

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).

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.

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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. 9/2008/1096/U

Applicant:

Mr Peter Robinson
The George
Maypole Hill
Newhall
Swadlincote

Agent:

Mr Chris Collins
14 Sunnyside
Newhall
Swadlincote

Proposal: **Change of use for the siting of a gypsy caravan at
Heath House Linton Heath Linton Swadlincote**

Ward: **Linton**

Valid Date: **06/11/2008**

Reason for committee determination

Councillor R Wheeler has requested that this application be brought before the Committee as matters of local concern have been expressed about several issues.

Site Description

This site comprises a flat cleared section of land some 40m in width x 10m in depth lying to the rear of Heath House and 1 & 2 Heathfields (but separated from them by a field access track) that formed part of a much larger field. Those residential properties have close boarded fencing and vegetation along their rear boundaries.

The wider area has been put to a variety of uses including the running of a scaffolding business, residential occupation of a caravan, imported materials and engineering operations which together with the general untidy state of the site have been/are the subject of enforcement investigations.

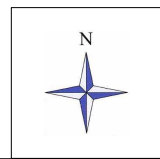
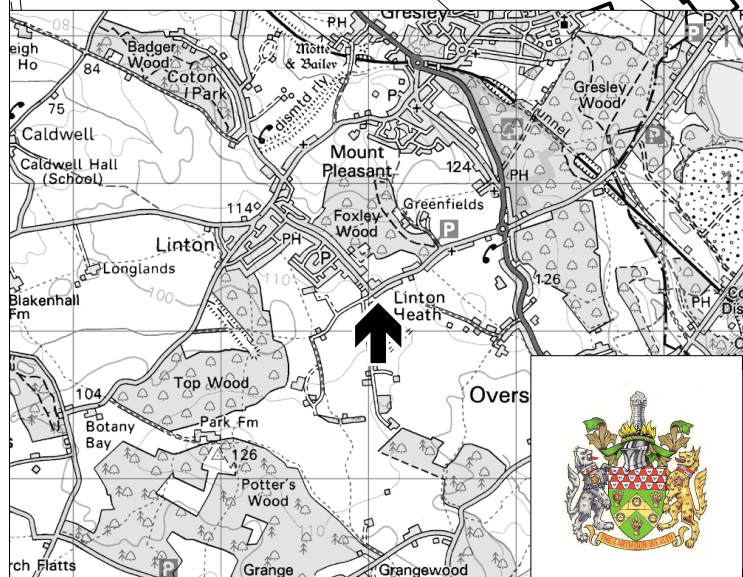
Access to the site is via two sets of gates one positioned at the entrance from Colliery Lane the other at the end of an access track. The application site lies to the left after the second set of gates.

The site is located at the edge of the village of Linton to the rear of detached bungalows and detached and semi-detached dwellings on Colliery Lane. The site sits within a former agricultural field surrounded to the rear and both sides by open countryside and is outside of the village confine as shown on the adopted local plan proposals map.

Proposal

Permission is sought to site one permanent gypsy caravan on the land. The agent has stated in the design and access statement that the proposed caravan would measure

9/2008/1096 - Heath House, Linton Heath, Linton, Swadlincote DE12 6PE



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2.4m x 9m in length however the site plan submitted scales off at 3m in width x 4m in length. Clarification has been sought from the agent but to date no response has been received hence should permission be granted a condition is recommended to secure the information.

It is intended that the caravan would be three bedroomed and occupied by a traveller wishing to settle in the area with his family. However it is stated in supplementary information that the gypsy who will occupy the site also has a small touring caravan.

Although referred to no details have been submitted regarding landscaping, hard standing areas, access, driveway, parking or vehicle turning and manoeuvring areas. However, if the application is permitted these can be controlled by conditions requiring submission and approval of details.

Applicants' supporting information

The applicant's agent has stated that the proposed occupier is presently on the road with no permanent base, has family in the Overseal and Swadlincote area and prefers a solitary site rather than amongst others so is not on a waiting list in the District. He will not travel with the proposed caravan that is the subject of this application but he does have a small touring caravan that he uses to visit relatives and friends in the area. His family is the main reason he is looking for a permanent base, as neither he or his wife or children are able to read and he wants them to receive an education. His mother who lives on the A444 in Overseal is currently ill and this is why he requires a base closer to his family.

Planning History

Several planning applications have been submitted on the site, the most relevant to this application being:

9/2008/1172 -The erection of stabling and an implement shed to replace existing structures – refused 02 February 2009.

9/2009/0163 - The reconstruction of implement shed, feed store and stabling – refused 20 April 2009. Appeal ongoing APP/F1040/A/09/2114418/WF.

9/2008/0940 - The retention of an existing caravan for security purposes - refused on 22 December 2008. Appeal APP/F1040/A/09/2103650/NWF dismissed on 28 July 2009. The Inspector concluded that the temporary and unkempt appearance was unsightly and failed to contribute in any positive way to the intrinsic rural character and attractiveness of the countryside and there was no special justification to support the application. For these reasons the Inspector concluded that the proposal was contrary to Housing Policies 8 and 12 which seek to protect the countryside.

9/2007/0773 – change of use from redundant agricultural site to base for storage and habitation of residential touring caravans – refused 24 August 2007.

9/2007/0286 and 9/2006/1247 – the erection of a detached house. Both applications were refused and never appealed.

Responses to Consultations

Linton Parish Council strongly objects. The concerns noted are:

- the site is outside the village envelope and is therefore contrary to policy
- the caravan would be out of keeping with the surrounding countryside
- poor visibility at the junction
- concern regarding large vehicles arriving and leaving the site
- the further expansion of the site if granted permission
- there are existing sites in the area and therefore there is no need for further sites
- concerns regarding anti-social behaviour of the occupiers. The village has experienced issues previously with the intended occupiers of the site
- the application appears contradictory as the previous application 9/2008/0940 stated that the retention of the caravan was required to prevent gypsies moving onto the site.

County Highways do not raise any objection to the application but only on the basis that they did not feel that a refusal on the grounds of precedent for further development could be sustained. They question the need for 6 car parking spaces referred to in the application, as only 2 are required by current standards. However should consent be granted they seek conditions requiring provision for space for manoeuvring and parking.

Contaminated Land Officer raises no objections to the development in principle subject to conditions being applied.

Responses to Publicity

Six letters of objection have been received. The following objections have been raised:

- A caravan and portacabin has been sited on the application site, and earthworks have been carried out all without any form of permission
- Confusion regarding the design and access statement as two applications have been submitted and there are contradictions throughout the statement
- Settlement would be out of keeping with the existing properties and countryside
- The site is outside the village envelope
- If the caravan is approved and occupied on a full time basis then it will become a residence and should be refused on basis of previous applications for dwellings on the site
- Loss of open aspect for existing properties
- There are existing permanent and touring sites, these should be utilised and there is no further need in the area
- Will set a precedent for a larger development in the area
- Increase in noise
- Increase in traffic movement on dangerous bend where forward visibility is compromised
- Loss of privacy to ground floor windows of existing properties and to garden areas
- Environmental and health hazards will occur if approved
- Outside of village envelope
- Suggested tenant has been the subject of anti-social behaviour issues in the area previously

- Site has long standing water problems and this will exacerbate these issues
- Applications contradict each other - 9/2008/0940 and this application as it states it is to prevent travellers coming onto the site and this application is for a gypsy caravan
- Orchard at front of site belongs to the Parish Council

Development Plan Policies

The relevant policies are:

East Midlands Regional Plan (2009) (EMRP) Policy 16 and Appendix 2

- Refers to Circular 01/2006 that required pitch numbers to be allocated to each Local Authority in order to meet a serious shortfall.
- Appendix 2 sets out the minimum net additional pitch requirements up to 2012 (19 for South Derbyshire).
- Following 2012, compound growth of 3% per annum should be assumed unless a new Gypsy and Traveller Accommodation Assessment (GTAA) has been completed.
- Local Authorities should identify need in forthcoming planning policy documents in the Local Development Framework (LDF).
- These identified sites should make provision for the minimum as set out in the EMRP, these can be redistributed where this is considered as being appropriate in the relevant GTAA and where joint or co-ordinated LDFs are being prepared.

Retained Local Plan: Environment Policy 1, Housing Policy 15 & Transport Policy 6.

National Guidance

Planning Policy Statements 1 and 7

Other relevant guidance

Circular 01/06

- There should be a rural exception site policy for Gypsy & Travellers, as there is for affordable housing, however, new sites in the Green Belt will normally be considered inappropriate.
- Sites identified in the LDF process should be considered as preferable to windfall sites (those not identified).
- When considering planning applications, the applicants 'local connection' to an area should not be a reason for refusal.
- Applications can be refused in locations that do not comply with planning policies, especially where the authority has complied with guidance and met the needs identified by the GTAA.

Good Practice Guide to Designing Gypsy and Traveller Sites

Planning Considerations

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

- Conformity with the Development Plan
- Central Government advice for the provision of gypsy sites
- The need for Gypsy sites

- The impact of the proposed development on the character and appearance of the area
- Access and highway safety

Planning Assessment

The EMRP reflects national current Gypsy & Traveller policy in trying to tackle a problem of historic under supply across the country and thus is weighted in favour of approving applications unless there are strong planning reasons to refuse them. The requirement in the EMRP has been derived from the GTAA which, up until 2012, is our minimum target. If we happen to meet the target prior to 2012 or a new GTAA then we will still have to consider the relative merits of an application, as is the case in Council's with no requirement or a very low requirement.

The application site lies in the countryside within which Planning Policy Statement 7 and Development Plan policies seek to strictly control new building away from settlements. However Circular 1/06 specifically seeks to increase the supply in the provision of sites for gypsies and travellers to address a national shortfall, including in rural areas.

We do not yet have an LDF that identifies specific sites to provide gypsy accommodation. The Saved Local Plan Housing Policy 15 allows for the provision of private gypsy sites provided they are located in an area frequented by gypsies; satisfactorily located in relation to other development; acceptable in environmental terms; reasonably accessible to community services and facilities; capable of assimilation into its surroundings and has adequate vehicular and pedestrian access.

In assessing the above criteria, it is clear that the site currently under consideration is located in an area already frequented by gypsies evidenced by the number of public, private sites and unauthorised encampments.

With regards to its relationship with other neighbouring land uses, the site is bounded by open countryside and the rear gardens of residential properties. Existing landscaping is to be retained and could be enhanced by condition. The caravans would not be visible from Colliery Lane and being sited behind the existing properties they would not be intrusive in the street scene or character of the area.

In terms of sustainability the site is located within easy reach of village amenities such as post office and primary school, with secondary school provision further away in Swadlincote. Given the overall small scale of the proposal and the presence of some local facilities within cycling and walking distance, it is considered that it would be difficult to sustain a refusal on the basis of accessibility to services.

There is sufficient space within the site for parking and manoeuvring which can be controlled by condition therefore there are no grounds for a refusal on highway safety grounds.

Conclusion

Circular 1/06 seeks to increase significantly the number of Gypsy and Traveller sites and to promote private sites in appropriate locations. The EMRP supported by the findings of the GTAA quantifies the minimum need to be met in South Derbyshire and as yet sufficient new pitches have not been provided. The proposed development

accords with the criteria for gypsy sites set out in the Saved Housing Policy 15 of the adopted Local Plan. The visual impact of the site can be reduced by an appropriate landscaping scheme and access to the site is acceptable. The issues central to the consideration of this application are therefore met and subject to conditions the proposal is considered acceptable. A pitch is generally considered as providing space for two caravans therefore it is acceptable to condition a permission to enable the caravan referred to on the application form and the tourer referred to in the supporting information to be brought onto the site.

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. This permission shall relate to the area of land shaded pink on the plan received on 3rd November 2008.
Reason: For the avoidance of doubt given descriptions contained within the Design & Access Statement.
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.
6. This approval relates to the siting of one caravan as shown on the submitted plan and one touring caravan. The caravans sited on the land must be capable of being towed legally on the public road.
Reason: For the avoidance of doubt as to what is permitted.
7. This permission authorises the use of the land as a caravan site for the use of persons who are gypsies and travellers as defined by paragraph 15 of Circular 01/2006 and for no other purpose.

Reason: In order to ensure that the land functions as a site for occupation by the gypsy and traveller community as use for any other purpose would be contrary to the provisions of the Development Plan except for the special provisions in planning policy for the gypsy and traveller community.

8. 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.

9. No vehicle shall be parked or stored at the site that exceeds 3.5 tonnes unleaden weight.

Reason: In order to ensure that vehicles parked or stored at the site are limited in the interests of the amenity of the occupier of nearby dwellings.

10. Prior to the occupation of the site details (including precise dimensions and proposed surface materials) of a vehicular turning/manoeuvring area within the site curtilage adequate to enable all vehicles to enter and leave the site in a forward direction shall be submitted to the Local Planning Authority. The turning/manoeuvring area shall be laid out and surfaced in accordance with the approved details and be retained available for that purpose thereafter.

Reason: In the interests of highway safety.

11. No development shall take place until there has been submitted to and approved by the Local Planning Authority details of any extent of hard standing and details of the materials to be used. The work shall be carried out in accordance with the approved details.

Reason: In the interests of the appearance of the area

12. No development shall take place until there has been submitted to and approved by the Local Planning Authority details of the proposed driveway and the proposed materials to be used. The work shall be carried out in accordance with the approved details.

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

13. No development shall take place until details of the precise dimensions of the caravans to be sited are submitted to and approved by the Local Planning Authority.

Reason: In the interests of the appearance of the area and to avoid doubt as to what is permitted.

14. 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.

Item 1.2

Reg. No. 9/2009/0732/NO

Applicant:

Cats Protection Derby Adoption Centre
Long Lane
Dalbury Lees
Ashbourne

Agent:

Mr Paul Emmerson
Agora Management
12 Kings Court
Willie Snaith Road
Newmarket

Proposal: The erection of extensions and alterations to existing cat re-homing centre together with the refurbishment of and part demolition to the existing garage block at Cats Protection League Derby Shelter Long Lane Thurstaston Ashbourne

Ward: North West

Valid Date: 11/09/2009

This case was deferred at the last meeting to enable a site visit to take place.

Reason for committee determination

Councillor Bale requests that the application be brought to Committee as local concern has been expressed about a particular issue.

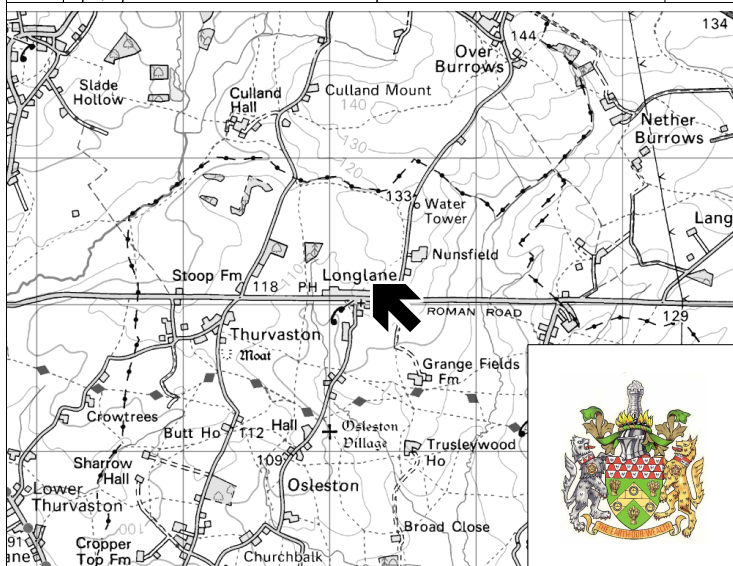
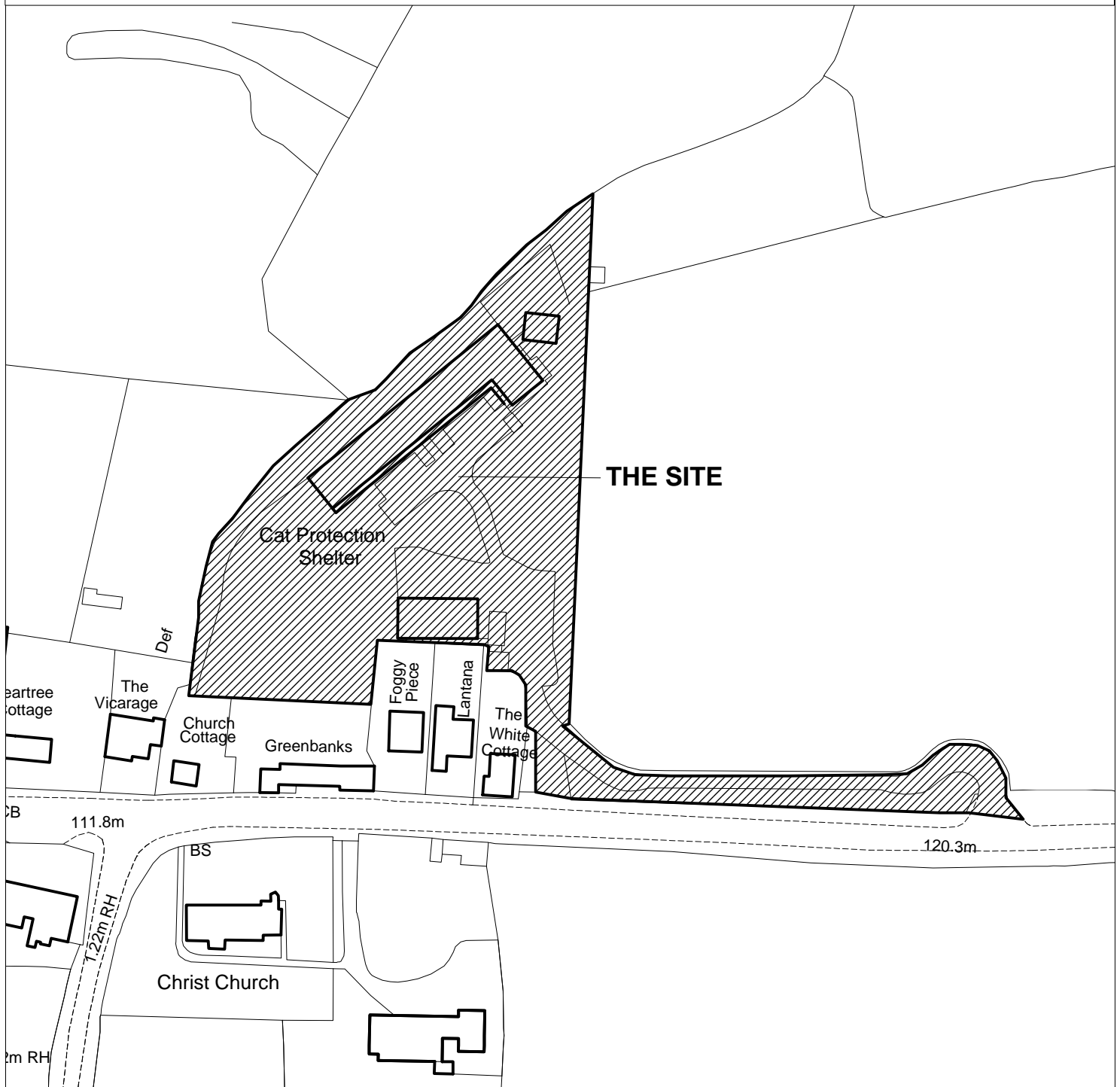
Site Description

The Cats Protection League site at Long Lane lies to the north of the settlement with access from Long Lane itself. The access was formed when the site was first developed and the hedge along the visibility sight line to the access is now well established and well maintained. There is a public footpath that follows the northwest boundary of the site that emerges onto Long Lane adjacent to Church Cottage. There are six houses that abut the site, one of which is the centre manager's home. The boundaries of the site affected by the proposals are illustrated in the photographs to be displayed at the meeting.

Proposal

The proposals can be split into three components. The first is the extension to the cattery at its southwest corner; the second is the extension of the reception area to include sales of 'cat' related products; the third is the replacement/adaptation of a dilapidated 'garage' structure on the boundary of the site with 'Lantara' and 'The White Cottage'.

**9/2009/0732/NO - Cats Protection League Derby Shelter, Long Lane,
Dalbury Lees, Ashbourne DE6 5BJ**



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Applicants' supporting information

The existing facility is at its limit in terms of accommodation for cats and as such new facilities are required to enable the League to continue to rescue, care and re-housing cats and kittens in its care. The extensions to the reception area and alterations to the derelict garage would assist in this aim by providing more accommodation on the site for the manager and storage facilities. Pedestrian access around the building would be extended to accommodate the extension. The development would not adversely affect the local community; the buildings have been designed using environmentally friendly materials including lighting and heating. Foul and surface water drainage would be disposed of to the existing systems.

Planning History

The site was granted permission in 1997 with subsequent applications permitted in 1999 and 2000 that has resulted in the development seen today.

Responses to Consultations

The County Highway Authority and Severn Trent Water have no objection.

Responses to Publicity

6 letters and e-mails have been received objecting to the development for the following reasons: -

- a) The proposal would bring the building closer to the houses and because of the difference in ground levels increase the potential for overlooking, reducing privacy.
- b) Noise levels would be increased, as cleaning and other operations would be brought closer to the houses.
- c) The development would bring people closer to the houses by extending access around the building. The site operates 7 days a week.
- d) The existing building is very large and jars with the rural ambience of the small quiet village and to increase the size of the building would compound the effect it has on this rural area. This is due in part to the bright materials of construction used in the original building – it has an industrial appearance not suited to this rural area. The application seeks to increase the amount of built development on the site by at least 20% where the existing buildings already cover a large proportion of the site (see the aerial photograph that accompanies the application).
- e) Fund raising activities involve the erection of stalls and tents and these come close to the house boundaries contrary to an agreement that it is understood was made when the Cats Protection League first occupied the site – land for these activities would be reduced bringing them closer to the houses.
- f) There would be increased use of the access to the detriment of highway safety.
- g) There have been problems of oily residue and soap scum in the ditch adjacent to the adjoining land that is used as a paddock.
- h) There is no objection to the refurbishment of the garage or the reception extension but the cattery size should be limited.

Development Plan Policies

The relevant policies are:

RSS8: Policies 1, 2 & 3.

Local Plan: Environment Policy 1

National Guidance

PPS 7

Planning Considerations

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

- The Development Plan.
- The impact on the countryside.
- The impact on neighbours.
- The public footpath
- Drainage issues

Planning Assessment

The Development Plan requires that development be necessary in the countryside before it is permitted. Given that this is the extension of an existing facility approved in the mid 1990's it would not be feasible to provide an extension to the facility elsewhere. Accordingly the principle of the development is considered acceptable.

The materials proposed would match the previously approved materials on the site and must therefore be considered appropriate. As such the proposed works would appear as a modest extension to the existing facility and would thus not unduly affect the character and appearance of the countryside.

One of the main objections is that the extension would bring the operational part of the building closer to the houses on Long Lane. The nearest dwelling to the site, excluding the manager's house, is some 50 metres away. Even if there were direct views between the extension and these dwellings, 50 metres is considered a reasonable separation between the houses and the proposed extension. This comment is given on the basis that the majority of the objectors have stated that they have no objection to the extension of the reception area or the refurbishment of the garage building.

The extension would affect the line of the public footpath that adjoins the site. The application proposes the realignment of the path if planning permission were granted (a separate process would then be required). It is considered that the proposed realignment would not prejudice the enjoyment of users of the footpath.

It is alleged that the site has caused pollution incidents in the form of an oily scum and soap residue. The provision of oil interceptors should ensure that the run-off from the proposed laundry and buildings is intercepted before entering the drainage system.

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. All external materials used in the development to which this permission relates shall match those used in the existing building in colour 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.
3. 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.

Reason: In the interests of pollution control.

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.

Item 1.3

Reg. No. 9/2009/0883/SMD

Applicant:

Mr Andrew Mackley
Radleigh Group/Nottingham Community
Housing Association
Riverside Court
Pride Park
Derby

Agent:

Mr Andrew Mackley
Radleigh Group/Nottingham Community
Housing Association
Riverside Court
Pride Park
Derby

Proposal: **The erection of 18 dwellings and associated access,
turning and parking on Land at Wilmot Road
Swadlincote**

Ward: **Church Gresley**

Valid Date: **20/10/2009**

Reason for committee determination

The Council currently owns most of the site.

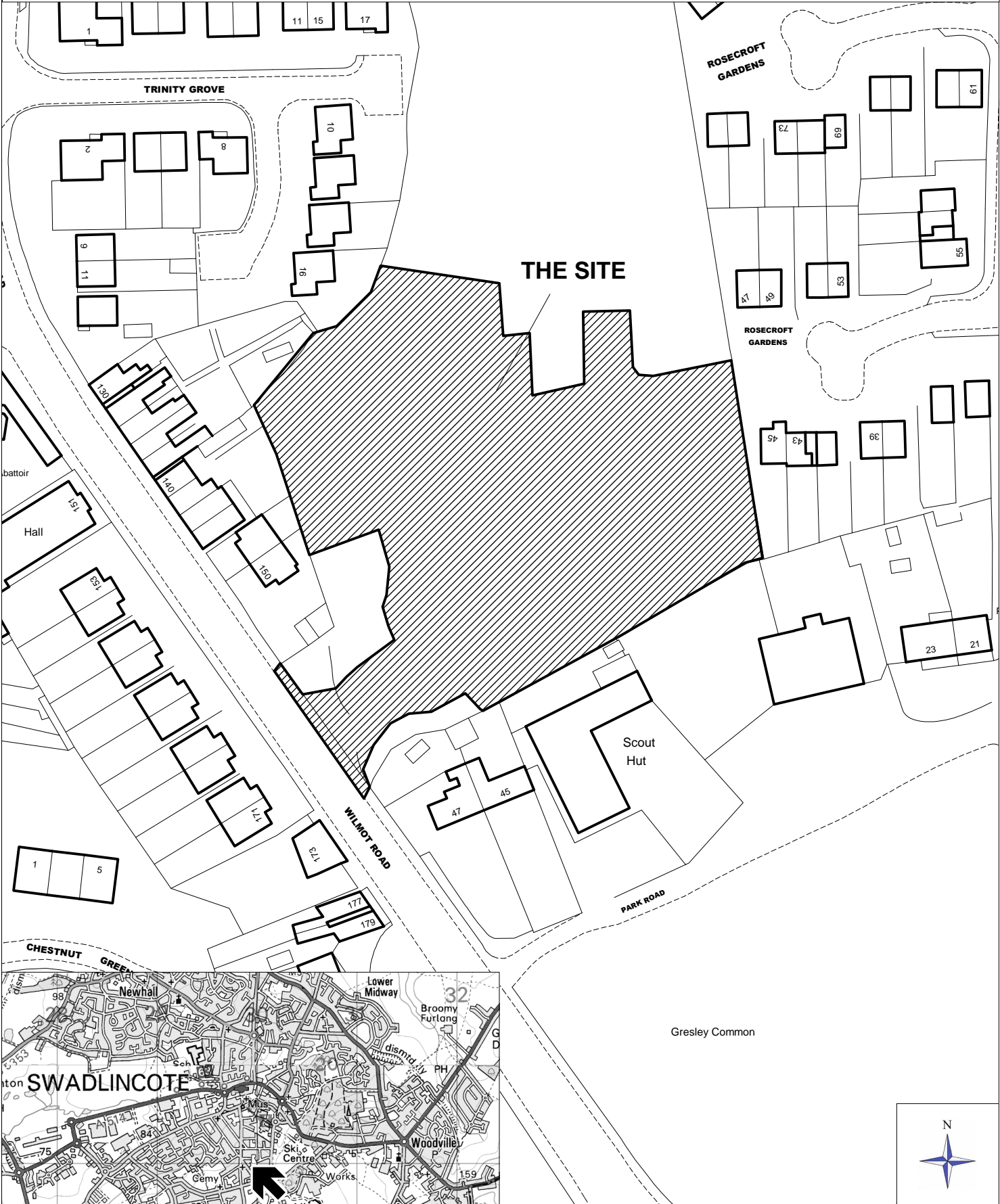
Site Description

This 0.51 hectare site is accessed from Wilmot Road, Swadlincote via an undeveloped 30m gap in the street frontage. It comprises the southern half of a larger area of land owned by the Council, which is currently grassed with a pedestrian through route between Wilmot Road and Rosecroft Gardens. To the north west and north east the site is surrounded by the fairly modern semi detached properties of Trinity Grove & Rosecroft Gardens. To the west are mainly traditional terraced properties on Wilmot Road. There is a pair of semis, a scout hut and industrial premises to the south. Existing boundaries are a mixture of close-boarded fencing, hedging or steel fencing adjacent to the non residential uses.

Proposal

Planning permission is sought for the erection of 18 dwellings comprising seven two bed, one 1 bed, nine 3 bed and one 4 bed all of which would be two storey. They would comprise mostly terraced or semi detached with one detached property.

Vehicle and pedestrian access would be off Wilmot Road with the existing trees on the right being retained. Straight at first the new access road would then curve through the site culminating in the existing pedestrian route to Rosecroft Gardens and a private drive providing access to the proposed detached property. 36 car parking spaces provided by a mixture of courts to the rear and within curtilages will meet the needs of



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the scheme. Part of the land needed to form the junction with Wilmot Road is to be purchased off no 144 and the agreement includes provision for them of two parking spaces to the rear of their property.

The first properties visible from Wilmot Road would be a terrace of 4 some 40m into the site at the end of the straight section of road which would effectively frame the entrance to the site. The remaining properties would follow the curve of the road. Garden lengths range from 9-17 metres, with the majority being 10m or greater.

The mix of dwellings was determined by the need in the area and the Housing Association that is in partnership with the applicants to bring forward the scheme. A grant from the Homes and Communities Agency has been paramount in bringing forward the site for affordable dwellings and therefore properties are designed to meet the Housing Quality Indicator and Code for Sustainable Homes Level Three. The tenure mix proposed is 16 dwellings for rent and 2 new build 'home buy'.

Applicants' supporting information

Design and Access Statement – This document covers a site and location assessment of context, involvement detailing pre-application discussions, evaluation and the design process and an assessment against the 20 Building for Life questions. The site context assessment informed the design process and features from existing properties have been incorporated and the scale and amount of dwellings fits within the existing residential area. Transport links with the town centre were found to be good.

Section 106 Heads of Terms Summary – includes contributions for health (£9,918) and recreation (£32,844)

Utilities Statement – Consultation with the utilities companies for gas, water and electricity found no problems are envisaged.

Affordable Housing Statement – The statement is from Nottingham Community Housing Association confirming that they are co-applicant and developing RSL for Phase 1 of the development, which is a 100% affordable housing scheme. There is an identified need within Swadlincote for affordable housing.

Site Waste Management Plan – This document would seek to achieve 10% reuse and 20% recycling for the project.

Contamination Desk Study – Coal was found at a depth of 2.40m to 2.50m. Further borehole work is required to establish the worked state of the seams and the presence/absence of any shafts. Marginally elevated Cadmium concentrations were found but are not considered a significant cause for concern.

Planning History

None

Responses to Consultations

The County Highways Authority has no objections subject to conditions relating to the provision of a temporary construction access and construction site compound,

prevention of mud on the highway, construction of the estate roads and provision of parking prior to occupation.

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

The Contaminated Land Officer recommends a phased contamination condition.

The County Archaeologist states that as historical records indicate the site has remained as open ground during the post-medieval period no archaeological assessment is required.

Derbyshire County Education Authority state that this development is within the normal area of Church Gresley Infant School, Pennine Way Junior School, and The Pingle School. The secondary school has sufficient accommodation to deal with the number of pupils generated by this and other proposed developments within the area, and so a contribution towards this element of provision is not sought.

For primary schools, since March 2009 contributions have been requested from developments within the normal area of both Church Gresley and Pennine Way Junior Schools, based on revised information about pupil numbers. The cumulative effect of all the proposals for developments within the normal area suggest that they will be over subscribed if all are approved and completed. Thus a contribution based on the development generating three primary aged pupils at a DCSF multiplier of £11,276.00 per pupil equates to £33,828.00.

The Council's Housing Strategy Manager supports the scheme. Had the area been brought forward as a single site 40% of the dwellings (18 units) would need to be affordable dwellings. No further affordable homes are therefore necessary should the remainder of the site come forward for development in future. Homes and Community Agency funding has been secured to develop this site as 100% affordable on the basis of the current economic recession and the need to keep developers building providing / maintaining jobs. We would normally request "pepper-potting" of the affordable homes but an exception has been made due to the current economic climate.

Derbyshire Police's Crime Prevention Design Advisor considers that the proposal is a very good secure layout with excellent natural surveillance. Front gardens and the pedestrian link would benefit from more robust defense such as railings. The land to the east of the access road may cause anti-social behaviour if just left. The scheme should receive full 'Secure by Design' award.

Responses to Publicity

Seven letters of objection have been received from nearby residents and the reasons are summarised below:-

- 1) The proposal would increase traffic and the potential for accidents on an already busy road.
- 2) What was the previous use of the land as their house was built on a mineshaft and it may have been a tip.
- 3) The owner of No. 47 Park Road believes the boundary line is inaccurate.
- 4) What would be put in place adjacent to the open land to prevent travellers / gypsies getting onto it.

- 5) Accidents have occurred on this section of Wilmot Road but a request for speed bumps was turned down.
- 6) They believe that the land was given to the people of Gresley for recreational use and not for the Council to profit from its sale.
- 7) Is the remainder of the site to be built on with houses?
- 8) The land should be kept green.
- 9) On street parking occurs at present and restricts visibility which makes the road dangerous.
- 10) Access should be taken from Rosecroft Gardens or Trinity Grove.
- 11) No. 148 has a small back yard and considers that the properties would overshadow their property especially if trees are planted adjacent to the boundary.
- 12) No. 148 has a gate onto the site and thus the right of way should be formally recognised.
- 13) The proposed access would conflict with their access at 47 Park Road.
- 14) The proposal amounts to a change of use from recreational use as it was a previously designated picnic area.
- 15) Local residents were told the land was not for sale when they tried to purchase extra land.

Development Plan Policies

The relevant policies are:

East Midlands Regional Plan:

Policy 2 - Promoting Better Design

Policy 3 – Distribution of New Development

Policy 12 – Development in the Three Cities Sub-area

Policy 14 – Regional Priorities for Affordable Housing

Policy 48 – Regional Car Parking Standards

Local Plan:

Housing Policies 4 and 11

Environment Policies 9 and 10

Transport Policy 6

Recreation Policy 4

National Guidance

Planning Policy Statement 1: Delivering Sustainable Development

Planning Policy Statement 3: Housing

Planning Considerations

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

- Principle of Development
- Highways Issues
- Residential Amenity
- Design and layout
- Other issues raised by publicity

Planning Assessment

Principle of Development

The site is within the urban area of Swadlincote and is predominately surrounded by existing residential development and thus the principle of residential development is considered acceptable. The site is an open grassed area but is not included within the district's open space provision. Open grassed areas that form part of Gresley Common Land exist further along Wilmot Road to the south and there is formal public open space at Maurice Lee Memorial Park to the south west on York Road. This proposal would therefore not involve the loss of recreational land.

Highways Issues

The County Highways Authority considers that the visibility splays proposed of 2.4m x 59m are well within the theoretical requirement of 2.4m x 45m as set out in Manual for Streets, for a 30mph limit. Speed readings have been taken to support this decision. On this basis the Highway Authority would not consider a refusal on highway safety grounds to be sustainable.

Residential Amenity

Extensive pre-application discussions with the applicants have ensured that the layout conforms to the Council's space standards. The proposed properties in the north western part of the site would be in excess of 21 metres from the rear elevations of the existing properties on Wilmot Road. The main room windows on the rear elevation of No. 16 Trinity Grove would not be significantly overshadowed or overlooked as the 45 degree angle taken from them would not be encroached. The side elevation of plot 16, which would be adjacent to 45 Rosecroft Gardens, would only have a small bathroom window which would not significantly affect residential amenity. Plot 18 would be a significant distance from the boundary with 45 Rosecroft Gardens rear garden as not to cause a privacy concern. Being at 22.5m the distance between the proposed dwellings on plots 1-3 and the rear elevation of No. 148 Wilmot Road exceeds the 21m requirement necessary to protect the amenity of the property.

There is an application for six dwellings on the A & M Motors site adjacent to the southern boundary (9/2009/0805), which is under consideration. The application site has been assessed in relation to this proposal and the relationship is considered acceptable, as the Council's space standards have been met.

Design and layout

Design features that are found in existing residential properties such as gable roofs with feature gables, a mixture of straight and curved lintels and flat roof canopies above main doors have been incorporated into the proposed dwellings thus achieving a high standard of design in keeping with the character of the area. The type and amount of dwellings is commensurate with existing properties in the vicinity and the design and the layout provides interesting streetscenes that will in the future fit well within the overall scheme (Phase 2). Frontage development to the left of the access on Wilmot Road will be incorporated into Phase 2. The important existing pedestrian link between east and west has been retained and existing trees and hedgerows have also been retained.

Education Contribution

At the time of pre-application discussions there was no need for Section 106 contributions towards education. However, that was some time ago and when formal consultation took place on the application the situation had changed. However the

submission to the Homes & Community Agency was based upon the pre-application requirements.

The Council's Corporate Asset Manager states that as the proposed scheme comprised wholly affordable housing, the viability produced a negative land value when all development costs including recreation and health contributions were taken into account. To progress the matter the selected Housing Association applied for grant from the Homes & Communities Agency, and funding was subsequently approved which bridged the deficit and thus rendered the development viable on the basis of a land value of £1. The developer's viability has therefore been scrutinised by him, Notts Community Housing Association and the Homes & Community Agency during this process.

We are advised that the grant level approved by the Homes & Communities Agency is already at their ceiling figure and it is not therefore practical to return to them seeking additional funding to now accommodate an education contribution.

Contributions totalling £42,762 have been taken into account when looking at the viability of the development and it is open to Members to consider whether they would alternatively wish to reduce the contributions towards recreation and health in order to allocate a proportion of this sum towards meeting education need. The contribution has been calculated on the worst case scenario as the County Education Authority advises that if all the current developments in the vicinity do not proceed then there would be sufficient spaces within existing schools.

Other issues raised by publicity

A Desk Study has identified that further boreholes are required to establish if the site was previously mined but no records exist to suggest the site was used as a tip.

As owner of the site, the Council has documents indicating the boundaries of the site and the boundary with 47 Park Road is accurate.

The matter of preventing access to the undeveloped area of land to the north is a matter for the developers and when completed the Housing Association to address.

The remainder of the site shall be the subject of a further application for housing (Phase 2) in the future.

The applicants have confirmed that the occupiers of No.148 have only been in residence for 12 months and the gate provided after their occupation, therefore the access is not long established and thus it is not considered appropriate to maintain.

Conclusion

The proposed site is not recreational land and as such is acceptable for residential development due to its location within the main urban area of Swadlincote. The design and layout is considered to reflect the character of the area and no significant impacts on the residential amenity of existing properties would result. Sufficient garden areas can be accommodated together with parking and turning areas. The Highways Authority find the access and traffic generation acceptable for this section of Wilmot Road in terms of highway safety.

Recommendation

Subject to receipt of contributions of £32,844 towards recreation and £9,918 towards heath facilities, **GRANT** permission under Regulation 4 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 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.
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.
Reason: In the interests of flood protecting and pollution control.
4. 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.

5. 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.

6. 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.

7. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, the dwellings on plots 9, 10 and 11 hereby permitted shall not be enlarged or extended without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.

Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the site area and effect upon neighbouring properties and/or the street scene.

8. 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.

9. 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.

10. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.

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

11. Before any other operations are commenced, a temporary access for construction purposes shall be formed onto Wilmot Road, laid out in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

12. Before any other operations are commenced, 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 for 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.

Reason: In the interests of highway safety.

13. Before the commencement of engineering operations in connection with the development, facilities shall be provided as agreed in writing with the Local Planning Authority to prevent the deposition on the public highway of mud or other extraneous material from the site, and such facilities shall be maintained throughout the construction period.

Reason: In the interests of highway safety.

14. No dwellings subject to this consent shall be occupied until the proposed new estate street has been laid out in accordance with the application drawing to a detailed design agreed with the County Council and constructed at least to carriageway base level, including footways, drainage and lighting in accordance with the County Council's specification for 'New Housing Development Roads'.

Reason: In the interests of highway safety.

15. Dwellings shall not be occupied until space has been provided in accordance with the application drawings for the parking of 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.

Informatives:

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. 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 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.