

# **REPORT OF THE HEAD OF PLANNING SERVICES**

## **SECTION 1: Planning Applications**

In accordance with the provisions of Section 100D of the Local Government Act 1972, BACKGROUND PAPERS are the contents of the files whose registration numbers are quoted at the head of each report, but this does not include material which is confidential or exempt (as defined in Sections 100A and D of that Act, respectively).

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## **1. PLANNING APPLICATIONS**

**This section also includes reports on applications for: approvals of reserved matters, listed building consent, work to trees in tree preservation orders and conservation areas, conservation area consent, hedgerows work, advertisement consent, notices for permitted development under the General Permitted Development Order 1995 (as amended) and responses to County Matters.**

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
9/2009/0850	1.1	Woodville	Woodville	1
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When moving that a site visit be held, Members will be expected to consider and propose one or more of the following reasons:

1. The issues of fact raised by the Head of Planning Services' report or offered in explanation at the Committee meeting require further clarification by a demonstration of condition of site.
2. Further issues of principle, other than those specified in the report of the Head of Planning Services, arise from a Member's personal knowledge of circumstances on the ground that lead to the need for clarification that may be achieved by a site visit.
3. Implications that may be demonstrated on site arise for consistency of decision making in other similar cases.

**Item**            1.1

**Reg. No.**        9/2009/0850/SMD

**Applicant:**

Taylor Wimpey North Midlands  
Chase House  
Park Plaza  
Heath Hayes  
Cannock

**Agent:**

Mr Andrew Smith  
Taylor Wimpey North Midlands  
Chase House  
Park Plaza  
Heath Hayes  
Cannock

**Proposal:**        **Residential development of 158 dwellings (amended scheme) at Land At South Street Woodville Swadlincote**

**Ward:**            **Woodville**

**Valid Date:**      **29/10/2009**

**Reason for committee determination**

The application is brought to Committee at the discretion of the Head of Planning Services primarily to explain the course of negotiations relating to a Section 106 agreement.

**Site Description**

The application site measures some 4.6 hectares and forms part of a larger mixed use development site of 48.77 hectares, known as Woodville Woodlands, incorporating residential and employment uses, with areas of recreational space and National Forest Planting which straddles the border with Leicestershire south of Woodville. The site has undergone extensive remediation due to its previous uses. The site was formerly occupied by a Derbyshire Wildlife Site known as the 'Humps and Hollows' which has been subsequently relocated in Leicestershire as part of the outline approval. The District boundary with North West Leicestershire forms the south eastern and south western boundary of the site.

The site is accessed by a new link-road, known as Hepworth Road, provided as part of the outline approval which runs from the A511 (Ashby Road) at the junction with Butt Lane running due south parallel to Butt Lane and then extending due west to the south of the application site linking up with Moira Road. The north of the site is bordered by industrial and open storage business. The site is bound to the east by the residential properties and garages along South Street, an unadopted road, currently separated from the site by 2m close board fencing. An area of parking for residential properties along South Street adjoins this fenced boundary. A public footpath links South Street to the playing fields, school and Woodville High Street situated to the north of the site. To the south of the site, within Leicestershire, is open countryside which stretches beyond



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**South Derbyshire District Council. LA 100019461. 2010**

Hepworth Road. To the west of the site, at a lower level, is a further area of land which is subject to planning approval for employment use under North West Leicestershire District Council. A bridleway along the north western boundary provides access to Chapel Street/Moira Road to the north and links to a cycle route to the south into North West Leicestershire. A further less formal footpath runs along the south eastern boundary of the site.

With the exception of an initial drop in levels from the Hepworth Road access into the site and a slight rise and fall to the west, the site is relatively level. The main area of vegetation consists of an area of trees situated in the south eastern corner of the site made up of largely hawthorn trees and scrub which is to be retained. A further single hawthorn in the north western corner would also be retained.

## **Proposal**

This is a full application and seeks to amend a previously approved scheme for Phase 4, the final residential phase of the Woodville Woodlands development. The site has an existing consent for the erection of 120 dwellings and 18 apartments (as the affordable element). The current proposal seeks to revise the layout to allow for the erection of 158 dwellings together with associated parking, landscaping and provision of Public Open Space (POS). The units would be made up of 149 two-storey and 9 two-and-a-half storey dwellings consisting of 27 x 2-bed, 77 x 3-bed and 54 x 4-bed properties.

Vehicular access to the site would be from Hepworth Road only. A pedestrian link would be provided in the north eastern corner of the site to South Street and with bollards to prevent vehicular access. A further pedestrian link would be provided to the footpath/bridleway to the west of the site with a further footpath link intended to the southeast subject to land ownership issues.

The boundary with South Street would be opened up and a landscaped area of POS provided incorporating a physical barrier preventing vehicular access/egress from South Street. A further area of POS incorporating a LEAP would be provided at the northern end of the site with a smaller area of POS situated at the entrance to the site from Hepworth Road.

A 2.4m noise attenuation fence and landscape buffer would mark the boundary with adjacent industrial uses.

## **Applicants' supporting information**

The applicant company has submitted a Design and Access Statement, a full copy of which is available to view on file, and includes the following details:

- The relationships created between the proposed buildings and existing surrounding developments have been considered, giving regard to the impact upon the wider townscape.
- The site is well connected in terms of public transport and links to surrounding towns.
- South Street allows access to High Street (A511) however direct (vehicular) access from the site is not proposed along this road as parking for residential properties runs along this boundary.

- Redevelopment of the site would provide good use of what is currently described as a derelict site.
- The design and landscaping of the road and footpaths network is attractive and safe so that walking is encouraged. Cycling is encouraged with new cycle routes linking to the National Forest.
- The materials proposed for the development will be designed and specified to compliment the common attributes found in the surrounding buildings and will retain the essence of the vernacular to the local areas.
- The density and mix of accommodation will translate into a design which has a variety in building forms. Roofscapes will vary across the development which will create the opening up of an attractive site, introducing permeability and new areas of public realm.
- Public and private realm will be well defined, and houses will have self-contained rear gardens.
- Windows will be positioned to provide surveillance and overlook public areas, and materials such as brick and render will be combined with detailing such as stone heads and brick arches to provide variation and character to the elevations. Elevational designs will be modern in appearance yet in keeping and respectful of their context.
- The site provides vehicle and pedestrian permeability in a manner which encourages non-car modes of transport and will involve the opening up of a previously secure and inaccessible site, introducing new streets within the public realm.
- Building heights will be no more than 2.5 storeys.
- The density of development proposed will help to reduce the external surface area of buildings which increases their fuel efficiency reducing energy consumption and amount of materials required for their construction.
- New planted amenity spaces will provide the potential for new habitats thus increasing the ecological value of the site than is currently the case.
- Roads have been designed to reduce traffic speeds, making the residential environment safe for pedestrians and especially children.
- Pedestrian access is provided from all dwellings onto the access road and a footpath link around the site will encourage access to public transport links close by.
- Houses can incorporate refuse bins within rear gardens which are accessible and can easily be taken to suitable collection points.

In addition to the Design and Access Statement the applicant company has submitted a viability statement relating to S106 agreement obligations proposing a review of the current agreement due to current economic circumstances. This statement is reviewed separately in this report under the heading Section 106 Requirements and Viability.

## **Planning History and Background**

9/2001/0050 – Outline application (all matters reserved) for development and remediation including the erection of approximately 400 dwellings, including the provision of B1/B2 employment, open space and National Forest planting together with the provision of a link road. Approved 3.06.04.

### Phase 4

9/2005/1306 - Approval of reserved matters for erection of 111 residential units together with associated access and open space. Approved 31.01.06

9/2007/1341 – Approval of reserved matters for erection of 18 one-bedroom apartments. Approved 18.02.08.

Subsequent amended applications incorporating the substitution of house types have been submitted and approved such that the total number of permitted dwellings for Phase 4 is currently 138 units in total including 18 affordable apartments.

The site forms part of an outline approval (9/2001/0050) for a development known as 'Woodville Woodlands' for the erection of approximately 400 dwellings, the provision of B1/B2 employment space and National Forest planting together with a link road. The outline approval relates to Phase 2, 3 and 4 and is subject to a S106 agreement dated 3 June 2004 in conjunction with North West Leicestershire District Council, Leicestershire County Council and Derbyshire County Council. Phase 1 was subject to a separate application and S106 agreement.

This application is the fourth and final phase of development relating to the above outline approval and is submitted in full as the period for reserved matters has expired.

The residential development of phases of 1 and 2 are complete with Phase 3 all but complete. The first phase of industrial units permitted under the reserved matters for Phase 3 has been constructed with the second phase yet to be built. The area of recreational open space and proposed football pitch associated with Phase 3 and required as part of the Section 106 agreement has yet to be implemented. The approved development for 138 units for Phase 4 has not been implemented.

The S106 agreement for Phases 2, 3 and 4 required the following obligations:

- Acid grassland translocation.
- Receptor site monitoring with commuted sum of £3,000 per annum (index linked).
- River Mease water monitoring.
- Japanese knotweed treatment.
- Education provision contribution of £315,500 (index linked).
- Healthcare contribution of £144,320 (£440 per dwelling) (index linked).
- Management and maintenance contribution of £300,000 (index linked) for forestry sports and recreation areas.
- Provide 4.76 ha informal open space.
- Provide 1 ha of formal open space to include football pitches, local and neighbourhood play areas (or commuted sums in lieu of such provision).
- Surface and light of footpath (from South Street towards High Street).
- Traffic management scheme amounting to a maximum of £40,000 on Moira Road.
- Construction of link road between A511 and Occupation Lane.
- Green Travel Plan for approval by County Councils for occupants of industrial land.
- Provision of 12.5% affordable housing throughout development
- Commuted sum of £40,000 (index linked) for Blackfordby traffic calming (payable to Leicestershire County Council).
- Maintain dedicated forestry scheme (NW Leicestershire District Council)

- Implementation of liaison committee.

A number of the Section 106 obligations outlined above remain outstanding and overdue including the provision of formal and informal open space including the football pitch and are currently being pursued by the Council via Breach of Condition Notices.

## **Responses to Consultations**

The Highway Authority has no objection following the receipt of amended plans addressing parking provision and minor road layout and design issues.

Leisure Services has no objection subject to the submission of detailed schemes for landscaping, boundary treatments and the play area.

The Contaminated Land Officer has no objection subject to the submission of a scheme to identify and control any contamination of land, or pollution of controlled waters and its subsequent implementation as agreed with the LPA.

Environmental Health has no objection.

Derbyshire Wildlife Trust has no objection advising that all ecological issues relating to Phase 4 have been dealt with and implemented through obligations under the existing S106 agreement. In addition, the Trust comments that most of the amenity spaces are located on the edge of the development with little 'green space' within the core of the development although there is a reasonable provision of garden space throughout the development. Building in biodiversity could involve minor features within the fabric of buildings to provide nesting spaces for birds or access for bats for roosting. More could be done within the development to benefit biodiversity.

The Crime Prevention Officer comments that the proposal is a good layout with excellent levels of natural surveillance and good use of defensible space to the frontages. The limited use of parking courts which provide easy access for unseen criminal access is also pleasing. The landscape buffer space requires sub-dividing to prevent criminal access along its entire route. A robust defence such as railings or a wall should be provided to give protection to parking areas adjacent to pedestrian links such as that to South Street and to the parking for Plot 151.

The Development Control Archaeologist has advised that all archaeological requirements relating to the site have been met in accordance with the outline approval and that no further archaeological requirement is necessary.

The Affordable Housing Officer has advised that based on existing S106 requirements for the site of 12.5% affordable housing they would like to see the provision of 2 x 4-bed, 12 x 2-bed and 6 x 3-bed houses. However, having studied the site layout they concede that the allocation of 4-bed properties is unlikely to be viable. The distribution of affordable housing units should be as set out in the South Derbyshire District Council Affordable Housing 'Guide to Delivery'. Namely, that the affordable homes should be integrated into and distributed across the whole development avoiding large clusters of affordable housing.

Severn Trent Water Limited has no objection subject to the submission of a drainage scheme for surface water and foul sewage.



Woodville Parish Council has commented that there appears to be no pedestrian access from the site for pedestrians wishing to access Woodville village centre and schools.

North West Leicestershire District Council has no objection.

### **Responses to Publicity**

Two letters of objection have been received commenting as follows:

- There is currently an unresolved matter relating to an area of land on the boundary with a company to the northeast of the site which has been included in the application site and is not in the ownership of the applicant company.
- Overlooking and loss of privacy to garden.

### **Development Plan Policies**

The relevant policies are:

EMRP: Policies 1, 2, 3

Local Plan: Saved Housing Policies 4 & 11, Transport Policy 6.

### **National Policy**

PPS1, PPS3

### **Planning Considerations**

The main issues central to the determination of this application are:

- The principle of development
- Design
- Impact on residential amenity and adjoining land uses
- Highway issues
- S106 requirements

### **Planning Assessment**

#### Principle

The principle of residential development on the site was established with the outline approval 9/2001/0050 with the submission of subsequent reserved matters approvals as identified in the Planning History earlier in this report.

#### Design

The properties would be a mix of detached, semi-detached and terraced housing with varying ridge heights and gable widths to add interest. Corner properties have been designed to be dual aspect to maintain an active street frontage. Where rear gardens adjoin the road boundary treatments would consist of a 1.8m high screen wall to

maintain aesthetic quality. All properties would have sizeable rear gardens with the majority having a further landscaped area to the front.

The north eastern boundary of the site with South Street is currently divided by 2m high close board fencing which provides the outlook for the residential properties on South Street. The proposed scheme intends to open up this boundary improving the outlook for both existing and proposed properties which would front onto a landscaped area of Public Open Space. A permanent physical barrier, the details of which would be agreed by condition, would prevent vehicular access/egress from the application site to South Street across this area of land and protect the existing parking spaces of the residents on South Street. The properties to the north of the site have similarly been orientated to overlook the open space.

The landscape buffer along the northern boundary of the site would be divided between plots preventing criminal access along this boundary.

Whilst there would be a single vehicular access to the site, pedestrian links to the existing footpaths surrounding the site would improve permeability and provide access to existing facilities and services including public transport in Woodville and the area of open countryside and cycle networks across the District/County boundary to the south.

#### Impact on adjoining land uses and residential amenity

In order to protect the continued viability of adjacent industrial premises a 2.4m high noise attenuation fence would be constructed along the northern boundary of the site shared with existing employment uses. In addition a landscape buffer, approximately 3.4m deep, would be planted adjacent to the fence to provide screening and act as a further buffer. The majority of the landscape buffer would be subdivided and allocated to individual plots with the exception of the area adjoining the public open space.

Nos. 9a and 9b South Street overlook the north eastern corner of the site. The fencing along this part of the northern boundary would be reduced to a 1.8m high-close boarded fence to preserve residential amenity. The main habitable room window on the rear elevation of the proposed properties would be in excess of the Council's required minimum distance. The main front elevations of the proposed properties fronting onto South Street would be in excess of 30m away from the front elevations of the existing properties along this street well in excess of the 21m minimum distance required and separated by an area of landscaped open space.

The proposal complies with the Council's policy and planning guidance requirements with regard to the amenity of adjoining land uses and is considered acceptable in this regard.

The area of land under dispute along the boundary with the commercial site would have minimal impact on the proposed layout and is a civil matter between the applicant company and the adjacent site.

#### Highway Issues

The application was subject to pre-application discussions with the Highway Authority and the Council's Design Excellence Officer. The road layout has been designed in an attempt to reflect the requirements of Manual for Streets looking at varying options for

parking and attempting to reduce vehicle speeds throughout the site via the use of shared surfaces and reduced carriageway widths. Parking has been provided at 200% throughout the site and includes a mix of off-street parking spaces and garages, frontage parking and areas of less formal on-street parking. Details of the footpath links and physical barrier to prevent vehicular access/egress along South Street could be agreed by condition. Sufficient access, parking and manoeuvring provision has been made within the site in accordance with planning policy requirements and the Highway Authority has no objection.

### Section 106 Requirements and Viability

The details of the S106 requirements have been outlined earlier in this report.

A viability statement submitted with the application states that due to the current economic downturn and the subsequent “catastrophic impact” on the house building industry the Taylor Wimpey Group was forced to review the UK’s business structure. The consequent approach has ranged from seeking cost reductions to specifications, securing re-plans to existing planning approvals, renegotiating Section 106 agreements, mothballing sites, and in extreme cases, putting land up for sale.”

The statement includes three financial appraisals based on the following:

- a) The existing approved scheme (for 138 units) including the financial impact of the approved Section 106 agreement.
- b) The re-planned scheme (this application) including the financial impact of the approved Section 106 agreement.
- c) The re-planned scheme including the financial impact of a 58% proportion of the approved Section 106 agreement, being the figures applicable to Phases 2 & 3.

The statement submits that all three financial appraisals demonstrate that the schemes would operate at a loss and fail to bring the scheme back to a viable status delivering no profit to the applicant company. The applicant company advises that only by securing a reduction to the proportionate Section 106 obligations will it be able to complete the development of Phase 4. The proposal was therefore put to the Council on the basis of an alternative option which sought to omit the Section 106 obligations proportionate to this phase whilst the remainder of obligations proportionate to Phases 2 and 3 would remain valid and applicable.

The viability statement has been submitted to the District Valuer (DV) for independent evaluation and assessment. Based on current land values, the DV considers that the viability argument made by the applicant company is invalid. Although the applicant company continues to dispute the validity of the conclusions drawn by the DV, it has reluctantly agreed to withdraw its claim and to comply with the original agreement (which has now been confirmed in the form of a supplementary deed).

### Conclusion

The layout now submitted represents a significant improvement to the design of phase 4 above that previously agreed. Securing of the provisions of the original agreement should also ensure that all works and contributions are now delivered.

## **Recommendation**

**GRANT** permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. AAH4903. 01 Rev F received 21 April 2010 and the amended house types Croxton A, B C & D received 29 January 2010, Brooke Rev B, Priory Rev B and Lakeside Rev B received 16 March 2010 and the additional plan showing the electricity sub-station details received 3 March 2010.  
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.  
Reason: To safeguard the appearance of the existing building and the locality generally.
4. Gutters and downpipes shall have a black finish.  
Reason: In the interests of the appearance of the building(s), and the remainder of the development already completed.
5. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.  
Reason: In the interests of the appearance of the area.
6. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.  
Reason: In the interests of flood protecting and pollution control.
7. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

Reason: To protect the amenities of adjoining properties and the locality generally.

8. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

Reason: In the interests of the appearance of the area.

9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the appearance of the area.

10. Notwithstanding the submitted details, no development shall commence on site in connection with this development until a detailed landscaping scheme for the Public Open Space and detailed specification for the LEAP, including surface treatment, play equipment and boundary treatments have been submitted to and approved in writing by the Local Planning Authority. The LEAP and Public Open Space shall be provided in accordance with the approved details. The LEAP shall be made available for public use prior to the commencement of the dwellings on Plots 43-48 and Plots 88-91. The Public Open Space shall be made available for public use prior to the occupation of the 80th dwelling hereby permitted unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure adequate play facilities and open space are provided for the benefit of residents.

11. Before any other operations are commenced (excluding demolition/ site clearance), space shall be provided within the site curtilage for storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives and visitors vehicles, all laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority, and maintained throughout the construction period in accordance with the approved designs free from any impediment to its designated use.

Reason: In the interests of highway safety.

12. Before any of the operations hereby approved are commenced, facilities shall be provided as agreed in writing with the Local Planning Authority to prevent the deposition of extraneous material on the public highway and shall be maintained and used throughout the construction period.

Reason: In the interests of highway safety and the amenity of the area.

13. The sole means of vehicular access to the application site shall be via the access road at the south of the site onto the Butt Lane Link Road. There shall be no means of vehicular access to South Street, and to this end, a permanent physical barrier shall be erected across the entire site frontage with South Street all as

agreed in writing with the Local Planning Authority in consultation with the County Highway Authority.

Reason: In the interests of highway safety and to protect the amenity and parking of existing residents.

14. Dwellings shall not be occupied until the proposed new estate streets between each respective plot and Hepworth Road have been laid out in accordance with the application drawings to conform to the County Council's current design guide, with roads constructed to base level, including footways, highway drainage and lighting in accordance with the County Council's Specification for New Development roads.

Reason: In the interests of highway safety.

15. Dwellings shall not be occupied until space has been provided in accordance with the revised application drawings for the parking of residents and visitors vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to the designated use.

Reason: In the interests of highway safety.

16. Garages and parking spaces shall be kept available for the parking of motor vehicles at all times. The garages/car spaces shall be used solely for the benefit of the occupants of the dwelling of which it forms part and their visitors and for no other purpose and permanently retained as such thereafter.

Reason: In the interests of highway safety.

17. Before occupation of the first dwelling, a scheme for disposal of highway surface water shall be carried out in accordance with a scheme first submitted to and approved by the Local Planning Authority in writing.

Reason: In the interests of highway safety.

18. No development shall commence on site in connection with the areas of concrete paviers until details of the colour and type of the surface materials to be used in the shared surface areas indicated have been submitted and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the agreed details.

Reason: In order to ensure and promote a pedestrian friendly environment.

19. Prior to the first occupation of the development hereby permitted, measures to minimise the risk of crime to meet the specific security needs of the application site and the development shall be implemented in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.

Reason: In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions; to promote the well-being of the area pursuant to the Council's powers under Section 2 of the Local Government Act 2000 and to reflect government guidance set out in PPS1.

20. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on

submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.

B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

21. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the LPA without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

22. Prior to the commencement of development a detailed specification for the noise attenuation fence along the northern boundary of the site as indicated on drawing AAH4903 01F shall be submitted for approval in writing by the Local Planning Authority. The fence shall be constructed and maintained in accordance with the approved details and shall be erected prior to the occupation of any dwelling on the site unless otherwise agreed with the Local Planning Authority.

Reason: The fence shall be to a standard so as to mitigate the potential noise impact on residential properties and so as not to inhibit the existing adjacent employment uses.

23. Notwithstanding the comments received by email from the applicant company on 26 May 2010, details of the plot distribution and house type of all affordable housing units across the site shall be submitted for approval prior to the commencement of the development hereby permitted. Units shall then be sited in accordance with the agreed distribution.

Reason: To ensure compliance with a reasonable distribution in the interests of a balanced mixed community.

24. All footpaths and external links shall be constructed and open for public use prior to the occupation of the 80th dwelling on the site unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure good connectivity across the site for pedestrians and cyclists.

25. Notwithstanding the submitted details, prior to the commencement of building operations on adjoining areas, the boundary with the area of retained trees/proposed landscape areas as shown on drawing LA3316 (dwg 1) shall be fenced with steel mesh fencing to 2.3m high supported by steel scaffold poles staked at 3 metre centres. The fencing shall be retained in position until all building works on adjoining areas have been completed unless otherwise agreed in writing with the local planning authority.

Reason: To protect the trees/landscape areas from undue disturbance

26. There shall be no tipping or deposition of materials within the area fenced under condition 25 above without the prior written authorisation of the local planning authority.

Reason: To protect the trees/landscape areas from undue disturbance

27. Notwithstanding the particulars of the application, details of a scheme for building in biodiversity such as providing nesting spaces for birds or access for bats for roosting within the fabric of the buildings shall be submitted for approval in writing by the Local Planning Authority prior to commencement of building operations. The measures shall be implemented in accordance with the approved scheme.

Reason: In the interests of enhancing the biodiversity of the site.

#### Informatives:

This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990.

The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include: Collapse of shallow coal mine workings; Collapse of, or risk of entry into, mine entries (shafts and adits); Gas emissions from coal mines including methane and carbon dioxide; Spontaneous combustion or ignition of coal which may lead to underground heatings and production of carbon monoxide; Transmission of gases into adjacent properties from underground sources through ground fractures; Coal mining subsidence; Water emissions from coal mine workings.

Applicants must take account of these hazards which could affect stability, health & safety, or cause adverse environmental impacts during the carrying out their proposals and must seek specialist advice where required. Additional hazards or stability issues may arise from development on or adjacent to restored opencast sites or quarries and former colliery spoil tips. Potential hazards or impacts may not necessarily be confined to the development site, and Applicants must take advice and introduce appropriate measures to address risks both within and beyond the development site. As an example the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas. In coal mining areas there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling alone



has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted. Any intrusive activities which intersect, disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. In the interests of public safety the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated.

The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in order to make an assessment of the risks. This can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com). The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from [http://www.south-derbys.gov.uk/business/pollution/contaminated\\_land/default.asp](http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp) Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: [pollution.control@south-derbys.gov.uk](mailto:pollution.control@south-derbys.gov.uk). The plot distribution required by condition 23 should be submitted to comply with the Council's 'Affordable Housing Guide to Delivery'. Any security measures implemented in compliance with the approved scheme should seek to achieve the 'Secured By Design' accreditation awarded by Derbyshire Constabulary. Written confirmation of those measures should then be provided to the Local Planning Authority.

**Item**            **1.2**

**Reg. No.**        **9/2010/0292/FM**

**Applicant:**

Mr N Jordan  
Inglewood  
The Green  
Dalbury Lees  
Ashbourne

**Agent:**

Mr Justin Smith  
Justin Smith Architects  
Friar Gate Studios  
Ford Street  
Derby

**Proposal:**        **The Demolition Of Existing Bungalow And The Erection  
Of A Detached Dwelling At Inglewood Dalbury Lees  
Ashbourne**

**Ward:**            **North West**

**Valid Date:**      **25/03/2010**

**Reason for committee determination**

Councillor Bale has requested that the Planning Committee determine this application local concern has been expressed about a particular issue and unusual site circumstances should be considered.

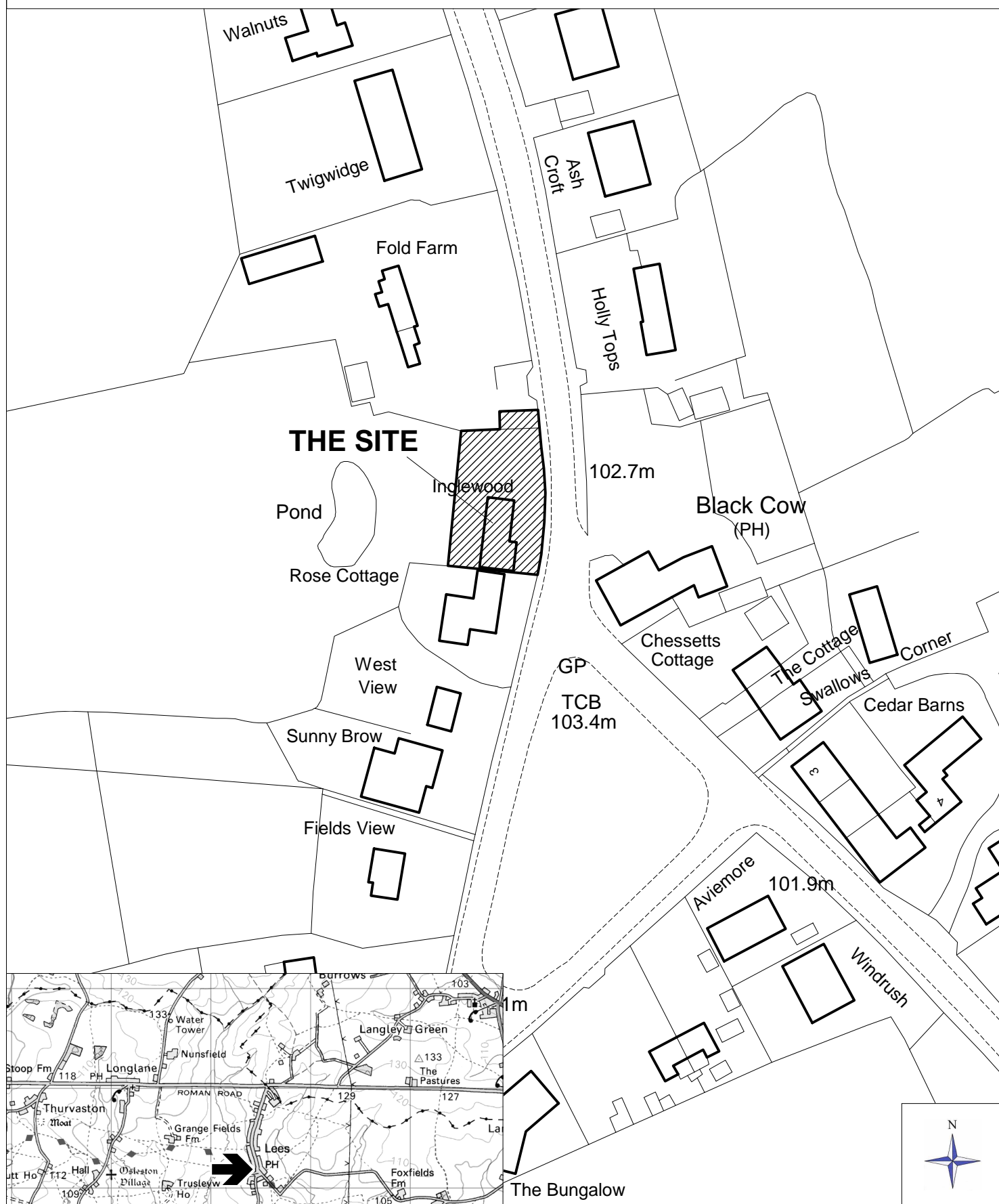
**Site Description**

A bungalow (circa 1960s) currently occupies the site. It has a roadside hedge typical of many frontages in Lees and a hedge occupies the gap between the site and Rose Cottage, the closest neighbouring dwelling. Fences enclose the remaining boundaries with some hedge planting to the rear of the applicant's garage. Opposite the site is the Black Cow public house where another bungalow lies to the north. Fold Farm lies north of the application site the flank wall of the house is some 34 metres from the proposed dwelling. Fold Farm is about 2.0m lower than the application site level.

**Proposal**

The current application shows a more traditional version of the house submitted under the earlier application, which was withdrawn.

The proposal is to replace the existing bungalow with a two-storey dwelling of a contemporary modern design. The application proposes that the roof space be used as guest accommodation and to this end a large dormer is proposed in the west elevation with a large window in the north gable that extends to the apex of the roof. Another 'feature' is that the applicants have proposed either timber or brick cladding at the main building material. In the event that timber cladding is selected the feature panel in the



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**South Derbyshire District Council. LA 100019461. 2010**

end of the house would be clad in stone. If brick were selected, then the feature panels would be clad in timber. The applicants have produced a computer-generated graphic to illustrate the alternative materials in the front and rear elevations.

Two first floor balcony areas have been proposed on top of proposed sunrooms. The largest on the southwest corner of the dwelling is proposed with a 2.0m high obscure glazed screen to prevent views into the rear yard and rear facing windows in Rose Cottage south of the application site. The other lies on the north side of the house that looks towards the Fold Farm.

Provision is proposed within the house for ancillary living facilities with a bedroom at ground floor level but with links to the kitchen in the main house and a ground floor bathroom.

The existing double garage would be retained on the site and no changes are proposed to the vehicular access.

The site location plan has been amended to reflect the actual boundaries on the ground following a site visit and comments from neighbours.

### **Applicants' supporting information**

The application is submitted with a design and access statement. It notes that the village is characterised by a variety of house types dating back to the 19<sup>th</sup> century with some original farm buildings having been converted to residential use. There are also numerous houses that were constructed in the late 20th century. Photographs included in the statement illustrate these. Attention is drawn to Planning Policy Statements 1 & 3.

In drawing up the design, reference is made to a building system that would allow the dwelling to achieve 'Level 4' of the Code for Sustainable Homes. The Statement acknowledges that it is intended to replace the existing dwelling by resiting it more centrally within the plot; noting that the immediately adjoining dwellings are located centrally in their plots. The scale of the building has been designed to ensure that the ridge of the proposed dwelling is no higher than Rose Cottage. It would have a rectangular plan form that reflects many other houses in the village.

The proposed materials of construction are referred to above but the sunrooms and the front porch would be finished with a render.

The statement concludes that the proposed dwelling is a bold statement, which is modern in design, of its time to reflect the next step in the development of the village.

### **Planning History**

A planning application for a replacement dwelling of a more radical design was withdrawn earlier this year – 9/2010/0083.

### **Responses to Consultations**

Dalbury Lees Parish Council objects to the development for the following reasons:

- a) There appears insufficient parking on the site for the number of cars that anticipated using the property.
- b) The proposal is to replace an existing bungalow with a 2-storey house.
- c) The proposed building is close to the pavement, which may affect visibility of traffic using the main road. It may also be difficult for cars trying to leave the property.
- d) In a small community such as Lees the addition of 3 vehicles will affect traffic in the village green area.
- e) Although the design has been modified one of the main issues, loss of privacy, is still in place. The two balconies will mean a substantial loss of privacy to neighbouring properties.

The County Highway Authority has no objection assuming that there is no alteration to the existing car parking arrangements.

Severn Trent Water has no objection subject to foul and surface water drainage details being submitted for approval prior to the development commencing.

The Environmental Protection Manager would require a contaminated land report prior to the development commencing to assess if contamination has entered the site from a nearby location.

### **Responses to Publicity**

One letter in support of the application has been received and states that there is full support of the change.

Five letters have been received objecting to the development for the following reasons:

- a) The amended plans are just as bad as those originally submitted, the proposed building would be totally out of character with the rest of the village, buildings in the past 6/7 years have been in character; whereas the proposed dwelling would not be in keeping with its immediate surroundings. The house is 3-storey not 2 as stated in the design and access statement that illustrates a 3-storey dwelling. Additionally, stone chimneys are not a feature in the village.
- b) The proposed house is too large for the plot with insufficient parking facilities.
- c) Windows and balconies overlook adjoining properties and are very close to the site boundaries, one window is 7.2 metres above ground level.
- d) The site boundary is not correct.
- e) Lees is not a sustainable location for new housing development the only local amenity is the Black Cow public house.
- f) The sewerage system is already overloaded and the applicant states he does not know how foul sewerage would be disposed of.
- g) A 5-bedroom house replacing a 2-bedroom bungalow would remove a more affordable dwelling from the village.
- h) A business should not be allowed in the village because of traffic, noise and smells.

### **Development Plan Policies**

The relevant policies are:

RSS8: Policies 1, 2, 3, & 12

Local Plan: Housing Policies 5 & 11

## **National Guidance**

PPS 1 & 3

## **Planning Considerations**

The main issues central to the determination of this application are:

- The Development Plan
- Design
- Impact on neighbours
- Access and Parking

## **Planning Assessment**

### The Development Plan

The site lies within the defined village confine for Lees that is acknowledged to be a remote village without many of the facilities that would make the village sustainable. The issue in terms of the development plan is concerned is whether the replacement of one dwelling with another would make a material difference to the lack of sustainable facilities in the village. It is considered that the development would make no direct impact of the policy of locating new housing development in sustainable locations, as it is a replacement of one dwelling with another. In principle the proposal is therefore considered to accord with the requirements of Housing Policy 5.

### Design

Housing Policy 5 then goes on to require that development be in keeping with the scale and character of the settlement. The new dwelling sits within a village that has a number of architectural styles that reflect its development over the years. The proposed dwelling should be seen in the context of that architectural development and would sit well within the village without dominating its surroundings given that the ridge height would match that of Rose Cottage with a more traditional brick finish to the dwelling. Generally, the design relies on the use of modern materials and features. The house proposed would be two-storey with the roof space being used to create the additional guest accommodation. The north elevation would be visible from the road and as such the balcony would be visible. This feature is not found on most of the houses in Lees. Nor are the design features on the frontage in the form of frosted glass. However, the shape of the house, its massing and footprint are similar to others in the village and it is these essential features, which should ensure that the house would not appear incongruous in its location.

The Local Planning Authority has been given a choice of materials. In order to help to integrate the dwelling into the main character of the settlement, it is considered that red brick rather than timber cladding should predominate on new dwelling with timber insert panels (as described at the start of the report and illustrated in the Committee presentation). Therefore, the overall design of the dwelling is considered acceptable even though it would contain unique design features within the village.

### Impact on Neighbours

Housing Policy 11 sets requirements for separation distances between existing and proposed dwellings. The SPG sets actual separation distances and adds that screening by fences can mitigate issues of overlooking.

The dwelling at Fold Farm is some 34 metres from the nearest balcony albeit at a lower level than the application site. For this reason separation standards for a 3-storey dwelling have been applied to the potential views between the Fold Farm and the proposed house. The required standard of 25 metres separation is more than met by the 34 metres shown.

Rose Cottage is the other property that is directly affected by the development in terms of overlooking. The proposed sun balcony, at first floor level on the south side of the dwelling would directly overlook the rear habitable rooms at ground and first floor level and give views of the 'private' garden area immediately to the rear of Rose Cottage. Without screening, the presence of the proposed balcony would require that planning permission be refused. However, a 2.0m high obscure glazed screen is proposed to mitigate the view. The retention of that screen can be the subject of a planning condition.

There is no hint that a business would be established in the dwelling as stated by an objector, and this situation can be secured through the imposition of a condition.

### Access and Parking

On the advice of the County Highway Authority the existing access and parking provision is sufficient to serve the dwelling.

### Conclusion

The proposed development is in accord with the provisions of the Development Plan; it complies with the requirements of adopted Supplementary Planning Guidance – Housing Layout and Design and the proposal is considered to sit well within the context of the village and reflect its architectural evolution.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

### **Recommendation**

**GRANT** permission subject to the following conditions:

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

2. Notwithstanding the originally submitted plans this planning permission relates to the area identified on the amended site location plan received under cover of your e-mail dated 24 April 2010.  
Reason: For the avoidance of doubt.
3. Prior to the first occupation of the dwelling hereby permitted, the 2.0m high obscure glazed screen proposed shall be erected and then retained in place thereafter.  
Reason: In order to ensure there is no overlooking between the first floor seating area and windows and private garden space at the rear of Rose Cottage.
4. Before the development is commenced precise details of the materials of construction shall be submitted to and approved in writing by the Local Planning Authority. The approved materials shall thereafter be used to construct the house.  
Reason: In the interests of the appearance of the area.
5. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets.  
Reason: In the interests of the appearance of the building(s), and the character of the area.
6. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.  
Reason: In the interests of flood protecting and pollution control.
7. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.  
B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.  
C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.  
D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.



Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

8. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the LPA without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

9. The land within the curtilage of the building hereby permitted shall not be used for the parking of motor vehicles other than private motor vehicles and the building shall not be used for the purposes of trade or business.

Reason: To protect the amenities of adjoining properties and the locality generally.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, there shall be no external alterations, including the insertion of new windows, to the buildings other than as approved under this permission.

Reason: In the interests of preserving the setting of the building and the character of the area.

#### Informatives:

In submitting the details required by Condition 3 above, the Local Planning Authority requires the brick and timber cladding to be the main materials of construction.

Where development is proposed, the developer is responsible for ensuring that development is safe and suitable for use for the purpose for which it is intended. The developer is thus responsible for determining whether land is suitable for a particular development or can be made so by remedial action. In particular, the developer should carry out an adequate investigation to inform a risk assessment to determine:

- whether the land in question is already affected by contamination through source - pathway - receptor pollutant linkages and how those linkages are represented in a conceptual model;
- whether the development proposed will create new linkages, e.g. new pathways by which existing contaminants might reach existing or proposed receptors and whether it will introduce new vulnerable receptors; and
- what action is needed to break those linkages and avoid new ones, deal with any unacceptable risks and enable safe development and future occupancy of the site and neighbouring land.

A potential developer will need to satisfy the local authority that unacceptable risk from contamination will be successfully addressed through remediation without undue environmental impact during and following the development. In doing so, a developer should be aware that actions or omissions on his part could lead to liability being

incurred under Part IIA, e.g. where development fails to address an existing unacceptable risk or creates such a risk by introducing a new receptor or pathway or, when it is implemented, under the Environmental Liability Directive (2004/35/EC). Where an agreed remediation scheme includes future monitoring and maintenance schemes, arrangements will need to be made to ensure that any subsequent owner is fully aware of these requirements and assumes ongoing responsibilities that run with the land.

The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from [http://www.south-derbys.gov.uk/business/pollution/contaminated\\_land/default.asp](http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp) Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: [pollution.control@south-derbys.gov.uk](mailto:pollution.control@south-derbys.gov.uk).

**Item**            **1.3**

**Reg. No.**        **9/2010/0320/SMD**

**Applicant:**

JT Investments Ltd  
50 Stanton Road  
Stapenhill  
Burton On Trent

**Agent:**

JVH Town Planning Consultants Ltd  
Houndhill  
Marchington  
Staffordshire

**Proposal:**        **The Residential Development For Eleven Dwellings At 1  
The Old Plough Inn Main Street Weston On Trent Derby**

**Ward:**            **Aston**

**Valid Date:**      **01/04/2010**

**Reason for committee determination**

The application is reported at the request of Councillor Atkin because:

- local concern has been raised about a particular issue;
- the committee should debate the issues in this case, which are very finely balanced; and
- unusual site circumstances should be considered by the committee.

**Site Description**

The Plough Inn occupies a prominent position in Main Street, sited at the edge of the highway and facing The Green. The property ceased trading as a public house last year. Since then the building has been stripped of its internal fixtures and fittings and some demolition has taken place. The existing vehicular access to the site has very poor visibility, particularly to the west, where the building obscures views. Public Footpath No. 1 (Weston on Trent) passes thorough the site.

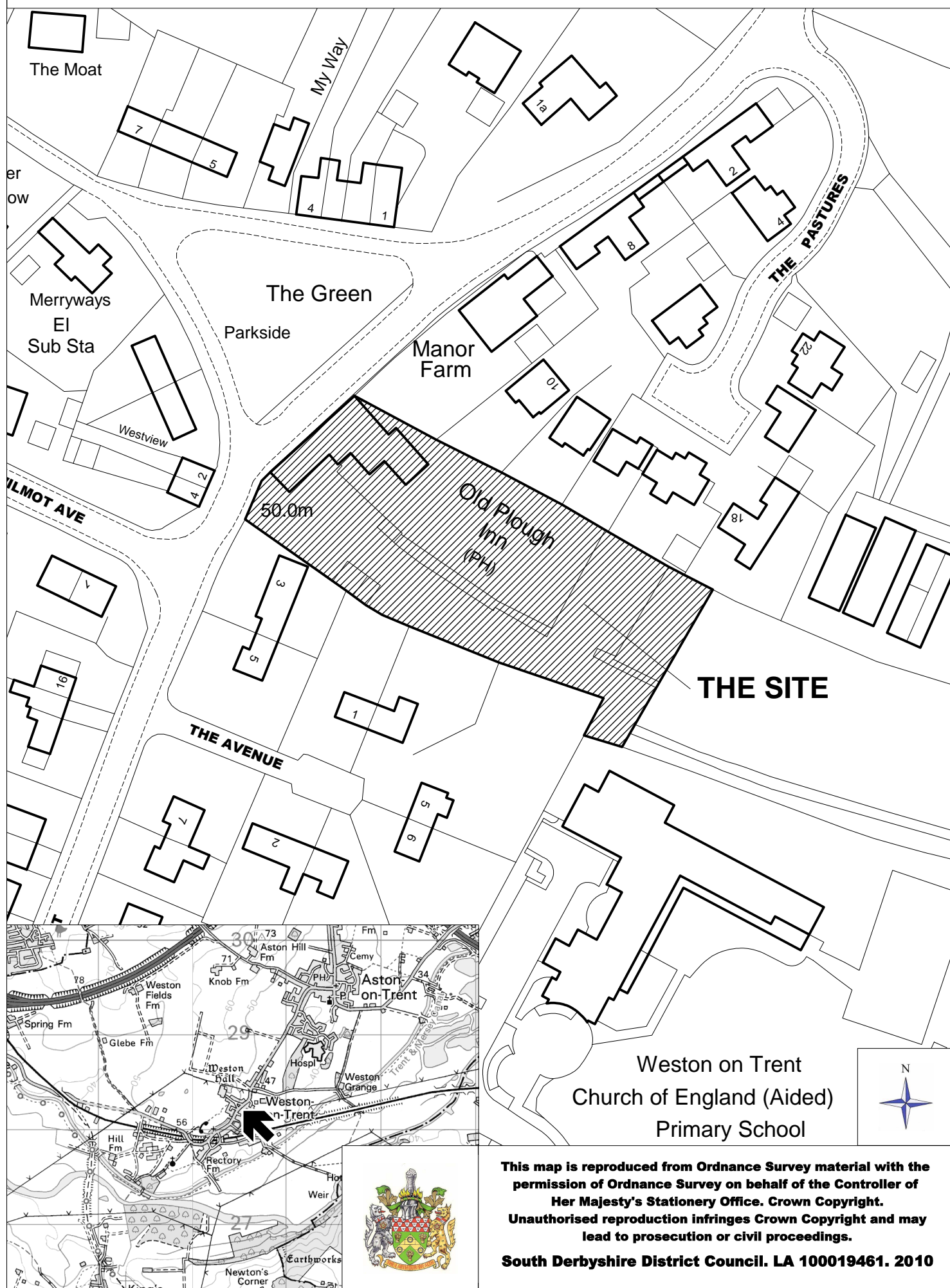
**Proposal**

The application proposes 11 houses consisting of two detached units, four semi-detached and three terraced houses. The proposed vehicular access would be in a new position, which would enable the provision of sightlines of 2.4 m x 27 m in the south-westerly direction and 2.4 m x 28 m to the north-east.

**Applicants' supporting information**

The applicant has submitted a detailed Design and Access and Planning Statement, the main points of which are:

9/2010/0320 - The Old Plough Inn, 1 Main Street, Weston on Trent DE72 2BJ



- The development is compliant with the relevant planning policies.
- The design is of a high quality and would create a sense of place. The dwellings would complement the vernacular of The Green.
- The mix of houses would appeal to a range of occupiers. Some would be sold and others would be for private rental.
- The existing public footpath would be repositioned.
- The design has a firm commitment to sustainability and environmental considerations.
- The position of the proposed relocated access would provide maximum achievable visibility in either direction, a considerable improvement over the existing situation.
- The layout gives priority to pedestrians and cyclists.
- The site is directly on the bus route through the village, with 12 buses per day leaving for Derby Monday to Friday. There is also a Saturday service. The site is located in an area with good walking and cycle facilities. Therefore the site is located where realistic alternative travel modes are available that can reduce reliance on the private car.
- Plot 1 is specifically designed to be fully wheelchair accessible.
- A property consultant confirms that the previous three tenants of the pub suffered losses and no interest was shown by anyone in taking a lease on the property.
- The applicant considers that the scheme meets the requirements of Building for Life.
- Demolition has commenced because the building has been subject to tipping, intruders, vandalism, vermin and fire damage.

## **Planning History**

When it became apparent that the building could be demolished there were numerous requests from the community to protect it. The Council's Heritage Officer inspected the building and considered whether a case could be made for listing the property. He concluded, in the light of English Heritage's criteria, that the building was of insufficient historic or architectural quality to justify such a course of action.

## **Responses to Consultations**

The Parish Council objects because:

- a) The proposed boundary walls should be realigned to improve visibility at the access.
- b) The access would impinge on the bus stop.
- c) There would be a significant increase in traffic movements, which would coincide with parents and children walking to and from school. Traffic calming is requested. A petition on this issue, co-ordinated by parents living on the Aston side of the site was presented to Councillor Harrison. (A copy has been provided for the local planning authority – the petition contains 64 signatories).
- d) The housing would not be in keeping with the village and should be scaled down to 8 or 9 dwellings.
- e) The school is at capacity and a Section 106 contribution is requested.
- f) There is considerable local opposition, not least to the demolition of the pub. A more sympathetic development could allow the retention of at least the oldest part of the building, as was the case at the Hardinge Arms at Kings Newton.

The Highway Authority considers that development would not generate traffic movements over and above the current lawful use of the site as a public house. Therefore the Authority has no objection subject to conditions.

The Development Control Archaeologist (DCC) has no objection subject to a condition requiring an appropriate programme of archaeological work.

Severn Trent Water Ltd has no objection subject to a condition requiring details of surface and foul water disposal.

The Derby PCT has stated that it does not require a contribution towards healthcare, as existing facilities are able to absorb the patient demand arising from the proposal.

The Education Authority anticipates that the local primary school would be able to accommodate the 2 primary age pupils that would be generated by the development. Therefore no education contribution is sought in this instance.

The County Council's Rights of Way Officer points out that the public footpath would need to be subject to a permanent diversion order before any work begins that would obstruct the present right of way.

The Contaminated Land officer has no objection subject to conditions.

### **Responses to Publicity**

10 letters have been received commenting/objecting as follows:

- a) The building is of historic interest and should not be demolished.
- b) It is recognised that the use of the building as a public house is over but it could thrive given the chance and the right landlord.
- c) The older part the building should be retained in a revised scheme including a pub/community facility, the Hardinge Arms kings Newton being an example.
- d) The loss of a community building should be compensated for, perhaps by the provision of a shop/post office/doctors surgery. Section 106 contributions should be negotiated for community based projects and local infrastructure.
- e) There would be loss of privacy and there would be noise from vehicles to the detriment of amenity.
- f) There would be too many dwellings on the site. A maximum of 6 dwellings may be acceptable.
- g) There would be increased risk to highway safety interests. In particular traffic would be generated at times when the highway is at its busiest and most dangerous.
- h) The owners have caused the damage to the building.
- i) Some of the site may be owned by an adjacent landowner.
- j) The overall scheme is agreeable except for the access. Traffic calming should be introduced.
- k) A contribution should be made to the local school.
- l) The scheme, is good and in keeping with the village green aspect (subject to materials).

## **Development Plan Policies**

The relevant policies are:

East Midlands Regional Plan Policies 1, 2, 3 and 48

South Derbyshire Local Plan Housing Policies 5 & 11, Environment Policy 14, Transport Policies 6 & 7.

## **National Guidance**

PPS1 PPS3 PPS7 PPG13

## **Planning Considerations**

The main issues central to the determination of this application are:

- The principle.
- Community facilities.
- Design.
- Highway safety.
- Residential amenity.
- Public footpath.

## **Planning Assessment**

### The principle

The site lies within the confine of the village as defined by Housing Policy 5 of the Saved Local Plan, which is the most up to date local policy for this proposal and makes a presumption in favour of residential development here.

Since the Local Plan there has been further policy guidance, which has impacted on the interpretation of sustainability, notably Policy 3 of the East Midlands Regional Plan in terms of the development plan. PPS3 and PPS7 provide government guidance on sustainable development in villages. PPS1 provides general guidance on sustainable development and PPG13 on transport.

PPS3 has an objective to provide: 'Housing developments in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure'. However, it is also made clear under Paragraph 38 that there is a need to provide housing in rural areas '... not only in market towns and local service centres but also in villages in order to enhance or maintain their sustainability.'

Villages are inherently going to be 'less suitable' than urban areas in terms of sustainability, but it is clear that some housing can still be allowed in those locations. A key part of ensuring that people have the opportunity to live in a sustainable way is to have good transport alternatives to the private car. The subject development would be immediately accessible to the existing hourly bus service, which would enable access by this transport mode to the major urban facilities in Derby. The larger village of Aston on Trent is connected to Weston on Trent by a surfaced footway. There is range of

facilities accessible by foot, notably the school, playing field, play area and the remaining public house, as well as cycle routes and recreational walking opportunities.

Therefore the principle of residential development here would offend none of the relevant policies relating to sustainable development.

### Community facilities

It is clear from the condition of the building and its trading history, that it is neither economical nor necessary to retain the site in use as a public house. However, the development would provide contributions towards the provision of recreational facilities, which would benefit not only the occupants of the new dwellings but also the existing community. The development would generate £20,706 for this purpose. A signed unilateral undertaking under Section 106 of the Town and County Planning Act 1990 has been submitted to this effect.

### Design

PPS1 makes it clear that good design is indivisible from good planning. The submitted Design and Access Statement demonstrates that the applicant has paid careful attention to the local distinctiveness of the area and this is reflected in the detailed design, which elaborates the scheme down to such design elements as windows, porches, and eaves and verges. A materials palette, taking particular account of the existing traditional dwellings around The Green is also suggested.

The design has been tested against the Council's new guidance 'Better Design for South Derbyshire' and achieves a score of 14.5 using the Building for Life criteria. This takes into account the fact that affordable housing is not required on sites of less than 15 dwellings. Other aspects of the development, such as sustainable drainage and energy saving devices, and energy efficient building techniques and renewable energy features, have the potential to increase the score but the application does not provide sufficient evidence at present on these aspects. Nevertheless the development rates as 'Good' using Building for Life and this meets the aspirations of the guidance.

### Highway safety

The Highway Authority has taken into account the traffic generating capacity of the site in its existing lawful use. The proposal would enable visibility at the junction with Man Street to be maximised. Whilst it cannot meet the usual standard for new development the site's history is a material consideration. On balance there would be no increase in risk to safety as a consequence of the development.

### Residential amenity

The proposal meets the tests set out in the adopted supplementary planning guidance and the impact on existing residents is therefore acceptable.

### Public footpath

The public footpath is capable of being accommodated within the development in a commodious manner. The applicant will need to follow a separate procedure to divert the footpath along its proposed new line.



## Conclusion

In the absence of any mechanism to protect the existing building, the re-use of this brownfield site with the form of development proposed is in accord with national, regional and local policy on sustainable development. The design is well considered and respects the local distinctiveness of its context, being located in the older part of the village. The proposal performs well against the new design guidance document. On the advice of the Highway Authority there would not be a material change in highway safety conditions and the development would provide an improved access. The impact on neighbours would be acceptable in the terms of the adopted supplementary planning guidance.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

## **Recommendation**

**GRANT** permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the buildings, and all external hard surfaces forward of the principal elevations of the buildings, have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.  
Reason: To safeguard the appearance of the existing building and the locality generally.
3. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.  
Reason: In the interests of the appearance of the area.
4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the appearance of the area.

5. Eaves, verges, bargeboards, external joinery, window cills and heads, porches and chimneys shall be constructed in only in accordance with the application drawings.

Reason: In the interests of the appearance of the area.

6. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

Reason: To protect the amenities of adjoining properties and the locality generally.

7. The boundary treatment as shown on Drawing Nos 10/051-02(C) and 10/051-16(A) shall be completed before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

Reason: In the interests of the appearance of the area.

8. Notwithstanding the originally submitted details, this permission shall relate to the submitted drawings as amended by drawing nos. 10/051-02(C), 03(A), 04(A) and 16(A) received 19 May 2010.

Reason: For the avoidance of doubt, the original submission being considered unacceptable.

9. No development shall take place, until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority in writing. The scheme shall include on-site work, and off site work such as the analysis, publication and archiving of the results. All works shall be carried out and completed as approved, unless as may otherwise be agreed in writing with the local planning authority.

Reason: To enable items of archaeological interest to be recorded/and or preserved where possible.

10. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

Reason: In the interests of flood protecting and pollution control.

11. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.

B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

D) If required by the conceptual model, no development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

12. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the LPA without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

#### Informatives:

The grant of planning permission does not entitle developers to obstruct public rights of way affected by the proposal. Development, in so far as it affects the right of way, should not be started, and the right of way should be kept open for public use, until the necessary order under Section 247 or 257 of the Town and Country Planning Act 1990 for the diversion or extinguishment of the right of way has been made and confirmed. Nor should it be assumed that because planning permission has been granted an order will invariably be made or confirmed.

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months prior notification should be given to the Director of Environmental Services at County Hall, Matlock (telephone 01629 580000 and ask for the District Highway Care Manager on extension 7595) before any works commence on the vehicular access within highway limits.

Pursuant to Section 149 and 151 of the Highways Act 1980, the applicant/developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's/developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

It is possible that bats may frequent/inhabit the site (see the submitted ecological report - Para 6.1. It is an offence to kill or damage or disturb bats or their roosts. If bats are found you are advised to inform English Nature, Manor Barn, Over Haddon, Nr. Bakewell, Derbyshire, DE45 1JE. Practical advice on how to protect/relocate any bats may be obtained from Malcolm Hopton, Derbyshire Bat Group, 9 Ashton Close, Mickleover, Derby, DE3 5QD, (Tel. 01332-511427).

That the hedgerows on the application site may contain nesting birds. It is an offence under the Wildlife and Countryside Act 1981 to intentionally kill, injure or take any wild British breeding bird or its eggs or damage its nest whilst in use or being built. The nesting season normally encompasses the months March to July inclusive. If you are in doubt as to requirements of the law in this regard you should contact English Nature, Peak District and Derbyshire Team, Manor Barn, Over Haddon, Bakewell, Derbyshire, DE4 1JE.

You are advised that all archaeological work should be undertaken by a suitably qualified and experienced contractor. The Development Control Archaeologist (Steve Baker Environmental Services County Hall Matlock DE4 3RY Tel 01629 580000 Ext 39773) should be contacted in the first instance for a written brief from which the written scheme of investigation may be developed.

**Item**            **1.4**

**Reg. No.**        **9/2010/0329/FH**

**Applicant:**

Mr K S Atwal  
The Hill Bungalow  
Sinfin Lane  
Barrow On Trent  
Derby

**Agent:**

Mr Michael Harrison MCIAT, ACIOB  
7 Hall Park  
Barrow-Upon-Trent  
Derby

**Proposal:**        **Retrospective Application For The Erection Of  
Extension And Conservatory (Amended Scheme Of  
Previously Approved Planning Application  
9/2008/0393/FH) At The Hill Bungalow Sinfin Lane  
Barrow On Trent Derby**

**Ward:**            **Aston**

**Valid Date:**      **07/04/2010**

*Members will recall deferring a decision on this case pending a visit to the site. It has not been necessary to add to the report since the last meeting.*

**Reason for committee determination**

A similar application was refused by Members at the meeting on 23 March 2010.

**Site Description**

The building is situated within the extensive grounds of The Hill. The closest public vantage point is the top of Moor Lane, at a distance of about 350 metres.

**Proposal**

Work on the extension is well underway. It differs from a previously approved application (9/2008/0393) by being wider and slightly higher. There are also some changes to the windows, along with a single storey projection.

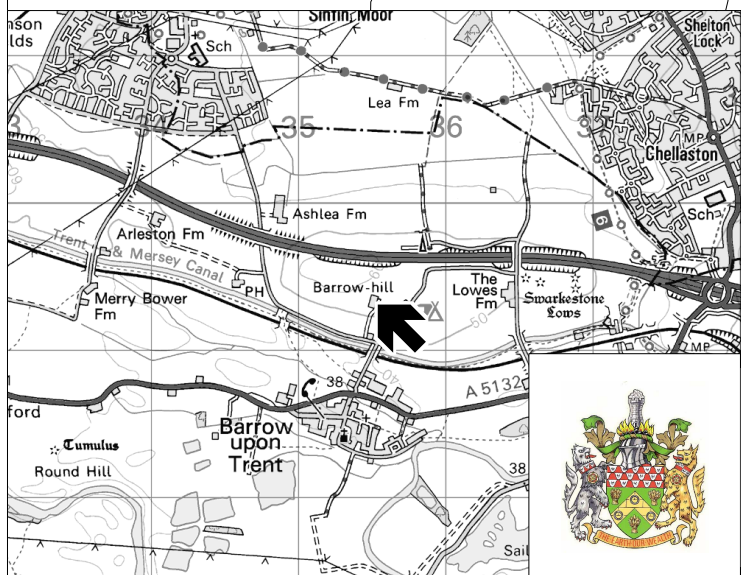
The application has been amended since the Committee's refusal of permission, to take account of further changes that were made during the course of the building operation, as follows:

- Ridgeline of conservatory 250 mm higher.
- Single storey extension on the northern side 300 mm longer.

THE SITE

Tennis Court

Barrow-hill



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**South Derbyshire District Council. LA 100019461. 2010**

- Different window pattern on the ground floor north elevation.
- Brick pillars on south elevation 440 mm square compared with previous 325 mm.

There is a separate concrete base to the north of the building. The applicant has indicated this will be a building compliant with permitted development criteria. It does not form a part of this application.

### **Planning History**

9/0198/0833 - convert building to dependant relative unit - granted

9/2002/1075 - single storey extension - granted

9/2006/1033 - remove occupancy condition - granted

9/2008/0393 - two-storey extension – granted

9/2010/0048 – two-storey extension (amended scheme) – refused because:

“The drawings submitted with regard to this planning application contain inaccurate or no detail consistent with that in the course of construction on the site as at 23 March 2010. Plans submitted with applications should comply with government guidance most recently as described in the 'Guidance on information requirements and validation' (March 2010). Although the application was validated in good faith it is now clear that amendments have been made to the scheme, the drawings for which have not been submitted by the time the application was considered by the Council's Development Control Committee. As such the Local planning authority is unable to grant permission.”

### **Responses to Consultations**

The Parish Council reiterates its previous objection relating to the retrospective nature of the application and considers that there would be increased traffic over the narrow railway and canal bridges and Deepdale Lane. A site visit is requested.

### **Responses to Publicity**

None received.

### **Development Plan Policies**

The relevant policy is:

South Derbyshire Local Plan Saved Housing Policy 13

### **National Guidance**

PPS7

### **Planning Considerations**

The main issue central to the determination of this application is:

- Impact on the character and appearance of the countryside.

### **Planning Assessment**

The application is a revised submission. The extension would be wider and higher, with some detail changes, but its impact on the general character of the area would be about the same. As such there would be no increased harm to the countryside as a result of the development.

No neighbours would be affected and no additional traffic would be generated.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

### **Recommendation**

**GRANT** permission subject to the following conditions:

1. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the appearance of the existing building and the locality generally.



**Item**            **1.5**

**Reg. No.**        **9/2010/0406/NO**

**Applicant:**

Mr K S Atwal  
The Hill, Sinfin Lane  
Barrow-on-Trent  
Derby

**Agent:**

M. Harrison  
7 Hall Park  
Barrow On Trent  
Derby

**Proposal:**        **The Erection Of A Barn And Settling Pond Substitution  
For 9/2010/0123 At The Hill Sinfin Lane Barrow-On-Trent  
Derby**

**Ward:**            **Aston**

**Valid Date:**      **05/05/2010**

**Reason for committee determination**

The application is brought to Committee at the request of Councillor Watson because local concern has been expressed about a particular issue.

**Site Description**

The site is part of the extensive grounds to The Hill.

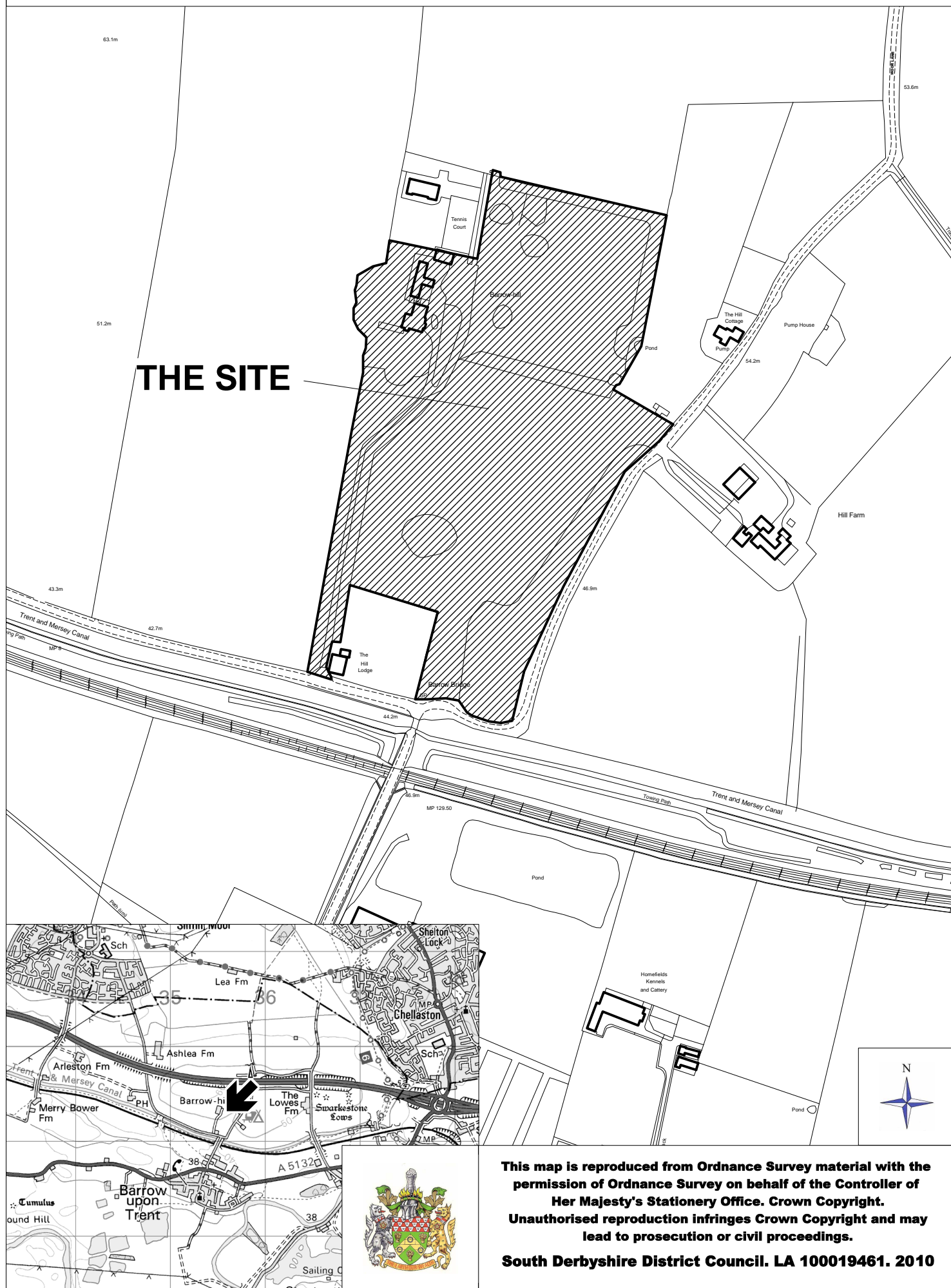
**Proposal**

The proposal is in retrospect. The building and pond are substantially complete. The building would contain a machinery maintenance area, an office, boot room/changing area, records office, stores, and a canteen. The upper part of the building would be clad with Yorkshire timber boarding. The lower part, as built, is brick.

**Applicants' supporting information**

- Amendments have been made to address the concerns raised by the Committee of 23 March.
- The door opening would be higher for vehicles to gain access for maintenance and storage purposes.
- The first floor layout would contain fewer offices and increased storage area.
- The applicant intends not only to use more adjacent land but also to cultivate vegetables and herbs on the land south of the barn and pond.
- A bridge would be formed to discourage the use of the island in the pond by wildfowl in order to meet the requirements of East Midlands Airport.
- Photographs of vehicles and equipment inside the building are supplied.

# 9/2010/0406 - The Hill, Sinfin Lane, Barrow on Trent DE73 7HH



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**South Derbyshire District Council. LA 100019461. 2010**

Previous supporting information is also referred to, which was:

- The building would serve the current agricultural business, which includes arable and livestock farming. The holding amounts to 37 ha around the site and 50 ha in the surrounding area. Vehicles to be maintained include two tractors, a 3 tonne lorry, a light truck, a mower, and ploughing, hedging, ditching and cutting equipment.
- The building would be occupied by farm personnel involved in the arable and livestock businesses, including facilities for seasonal labour.
- The pond would take storm water from the building and other buildings at The Hill. The pond would also enable boggy land bordering Sinfin Lane to dry out and to be cultivated.

## **Planning History**

9/2001/1002 – agricultural building (granted February 2002) this was of similar height and footprint to the scheme now proposed. However the building would have had lower eaves and a steeper roof pitch.

9/2010/0123/NO – Refused at DC Committee for the following reason:

Environment Policy 1 of the Local Plan seeks to ensure that outside settlements, new development will not be permitted unless it is essential to a rural based activity or unavoidable in the countryside. Agricultural buildings are thus frequently allowed in rural locations because they are necessary and their location unavoidable. The building in the course of construction on the application site displays little evidence of functional design that would allow it to be utilised in the way explained in the agents subsequent supporting information letter of 22 February 2010; namely that the doors would be of inadequate dimension to allow the storage of the vehicles/machinery cited. No case has been made that the building is essential under the above policy in its form currently under construction for any other primary use. As such and without the primary agricultural use, the building would likely be available only as an industrial (or office) building. The development of industrial buildings in the countryside is more strictly controlled and Employment Policy 5 aims not to permit new industrial and business development outside villages. Moreover PPS4 advises that economic development in open countryside away from existing settlements, or outside areas allocated for development in development plans should be strictly controlled. The building therefore represents an unwarranted intrusion into the rural landscape contrary to the above policy.

## **Responses to Consultations**

The Parish Council reiterates its objections to the previous application, which were:

- a) Concern has been expressed over several years about the development of the site.
- b) Retrospective applications should not be considered.
- c) There could be risk to other properties in the event of failure of the pond banks.
- d) There would be increased traffic in Deepdale Lane and on the narrow railway and canal bridges.
- e) The appearance of the building would be inappropriate.

- f) The purpose of the lake is deemed to be dubious

British Waterways has no objection.

East Midlands Airport comments that the pond could attract waterfowl, which therefore could result in increased bird strike hazard, and in particular the island could attract geese. However, it has no objection provided conditions are attached to deter wildfowl and geese.

The Council's Land Drainage Officer has no objection.

### **Responses to Publicity**

None received.

### **Development Plan Policies**

The relevant policies are:

South Derbyshire Local Plan Environment Policies 1 & 5

### **National Guidance**

PPS7

### **Planning Considerations**

The main issues central to the determination of this application are:

- The principle.
- Impact on the character and appearance of the area.
- Drainage.

### **Planning Assessment**

Agricultural development in the countryside is favoured by policy as a matter of principle, subject to environmental, traffic and visual matters. The applicant has amended the design and has demonstrated that the vehicles and equipment listed in the supporting information can be accommodated in the building (photographs of vehicles inside the building would appear to demonstrate this). The amendments to the building in the form of the enlarged door ensures that the building is now available as a predominantly agricultural building and therefore the previous reason for refusal is now overcome. The conditions (1 and 2) recommended are designed to ensure this remains the case.

Trees filter views of the site from Moor Lane. The visual impact of the building would not be substantially greater than the scheme granted permission in 2002. The pond would have little visual impact.

There is no evidence that the pond would produce a risk of flood to other land. However there is a need to impose conditional control to meet the safeguarding requirements of East Midlands Airport.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

## **Recommendation**

**GRANT** permission subject to the following conditions:

1. The Yorkshire boarding, as shown on the application drawings, shall be applied to the walls of the building before it is brought into use and shall be retained as such thereafter.

Reason: In the interests of the appearance of the area.

2. The building shall be used for the purpose of agriculture only and shall not be used for the purposes of any other trade or business. In particular agricultural usage of the building shall be as annotated on the submitted floor plans.

Reason: For the avoidance of doubt, to comply with the development plan in respect of new building in the countryside, and in the interests of highway safety.

3. Unless as may otherwise be agreed in writing with the Local Planning Authority, within 28 days of this permission measures shall be implemented so as to prevent the use of the settling pond by wildfowl and nesting geese in accordance with details that shall have previously been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be kept in place in perpetuity.

Reason: To reduce Bird Strike Hazard, in the interest of aviation safety.

Informatives:

To note the attached advice of East Midlands Airport.

**Item**            **1.6**

**Reg. No.**        **9/2010/0376/O**

**Applicant:**

Messrs Ht Hawksworth  
Moor Farm  
Shardlow  
Derby

**Agent:**

Bagshaws  
69 Derby Road  
Uttoxeter

**Proposal:**        **Outline Application (All Matters Reserved) For The  
Erection Of An Agricultural Workers Dwelling At Moor  
Farm London Road Shardlow Derby**

**Ward:**            **Aston**

**Valid Date:**      **21/04/2010**

**Reason for committee determination**

The application is subject to an objection from The Environment Agency (a statutory consultee) but the recommendation is for permission to be granted.

**Site Description**

The site is part of a field to the west of the existing Moor Farm complex, which includes the existing farmhouse, on London Road. It is located opposite an established industrial site. The site lies in the green belt and is located within a Zone 3a flood risk area.

**Proposal**

The application is in outline and seeks permission for a single dwelling for a farm worker.

**Applicants' supporting information**

The applicant has submitted a supporting statement in justification of the need for an additional agricultural worker to be accommodated adjacent to the existing farm. This concludes that:

- The farm enterprise clearly satisfies both functional and financial tests laid out in PPS7, with reference to permanent agricultural development.
- The expanding farm business shows that there is an existing need for an additional farm worker to be on site and as the business expands further, there will be increased justification in order to expand the enterprise.

Shardlow Moor

THE SITE

Pond

Drain

MP

Elvaston

Ambaston

Thulston

Thurlestone Grange

Bellington Hill

Sand & Gravel Pit

Ambaston Grange

Weirs

Church Wilne

Fox Covert Fm

Glebe Fm

Mandr

Hall

Gre

Wk

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Shardlow Moor

THE SITE

Pond

Drain

GP

MP

Elvaston

Ambaston

Thulston

Thurlestone Grange

Bellington Hill

Sand & Gravel Pit

Ambaston Grange

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Church Wilne

Fox Covert Fm

Glebe Fm

Mandr

Hall

Gre

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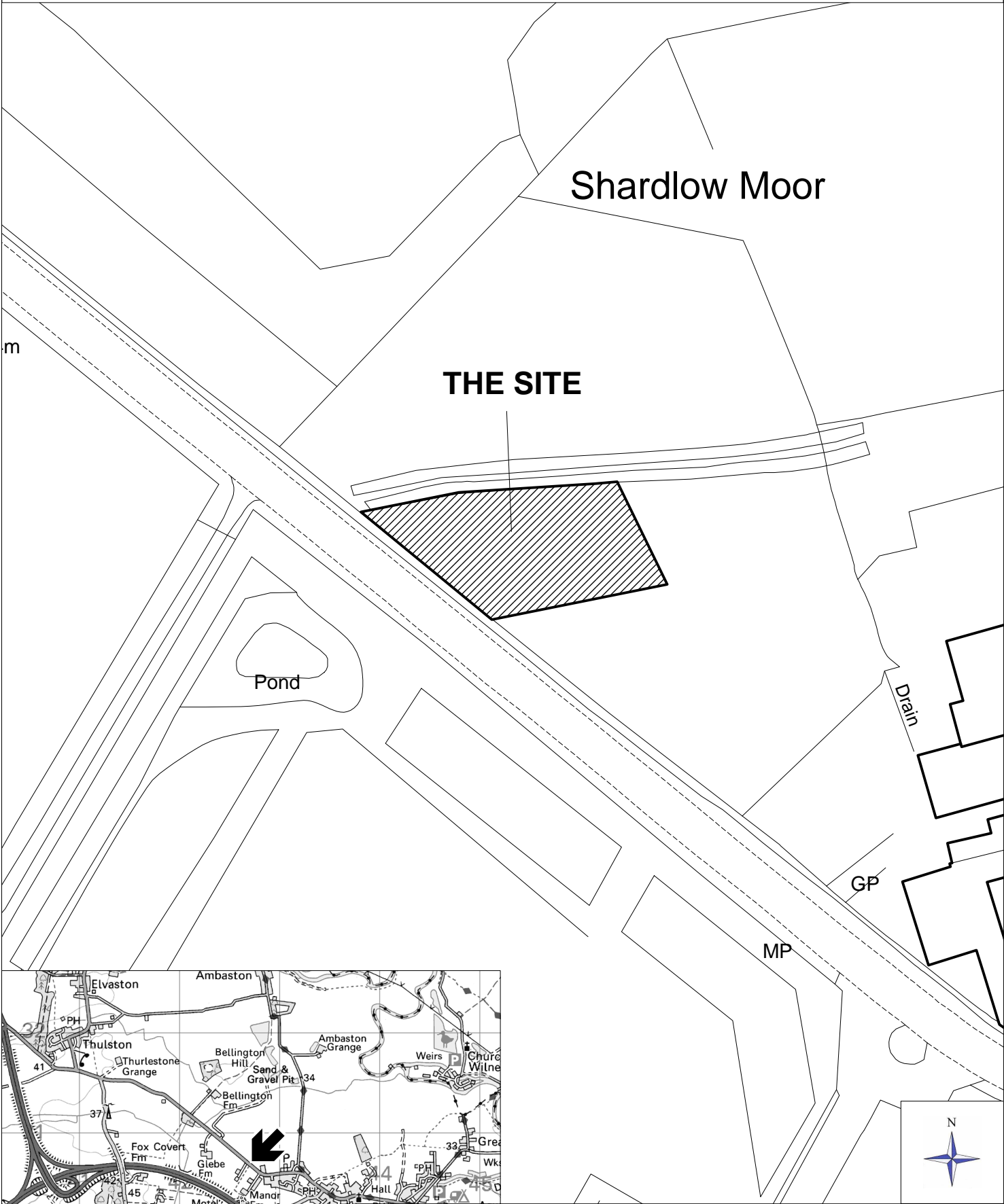
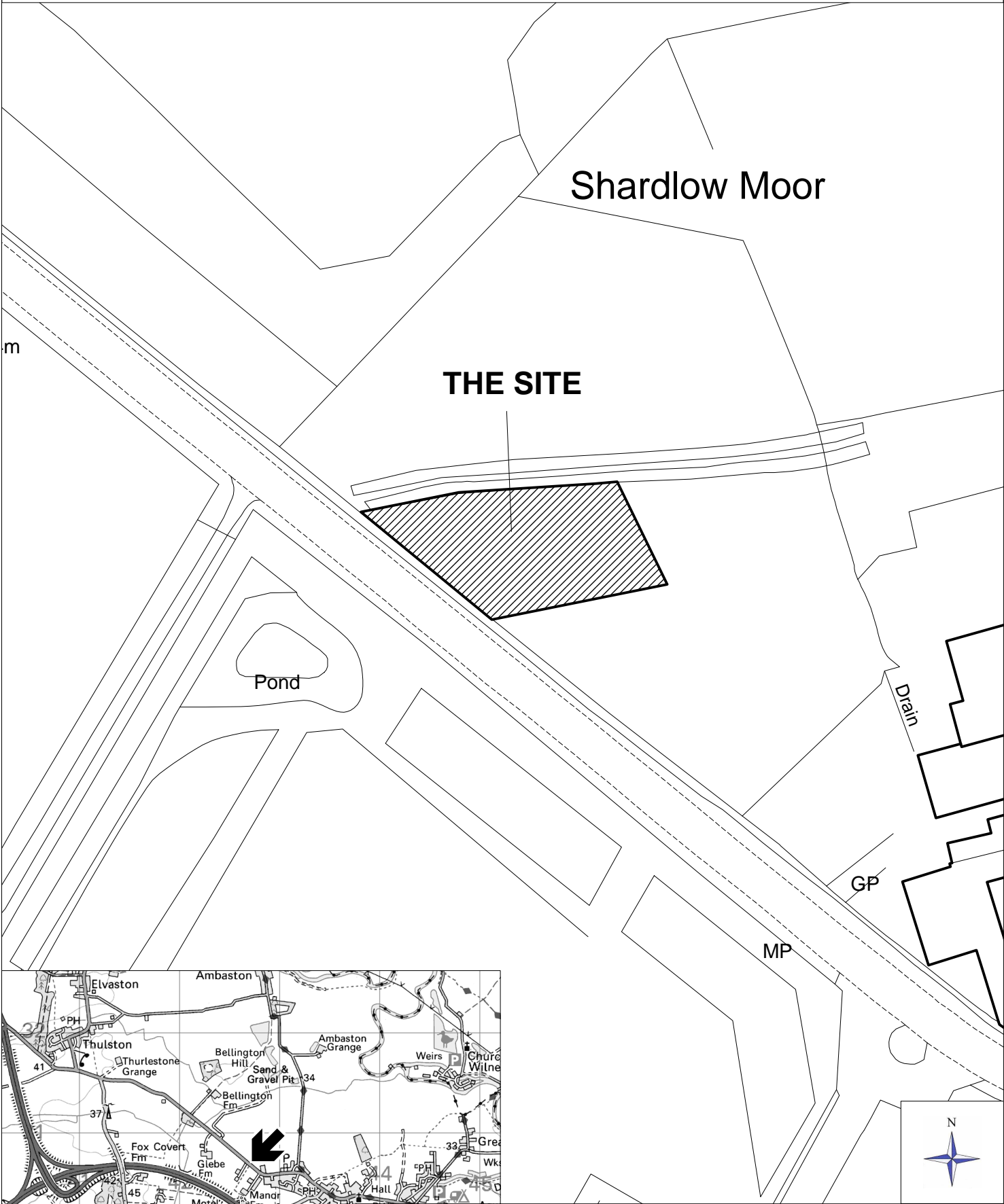
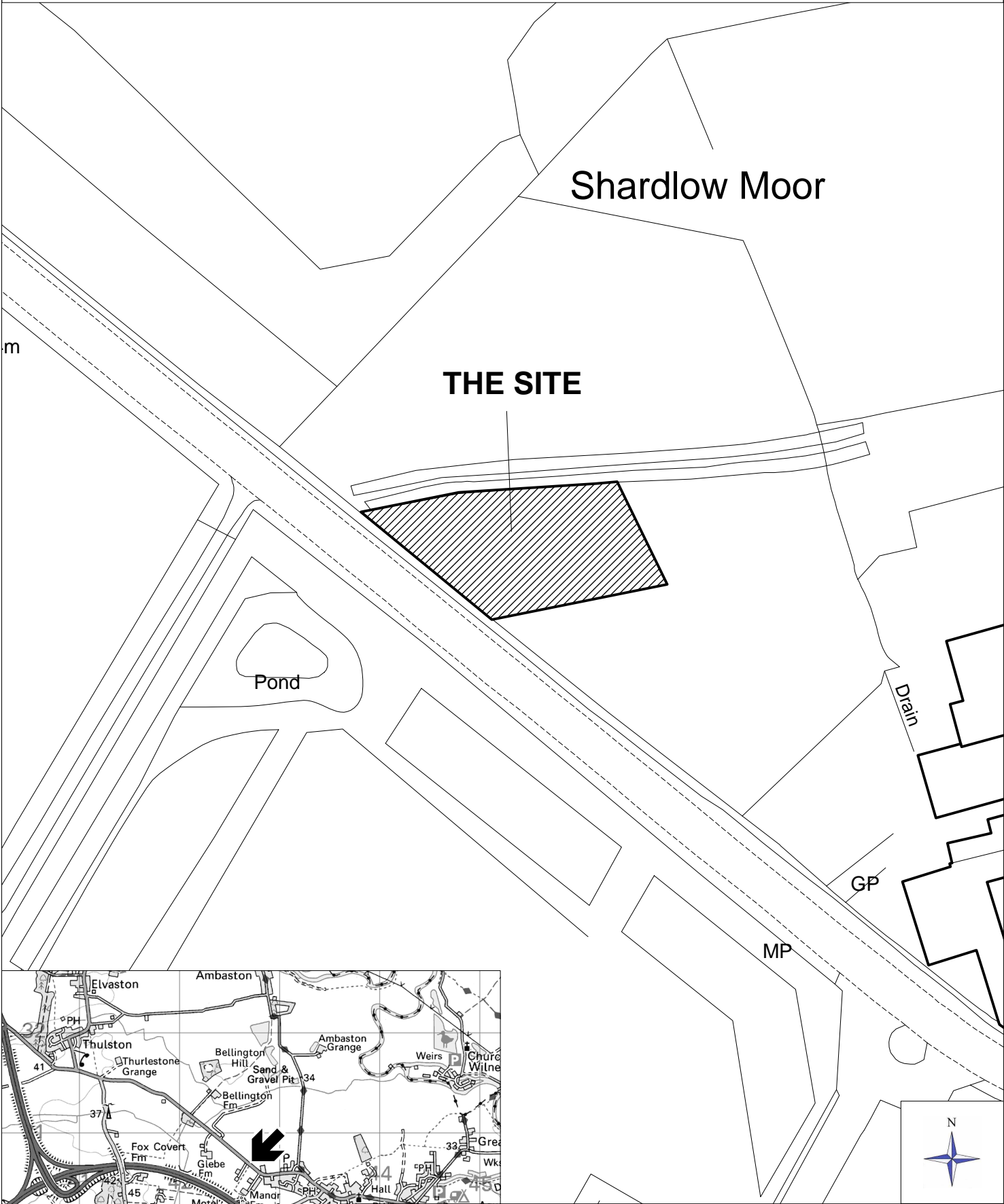
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- On the grounds of animal welfare and sound business management it is essential for a second full time worker to be on site.
- It is considered that the need for an agricultural worker on the farm outweighs flood risk issues.
- The development would enable this family business to be expanded.

A flood risk assessment is also included. Whilst this points out that the land has not been known to flood in recent times, it does acknowledge the risk and makes recommendations to deal with any flood event. This particular site has been chosen because it is the highest land available in the immediate locality of the farm.

## **Planning History**

Moor Farm has been developed over the years. New livestock buildings were permitted in 2002 and 2008.

## **Responses to Consultations**

The Parish Council has no objection but recommends a sign at the London Road entrance saying it is for use by farm vehicles only.

The Highway Authority and Severn Trent Water Ltd have no objection in principle.

The Environment Agency objects because the development would fail to secure dry access in the event of flooding causing an unacceptable risk to the occupants and would also impeded flood flow and reduce storage capacity thereby increasing the risk of flooding elsewhere.

## **Responses to Publicity**

None received.

## **Development Plan Policies**

The relevant policies are:

East Midlands Regional Plan Policy 35.  
South Derbyshire Local Plan Saved Housing Policies 8A & 11, Environment Policy 1 and Green Belt Policy 3C.

## **National Guidance**

PPG2 PPS7 PPS25

## **Planning Considerations**

The main issues central to the determination of this application are:

- The principle.
- Impact on the openness of the green belt and the character of the countryside.
- Flood risk.



- Highway safety.

## **Planning Assessment**

The site is an area where residential development is normally unacceptable as a matter of principle. However the relevant policies make an exception where it is established that a dwelling is necessary for the purposes of agriculture, provided that it is adjacent to the development in connection with which it is required. The applicant has demonstrated such a need and the dwelling would be located within sight and sound of the farm that it would serve.

The dwelling would be located past the last existing group of buildings (Moor Farm) on the north side of London Road so it would be perceived as a new feature in the landscape, affecting the openness of the green belt. However this location has been chosen as it is the highest piece of land around the farm complex and thus would be least affected in the event of a flood. Provided that the detail design, to be submitted at reserved matters stage, respects the local distinctiveness of rural South Derbyshire, and having regard to the particular needs of the business, the impact would be acceptable under the development plan policy set out above.

It is not possible for the applicant to reconcile the conflict between the need for an agricultural workers dwelling at this location with the fact that the site lies within an area at risk of flood. Given that the dwelling would be part of an existing enterprise that already contains the existing farmhouse, the risk would arguably be less than would be the case with an independently occupied new dwelling. In the circumstances the need to enable the viable continuation of the long-standing farm enterprise, which has clearly been the subject of substantial investment over the years, outweighs the undesirability of a new house in the flood risk zone.

The Highway Authority requires adequate parking, turning and visibility splays, all of which could be secured by condition.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

## **Recommendation**

**GRANT** permission subject to the following conditions:

1. Application for approval of any reserved matters shall be made to the Local Planning Authority before the expiration of one year from the date of this permission and the development must be begun not later than whichever is the later of the following dates:
  - i) before the expiration of two years from the date of this permission; or
  - ii) before the expiration of one year from the date of approval of the last of the reserved matters to be approved.

Reason: To conform with Section 92(2) of the Town and Country Planning Act, 1990.

2. The occupation of the dwelling shall be limited to the family and/or dependents of a person employed, or last employed, wholly or mainly, in agriculture, as defined in Section 336 of the Town and Country Planning Act 1990, or in forestry.

Reason: The site is within open countryside where the Development Plan provides that development shall be confined within the limits of an existing town or village, except where the needs of agriculture or other overriding reasons justify a departure from that policy. The Local Planning Authority is concerned to ensure that agricultural workers' dwellings are maintained available to meet the needs of the locality and to avoid proliferation of dwellings in the countryside.

3. Approval of the details of the layout, scale, appearance, access and the landscaping shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.

4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the appearance of the area.

5. In submitting details under condition 3 above, provision shall be made within the site curtilage for a minimum of two vehicles to be parked clear of vehicle turning facilities allowing passage to and from the highway in forward gear.

Reason: In the interests of highway safety.

6. The development shall incorporate the recommendations of the submitted flood risk assessment.

Reason: To minimise flood risk in the circumstances of the overriding need for an agricultural worker's dwelling in this location.

7. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

Reason: In the interests of flood protecting and pollution control.

8. Prior to the first use of the development hereby permitted, the land in advance of the sight lines measuring 2.4m x 215m in the north westerly direction and 2.4m x maximum achievable in the south easterly direction shall be cleared and thereafter retained free of all obstructions to visibility over a height of 1 metre above the adjoining carriageway level.

Reason: In the interests of highway safety.

Informatives:

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months prior notification should be given to the Director of Environmental Services at County Hall, Matlock (telephone 01629 580000 and ask for the District Highway Care Manager on extension 7595) before any works commence on the vehicular access within highway limits.

**Item**            **1.7**

**Reg. No.**        **9/2010/0378/SSO**

**Applicant:**

Mr Grenville Isham  
Willington Hall,  
Hall Lane  
Willington  
Derby

**Agent:**

Mr Paul Firman  
Willington Design  
14 Old Hall Drive  
Willington  
Derby

**Proposal:**        **Outline Application (All Matters To Be Reserved) For  
The Residential Development Of Findacar And Easy  
Lease (Jetberg) Ltd Castle Road Castle Gresley  
Swadlincote**

**Ward:**            **Church Gresley**

**Valid Date:**      **22/04/2010**

**Reason for committee determination**

The application is brought before the Committee as it is a major application with more than two objections.

**Site Description**

This 0.32 hectare site is located on the northern side of Castle Road, Church Gresley adjacent to the junction with George Street. The site has a steep gradient reducing to the south west and there is a derelict car showroom office and garage buildings on site with some cars remaining on the frontage. The Miners Arms public house is on higher ground to the north east and the Hilltop Lodge nursing home and end terraced properties on Colliery Row are opposite the site on Castle Road. Residential properties on Oxford Street and Meynell Street are to the north and west. There are five semi mature trees on the site to the rear of 68 -74 Meynell Street and 193 and 195 Oxford Street. The site has now been unused for many years.

**Proposal**

Outline planning permission with all matters reserved is sought. An indicative layout has been provided which shows 15 properties fronting onto to both Castle Road and Oxford Street with a central access on the Castle Street frontage. However, the applicant has recently confirmed that only 14 dwellings are now proposed. Off street parking is shown to the side or front of properties and in a central parking area.

**Applicants' supporting information**

**9/2010/0378 - Findacar & Easy Lease (Jetberg) Ltd, Castle Road, Castle Gresley  
Swadlincote DE11 9HR**



Design and Access Statement – This outlines the reasoning behind the indicative layout in relation to the Council's space standards between dwellings, land levels and car parking provision. The ridge height of dwellings is likely to be 8 metres and ten 2 bedroom and four 3 bedroom properties may be proposed.

### **Planning History**

9/2009/0318 - The renewal of outline planning permission 9/2006/0247 for the residential development, withdrawn 26/6/09

9/2006/0247 - The renewal of outline planning permission 9/2003/0019 for the residential development of approximately 0.32 hectares of land. Granted 24/4/06 – now lapsed.

9/2003/0019 - The renewal of planning permission 9/1999/0770/O for the residential development of approximately 0.32 hectares of land. Granted 5/3/03

9/1999/0770 - The renewal of planning permission 9/1196/0658/O for the residential development of approximately 0.32 hectares. Granted 18/1/00

9/1993/0580 - The residential development of approximately 0.32 hectares of land, Granted 30/11/93

### **Responses to Consultations**

The County Highways Authority has no objection subject to the reiteration of all highways conditions and notes from the 9/2006/0247 permission on any new consent.

Severn Trent Water has no objection subject to a drainage condition.

The County Archaeologist recommends that as the proposal area has little archaeological potential there is no need to place an archaeological requirement on the applicant.

The County Educational Authority requires an educational contribution of £33,829.32 as the St Georges' CE Primary School is over capacity and is expected to be over subscribed for the next 5 years and thus there is no capacity for this development.

The Contaminated Land Officer states that as the site was previously used for brick manufacture which included a clay pit and there are no records of the fill material, there is a significant potential for risks of ground gases and contaminated made ground. A phased contamination condition is therefore recommended.

### **Responses to Publicity**

Three letters of objection have been received and are summarised as follows:

- There is concern regarding the proximity of proposed properties to their house (78 Meynell Street) which is lower than the site.
- No.78 Meynell Street has flooded on several occasions.

- Overlooking resulting in loss of privacy and overshadowing should be considered in relation to their property (78 Meynell Street)
- Insufficient off street parking for the proposed four 3 bedroomed houses would led to increased on street parking which would restrict access to their driveway at 66 Meynell Street.
- Why was the last identical application withdrawn?
- The site is too small for 15 houses.

## **Development Plan Policies**

The relevant policies are:

East Midlands Regional Plan Policies: 1, 3, 12, and 48

Local Plan Policies: Environment 10, Housing 4 and 11, Transport 6

## **National Guidance**

PPS1, PPS3, PPG13.

## **Planning Considerations**

The main issues central to the determination of this application are:

- Principle of residential development
- Residential amenity
- Highway issues

## **Planning Assessment**

The principle of residential development has been long established on this site by the granting of numerous outline renewal applications every three years since 1999. This application is a new outline application as the 2009 renewal application was withdrawn and the last permission granted in April 2006 has lapsed. There has not been a change in the Local Plan policies since this permission and the proposal accords with the East Midlands Regional Plan Policies in relation to the location of housing sites within existing built up areas. The principle of residential development on this site is therefore acceptable.

All matters are reserved for future consideration; however, planning legislation does require the submission of an indicative layout plan and scale parameters of the development. Therefore the indicative layout only indicates that it may be possible to accommodate 15 dwellings on site in the form proposed. The layout confirms that the Council's space standards can be met on site in relation to existing neighbouring properties and sufficient private garden and parking areas can be accommodated.

There are significant land level differences between the site and existing properties and properties on Meynell Street being approximately 2 metres lower than the site and properties on Oxford Street being 3-4m metres higher in places, which reduces with the steep gradient to the east. The layout indicates that only side elevations of proposed properties could be adjacent to the western boundary with Meynell Street and distances of 26-29 metres can be achieved between the proposed properties and existing properties on Oxford Street. 21 metres could be achieved between proposed properties and the Nursing Home and properties on Colliery Row opposite over Castle Road. A

degree of overshadowing of 78 Meynell Street may occur with the indicative layout. However, this can be assessed in detail at reserved matters stage and steps to mitigate any impact, such as stepping the property back further into the site and or reducing the land level differences, could be taken. It is therefore considered that a suitable layout can be achieved that would not have any material adverse impact on the amenity of neighbouring properties. Due to the significant changes in land levels the previous condition on the 2006 permission requiring slab levels to be submitted with any reserved matters application should be placed on any permission.

In relation to highways issues, the County Highways Authority has no objection and recommends conditions on the previous outline permission be attached to any permission (these conditions relate to parking requirements, access visibility and surfacing of turning facilities).

The five semi-mature trees on site could easily be retained as part of a reserved matters layout due to their locations adjacent to boundaries. The site is not within a flood risk area and adequate surface water drainage can be secured by condition.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

To conclude, residential development is considered acceptable in principle and the indicative layout has established that a suitable layout in terms of the impact of the residential amenity of existing properties and highways issues can be achieved on the site. This would be an ideal opportunity to develop a site which is underused and has had an adverse effect on the visual amenity of the area for many years.

## **Recommendation**

That subject to the receipt of a signed unilateral undertaking for the provision of £372 per person open space, £220 for outdoor facilities and £122 for built facilities, £551 per dwelling for healthcare provision and £33,829.32 for education provision; **GRANT** permission subject to the following conditions:

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.  
  
(b) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.  
  
Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.
2. Approval of the details of the layout, scale, appearance, access and the landscaping shall be obtained from the Local Planning Authority in writing before any development is commenced.  
  
Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.
3. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate, in the case of dwellings of four or more



bedrooms three cars, in any other case two cars within the curtilage of each dwelling, or in any alternative location acceptable to the Local Planning Authority or as may otherwise be agreed in writing by the Local Planning Authority in accordance with its published standards. Thereafter three parking spaces (in the case of dwellings with four or more bedrooms) or two parking spaces (in any other case), measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of each dwelling unless as may otherwise be approved in writing by the Local Planning Authority.

Reason: To ensure that adequate parking/garaging provision is available.

4. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

Reason: In the interests of the appearance of the area.

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the appearance of the area.

6. Any development of the site served from Oxford Street shall be on a frontage basis only subject to satisfactory details of access location and plot layout.

Reason: In the interests of highway safety.

7. There shall be no means of access between A514 Castle Road and the eastern 40 metres of the site frontage.

Reason: In the interests of highway safety.

8. Access to Castle Road shall be laid out in the form of the County Council's 2 metres by 2 metres by 45 degree standard splayed design. All driveways shall be surfaced with a bound material for a distance of at least 5 metres from the highway boundary, in order to avoid the transfer of debris onto the highway, and measures taken to avoid surface water draining onto footways.

Reason: In the interests of highway safety.

9. Prior to the development, hereby approved, commencing, details of suitably surfaced turning facilities shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, prior to the first occupation of any part of the development, or in accord with any alternative timetable agreed in writing by the Local Planning Authority, the facilities shall be provided as such thereafter.

Reason: In the interests of highway safety.

10. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

Reason: In the interests of flood protecting and pollution control.

11. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed levels.

Reason: To protect the amenities of adjoining properties and the locality generally.

12.
  - A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.
  - B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
  - C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
  - D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

13. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the LPA without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

14. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the dwellings have been

submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

Reason: To safeguard the appearance of the existing building and the locality generally.

15. The number of dwellings shall be limited to 14 only.

Reason : As 15 dwellings is the threshold for affordable housing provision is as stipulated in the Council's 'Section 106 Agreements - The Developer's Guide' Version 8 dated April 2010.

#### Informatives:

The proposed development lies within a coal mining area. In the circumstances Applicants should take account of any coal mining related hazards to stability in their proposals. Developers must also seek permission from the Authority before undertaking any operations that involves entry into any coal or mines of coal, including coal mine shafts and adits and the implementation of site investigations or other works. Property specific summary information on any past, current and proposed surface and underground coal mining activity to affect the development can be obtained from the Coal Authority. The Coal Authority Mining Reports Service can be contacted on 0845 762 6848 or at [www.coal.gov.uk](http://www.coal.gov.uk).

You are advised to contact Derbyshire County Council prior to the submission of a reserved matters application if it is intended to serve more than five dwellings from a private drive.

Further to the above Informative, the responsibility and subsequent liability for safe development and secure occupancy of the site rests with the developer and/or landowner. This grant of planning permission does not give a warranty of ground support or stability, neither does it necessarily imply that the requirements of any other controlling authority would be satisfied.

This permission is the subject of a unilateral undertaking under Section 106 of the Town and Country Planning Act 1990.

The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from [http://www.south-derbys.gov.uk/business/pollution/contaminated\\_land/default.asp](http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp) Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: [pollution.control@south-derbys.gov.uk](mailto:pollution.control@south-derbys.gov.uk).

**Item**            **1.8**

**Reg. No.**        **9/2010/0391/TP**

**Applicant:**

Mrs Teresa Turner  
Rear of No. 5  
Coopers Close  
Acresford  
Swadlincote

**Agent:**

Mrs Teresa Turner  
Rear of No. 5  
Coopers Close  
Acresford  
Swadlincote

**Proposal:**        **The Felling And Pruning Of Trees Covered By South  
Derbyshire District Council Tree Preservation Order  
Number 88 At the Rear of No. 5 Coopers Close  
Acresford Swadlincote**

**Ward:**            **Seales**

**Valid Date:**      **27/04/2010**

**Reason for committee determination**

This application is brought before this committee because the applicant is a Council employee.

**Site Description**

The application site is to the rear of No 5 Coopers Close in Acresford on the boundary of South Derbyshire and North West Leicestershire. The trees are located in South Derbyshire separated by a brook but overhanging the garden of 5 Coopers Close. They are covered by a woodland Tree Preservation Order no. 88.

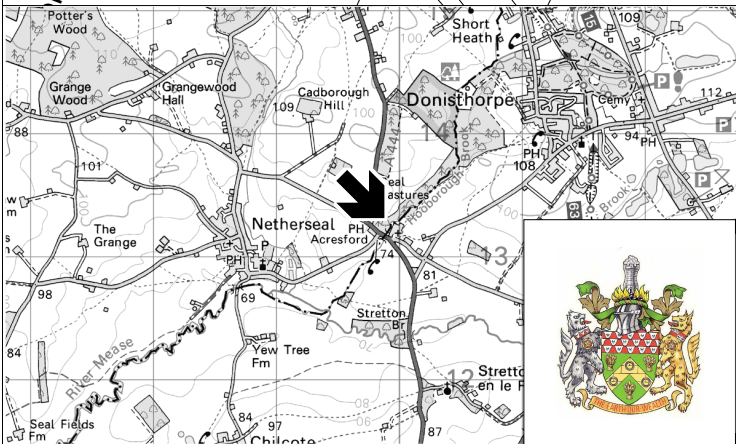
**Proposal**

The proposal is to:

- fell a Crack Willow which overhangs the rear garden and decking area of the property; the trunk being only 4m from the rear garden and;
- pollard two Poplars which are located approximately 7 – 9m from the property. These trees vary from between 8m in height to over 15m, with the rear garden of the property being only 13m in depth.

**Applicants' supporting information**

The applicant advises that the trees have been assessed previously by the Council's Arboriculturalist who has recommended that the Poplars be pollarded to reduce the risk



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of them falling on the property and garden area in high winds. The Crack Willow overhangs the decking and garden area and the roots are located on the edge of the river bank, which can be submerged when the brook rises in high rainfall.

### **Responses to Consultations**

The District Council's Arboriculturalist advises that the trees are Crack Willow and Poplars. They are pioneer trees and are fragile. He supports the felling and pruning work due to its close proximity to living areas. He further advises that the Poplars need strong pollarding to a third of their current height as even after carrying out the proposed works the trees are likely to have a strong regrowth. He advises that there are lots of Willows in the woodland and that this tree is fragile and he recommends it's felling due to the close proximity to the dwelling house.

### **Responses to publicity**

None.

### **Development Plan Policies**

Local Plan: Environment Policies 9 and 10.

### **Planning Assessment**

The woodland is vast and dense with a variety of trees. The loss of the Crack Willow and pollarding of poplars would not be detrimental to the area due to the presence of so many other trees and would make the adjoining properties safer to occupy.

### **Recommendation**

**GRANT** permission subject to the following conditions:

1. The work hereby approved shall be carried out within two years of the date of this consent.
2. The work shall be carried out in accordance with BS3998: 1989 - Tree Work.