amenity and highway safety.
19. The impact upon the Tideswell Conservation Area and the listed Hardy House.
20. The impact of the development upon local biodiversity especially the trees themselves
21. Neighbouring amenity impacts
22. Highway implications
23. Climate change and sustainable building.

### **History**

24. 1977 – Refusal of outline permission for the erection of two dwellings
25. 1978 – Refusal of outline planning permission for one dwelling
26. 1983 – Refusal of Outline planning permission for erection of one dwelling on the then applicable settlement policy ground and also on grounds that if it were possible to erect a house beneath the trees it would result in a cramped relationship with the trees and lead to requests for tree lopping and felling due to the relationship and shading and therefore acceptance of that proposal was not considered to be in the long term interests of protecting the trees.
27. 1994 – Refusal of outline permission for erection of one dwelling.
28. 1994 – Refusal of planning permission for erection of vehicle store building and improvements to access on grounds that it would not preserve or enhance the valued characteristics of the residential area and Conservation Area, as well that it would perpetuate an unauthorised vehicular storage use and cause unacceptable disturbance and loss of amenity to neighbours.
29. 1994 – Appeals against both 1994 refusals dismissed.
30. 2016 – Pre-application advice given that a proposed market dwelling would not be acceptable in policy terms and there would be insufficient enhancement in the removal of the garage to outweigh the policy objection. Cautious advice that affordable housing

could be explored as the only likely policy route, provided conflict with tree protection could be resolved. No further response.

31. 2019 – Land offered for sale which generated a number of enquiries ranging from concerns over mature trees to prospective purchasers interested in developing the site. However no formal paid for pre-application advice requests submitted.
32. 2019 – PDNPA Tree Officer granted approval for minor crown lift to two sycamores on the lower part of the site adjacent the northern boundary.
33. 2020 – Refusal of planning permission for the erection of three affordable dwellings at October 2020 Planning Committee.

### **Consultations**

34. Highway Authority – No objections subject to conditions covering the following;
35. Access onto Hardy Lane, 2m x 2m x 45° pedestrian intervisibility splays be provided either side of the access, the splay area being clear of any object greater than 0.6m in height relative to highway level, together with visibility being taken to the extremities of the site in the westerly direction from a set-back distance of 2.0m at the centreline of the access, the area in advance of the sightline being maintained clear of any object greater than 1m in height (0.6m in the case of vegetation).

*Officer Note; The walls are currently 1.24m high so reduction to 0.6m and 1m high will harm valued character - see discussion below*

36. Visibility onto Sherwood Road is proposed to be improved with the realignment of the existing boundary wall. Whilst there are no highway objections to this in principle, sightlines should be taken from a setback distance of 2.4m, rather than the 2.0m shown, and across the entire site frontage in order to maximise visibility. This would result in a narrow triangular area, within the site boundary, located in front of the boundary wall, together with a street lighting column being unprotected and liable to be struck by vehicles. It is therefore requested that this fronting area be constructed as footway and dedicated as highway, together with the street lighting column relocated to the rear of the footway and existing kerbing being altered to match. For the avoidance of doubt the above works would require the applicant to enter into a Section 278 Agreement with the Highway Authority.
37. In terms of the internal layout, the widened vehicular access is welcomed, however the re-aligned stone wall should not be constructed to encroach highway limits. Sufficient space has also been demonstrated for two vehicles per dwelling to park together with a shared manoeuvring area, so as to enable vehicles to both enter and exit the site in forward gear.
38. The applicant will need to consult with the relevant refuse collection department to ascertain details of what will be acceptable to them in terms of number and location of bins and means of access. Bin storage should not obstruct the private drive access, parking or turning provision. Additionally, a dwell area for bins should be provided, clear of the public highway, for use on refuse collection days.
39. Agree construction management plan.
40. The access to be 5m wide and no steeper than 1 in 15 for the first 10m and measures shall be implemented to prevent the flow of surface water onto the highway.

41. No occupation until space provided for the parking and manoeuvring of residents' vehicles,
  42. Footnotes re; works within the highway, mud not being carried onto the highway, driveway not to be surfaced with a loose material and surface water run-off.
  43. Derbyshire Dales District Council – No response.
  44. Tideswell Parish Council – Support.
  45. PDNPA Conservation Officer – Objects, commenting as follows (summarised);
  46. Any development within a Conservation Area should preserve or enhance the character.
  47. The site is a small green space with an important group of trees adjacent to a public right of way, and contributes to the character of the Conservation Area.
  48. The proposals could affect the trees on the site, although root protection measures are proposed. The trees and the openness of the site contribute to the character and appearance of the Conservation Area. It is important, that whilst there is no removal proposed, that the trees are safeguarded as any loss would harm the character and appearance of the Conservation Area.
  49. The proposals have removed the third house that was on the boundary with Hardy Lane therefore retaining the current sense of open space from this part of the Conservation Area, which is part of the character. Whilst the openness is retained, it is proposed for a large parking area here that will be of hard surfacing although planting is proposed.
  50. The design of the semi's appears not to have been altered, the gable remains wide and the height to the eaves is in excess of 5 metres on the Sherwood Road side, the height on the other side going down the hill is even higher. The design, whilst generally using traditional materials, apart from the proposed uPVC rainwater goods, does not have proportions in line with the local vernacular and also that described within the PDNPA Design Guide.
  51. PDNPA Tree Officer – Objects
  52. The impact of the proposed development on the trees on site will be highly significant and it is not possible to fully mitigate the impact. The main concerns with this proposed development relate to:-
    - the long-term sustainability of protected trees on site alongside development.
    - the practicalities of development on this site, such as the difficulties of developing on a site where the Root Protection Areas (RPAs) of protected trees cover the majority of available land on site, practical implementation of proposed tree protection measures, and locating underground service provision within such a restricted site.
- The officer's detailed comments are incorporated into the section on trees in the assessment section of the report below.
53. PDNPA Ecology - Object

54. Notes tree T3 is now retained under the new proposals. However, the development encroaches into the root zones of the trees and concerned that this will lead to the loss of the trees in the future. This would result in the loss of a bat roost and overall net habitat loss as a result of the development. Given this, I object to the current application, unless the development can be pulled back so it situated outside of the root protection zones of the trees.
55. Surveys have been completed and the recommendations within the two reports (the preliminary ecological appraisal and bat survey) should be followed. [If the development were to go ahead]. The recommendations include incorporating features for bats within the development – I would recommend that two ridge tile access features are incorporated into both properties. The recommendations also include the incorporation of bird boxes into the scheme. I would recommend that two swift boxes are installed in suitable locations on each property

### **REPRESENTATIONS**

56. There have been 9 letters of objection submitted raising a very large number of grounds which are heavily summarised below. The full letters are available to view in full on the Authority's website.
57. This is a protected wooded space in the heart of a village Conservation Area and there is no need for it to be developed.
58. Concerns about affordability of the proposed dwellings and whether these would indeed meet the need for affordable rented housing in the survey
59. Tree report has expired and in any case has inaccuracies.
60. Impact of development on trees – excavation close to bedrock within root protection areas of the trees. Houses and parking spaces under canopies and root compaction – will lead to pressures for trees to be removed.
61. Adverse impact upon the Conservation Area / development among the trees does not enhance, it detracts from their contribution to the valued characteristics of the Conservation Area.
62. The proposed dwellings will be very adversely affected by their proximity to the trees and suffer poor amenity from the outset.
63. There is no pressing need for development that could not have been met with other much more suitable sites in Tideswell.
64. 'Nature' is now acknowledged to be very important for mental health and this green spot is important to the residents of Tideswell.
65. These mature trees provide a magnificent backdrop to one of the main public spaces in our village - Fountain Square. They frame the view of Fountain Square Church from the main road and war memorial below
66. Stand anywhere in the centre of Tideswell village and you can see the majestic beauty of the trees at this location, they are a local feature and part of our heritage
67. The trees and undisturbed ground are hugely important for local wildlife
68. Proposal has not addressed previous reasons for refusal

69. Strong concern over loss of local biodiversity of this rare local habitat, which is a known bat habitat, used by owls and is also frequented by swifts feeding above the trees. Hedgehogs are seen foraging in neighbouring gardens to the site.
70. Concern about surface water run off to the properties below [Note - Application forms state surface water will go to the public sewer]
71. No proposal for foul sewerage shown in the plans [Note - Forms state this is unknown]
72. Access safety and traffic congestion/parking concerns particularly to pedestrian using Hardy Lane
73. Highway Authority not visited site have not fully considered conflicts with pedestrians and that parking on Sherwood Road blocks emerging visibility.
74. The proposed chamfering of the stone wall will do little to improve visibility.
75. Land is not wasteland, it is valuable asset to community rich in biodiversity and one of few natural green spaces left in the village, needs to be retained as such.
76. The ongoing responsibility of owning either one or more large trees by the purchaser of an affordable dwelling is onerous and disproportionate to the size of house and land they purchased. Considerable costs may be incurred in maintaining the trees.
77. Contrary to adopted PDNPA Policies L1, DNC3, DMC11, DMT3, Para 127 and 130 of the NPPF

### **National Planning Policy Framework (NPPF)**

78. National Park designation is the highest level of landscape designation in the UK. The Environment Act 1995 sets out two statutory purposes for national parks in England and Wales: Which are; to conserve and enhance the natural beauty, wildlife and cultural heritage and promote opportunities for the understanding and enjoyment of the special qualities of national parks by the public. When national parks carry out these purposes they also have the duty to; seek to foster the economic and social well-being of local communities within the National Parks.
79. The National Planning Policy Framework (NPPF) has been revised (2019). The Government's intention is that the document should be considered as a material consideration and carry particular weight where a development plan is absent, silent or relevant policies are out of date. In particular Paragraph 172 states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, which have the highest status of protection in relation to these issues.
80. In the National Park, the development plan comprises the Authority's Core Strategy 2011 and the Development Management Policies (DMP), adopted May 2019. These Development Plan Policies provide a clear starting point consistent with the National Park's statutory purposes for the determination of this application. In this case, it is considered there are no significant conflicts between prevailing policies in the Development Plan and government guidance in the NPPF.
81. Para 127 of the NPPF states that - Planning policies and decisions should ensure that developments:

- (a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- (b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- (c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- (d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- (e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- (f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents.

82. Para 175 of the NPPF states; When determining planning applications, local planning authorities should apply the following principles:

- (a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

83. Para 193 of the NPPF 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

84. Para 196 of the NPPF states; 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, where appropriate, securing its optimum viable use.

#### 85. **Main Development Plan Policies**

#### 86. Core Strategy

87. GSP1, GSP2 - *Securing National Park Purposes and sustainable development & Enhancing the National Park*. These policies jointly seek to secure national park legal purposes and duties through the conversion and enhancement of the National Park's landscape and its natural and heritage assets.



88. GSP3 - *Development Management Principles*. Requires that particular attention is paid to the impact on the character and setting of buildings and that the design is in accord with the Authority's Design Guide and development is appropriate to the character and appearance of the National Park.
89. DS1 - *Development Strategy*. Sets out that most new development will be directed into named settlements. Tideswell is a named settlement.
90. L1 - *Landscape character and valued characteristics*. Seeks to ensure that all development conserves and enhances valued landscape character and sites, features and species of biodiversity importance.
91. L2 says that development must conserve or enhance the biodiversity of the National Park unless there are exceptional circumstances. L3 says that development must conserve or enhance the cultural heritage of the National Park and other than in exceptional circumstances development that has a harmful impact will not be permitted.
92. HC1 – *New Housing*. Sets out that provision will not be made for housing solely to meet open market demand. Housing land will not be allocated in the development plan. Exceptionally, new housing can be accepted including where it addresses eligible local needs for homes that remain affordable with occupation restricted to local people in perpetuity.
93. Policy CC1 states that development must make the most efficient and sustainable use of land, buildings and natural resources.

#### Development Management Policies

94. Policy DMC3 says that where development is acceptable in principle it will be permitted provided that its detailed treatment is of a high standard that respects, protects and where possible enhances the natural beauty, quality, and visual amenity of the landscape, including the wildlife and cultural heritage that contribute to the distinctive sense of place.
95. Particular attention will be paid to siting, scale, form, mass, levels, design, details and materials, landscaping, access, amenity, accessibility and our adopted design guide.
96. DMC5 says that applications for development affecting a heritage asset must clearly demonstrate its significance and why the development is desirable or necessary. DMC7 (Listed Buildings) and DMC8 (Conservation Areas) are relevant for development affecting heritage assets and their settings. These policies require applications to be supported by heritage assessments and for development to be of a high standard of design that conserves the significance of heritage assets and their setting.
97. Development of a designated or non-designated heritage asset will not be permitted if it would harm the significance, character and appearance of a heritage asset unless it is outweighed by the public benefits of the proposal.
98. DMC11 requires proposals to achieve net gains in biodiversity and geodiversity and provide details of appropriate safeguards and enhancement measures for a site, feature or species of nature conservation importance that could be affected by the development. DMC12 is relevant for development affecting sites, features or species of wildlife, geological or geomorphological importance and set out the exceptional circumstances where development will be permitted.

99. DMC11 says that proposals should aim to achieve net gains to biodiversity as a result of development. In considering whether a proposal conserves and enhances all reasonable measures must be taken to avoid net loss by taking into account matters set out in (i) – (v).
100. DMH1 states that Affordable housing will be permitted in or on the edge of Core Strategy policy DS1 settlements, either by new build or by conversion provided that there is a proven need for the dwelling(s); and any new build housing is within affordable size thresholds.
101. DMH6 says that re-development of previously developed land for housing is acceptable provided that it conserves and enhances the valued character of the built environment or landscape on, around or adjacent to the site and subject to viability includes an element of affordable housing (in accordance with policies DS1, GSP2 and HC1).
102. DMT3 and DMT 6 set out the requirement for safe access and appropriate parking levels.
103. **Principle of Development**
104. The site is located within Tideswell Village which is a named settlement for the purposes of policy DS1. The removal of the garages would be welcomed as they do cause some minor visual harm to the immediate locality and removal would enhance the site. However, this quite modest enhancement would not amount to the ‘significant’ overall benefit to the wider National Park as required by Policy GSP2 and HC1C (II) to warrant exceptional development in the form of market housing.
105. Policies HC1 and DMH1 exceptionally allow for the development of affordable housing in principle within DS1 named settlements where it addresses eligible local needs for homes that would remain affordable with occupation restricted to local people in perpetuity. This is provided there is a proven need for the dwellings and the housing would be within affordable size guidelines.
106. This resubmission now proposes a pair of affordable dwellings which are of an affordable size in terms of our policies and are intended to meet the local needs identified in the 2017 Tideswell village housing need survey. Although the survey is 4 years old, no housing has been provided in the intervening period to meet the needs identified although a large site elsewhere in the village has been earmarked for development. We therefore consider it reasonable to accept that the dwellings would meet the proven need in the Parish for affordable housing and consequently the principle of a development for affordable dwellings is acceptable.
107. The mature protected trees on the site represent a major constraint to development of this site and which formed the key reason for refusal of the last application. This revised scheme still proposes to build houses under the trees. The key issues therefore still relate to whether the proposal is acceptable in terms of the site specific considerations of layout, design, landscape/streetscape impact with particular regard paid to the impact upon the protected trees and the Tideswell Conservation Area, along with consideration of the impact upon local amenity and the highway implications.
108. **Layout, Design and Appearance**
109. **Layout**
110. The arrangement of the houses on the site has changed with the omission of the detached house previously proposed toward the front of the site in the last application. The proposal is now just for the pair of semidetached houses which are of the same

design and siting as in the previous scheme. These are sited down the site, back from Sherwood Road, with the area above forming the parking and tuning area following the removal of the old garaging. As previously, the proposed layout of the houses does not closely relate to the built form of Sherwood Road, and this layout seems to have primarily been generated by a combination of keeping the access point and to use the available space between the existing trees which is extremely limited.

111. The protected trees, due to their size, age and spread across the site, present a major constraint to any development of this site. In this case they have led to a cramped layout and a culs-de-sac style of development in some depth back from the street.
112. Consequently the proposed layout of the buildings would relate poorly to the existing trees and be wholly out of keeping with the established development along Sherwood Road which is characterised by buildings fronting or close to the street with private gardens to the rear running down the slope.
113. The proposed development would not therefore result in a layout that detracts from, instead of respecting the valued character of the local built environment contrary to Policy DMC3.
114. Design
115. The houses reflect a simple traditional style and would be constructed in natural local stone, with natural stone dressings to corners and openings. The roof would be blue slate. The houses are simply fenestrated with doors and window frames in painted timber.
116. The houses would however have a deep plan form with an over-wide gable at just over 8m fronting onto Hardy Lane. Coupled with the steep roof pitch to accommodate bedrooms in the roof space this form results in an over-dominant and uncharacteristic roof in terms of the ratio of roof to wall height which would not reflect the established local building tradition sufficiently. As a result we would have sought amendments to the design to lower the roof pitch and narrow the gable had the development, in other respects, been found acceptable.
117. **Impact upon trees**
118. The application is supported by an arboricultural survey which identifies the 6 trees on the site, all of which are protected by TPO. The agents supporting statement explains that in the revised scheme, "Alterations to ground levels have also been kept to a minimum to avoid any disturbance to the root protection areas. The proposals have been carefully designed in relation to the trees and strict rules will be set out for the protection of these trees during the construction works. The reduction of the number of dwellings from 3 to 2 means that the impact on the Beech trees which were identified as a concern by the Authority's Tree Officer to the previous application has now been significantly reduced. Trees 1 and 2 would no longer be affected by the proposal. Whilst the proposed dwellings would result in some works within the root protection area of T6, a mature Beech tree, this tree is category B and has lost a major limb leaving a broken stump."
119. We take a different view and our specialist Tree Conservation Officer's detailed comments are incorporated below;
120. "The six trees on site are all covered by TPO046. They are all mature and have significant size girths, with the girth of T6 being large enough to be classed as locally notable and close to being categorised as a veteran tree. The root protection areas (RPAs) for these trees cover the overwhelming majority of the site.

121. The submitted design is incompatible with the protection afforded to the trees on site, and the proposed construction has the potential to damage roots and overall health of the trees, even taking into account the outlined tree protection measures and use of special engineering solutions, such as cellular confinement systems and piled foundations.
122. The additional requirements from the Highways Authority to widen the pavement/footpath at the western end of the site and bring the western boundary wall eastwards, would cause further disruption of the soil within the RPAs of T1 and T2.
123. Three of the trees are beech trees (T1, T2 and T6). Beech trees are particularly intolerant of soil disturbance and compaction within their rooting area and they tend to be fairly shallow-rooted as a tree species. Thus any work within the rooting area of mature beech trees (particularly T6, which has already lost a significant limb, causing damage to a neighbouring wall and neighbouring trees) is not recommended, due to the risk of instability and susceptibility to tree disease when under stress.
124. According to Lonsdale, 'the root system of *F. sylvatica* [beech] does not develop deeply except in well-aerated soil, and therefore tends to become unstable on wet, poorly drained or compacted sites. Instability may also occur on shallow soil over bedrock' (Lonsdale, Principles of Tree Hazard Assessment and Management, 2007, p. 348). There appears to be anecdotal evidence that the soil levels on site are already fairly shallow, with some roots visible above ground level.
125. Given the species make-up of this site and the protected status of the trees, it is therefore not advisable to develop on this land by locating residential properties and the associated hardstanding and facilities in such close proximity to trees that do not respond well to soil disruption and may prove unstable in shallow soil over bedrock.
126. The shallowness of the soil may also present practical difficulties in creating the proposed special engineering solutions for the construction of the properties (namely the use of a cellular confinement system as permanent ground protection with floating slab and pile foundations on top) and may result in instability of trees and impacts on tree health, inevitably leading to applications to have the trees removed.
127. There appears to be some ambiguity in the submitted documents as to whether changes in ground level will be required to implement the proposed development. The Tree survey states at paragraph 6.7 (f). '*no stripping of topsoil, excavations or changing of levels to occur within the RPA of any retained tree*' and at paragraph 6.8 '*to avoid damage to tree roots, the existing ground levels should be retained within the RPAs of all trees*'. However, the Design and Access statement claims that 'alterations to ground levels have also been kept to a minimum' (p.9). Any changes in ground level or disturbance of soil within the RPAs of the protected trees on site will have an adverse effect on their health and condition, particularly the beech trees.
128. The proposed houses are sited partially underneath the canopy of T6, which will make the interiors of both houses dark, as well as interfering with the roof and guttering. In fact, the submitted Tree Survey itself states that 'the proposed development will encounter seasonal nuisance' (paragraph 8.6) from the proximity of the tree canopies to the roofs, inevitably leading to pressure to manage the extent of the tree canopies or to have them removed.
129. The tree survey goes on to state that 'the proposed development will not encounter shading from the trees' (paragraph 8.6). However, the representation of tree shade in Appendix 7 of the submitted tree survey seems inconsistent with tree shade

representations as they appear on aerial imagery of the site, casting doubt on the legitimacy of the content of the tree survey. It is likely that the properties themselves and the entirety of both gardens would be cast in shade, particularly during late spring, summer and early autumn, leading to excessive moss on lawns and outside areas, as well as on roofs and in gutters. This will lead to pressure to have the trees removed and will threaten the long-term sustainability of these protected trees.

130. At this stage, underground service routes have not been outlined, but it is not possible to see where exactly they could be incorporated, if at all, on the site. The Arboricultural Association's latest best practice Guidance Note on the use of cellular confinement systems (Guidance Note 12: The use of Cellular Confinement Systems Near Trees: A Guide to Good Practice, September 2020) states clearly in Section 4.2, paragraph 77 (p. 24) states that 'underground services should not be routed beneath cellular confinement systems because they may need to be accessed in the future, either for repair or for making new connections, which could severely compromise the installation'.
131. The submitted Tree survey also states that 'any digging for services will have to [be] done outside of the RPAs' (paragraph 8.4). It seems very unlikely indeed that service routes for the site can be located outside of these restrictions, given that the RPAs of the existing trees, combined with the extent of the cellular confinement system (permanent ground protection), will cover the vast majority of the site, including all the area in front of both properties.
132. In addition to the points noted above, the submitted BS5837 Tree Survey is dated 30th April 2020 (the plans in the Appendices are dated 04/05/2020) and it states at paragraph 3.6 (page 6) that it 'is valid for six months only'. It is now out of date. As well as being out of date, the submitted tree survey still contains significant errors, mostly of consistency, for instance in 'Table 4: Tree data table' (p.31), T3 is identified for removal, yet in Appendices 1-7, it is shown as being retained. There is also inconsistency in the categorisation of trees throughout the document. These inaccuracies breed confusion and the lack of consistency calls into question the integrity of the Tree Survey as a whole."
133. The layout of the proposed development is therefore clearly incompatible with the protected trees on site.
134. Notwithstanding the initial physical harm from construction, the houses would all be overshadowed by significant, mature trees, casting extensive shade leaving the houses feeling dark and the proposed gardens completely shaded. In future this would be very likely to put pressure on potentially already stressed trees for significant works or removal, due to fears of limb failure and concerns about shade in gardens and lack of natural light in the proposed houses. The likely impact on cars parked underneath, or washing and outdoor furniture from debris and dirt falling from the trees would only add to the pressure.
135. The clear advice from our in house tree specialist is that it is not possible to mitigate these issues with special engineering solutions and the proposed development would leave these mature, protected trees stressed and with their rooting areas significantly disturbed and thus compromised.
136. We therefore conclude that the development would cause immediate severe harm to the protected trees and more than likely lead to their loss in the short to mid-term future. The resulting loss to biodiversity would be contrary to adopted policies DMC11 & 13 and represents a significant reason on its own to warrant refusal of the application, irrespective of the other concerns set out elsewhere in this report.

137. **Impact upon the Conservation Area and adjacent Listed Building**

138. Policy DMC8 requires development to assess and clearly demonstrate how the character and appearance and significance of the Conservation Area would be preserved or enhanced. The loss of the open green space, and the inevitable harm to the trees along with the inappropriate siting/layout of the houses would seriously detract from the valued character and appearance of the street scene along Sherwood Road and erode the special character and appearance, as well as the significance, of the Tideswell Conservation Area.

139. In addition, the development would be sited close to and within the setting of the listed Hardy House which is located just to the south and across Hardy Lane opposite the proposed semi-detached houses. The loss of the green space and the substitution with the proposed layout with its wide gables and tall roof so close to Hardy House would have an inappropriate impact on the setting.

140. With respect to policy DMC7 (Listed Buildings) the harm to Hardy House in itself may be considered, 'less than substantial' however the proposal still represents an adverse impact to its setting. Taken in combination with the harm to the Conservation Area we therefore conclude the proposal would be contrary to policies DMC 5, 7 and 8, owing to the overall harm to the designated heritage asset.

141. **Amenity Considerations**

142. There are no concerns that the houses would adversely impact upon neighbouring amenity in terms of overlooking given the separation from adjacent houses and their orientation. There are however very substantial concerns about the residential amenity of future residents were the development to go ahead. The main concern is the substantial shading of the houses and gardens from the trees which would make them overly dark inside with a gloomy outlook. There are also very strong concerns about the ability of future residents to enjoy the outdoor amenity space given mature trees dropping large amounts of leaves and other debris, including branches of varying size up to and including that which could seriously harm residents and their property including cars. In the event the development goes ahead, such issues will inevitably result in strong pressure to or severely prune the trees and/or remove them to resolve the inevitable problems that would be caused. For these reasons the proposal does not accord with adopted policy DMC3 which requires all new development to have a high standard of amenity.

143. **Highways Considerations**

144. The proposed parking layout would utilise the existing access point off Hardy lane. Given the current dilapidated garages this would result in a material increase in traffic using the lane and its junction with Sherwood Road which has substandard emerging visibility; not helped by parked vehicles. However traffic movements would be relatively low and with the appropriate visibility splays being provided the County Council Highway Department have confirmed that, subject to conditions, there would be no objections on highway grounds.

145. Four standard parking spaces are shown. There is no accessible parking provision or visitor parking and therefore, albeit a small development, there would likely be an increase in visitors parking on Sherwood Road close to the junction and contributing to local concerns over parking congestion and highway safety. However, as the Highway Authority has raised no objections we would be unable to sustain any formal objection in this regard.

146. The impact of the proposed highway visibility splay conditions are a concern in terms of their impact upon the boundary walls. These require the setting back of the roadside wall fronting Sherwood Road and the provision of visibility splays at the Hardy Lane access which also requires the walling to be lowered/set back. These changes would adversely affect the valued character and appearance of these local walls which are already quite low but nevertheless provide important visual definition and containment to the streets.

147. **Ecology Impact**

148. This resubmission is accompanied by a 'Preliminary Ecological Appraisal' and a bat survey. These confirmed the presence of a low number of bats roosting in tree T2 and a single occasional day roost in T3

149. Our ecologist objects to the development on the basis that it encroaches into the root zones of the trees and is therefore concerned that this will lead to the loss of the trees in the future. This would result in the loss of a bat roost and overall net habitat loss as a result of the development. Given this, our Ecologist objects to the current application, unless the development can be pulled back so it situated outside of the root protection zones of the trees.

150. Were the development found to be acceptable in other respects, the recommendations within the two reports should be followed. These include incorporating features for bats within the development which our ecologist recommends should comprise of two ridge tile access features being incorporated into both properties. Bitumen felting should also be used in areas where bat access has been created.

151. The recommendations also include the incorporation of bird boxes into the scheme and our ecologist recommended that two swift boxes are installed in suitable locations on each property.

152. These are reasonable requirements necessary to enhance biodiversity on this site and could be conditioned to be provided in any approval. On this basis and with the aforementioned conditions the proposal would accord with policies to DMC11 & 12.

153. **Environmental Management**

154. In order to meet the requirements of Policy CC1 the supporting statement explains that the two dwellings will be built partly on brownfield land and sited within the village boundary. The agent further explains that the houses would be designed to achieve the equivalent of Code Level 3 in the (former) Code for Sustainable Homes, and in addition designed to Lifetime Homes standards. It goes on to set out that the following specific strategies are proposed (summarised):

155. Energy use: The houses will be 'super insulated' to reduce energy use in the simplest and most direct way. The homes will be heated using a high efficient A rated gas condensing boilers. All internal and external lighting will be 100% low energy and any white goods will, where fitted be A rated. Outdoor amenity space is also provided to all dwellings to allow for outside clothes drying

156. Water use: Low water use fittings will be specified and water butts will be provided to harvest rain water for use in the gardens.

157. Materials: The specification of materials will ensure minimum environmental impact. Natural materials which will be sourced locally will be used thus reducing their carbon footprint. All trades people will be local also ensuring that the carbon footprint of the

proposal is minimised (Note; this cannot reasonably form part of a planning condition). Glazing will be high performance double glazing without vents.

158. These energy efficient measures would go some way to meeting the terms of Core Strategy Policy CC1 however if the development were to be approved we would require more certainty as to the proposed specification in order to secure these efficiencies. In addition whilst it is recognised that solar PV or ground source heat pumps would not be appropriate on this site the agent states the applicant is willing to consider and explore the use of air source heat pumps should planning permission be forthcoming. These would make a significant contribution to reducing the carbon footprint of the development and would need to be confirmed via condition to meet CC1 in the event of any approval. However we have not pursued this further given the fundamental objections to the scheme.

159. **Conclusion**

160. The impact of the proposed housing development would be out of keeping with the local built environment, cause immediate and significant harm to protected trees, reduce biodiversity and adversely impact upon the valued character and appearance of Sherwood Road and the special character and significance of the Conservation Area as well as the setting of the listed Hardy House. Furthermore the application contains inadequate supporting information to make full and proper consideration of key planning considerations and consequently the proposal is contrary to adopted policies GSP1-3, L1, DMC3, 5, 7, 8, 11 -13, and is recommended for refusal.

161. **Human Rights**

162. Any human rights issues have been considered and addressed in the preparation of this report.

163. List of Background Papers (not previously published)

164. Nil

165. Report author: John Keeley – Planning Manager - North Area Team