

## **DEVELOPMENT CONTROL COMMITTEE – 17 June 2003**

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).

### **REPORT OF THE PLANNING SERVICES MANAGER**

#### **1. Planning Applications**

#### **2. Appeals**

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(N.B. recent changes to ward boundaries not available at time of printing)

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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 Planning Services Manager's 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 Planning Services Manager, 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



17/06/2003

**Item** 1.1**Reg. No.** 9 2001 0567 R**Applicant:**  
Messrs F & J Hibbert C/O Agent**Agent:**  
Salloway Property Consultants  
184 Horninglow Street  
Anson Court  
Burton On Trent  
DE141NG**Proposal:** The renewal of planning permission 9/0498/0086/O for the erection of a public house, restaurant and motel at the farm and public house known as the Every Arms Hotel Burton Road Egginton Derby**Ward:** Hilton**Valid Date:** 14/06/2001**Site Description**

The site comprises the farm and outbuildings (both traditional and modern) and the Every Arms public house on the east-side of the A38. The A38 forms the western boundary, the Trent and Mersey Canal part of the eastern boundary. There are hedges to the northern and southern boundaries and a dwelling is beyond the northern boundary. The site lies in the floodplain. The canal is a Conservation Area.

**Proposal**

The proposals would involve the total demolition of the existing buildings on the site, the formation of a new access and egress to the land leading to the erection of a new motel with public house and restaurant. The application is expressed in outline only with all matters except access reserved for subsequent approval.

**Applicants' supporting information**

The reason the application has been in abeyance for so long is that the Environment Agency requested a flood risk assessment from the applicants. This has taken a considerable time to commission and carry out. Once submitted there were further queries raised by the Environment Agency.

The conclusions of the report are that the site lies within the floodplain. If the building floor level is set at a minimum level and flood protection measures put in place, then the building should not be at risk of flooding. The study has been carried out in accordance with the advice in Planning Policy Guidance Note 25 and takes account of the possibility of increased flood risk due to global warming.

## **Planning History**

Some Members may recall that permission was recently granted for the removal of the roof and first floor of the Every Arms, this development is currently underway and a second application for extensions to the premises is under consideration.

Outline planning permission was first granted for the redevelopment of the whole site in 1990 with subsequent renewals in 1993, 1996, & 1998. The current application was submitted prior to the expiry of the last permission.

The farm has had permission for a telecoms mast in 1997 with a subsequent refurbishment in 2001. The bungalow on the farm is subject to an agricultural occupancy condition.

## **Responses to Consultations**

Egginton Parish Council has no objection.

The Highways Agency has no objection subject to the access being formed in accordance with the details submitted with the original outline application. The precise details of which should be submitted for approval before development is commenced. A note setting out the Highways Agency's likely requirements is also suggested.

The County Highways Authority has no objection subject to a consultation with the Highways Agency and the reimposition of previous highway conditions.

The Environment Agency originally submitted a holding objection to the development. Following the submission of a Flood Risk Assessment and clarification of matters between the parties, the objection has been withdrawn subject to the imposition of conditions.

Severn Trent Water has no objection subject to conditions limiting the position of buildings to locations more than 5 metres from the sewers that pass through the site. Alternatively the applicants may seek to divert the sewers in agreement with Severn Trent Water.

The Environmental Health Manager has no objection.

## **Structure/Local Plan Policies**

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4 Leisure and Tourism Policy 5

Local Plan: Environment Policy 1 Leisure and Recreation Policy 1

Emerging Local Plan: Policy LRT 7

## **Planning Considerations**

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

- The Development Plan
- The impact of the development on the countryside and the floodplains
- The access to the site

## Planning Assessment

The site has had the benefit of outline planning permission for a number of years. This is a material planning consideration. The emerging Local plan seeks to direct new hotel development to the serviced villages or the Swadlincote Urban Core. If permitted, the development should also be located such that there is no detrimental impact in terms of noise and disturbance to neighbours. The impact on the character and appearance of the locality should also be minimised.

The proposed hotel would be located on the site of the former farm and the recently altered and extended Every Arms public house. There would be a significant new access constructed that would have to meet the requirements of the Highways Agency. This would be a major cost on the development but the cost is not a matter that is a concern of the Local Planning Authority. The site would not cause undue noise or disturbance to neighbours and if permission were granted, then the opportunity would exist to control the appearance of the buildings and ensure that their appearance was in keeping with the character and appearance of the area. Other issues are that represent the requirements of consultees could be addressed through the imposition of conditions.

To return to the consideration of the policy issues and the permission that existed for the use of the land, the policy in the current local plan make allowances for permanent overnight accommodation in the district subject to the criteria set out above. The emerging policy has changed this and requires that such facilities are directed to the urban areas and the serviced villages.

The emerging policy is to be tested in the forthcoming Local Plan Inquiry. It is a relevant planning consideration but on balance the previous permission and the existing policy allowing such development outweigh other considerations of the application.

## Recommendation

**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 either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.
1. Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.
2. Approval of the details of the siting, design and external appearance of the building(s) the means of access thereto and the landscaping and means of enclosure of the site shall be obtained from the Local Planning Authority in writing before any development is commenced.
2. Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.

3. 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.
3. Reason: In the interests of the appearance of the area.
4. No building shall be higher than 2 storey and no building shall be erected within 60 metres of the northern boundary of the site.
4. Reason: To prevent intrusion into the open part of the site in the interests of the amenity and open character of the area and because the rationale of the development has been accepted on the basis of the replacement of existing buildings on the land.
5. No development approved by this permission shall be commenced until a scheme for the provision and implementation of compensatory flood storage works has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved programme and details.
5. Reason: To alleviate the increased risk of flooding.
6. No development approved by this permission shall be commenced until a scheme for the provision and implementation of surface water run-off limitation has been submitted to and approved in writing by of the Local Planning Authority. The scheme shall incorporate sustainable drainage principles and shall be implemented in accordance with the approved programme and details.
6. Reason: To prevent the increased risk of flooding.
7. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.
7. Reason: To prevent pollution of the water environment.
8. A public sewer is adjacent to the site. No buildings shall be erected or trees planted within 5 metres of this sewer.
8. Reason: To maintain essential access to the sewer for maintenance, repair, and to protect its structural integrity.
9. No works of new building development shall be commenced until a permanent site access has been constructed in accordance with detailed scheme plans (complying with Highways Agency standards) to be submitted to and approved in writing by the Local planning Authority in consultation with the Highways Agency.
9. Reason: In the interests of the free flow on traffic on the Trunk Road.
10. 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).

10. Reason: To protect the amenities of adjoining properties and the locality generally.
11. No development shall take place until precise details of the sources of illumination, including intensity, angling and shielding, and the area of spread of light have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity with them.
11. Reason: To preserve amenity and/or prevent danger to road users.

#### Informatives:

In addition to the conditions required above, the Environment Agency draws your attention to various other responsibilities that are set out in its letter to this Council dated 14 March 2003 and copied to you.

Severn Trent Water has stated that the applicant may wish to divert the sewer referred to in condition 8 above. If this is the case you should contact Severn Trent Water Direct - 0116 234 3382. A plan showing the approximate location of the sewer is attached to the permission. Responsibility for finding its exact location rests with the developer.

The Highways Agency has included advice in the letter attached about the design of the new access to the site. You are advised to contact the Agency about the design before submitting the details to the Authority. You will also need to rationalise the construction of the access with the location of any services that may fall within the bounds of the new access and include measures to deal with the services in the submitted details.

17/06/2003

**Item** 1.2**Reg. No.** 9 2002 1339 D**Applicant:**

J S Bloor (Measham) Ltd  
 Ashby Road  
 Measham  
 Swadlincote  
 Derbyshire  
 DE127JP

**Agent:**

N. Wilkins  
 J. S. Bloor (Services) Ltd  
 Ashby Road  
 Measham  
 Derbyshire  
 DE12 7JP

**Proposal:** The erection of 28 dwellings on land being the former carpark at Bretby Business Park Ashby Road East Bretby Burton-on-Trent

**Ward:** Newhall

**Valid Date:** 19/12/2002

**Site Description**

The site currently forms part of the car park and landscaped area of Bretby Business Park. The land is fairly level in the car parking area to the north, before dropping away to the south towards Bretby Hollow. The existing business park borders the western boundary and there are residential properties to the north and east. A raised earth bank and strip of screening trees and shrubs, which are outside the application site but within the applicant's control, are located on the south-eastern boundary to the rear of properties on Wood Lane. These strips of land are the subject of a further report for a change of use to public open space and extended gardens to the dwellings proposed in this report. These trees and important amenity trees elsewhere on the site are now all subject to tree preservation orders.

There is currently a restricted access to the car park from Wood Lane.

**Proposal**

This application is for approval of details – reserved matters – following the grant of an outline planning permission in 1999. It is proposed to erect 28, two storey dwellings consisting of one 6 bed, 18 four bed and 9 three bed with access from Bretby Hollow. During the course of the application the layout has been amended to avoid as many as possible of the important amenity trees.

**Planning History**

Outline planning permission for the site was granted in December 1999.



## **Responses to Consultations**

The Highway Authority raises no objections to the amended proposal.

Severn Trent Water raises no objections subject to the satisfactory disposal of foul and surface water drainage.

## **Responses to Publicity**

One letter of support and six letters of objection and concerns have been received which are summarised as follows:

- Continued inconvenience caused to existing residents of Bretby Hollow due to construction activities.
- Trees on the site should be protected from development
- On the original application assurances were given that no trees would be removed and now thinning work is intended
- More development would add to existing congestion at Wood Lane/Ashby Road junction
- Loss of privacy to residents on Wood Lane
- Two-storey development would not be in keeping with existing bungalows on Wood Lane.

## **Structure/Local Plan Policies**

The relevant policies are:

Local Plan: Housing Policy 11; Environment Policy 9

## **Planning Considerations**

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

- Protection of important amenity trees
- Sufficient private amenity space

## **Planning Assessment**

During the course of the application the remaining trees on the site have been made the subject of a tree preservation order and amendments have been made to the layout to avoid protected trees. The overall amenity of the site will now therefore be safeguarded.

There would be a shortfall in private garden space for three dwellings. This matter would however be resolved should members accept the recommendation to change the use of existing landscaped area to garden land.

In response to the planning concerns raised by residents all of the important amenity trees on the site are now covered by a tree preservation order and the layout has been amended to avoid important trees. Thinning work is proposed in accordance with good forestry practice including interests of public safety. The proposal would be in accordance with the SPG for housing layouts with respect to distances between dwellings and therefore privacy would be satisfactorily safeguarded. The scale of the dwellings would, in relation to the existing bungalows on Wood Lane, be satisfactory and further mitigated by the existing tree screens.

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. No development shall commence on site in connection with this development until samples of materials for the external elevations of the dwellings have been submitted to and approved in writing by the Local Planning Authority and the development shall be completed in accordance with the agreed materials.
1. Reason: To ensure the materials are acceptable in the interests of safeguarding the appearance of the area.
2. Notwithstanding any details submitted, 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.
2. Reason: In the interests of the appearance of the area.
3. The footpath link from Wood Lane alongside Plot 28 shall be provided and finished in a solid bound material before the dwelling on Plot 28 is first occupied and the footpath shall remain open and unobstructed for public use in perpetuity thereafter unless otherwise agreed in writing by the Local Planning Authority.
3. Reason: For the convenience of residents.
4. The area shown hatched in red on the attached plan A1 shall remain free of any obstruction over 1 metre in height.
4. Reason: To safeguard visibility for vehicles emerging from the parking spaces for plots 5 and 6.
5. This permission shall relate to the amended drawings, nos M60\_1\_3D and 4494 received on 10 April 2003 showing in particular amendments to the layout and use of the Sherringham house type.
5. Reason: To protect the existing trees from the development in the interests of safeguarding the amenities of the area.
6. The house style for each plot shall be the "cottage" style unless otherwise agreed in writing by the Local Planning Authority.
6. Reason: For the avoidance of doubt.
7. Notwithstanding the submitted details, unless otherwise agreed in writing with the Local Planning Authority, prior to the occupation of the 14th dwelling on the site, the area marked on the submitted drawing M160\_1\_3D as Public Open Space shall be made available for its designated use only in perpetuity.
7. Reason: To comply with Supplementary Planning Guidance and Recreation and Tourism Policy 4 of the South Derbyshire Local Plan.

**Informatives:**

To note and act upon as necessary the comments of the Coal Authority (see attached letter).

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.

The applicant is reminded that the following conditions remain outstanding with respect to the submission of details from the outline planning permission:

Conditions 3 and 7 (landscaping)

Condition 15 (highway surface water drainage)

Condition 17 (noise attenuation measures)

Condition 18 (details of finished floor levels)

That detailed plans of road levels, surface water drainage arrangements and the construction of the new street should be submitted to the County Surveyor, Derbyshire County Council, County Offices, Matlock, Derbyshire, DE4 3AG, prior to the commencement of the work.

17/06/2003

**Item** 1.3**Reg. No.** 9 2003 0165 F**Applicant:**

Wm Morrison Supermarkets PLC  
 And Tapton Estates Ltd  
 Hilmore House  
 Thornton Road  
 Bradford  
 West Yorkshire  
 BD89AX

**Agent:**

Race Cottom Associates Ltd  
 Vincent House  
 Solly Street  
 Sheffield  
 S14BB

**Proposal:** The erection of a food retail store, car park, raised carpark, petrol filling station, car wash (car wash and petrol filling station to be located between Derby Road and Hill Street) and associated engineering works together with the conversion of offices to two houses at the former Wraggs Pipes Hepworths Coppice Side Swadlincote

**Ward:** Swadlincote

**Valid Date:** 13/02/2003

**Site Description**

The main body of the site is former industrial land measuring approximately 2.6 hectares which lies on the south side of Earnest Hall Way bounded by Rink Drive to the west, Coppice Side to the east and land remaining in storage use by Hepworths to the south. This site is located within the town centre as defined in the Draft Local Plan and is allocated for mixed use development under Policy S2, part of the site is located within the Conservation Area. The application site also includes land to the east of Coppice Side and links through to Derby Road. A triangular shaped area of open, elevated, common land located in the Conservation Area is also incorporated within the site, this land is located between Derby Road and Hill Street with a terraced row of houses off Hill Street located to the north of the land.

The main body of the site is bounded to the north by the rear of buildings lining Swadlincote High Street, which are predominantly in retail use. To the west are car parks and industrial units whilst to the east is a mixture of residential and common land. There is a mix of structures on the site both of traditional and modern construction, some of which are considered worthy of retention. One chimney is Grade II listed and an attached workshop building is protected by virtue of being attached, a separate application has been submitted for the conversion of the building to a pub/ restaurant use. Other buildings identified as worthy of retention in the development brief for the site are a beehive kiln, a square chimney stack and a workshop building. A separate application for Conservation Area Consent for the removal of these buildings and other buildings in the Conservation Area has been submitted. The land rises to the

south and the existing structures are visible from numerous points within the town centre and from more distant rising ground to the north of the town centre.

The main existing vehicle access to the site is off Coppice Side with a secondary point of access off Rink Drive. There are no existing points of direct pedestrian access with the town centre.

## **Proposal**

The application is for a retail foodstore with a floor area measuring 74000 square feet (6875 square metres) along with associated car parking, a petrol filling station, road link, pedestrian links and the conversion of former offices to create two dwellings.

The proposed foodstore would be located in the south western corner of the site. The foodstore is largely single storey with a two storey element to be constructed of traditional materials on the eastern elevation and linked to a circular glazed entrance tower on the corner of the eastern and northern elevations. These two elevations would be the only elevations visible from any public vantage point due to the proposed alterations to levels on the site, the foodstore would be located at a lower level than surrounding land to the south and west. The scheme takes advantage of this by proposing to have 37 staff parking spaces located on the roof of the store which would be accessed from Rink Drive.

The main car parking area is located directly to the east of the store with overspill parking indicated to the east of Coppice Side, altogether the scheme incorporates 468 parking spaces. The scheme proposes the closure of Coppice Side at a point just to the south of the former office buildings which are proposed for residential conversion. The site would be accessed by a new road link from Derby Road incorporating a roundabout at the junction with Coppice Side.

Two pedestrian links are proposed linking the site with the High Street, one link is an enclosed, glazed structure incorporating a lift (to provide disabled access) and stairway (and involving the demolition of 34 High Street); and the other is a wide, stepped access linking to the eastern end of the High Street. The store would also be accessible from Rink Drive/Ernest Hall Way to the west.

A petrol filling station, car wash and jet wash are proposed directly adjacent to Derby Road. The scheme proposes altering the levels so that a landscaped bank at the Derby Road corner of the site would screen the filling station. Landscaping would also be incorporated between the filling station and row of dwellings to the north.

## **Applicants' supporting information**

The Applicants have submitted the following documents in support of the application, these are available in full in the department and this report provides a brief summary of each document:

### **1. A Retail Impact Assessment (RIA)**

This document includes detailed assessment of the nature and location of the proposal, the retail planning policy context, retail provision, an economic appraisal and conclusions and recommendations. The overall conclusion of the report is that the proposed superstore will not cause demonstrable harm to interests of acknowledged importance in retail policy terms. Because it will benefit the vitality and viability of Swadlincote Town Centre, in retail terms it

will not unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest.

The report commends the proposed development to the Local Planning Authority and suggests that there is no retail planning policy reason why planning permission should not be granted.

## 2. A Traffic Impact Assessment (TIA)

This document includes detailed assessment of the policy issues, a description of the site and surrounding network, existing traffic operating conditions, base traffic operating conditions, proposed development and access considerations, traffic generation and distribution, predicted traffic operating conditions, public transport and non car borne considerations, sustainability and safety issues. The main conclusions of the report are as follows.

The proposed development comprises a 6875 sq metre gross floor area food superstore and 2 dwellings together with 467 car parking spaces and 36 cycle parking spaces. A new purpose built ghost island priority access junction with Coppice Side and the new link road is proposed to serve the application site. The new link road is being provided to replace the length of Coppice Side being stopped up.

The proposals also include enhanced pedestrian facilities to link the proposed development with the remainder of the town centre; the measures will also help reduce the incidence of personal injury accidents on the local highway network. The proposed short stay car park will be available to town centre shoppers and will therefore help to promote linked shopping trips.

Cycle stands will be sited near the food superstore and at appropriate locations elsewhere within the development site, consistent with the advice of PPG6 and PPG13. A total of 28 customer cycle spaces would be provided together with 8 staff spaces.

Analysis of the impact of the traffic likely to be generated by the proposals on the town centre highway network has shown that the network will be capable of accommodating the traffic associated with the development with a traffic signal improvement of the Derby Road/ Hill Street junction in the opening year, 2006, and the provision of the proposed link road with its roundabout junction with Hill Street and its ghost island priority junction with Coppice Side.

The proposals are well located to encourage linked shopping trips within Swadlincote town centre and shopping trips other than by private car, consistent with the advice of PPG6, PPG13 and the Local Transport Plan. The traffic likely to be generated by the development proposals can be safely and satisfactorily accommodated on the local highway network. It can be concluded that there are no highways reasons why the development should not proceed.

## 3. A Noise Report. (to follow)

## 4. An Archaeological Desk Based Assessment.

The conclusions of this report are as follows.

The site does have an important local significance as a link for the community to its industrial heritage. As a centre of production for the ceramic industry the industrial archaeology of the site also has a national significance.

The archaeological and historic significance of the site and the heritage capital represented by the surviving building stock are, however, not of sufficient importance to warrant refusal of the Morrison's planning application on heritage grounds. The applicant's proposals to demolish certain (non-listed) historic buildings which have suffered from considerable attrition and for which no economic use can be identified is reasonable. It should also be remembered that the development proposals do specify retention of other historic buildings which have a valid and economically feasible future, act as landmark structures and have a historic resonance with the town's prominent role in the ceramic industry.

In line with planning guidance for archaeology and historic buildings it would be reasonable for the planning authority to recommend that a programme of mitigation proposals is implemented in order to record, interpret and understand the historic buildings and associated sub surface archaeological deposits upon the grant of planning consent.

## **5. A Design Statement.**

The document assesses the client's brief for the site, the site, the Development Brief, the design solution and the relationship of the scheme to the Development Brief and improvements to the Conservation Area. The conclusions are that the development will bring very positive benefits to Swadlincote and that overall the Conservation Area will be greatly enhanced by the introduction of lively and vibrant activity into the area, a sympathetic response to the existing environmental quality and an increased retail choice for customers in the area.

## **Responses to Consultations**

Severn Trent Water has no objections subject to the inclusion of conditions regarding drainage.

The Environmental Health Manager has no objection subject to the inclusion of conditions regarding contaminated land, noise, lighting and odour.

The Police Liaison Officer has no objections subject to provisions ensuring that the site is secure after store closing including either end of the pedestrian link.

The County Highways Authority comment that the proposed location of the roundabout is too close to the existing industrial access to the south which could result in HGV's weaving into adjacent lanes which would be prejudicial to the best interests of other road users. At the time of writing the Applicant's Agent has been informed of this issue and further information is awaited.

It is understood that the Health and Safety Executive would object to the store trading with the co-existence of the Hazardous Substances Consent on the adjoining site.

The County Archaeologist's response is awaited.

The County Planning Authority has no objections to the proposed development.

English Heritage comments are awaited.

## Responses to Publicity

18 letters of representation have been received raising the following issues and concerns:

- Increased noise and pollution for occupiers of nearby properties on Coppice Side as a result of the new road layout and increased traffic levels resulting from customers using the store.
- Provision of adequate boundary treatment and landscaping between the site and adjoining properties.
- Highway safety and traffic congestion issues arising from increased traffic generation, use of traffic calming measures.
- Light pollution arising from floodlighting on the site.
- Impact on other shops in the town centre and a resulting loss of facilities and impact on independent shopkeepers.
- Loss of historic street patterns.
- Building taking place on common land which is an important open space used for informal recreation.
- Proposal conflicts with the development brief for the site as it is not a mixed use scheme.
- The scheme does not incorporate a dedicated cycle route and therefore conflicts with the Development Brief and Cycling Strategy.
- The proposed development is out of scale with Swadlincote.
- The development does not integrate with the regeneration of the eastern end of the High Street.
- Health and safety implications of the petrol filling station and road junctions for users of the ski slope.
- No adequate public transport provision.
- Plans contradict information in the TIA regarding provision of a cycle route and proximity of bus services.

Several letters received specifically relate to the petrol filling station (PFS) part of the scheme and raise the following issues and concerns:

- The PFS is not mentioned in the RIA or the Design Statement.
- The Town Centre Strategy identifies this site as open space in the Conservation Area and states the need to improve approaches to the town which this proposal would not present an attractive gateway to the town.
- The proposal is unsustainable, as it will encourage car use.
- The scheme will result in noise, air and light pollution.
- The PFS will be in an elevated position and will be overbearing in relation to dwellings located to the north.
- The site is common land and important open space.

Two letters have been received from traders located on Church Street raising concerns over the loss of passing trade due to the closure of Coppice Side and making the point that there doesn't appear to be any highway safety benefit gained from the road closure.

A letter has been received from Lidl objecting to the proposal on the following grounds:

- The proposal doesn't meet the requirements of the development brief as the scheme is not a mixed use development, the foodstore element needs to be reduced in size.
- Lack of a suitable access and problems associated with traffic generation.
- The scale of the proposed store, the development will duplicate the provision offered by Sainsbury's, there is no need for a new foodstore on this scale.



A letter has been received from Hepworths who operate from the adjoining industrial land who raise concerns over the ability of the highway infrastructure proposed to cope with their vehicle movements which are predominantly HGV movements.

Sustrans object to the scheme because it does not incorporate a dedicated cycle route and therefore does not comply with the requirements of the Development Brief or the Council's Cycling Strategy.

Two meetings have been held with town centre traders and the following issues were raised/discussed:

- The closure of Coppice Side and possible loss of trade for shops located on Church Street.
- Design and number of links with High Street.
- Junction to site on Derby Road.
- Loss of car park on Hill Street and possibility of using overspill car park as an alternative.
- CCTV and lighting in the town centre.
- Security gates on the entrance to the site.
- Opening up the rear of shop units fronting the High Street.
- Resurfacing of Earnest Hall Way.

### **Structure/Local Plan Policies**

The relevant policies are:

Joint Structure Plan: Town Centre and Shopping Policies 1 and 2. General Development Strategy Policies 1, 2 and 3.

Local Plan: Shopping Policy 1, Transport Policies 6 and 7, Environment Policies 12 and 13.

Revised Deposit Draft Local Plan: Policy S2, Policies T1, T2, T3 and T4, Policies ENV 19 and ENV 20.

Former Wraggs Pipeworks – Development Brief

South Derbyshire Cycling Strategy

### **Planning Considerations**

The main issues for consideration in the determination of this application are:

- The location of the site within the town centre and assessment of the scheme against the relevant policy guidance and Structure and Local Plan policies and the impact on the vitality and viability of Swadlincote town centre.
- Assessment of the scheme against the requirements of the Development Brief for the site.
- Access to the site and highways/ traffic issues
- Impact of the scheme on the amenity of occupiers of dwellings located adjoining the site.
- The design and external appearance of the development.
- Impact of the scheme on the setting of the listed buildings and character and appearance of the Conservation Area.

## Planning Assessment

### Relevant planning policies and impact on the town centre

The main body of the site is located within the town centre boundary as defined in the Draft Local Plan and retail development on the site is therefore acceptable in principle in accordance with national policy guidance and Structure and Draft Local Plan Policies. The current Local Plan does not define the town centre boundary. The main body of the application site is identified as a site with redevelopment potential under Policy S2 of the Draft Local Plan. It is considered that redevelopment of the site could enhance the vitality and viability of the town centre. The commentary to Policy S2 states that the Swadlincote Town Centre Vision and Strategy identified the site as the largest immediate opportunity available for the expansion of the town centre. The site has therefore been allocated for mixed use development in order to provide the opportunity to build upon both the retail and leisure on offer within the town centre.

The developer has adequately assessed the impact of the proposal on the area in terms of scale, need/capacity and affect on existing town centres. The Retail Impact Assessment finds that the vitality and viability of Swadlincote town centre would not be adversely affected but would be enhanced by a new large food store, which would generate benefits for the rest of the town centre. It is considered that although the store is fairly large it is not so large as to be out of scale with the scale and character of Swadlincote town centre. At such a scale the store would be more likely to compete effectively with large out of centre food stores in Burton and Ashby and would attract back some of the expenditure which is leaking out of the Swadlincote area and enhance the overall retail offer through the encouragement of linked trips to the other shops in the town. The proposal is unlikely to have any significant adverse affects on nearby town centres such as Ashby and Burton.

### Requirements of the Development Brief for the site

A Development Brief for the site was adopted by the Council and published in 2001 to explain how the relevant local and national planning policies should be interpreted in relation to the development potential of the site. This document contains information on the history of the site, the relevant planning policy, the planning constraints, a design rationale, possible uses, design of new buildings, access and parking and other design considerations. The Brief states that the Council wishes to promote the expansion and regeneration of Swadlincote and that a mixed use development would be favoured on the site with residential, retail, recreation and leisure, offices and light industrial development being acceptable potential uses. The design rationale outlined in the Brief requires development on the site to incorporate the following elements: strong links between the site and the town centre, an urban character and density similar to the area surrounding the site, buildings that fit into the grain of the settlement and relate to topographical features, buildings of a form that strengthens local distinctiveness, buildings that are constructed of materials that harmonise with the local vernacular, car parking located so as to encourage linked trips with the High Street.

The proposed development fails to comply with the requirements of the Brief in a number of areas which arise in part from the fact that the scheme is not a mixed use development and involves the construction of just one large scale building. The majority of the site is to be developed for a 74,000 square foot food retail store and associated car parking, the only mix of uses on the site is generated by the conversion of two former offices to create dwellings. A separate planning application has also been submitted proposing the conversion of the listed chimney and workshop to an A3 pub/ restaurant use.

### Pedestrian and vehicular access provision

The proposed development has three pedestrian links with the town centre. Firstly via Earnest Hall Way which links the site up to the western end of the High Street, to the Delph, no works are proposed to this route other than the resurfacing of the part of Earnest Hall Way located within the application site. The second link would link the site to the centre of the High Street and would provide a disabled access route to the site, ensuring that the development complies with the requirements of Transport Policy 7 of the Local Plan and Policy T2 of the Draft Local Plan. This link would be an enclosed, glass and panel structure with a canopy extending into the High Street and would provide a lift and staircase to the site. From the top of the link paving would cover the short distance to the store entrance. The third link would be a wide, stepped access fanning out at the eastern end of the High Street. The links proposed are strong visual features, which are considered to comply with the requirements of the Brief, and should help encourage linked trips between the site and the town centre. However, the Applicant has stated that the covered link could not be constructed until 2006/2007 which could result in the store operating for 18 months to 2 years without this important pedestrian and disabled access point.

The main vehicular access to the store would be via the new road linking the site up to Derby Road. The scheme proposes the closure of Coppice Side to through traffic. This has Conservation Area implications due to the loss of the historic street pattern. The Applicant has attempted to mitigate against this loss by keeping the line of Coppice Side as a pedestrian route marked by a strong boundary wall, street lighting and row of trees. The new access road would run close to the side boundaries of dwellings on Coppice Side, the occupiers of these dwellings have raised concerns over the noise and pollution implications. Some landscaping can be provided between the road and these dwellings however it is inevitable that the proposal would result in significant traffic generation and that the occupiers of these dwellings would be affected if the development were to go ahead. The car parking areas proposed for the store, both the main and overspill car parks, are located in close proximity to the town centre which should help to encourage linked trips with the High Street shops.

Both the Development Brief and the Council's Cycling Strategy require a dedicated cycle route to be provided through the site. This is not incorporated in the scheme although the Applicant is willing for cyclists to share a route through the site with delivery vehicles and cars and will provide cycle parking and signage within the site.

### Design of store

The Development Brief envisages a mix of buildings on the site rather than one large store as proposed. Therefore the character of the development is not of a scale or density similar to that of areas surrounding the site. However detailed discussions and negotiations have taken place with the Applicant over the design of the store and the main store building comprises several different elements linked together which helps to break up its overall mass and bulk.

The scheme also proposes that the levels on the site are significantly reduced and the proposed building would sit in the south western corner of the site with its roof at surrounding ground level, and would adjoin existing large span industrial buildings located adjacent to this corner of the site. The eastern elevation of the building would be visible from the car park and this is made up of a two storey section at the southern end linked to the entrance tower on the north eastern corner by a single storey glass and panel section. The two storey part of the building would provide a visual link with the workshop attached to the listed chimney and has been designed to incorporate traditional, local design features and would be constructed of traditional materials. The circular entrance tower would measure 15 metres in height and would form a striking

contemporary feature visible from the eastern approach to the site and more distant views of the site. The northern elevation of the building would be the only other elevation of the building visible from any public vantage point and would be of brick construction with decorative detailing to relieve the monotony of the otherwise featureless facade. A modern glazed canopy would wrap around the eastern and northern elevations of the building linking the various design elements together.

The overall design and external appearance of the building are considered well thought out and care has been taken to incorporate a mix of both traditional and modern materials and design elements to add distinctiveness to the development.

### Impact on listed buildings and Conservation Area

The Brief identifies the planning constraints of the site as the listed structures; the non-listed structures which are worthy of retention, the setting of the listed buildings and the impact on the Conservation Area. The listed structures are the subject of a separate application and are not included in the main application site although their repair can be required through a Section 106 Agreement linked to this application. The Brief identified a square chimney, a workshop building, a beehive kiln and the office buildings on Coppice Side as worthy of retention. This proposed scheme involves the retention of the offices only and proposes the demolition of the other structures. The Applicant submitted an appraisal of the merits of the unlisted structures which concluded that they were not of significant interest. This view is refuted. It is acknowledged that the Applicant could not accommodate their retention and achieve the desired form of development. An application for Conservation Area Consent has been submitted for their demolition. The Applicant would be willing to enter into a Section 106 Agreement to provide financial support to Sharpes Pottery to compensate for the loss of industrial archaeology on the application site and therefore in the town as a whole.

Whilst a mixed use development could have produced a more desirable urban form, it is considered that the Applicant has taken steps to minimise the visual harm the supermarket development could have had on the character of the conservation area and has incorporated features such as sensitively designed boundary walls which would enhance its character.

### Petrol Filling Station

The petrol filling station would be separate from the main body of the site and located adjoining Derby Road to the north of the point where the proposed access road links into the main road. The PFS site is a prominent, elevated area of open grassland located on one of the main approaches to Swadlincote and within the Conservation Area. Development of the type proposed on this area of land would have a marked impact on the character and appearance of the Conservation Area and the Applicant was asked to amend the application by resiting the PFS, although they have declined to do so and wish the application to be determined as currently submitted. The scheme has been amended since originally submitted so that the levels of the PFS have been reduced and a landscaped mound has been incorporated on the southern most corner of the site to provide screening from this approach to the town. A brick boundary wall surrounds the proposed development forming a hard edge to the development and marking this site as the edge of the town. A terrace of dwellings is located to the north of the proposed PFS and these properties are at a significantly lower level. The dwellings are 23 metres from the boundary wall and 35 metres away from the edge of the PFS kiosk and a belt of landscaping is proposed between them and the site. However, it is considered inevitable that the proposed development would have some impact on the occupiers of these dwellings, as this area of land is currently

open and undeveloped. The PFS would generate traffic movements and result in some noise and light pollution.

There is a Hazardous Substances Consent on the industrial site adjoining the application site and the Health and Safety Executive have raised concerns over the store opening whilst the consent is still in force (even though no substance has been on the site for at least five years). The fact that the consent has to be revoked prior to the first opening of the store can be required as part of a Section 106 Agreement.

### Conclusion

The application site is located within the town centre as defined in the Draft Local Plan and therefore there is a presumption in favour of retail development in accordance with national and local planning policies. The Retail Impact Assessment submitted for the site has also established that the development will be of benefit to the vitality and viability of the town centre. It is acknowledged that the development will have some impact on the occupiers of dwellings surrounding the site but the scheme is for a large scale town centre development and some impact is to be expected. The scheme will also impact upon the setting of the listed buildings and character of the Conservation Area. The most significant impact on the character and appearance of the Conservation Area will arise from the PFS development and as such as much as possible has been done to ensure that its impact is limited and that enhancements to its location are achieved mainly through landscaping. This element of the scheme, as stated above, has to be determined as part of the overall submission.

Although the scheme does not comply with all the elements of the Development Brief for the site, it is considered that the potential overall economic benefits to the town centre outweigh any shortfalls of the scheme especially given that the proposed development is of a high quality and incorporates strong pedestrian links with the town centre.

### **Recommendation**

- (a) That the Committee delegate power to the Planning Services Manager to deal with any further issues raised as a result of an incomplete statutory consultation and neighbour notification period.
- (b) Subject to (a) **GRANT permission** subject to conditions set out in (c) and the following requirements to be incorporated into an agreement under Section 106 of the Town and Country Planning Act 1990:
  1. £105 000 for Sharpes Pottery (in lieu of loss of industrial archaeology on the site.)
  2. A Town Centre Study (in order to facilitate integration of the development with future enhancement and management of the town centre and conservation area by planning for strong locally distinctive physical and visual links).
  3. £100 000 for environmental improvements (in order to begin to implement the above at item 2).
  4. Historic Buildings – The listed chimney stack, attached workshops and offices on Coppice Side. All works to be completed (as shown in annex A) to the Councils satisfaction in

accordance with a detailed specification previously approved in writing by the Local Planning Authority, works to be completed prior to the first trading of the store.

5. Resurfacing of Earnest Hall Way.

6. The store cannot commence trading until the hazardous substances consent on the adjoining site has been revoked.

(c) Conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
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 building(s) have been submitted to and approved in writing by the Local Planning Authority.
2. Reason: To safeguard the appearance of the existing building and the locality generally.
3. A sample panel of pointing 2 metres square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority prior to the implementation of any other works of pointing.
3. Reason: In the interests of the appearance of the building(s) and the locality generally.
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.
4. 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.
5. 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 (including the PFS) 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).
6. Reason: To protect the amenities of adjoining properties and the locality generally.
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.

7. Reason: In the interests of flood protecting and pollution control.
8. The development hereby permitted shall not commence until large scale drawings to a minimum scale of 1:20, including sections, of the windows, doors and cladding of the main building and High Street link have been submitted to and approved in writing by the Local Planning Authority.
8. Reason: In the interests of the appearance of the building(s) and the locality generally.
9. Prior to the first opening of the store all pedestrian paving located within the site is to be constructed of clay pavers or natural stone unless otherwise agreed in writing with the Local Planning Authority.
9. Reason: In the interests of the appearance of the locality.
10. Prior to the commencement of development details of a scheme for the creation of the cycle route through the site including details of surfacing, demarcating the route and signage shall be submitted to and approved in writing by the Local planning Authority. The cycle route as agreed shall then be brought into use prior to the first opening of the store.
10. Reason: To encourage means of travel other than by the private car and to accord with the Development Brief for the site and the Council's Cycling Strategy.
11. All boundaries shown on plan reference (PL) M 14B and boundary treatments shown on plan reference (PL) M 15A should be completed prior to the first opening of the store.
11. Reason: In the interests of the appearance of the locality.
12. Notwithstanding the details shown on the submitted plans the boundary walls surrounding the site shall have a traditional coping the design and materials of which shall be agreed in writing with the Local Planning Authority prior to the commencement of development.
12. Reason: In the interests of the appearance of the locality.
13. Prior to the commencement of development a scheme for the screening of the condensers located on the roof of the store shall be submitted to and approved in writing by the Local Planning Authority. This screen shall be erected prior to the first opening of the store unless otherwise agreed in writing with the Local Planning Authority.
13. Reason: In the interests of the appearance of the locality.
14. Before development commences, a system shall be put in place to manage the contamination on site. A management plan shall be submitted to the local authority detailing proposed strategy for the identification of contaminants and the remediation of the site. Where unexpectedly high levels of contaminants are found, i.e. levels and locations not previously identified on the contaminated land survey of July 2002, the proposals for remediation shall be agreed with the Local Planning Authority prior to development continuing. On completion of the remediation works, a validation report shall be submitted for approval by the authority to demonstrate that the works have been carried out satisfactorily and remediation targets have been achieved.
14. 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.

15. Before any work commences on the conversion of the offices to form two dwellings full details of any external alterations proposed to the buildings shall be submitted to and approved in writing by the Local Planning Authority, the conversion shall then be carried out in accordance with these details.

15. Reason: In the interests of the external appearance of the buildings and locality generally.

16. Before any development on the dwellings hereby permitted commences, a further targeted investigation shall be undertaken and associated proposals for remediation of the land shall be submitted to the planning authority. The findings of the investigation should be submitted in a report and any remedial measures, if required, agreed prior to commencement of any development on the site. The report should include:

- i. Detailed on site sampling to identify any further contamination around the area of the residential properties.
- ii. An assessment of any off site impacts such as the effect on watercourses etc.
- iii. A thorough explanation of the chosen remedial measures including depth, breadth of excavation and details of soil replacement.
- iv. Plan of action if further contamination is identified during remediation.
- v. Details of the measures to verify that the contaminant has been removed to an acceptable level.
- vi. The identification as to whether a long-term monitoring and maintenance programme is required, if so, details of the plans.
- vii. Details of the long and short term risk to human health including the construction phase and post-development.
- viii. Details of the British Standards or other guidelines used in both the assessment and remediation measures proposed.

16. 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.

17. Before the development hereby permitted commences, a scheme shall be agreed with the Local Planning Authority, which specifies the provisions to be made for the control of noise emanating from the site. Examples of the types of considerations are:

- i. Hours of operation (store, petrol station and during construction of the site).
- ii. Delivery arrangements (i.e. times, use of reverse beepers, orientation of openings).
- iii. Traffic flow, speed bumps and car park barriers.
- iv. Use of acoustic attenuation.
- v. Equipment to be used during construction.

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



18. Before the development commences, a scheme for the minimisation of emissions of cooking odour from the premises shall be submitted and agreed in writing by the Local Planning Authority.
18. Reason: To protect the amenities of adjoining properties and the locality generally.
19. Prior to the commencement of development a plan showing the location of services to be provided into and through the site shall be submitted to and approved in writing by the Local Planning Authority, the services shall then be located in the positions indicated on the approved plan.
19. Reason: In the interests of the amenity of the locality.
20. Prior to the commencement of development full constructional details of any retaining structures to be provided on the site (including the PFS site) shall be submitted to and approved in writing by the Local Planning Authority, the retaining structures shall be constructed in accordance with the approved details.
20. Reason: In the interests of the visual amenity of the locality.
21. The overspill parking area as shown on the approved plan reference (PL) M02 B shall remain open and available for use by members of the public unless the Local Planning Authority at any time (with the agreement of the operator) requires its use to be restricted by the closing of barriers or unless otherwise agreed in writing.
21. Reason: To compensate for loss of parking elsewhere in the town.
22. Unless otherwise agreed in writing by the Local Planning Authority, the car park barriers shown on plan reference (PL) M02 B shall be put in place prior to the first opening of the store and shall be closed and locked outside store opening hours if security is raised as an issue by the store operators or the Local Planning Authority.
22. Reason: In the interests of the amenity of the locality.
23. Before the development commences, a scheme shall be agreed with the local planning authority which specifies the provisions to be made for lighting on Coppice Side and at the petrol filling station.
23. Reason: In the interests of the amenity of the locality.
24. All links from the store to the High Street shall be completed prior to the first opening of the store and shall be in accordance with the details shown on the approved plans.
24. Reason: To ensure that access for pedestrians is available and that the site is adequately linked to the town centre.
25. Prior to the first opening of the store CCTV cameras, the details of which shall be submitted to and approved in writing by the Local Planning Authority, shall be installed in the positions marked on the approved plan reference (PL) M02 B.
25. Reason: In the interests of security and crime prevention.
26. Prior to the first opening of the store directional signage shall be provided for pedestrians between the High Street and the store, this shall be in accordance with a scheme which will have previously been agreed in writing by the Local Planning Authority.
26. Reason: To ensure that the site is adequately linked to the town centre.

**Informatives:**

There are public sewers which cross the site. No building should be erected or trees planted within 2.5 metres of a sewer 225mm in diameter or 5 metres of a sewer more than 225mm in diameter. The applicant may wish to apply to Severn Trent Water to divert the sewers in accordance with S. 185 of the Water Industry Act 1991.

To note and act upon as necessary the comments of the Coal Authority (see attached letter).

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.

17/06/2003

**Item** 1.4**Reg. No.** 9 2003 0166 F**Applicant:**

Mr Mrs Fryer  
Beech Cottage  
Hill Somersal  
Somersal Herbert  
Ashbourne Derbyshire  
DE6 5PE

**Agent:**

Darryn Buttrill  
Bi Design Architecture  
First Floor Studio  
79 High Street  
Repton  
Derbyshire  
DE656GF

**Proposal:** The erection of a replacement dwelling on the south side of the public footpath at Twisses Bank Church Broughton Derby

**Ward:** North West

**Valid Date:** 14/02/2003

**Site Description**

The site is situated in open countryside and comprises the grounds of the existing cottage and its garden that is separated from the house by a public footpath. The garden area is considerably larger than the house plot. Hedges enclose all the land and these are all overgrown. The house is not well maintained but appears to be watertight. The house and garden lie in the bottom of a hollow. There are/have been several portable buildings on the garden land.

**Proposal**

The proposal as originally submitted would have involved the demolition of the house and its replacement with a new dwelling. The application has been amended to locate the proposed dwelling on the opposite side of the footpath compared to the originally submitted location on the footprint of the existing dwelling.

The dwelling would be constructed in red brick under a thatched roof. The garage and study would have a brick and tile construction.

**Applicants' supporting information**

The applicants have submitted a Unilateral undertaking under Section 106 of the Town and Country Planning Act 1990. This would have the effect of ensuring that the existing cottage is removed should the Committee decide that the application should be granted before works to the new dwelling were commenced. They have confirmed that the dwelling would reuse the bricks from the original cottage.

## Responses to Consultations

Church Broughton Parish Council has objected to the development on the grounds that the plans do not accurately reflect land ownership and may encroach on to another person's land, the form says buildings are to be demolished and there is concern about future access to Green Lane. The Parish Council has been reconsulted about the amended plan and its comments will be reported at the meeting.

The County Highways Authority has no objection if it is a direct replacement of an existing dwelling. Any further comments will be reported at the meeting.

The Footpaths Officer states that there would not appear to be any long-term detriment to the public footpath as the proposal would not affect the width or alignment. If permitted public access should be maintained during and after construction work. If this is not possible, then a temporary diversion order should be sought and obtained prior to works commencing.

The Environmental Health Manager has no comment.

## Responses to Publicity

One letter has been received stating that there is no objection to the proposal but expressing concern that the building would not have been located wholly on the applicants land. There is concern that the layout as proposed would not work because of the proximity to the boundary and that a hedge would have been destroyed. The plans do not show how the foul water would be disposed of and it is requested that the integrity of the north boundary be maintained during construction works.

## Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4 Housing Policy 6

Local Plan: Environment Policy 1 Housing Policy 8 (B)

Emerging Local Plan: Policies ENV 7 & 21 (D) (VI)

## Planning Considerations

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

- The Development Plan.
- The unilateral undertaking.
- The boundary issue.

## Planning Assessment

The development plan policies, both adopted and emerging, require that a replacement dwelling reflect the footprint, bulk and scale of the original property. This is the crucial part of the policy. The new dwelling would not be located on the footprint of the existing dwelling and as such does not reflect it. The bulk of the proposed dwelling is larger than the dwelling it would replace. However, its mass is broken with projections to the front and rear that reduce the apparent scale. The proposed thatch roof represents a renewable resource and the reuse of the bricks proposed by the applicant mean that the energy input into the dwelling would be reduced. (Policy ENV 16 refers)

In seeking to meet the objection to the siting of the dwelling, the applicant's have offered to demolish the dwelling before construction works on the new one are commenced. The issue here is the material harm to the countryside that would arise from the siting of the proposed dwelling would have on the character and appearance of the countryside. The site does lie in a hollow in the landscape. The impact of the new dwelling would be the same whether or not it was sited on one side or the other of the footpath. The site would also become much more apparent as the hedges are maintained and trimmed. The impact from the footpath would be the same whatever side to the path the dwelling is sited.

The boundary issue has gone away to some extent due to the relocation of the proposed dwelling.

On balance, the material harm caused by the resiting of the dwelling on the south side of the footway is not considered sufficient to warrant recommending refusal of the application.

### **Recommendation**

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

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. No part of the development shall be carried out until precise details of the facing materials to be used in the construction of those parts of the external walls and roof of the dwelling that cannot be met from the reclaimed sources referred to in the application, have been submitted to and approved in writing by the Local Planning Authority.
2. Reason: To safeguard the appearance of the locality generally.
3. 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.
3. Reason: In the interests of flood protecting and pollution control.
4. No part of the building works hereby permitted shall cause any obstruction to the route of Public Footpath No 44 (Church Broughton). (See Informative 1 below)
4. Reason: In order to maintain public access to the footpath network at all times.
5. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.
5. Reason: In the interests of the appearance of the building(s), and the character of the area.
6. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate three cars. Thereafter, three parking spaces shall be retained for that purpose within the curtilage of the dwelling unless as may otherwise be approved in writing by the Local Planning Authority.
6. Reason: To ensure that adequate parking/garaging provision is available.

**Informatives:**

If it is impracticable to allow full public use of Footpath No 44 for the period of the construction works, you should seek a Temporary Closure Order prior to starting any works to the site. The application can be made via the Rights of Way Department at Derbyshire County Council. (01629 580000 extn 7610)

17/06/2003

**Item** 1.5**Reg. No.** 9 2003 0168 CC**Applicant:**

Wm Morrison Supermarkets PLC  
 And Tapton Estates  
 Hilmore House  
 Thornton Road  
 Bradford

**Agent:**

Race Cottom Associates  
 Vincent House  
 Solly House  
 Sheffield  
 S14BB

**Proposal:** The demolition of 20th century industrial buildings a beehive kiln a 19th century workshop building and a square plan chimney at Wraggs Pipes Hepworths Coppice Side Swadlincote

**Ward:** Swadlincote

**Valid Date:** 24/02/2003

**Site Description**

The majority of the land is a brownfield industrial site although the site also includes a shop unit fronting the High Street. There are a variety of structures on the site, which are both of traditional and modern construction. An application for a Morrison's food store (**Item ?**) has been submitted on the main body of the site and the Conservation Area covers the shop unit fronting the High Street and the eastern half of the wider application site as well as buildings located on Coppice Side.

**Proposal**

The application is for Conservation Area Consent to demolish buildings which are both of traditional and modern construction. The Development Brief for the Wraggs site identifies buildings on the site as worthy of retention. The most significant of the buildings to be demolished are a two storey workshop, a beehive kiln (in very poor condition) and a square chimney stack.

**Applicants' supporting information**

The Applicant has submitted an assessment of the buildings to be demolished including an appraisal of the Conservation Area and a section on the buildings proposed for demolition including an assessment of the structures. The conclusion of the report is as follows:

As a result of the appraisal of the Swadlincote Conservation Area and the assessment of the individual buildings it is concluded that there is insufficient benefit to justify the retention of those buildings that are to be demolished but which are identified within the Townscape Audit as being of high building quality. It is therefore considered that the demolition of these buildings is

acceptable, subject to the existence of acceptable and detailed plans for the redevelopment of the site.

### **Planning History**

The site has been part of a pottery and pipeworks since the late 18<sup>th</sup> century and is now the subject of a planning application for a food store.

### **Responses to Consultations**

None received.

### **Responses to Publicity**

None received.

### **Structure/Local Plan Policies**

The relevant policies are:

Joint Structure Plan: Environment Policy 9.

Local Plan: Environment Policy 12.

Draft Local Plan: Policy ENV 20.

Former Wraggs Pipeworks – Development Brief

### **Planning Considerations**

The main issue central to the determination of this application is the impact of the demolition of the buildings on the character and appearance of the Swadlincote Conservation Area.

### **Planning Assessment**

Local Plan Policies seek to preserve the character of the Conservation Area and state that the demolition of buildings will only be acceptable where an acceptable scheme for replacement development has been approved. This application therefore needs to be determined concurrently with the main food store application.

The loss of the buildings of more modern construction is considered acceptable as they are out of scale with surrounding development, the loss of these buildings could not be considered to be detrimental to the character of the Conservation Area. The shop unit on the High Street is of a poor quality design and its loss and replacement with a pedestrian link could not be considered to be detrimental to the character of the Conservation Area.

The Development Brief for the site recognises the importance of some non listed buildings on the site and states that they should be retained because they are of local architectural and historic interest, of these structures a workshop building, a beehive kiln and a square chimney are proposed for demolition. The workshop building is located immediately behind the south side of the High Street and is of high townscape value and has a significant impact on the town centre; the kiln is a rare survival and the chimney is a prominent landmark.



The assessment of the buildings submitted with the application states that the square chimney is a landmark structure but cannot be given an economic use, that the large workshop is of limited interest and has been extensively damaged and that the kiln is of interest but requires extensive repairs and cannot be given an economic use. The report concludes that there is insufficient benefit to justify retention of the buildings and that the demolition of the buildings is acceptable subject to the existence of acceptable and detailed plans for redevelopment of the site.

Contrary to the findings of the report it is considered that the buildings are important in terms of their architectural and historic interest and that they are important features within the Conservation Area and as such their demolition would ordinarily be resisted. However in the context of the proposed redevelopment of the site and overall economic benefit to the town centre arising from the food store proposal it is considered that demolition may be justified as long as the food store application is considered to be acceptable.

### **Recommendation**

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

1. The works to which this consent relates shall be begun before the expiration of five years from the date of this consent.
1. Reason: To conform with Section 18(1) of the Planning and Listed Buildings and Conservation Area Act 1990.
2. No works of demolition shall be carried out until the applicants have secured the implementation of a programme of recording of the kiln and brick workshop in accordance with a written statement which has been submitted by the applicants and approved in writing by the Local Planning Authority.
2. Reason: In accordance with paragraph 3.22 of Planning Policy Guidance note 15.

**Informatives:**

17/06/2003

**Item** 1.6**Reg. No.** 9 2003 0268 D**Applicant:**

David Wilson Homes East Midlands Ltd  
Forest Business Park  
Cartwright Way  
Bardon Hill  
Leicestershire  
LE67 1UB

**Agent:**

David Wilson Homes East Midlands  
Forest Business Park  
Cartwright Way  
Bardon Hill  
Leicestershire  
LE67 1UB

**Proposal:** The erection of 101 apartments and houses (reserved matters application submitted under condition 2 of outline permission 9/2001/0730) at the former Qualitas Bathrooms Hartshorne Road Woodville Swadlincote

**Ward:** Woodville

**Valid Date:** 07/03/2003

**Site Description**

This irregular shaped 3 hectare former industrial site is north of the Clock Island junction and has accesses of both Hartshorne Road and Burton Road. It is bounded to the north east by housing; to the north west by housing and the cricket ground, to the south west by Burton Road and to the south east by general industrial units occupied by Breenbank Terotech and Scomark Engineering.

Along the Burton Road boundary is an area of trees and other vegetation which is subject of a Tree Preservation Order.

**Proposal**

This application is for the approval of details – reserved matters – following the grant of outline planning permission (9/2001/0730 refers). A Section 106 Planning Agreement is also attached to this outline permission relating to provision and maintenance of open space, provision of a car park extension to the neighbouring doctor's surgery and provision of funding for local schooling provision.

This reserved matters application is for the construction of 101 dwellings consisting of 26 two bedroom apartments, 3 one bedroom apartments, 38 three bedroom dwellings and 34 four bedroom dwellings. Access would be from Burton Road and Hartshorne Road providing two service roads into the site, which would not be interconnected to provide a vehicular through route. The apartments would be in the form of 2 blocks of two and three storey units positioned symmetrically about the Burton Road access to the rear of the existing group of roadside trees.

Public open space would be along the south east boundary providing a natural buffer between the existing industrial units and the nearest proposed dwellings. The majority of the open space would be planted with trees to further the National Forest planting objectives. Also within the open space would be an enclosed children's play area.

### **Planning History**

Outline planning permission and detailed planning permission were granted for residential development on the site at the end of last year.

### **Responses to Consultations**

The following comments from the Ward Councillor regarding the apartment blocks pre-date a recent amendment. He considers that the proposed location immediately adjacent to the road would have an unacceptable effect on the streetscene and the amenity of the area. Currently the streetscene on the North side of the A511 is not built up to the road and maintains an attractive approach to the centre of Woodville. He points out that that the development of the Henry Boot estate was specifically designed to ensure that the open aspect of trees and the cricket ground on the village approach remained. He considers that the three storey buildings will contain and echo the existing significant noise pollution from sites around the Tollgate Island to the detriment of existing residents. He says that in the wider geographical area properties of this height on the ridgeline is unacceptable. The provision of services should also be considered against this rising population and TV and radio reception are not further compromised. He also considers the proposal provides limited real open space and child's play provision.

Woodville Parish Council considers that the buildings should not exceed two storeys in height.

The Highway Authority comments that on certain plots there could be a clash of vehicle and pedestrian use, a shortfall in parking provision for the apartments and the junction radii onto Hartshorne Road and Burton Road should be 10m.

The Environmental Health Officer comments that in view of the noise nuisance from the nearby scrap yard the windows closest to Burton Road should be double glazed.

Severn Trent Water raise no objections subject to the satisfactory disposal of foul and surface water drainage.

### **Responses to Publicity**

I have received three letters of objection from neighbouring residents which are summarised as follows:

- Overshadowing and loss of privacy caused by three storey flats for residents on opposite side of Burton Road
- Not in keeping with the locality and detrimental to village streetscene
- Increase in traffic onto Clock Island junction.
- A single access onto Hartshorne Road would be preferable

## Structure/Local Plan Policies

The relevant policies are:

Local Plan: Housing Policy 11

Draft Local Plan: Policy Env 21

## Planning Considerations

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

- The visual impact of three storey road side development on the appearance of the streetscene.
- Loss of privacy and daylight for existing residents.

## Planning Assessment

The principle of residential development has been established on this site by the outline permission and a full planning permission granted last year.

The layout and mix of units, including terraces and detached, is acceptable and the open space is in the same position as that previously approved. Attention has been paid to creating a sense of place within the development by siting the dwellings close to the highway edge and providing rear-parking areas.

Following negotiation during the application process the roadside apartments have been reduced in scale from four storey to three storey and then further reduced to a mix of three and two storey. The apartment blocks are identical and would provide a symmetrical entrance feature about the Burton Road access. When viewed from the roadside the apartment blocks step up from a 10m wide two-storey block to an 18m wide three storey block which would serve to give greater articulation to the roofscape. The apartments would be sited to the rear of the existing roadside trees some 15m from the carriageway edge and 28m from the existing dwellings opposite. The buildings would be finished in red brick and dark tiles to reflect the established character of the area. The development would not detract from the appearance of the streetscene but would introduce a new feature that would complement it.

The distances between dwellings has been achieved in accordance with the SPG for housing layouts and therefore privacy would be safeguarded and daylighting maintained to an acceptable degree for existing residents.

With respect to noise attenuation the provision of double glazing is a requirement of the Building Regulations and therefore there is no need to duplicate the requirement through planning legislation.

The concern of vehicular and pedestrian conflict close to certain units has been clarified and is no longer an issue and the proposed parking provision is in accordance with Government 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. This permission shall relate to the amended drawings, nos S1374/Planning Rev C and S1374/streetscene Rev B received on 2 June 2003 showing amendments to layout and outer apartment blocks reduced to two storeys fronting Burton Road.
1. Reason: In the interests of highway safety and to safeguard the appearance of the area.
2. No development shall commence on site in connection with this approval until revised plans have been submitted to and approved in writing by the Local Planning Authority showing the junction radii onto Hartshorne Road and Burton Road to be 10m unless agreed otherwise by the Local Planning Authority and the development shall be completed in accordance with the approved details.
2. Reason: In the interests of highway safety.

**Informatives:**

17/06/2003

**Item** 1.7**Reg. No.** 9 2003 0410 FH**Applicant:**

R Shanker  
1, Braemar Close  
Stenson Fields  
Derby  
DE243HD

**Agent:**

C Harrison  
4 Castlecroft  
Alvaston  
Derby  
DE24OTZ

**Proposal:** The erection of a boundary wall at 1 Braemar Close Stenson Fields Derby

**Ward:** Stenson

**Valid Date:** 01/04/2003

**Site Description**

The property is a modern dwelling set on a corner plot. The front of the property is open plan and there is a screen wall/fence to the side. Where this adjoins 8 Kirkland Way the wall is splayed at 45°.

**Proposal**

Initially proposing a 1.7 metre high wall and railings to the front the applicant has agreed that this will only be built to the height of 1 metre, under permitted development rights. Therefore the application relates to the realignment of the wall adjacent to 8 Kirkland way to make its junction with the roadside wall at 90°.

Site History

Permission to use the existing double garage as ancillary living accommodation was granted last month under delegated powers (9/2003/0411). The proposal made provision for the parking of three vehicles within the site using the existing access onto Braemar Close.

**Responses to Consultations**

The Highway Authority has no objection subject to a condition requiring the inclusion of a pedestrian intervisibility splay.

**Responses to Publicity**

Two neighbours object as follows:

- a) The development would be out of keeping with the area.

- b) The details are inadequate to fully assess the impact of the proposal.
- c) There would be encroachment onto adjacent land.

### **Structure/Local Plan Policies**

None relevant.

### **Planning Considerations**

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

- The impact on the general character of the area.
- Residential amenity.
- Highway safety.

### **Planning Assessment**

This part of Stenson Fields typically has splayed walls where properties are aligned with their rear gardens adjacent to the highway. However this was a developer led initiative and was not a specific planning requirement at the time permission was granted for the development. Had the developer proposed walls aligned at right angles to the road, as now proposed it is unlikely that objection would have been raised. It is therefore considered that the impact on the general character of the area would not be demonstrably harmful.

The realigned wall would affect views of a part of the street from 8 Kirkland Way. However there would be no conflict with supplementary planning guidance and the issue of view as such is not a material consideration. Therefore the proposal would not be demonstrably harmful to the living conditions of neighbours.

On the advice of the Highway Authority there would be no harm to highway safety.

The applicant maintains that he owns the land that would be affected by the development.

### **Recommendation**

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

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
1. Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. This permission shall relate to the realignment of the wall adjacent to 8 Kirkland Way only and not to the erection of a wall exceeding 1 metre in height around the front of the property.
2. Reason: For the avoidance of doubt and in the interests of the appearance of the area.
3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing brick to be used in the construction of the wall have been submitted to and approved in writing by the Local Planning Authority.

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

Informatives: