

REPORT OF THE HEAD OF PLANNING SERVICES

SECTION 1: Planning Applications

SECTION 2: Appeals

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 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. 9/2009/0951/NO

Applicant:
J D NARROWBOATS LTD
DOBSONS WHARF
THE WHARF
SHARDLOW
DERBY

Agent:
MR IAN SAWYER
INITIAL DESIGN SERVICES
12 BROOKVALE CLOSE
BARLOW
DRONFIELD

Proposal: **THE ERECTION OF A REPLACEMENT STRUCTURE
AND OTHER ASSOCIATED WORKS AT DOBSONS OF
SHARDLOW LTD THE WHARF SHARDLOW DERBY**

Ward: **ASTON**

Valid Date: **11/11/2009**

Reason for committee determination

The application is brought to Committee at the request of Councillor Watson because the site is in a conservation area and local concern has been expressed about the appearance of the proposed building.

Site Description

Dobsons is a working industrial site, located next to the Trent and Mersey Canal in the Shardlow Wharf Conservation Area. The firm specialises in boat building and maintenance. The buildings are utilitarian structures, designed for the canal related industry that they serve. The industrial character of the site is evident from the canal and its towpath.

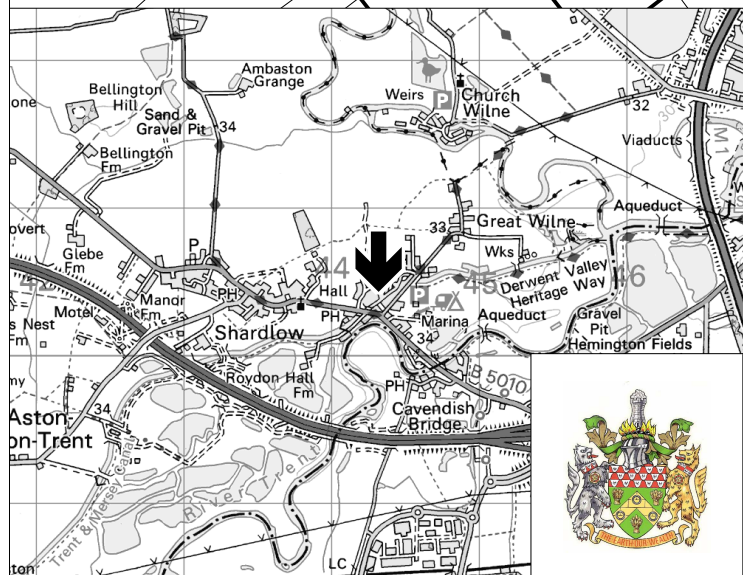
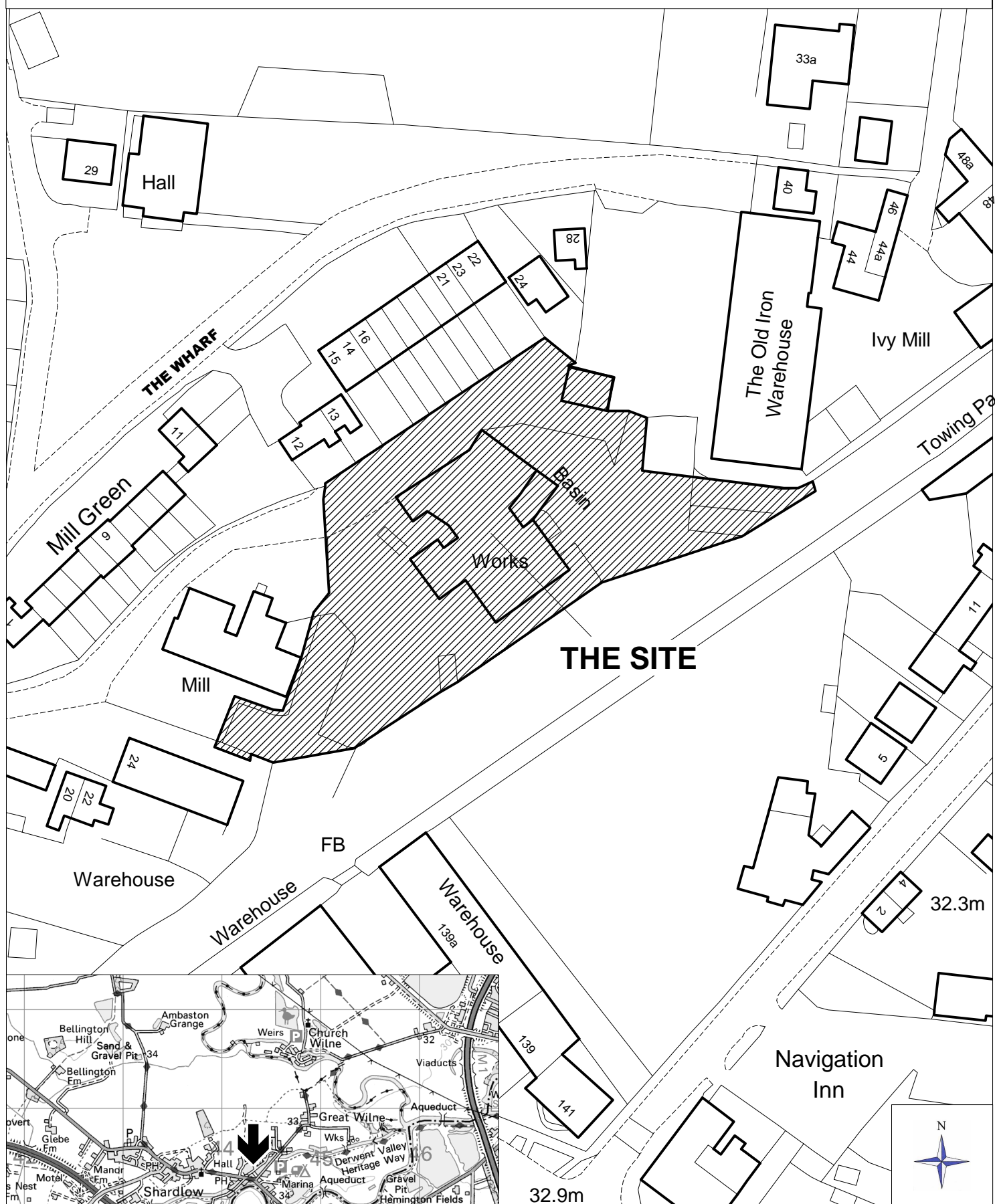
Proposal

The existing buildings are in a dilapidated state and the main basis of the application is to replace them. A small extension is also proposed to enable 70 foot narrowboats to be accommodated within the shed. The shape and size of the buildings would be similar to the existing buildings. The external walls would be clad in dark coloured corrugated fibre cement sheeting.

Applicants' supporting information

The design philosophy for the scheme is to retain the existing character and functionality of its historic canal side use, whilst improving the quality and longevity of various workshops and ancillary buildings to provide more flexibility for the business.

A flood risk assessment has also been submitted which acknowledges that the site is at risk of flood, but also points out that this is a water compatible development as defined in PPS25.



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South Derbyshire District Council. LA 100019461. 2010

Planning History

Conservation Area Consent has been granted for the demolition of the existing buildings (9/2009/0952).

Responses to Consultations

The Parish Council considers that brick and tiles would be a better match with the surrounding properties. The development is a central feature of the conservation area and as such the development should be designed to give the optimum visual effect.

The Highway Authority, Contaminated Land Officer and Development Control Archaeologist have no objection.

British Waterways identifies the site as important. It considers that the site's use as a boat building yard is part of the conservation area's character. The buildings as existing fit surprisingly well in the conservation area. The character of the conservation area would be preserved and marginally improved in the context of assisting the continuance of an industry central to its character.

The Design and Conservation Officer comments that the ongoing use dictates the size and shape of structures needed and this is little different to the existing. This mass and scale does not lend itself to more traditional construction. The 'lighter' appearance that would result from sheet-clad structures would be more readily integrated. The proposed cladding is corrugated as suggested and thus the overall appearance will be similar to what is there now. Windows have been incorporated on the canal side, which would help to maintain a vibrant front to the waterway. The visual impact on the character of the canal would be small and with the right colour choice there could be a small improvement. The retention of the use is of great importance in maintaining the working character of the canal.

The Environment Agency has no objection in principle.

Responses to Publicity

None received.

Development Plan Policies

The relevant policies are:
Saved South Derbyshire Local Plan Environment Policy 12, Employment Policies 1 & 5, Transport Policy 6.

National Guidance

PPS4 PPS5 PPS25

Planning Considerations

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

- The principle.

- Impact on the character and appearance of the conservation area.
- Flood risk

Planning Assessment

The principle of business development here is supported by the relevant development plan policies. There would be no increased environmental, traffic or neighbour impact.

Whilst many of the historic warehouses in the locality are either redundant or have changed use, the industrial character of the settlement has been maintained through the continuous presence of small boating-related industries and iron fabrication and these occupy the main part of the Great Wharf. Modern sheds and pre-fabricated corrugated structures characterise a large part of the canalside at Dobson's Boatyard. Whilst these do not have the presence and character of the historic brick warehouses, they contribute to the sense of a working port and have a gritty, semi-industrial character at the heart of the settlement that has been lost elsewhere in The Wharf area. Because of the nature of the existing boat repair business on the site the workshops need to be functional rather than decorative i.e. wide plan form and shallow roof pitch.

The proposed cladding materials are more appropriate to this kind of industrial building than brick and tile, the latter being better suited to buildings of a more traditional style and scale. To clad the proposed buildings in brick would be to create a much more imposing and heavy looking group, which would be incongruous to the site's commercial context and thus harmful to the character and appearance of the conservation area. The applicant's design philosophy is supported by British Waterways. The proposed colours of the materials, which have been assessed by the Design and Conservation Officer would ensure a suitable subdued appearance to this vital commercial part of the conservation area.

As this proposal relates only to replacement buildings there would be no increased flood risk. The recommendations of the FRA would result in enhanced safety and flood resilience measures in the event of flood.

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. Unless as may otherwise be agreed in writing with the local planning authority the colour of the walls and roof shall be BS 18 B 29 (slate blue) and the window frames shall be BS 14 C 35 (muted blue/green).
Reason: To ensure that the colour of the building is appropriate to the conservation area.

3. The recommendations of the submitted Flood Risk Assessment shall be incorporated in the development.
- Reason: To minimise flood risk.
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) If required by the conceptual model no development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.
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.

Informatives:

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.

Item 1.2

Reg. No. 9/2009/1067/J

Applicant:

RWE NPOWER PLC
TRIGONOS
WHITEHILL WAY
WINDMILL HILL BUSINESS PARK
SWINDON

Agent:

MR HUGH MORRIS
RWE NPOWER PLC
TRIGONOS
WHITEHILL WAY
WINDMILL HILL BUSINESS PARK
SWINDON

Proposal: APPLICATION FOR CONSENT TO CONSTRUCT AND
OPERATE A COMBINED CYCLE GAS TURBINE AND
OPEN CYCLE GAS TURBINE POWER STATION ON THE
SITE OF WILLINGTON POWER STATION TWYFORD
ROAD WILLINGTON

Ward: WILLINGTON/FINDERN

Valid Date: 17/12/2009

Reason for committee determination

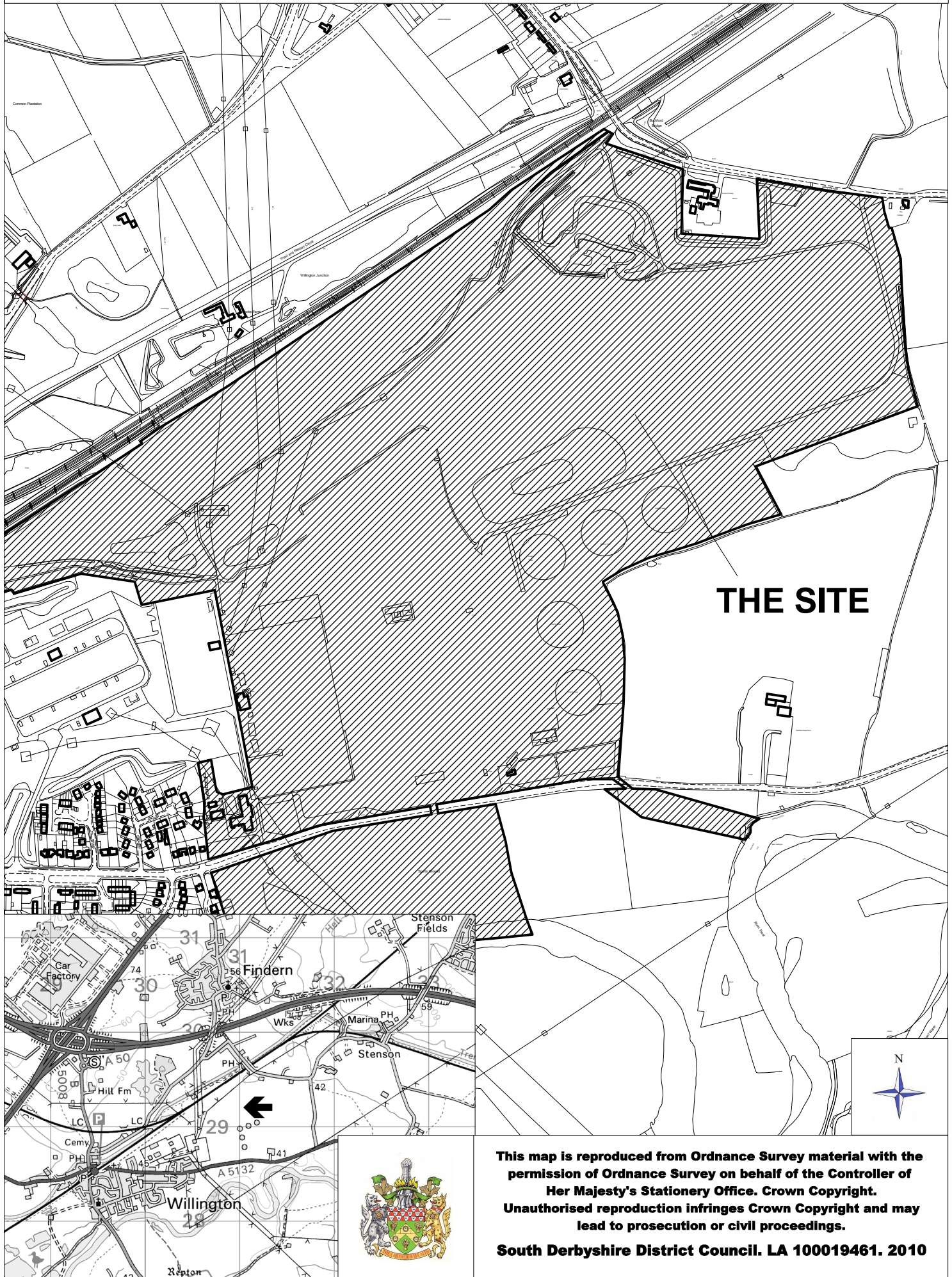
The application is brought to Committee at the discretion of the Head of Planning Services as the application is made to the Secretary of State for Energy and Climate Change under Section 36 of the Electricity Act 1989 and this Council, amongst other bodies, is a consultee to that procedure.

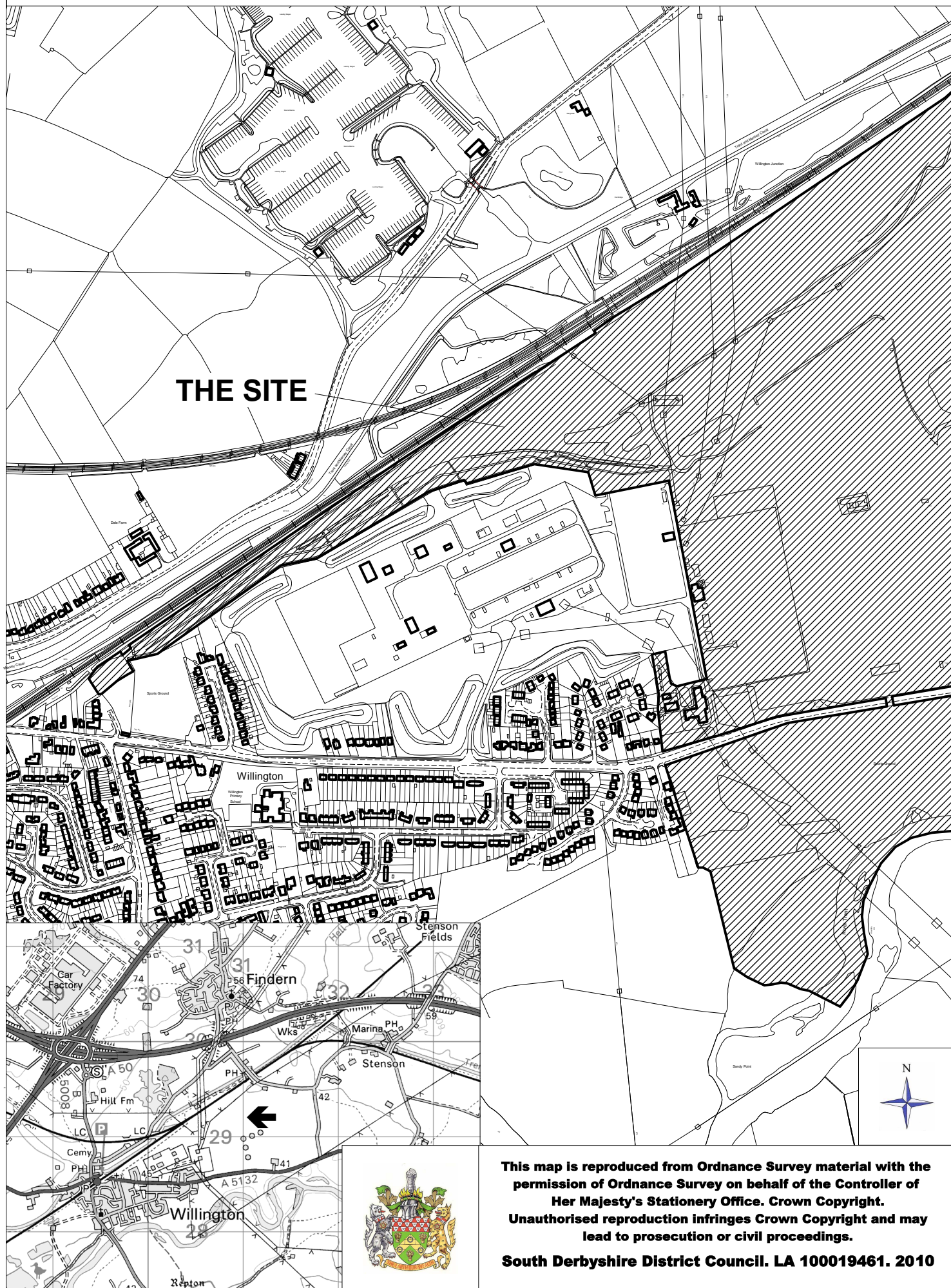
Procedures

The application is for the construction and operation of a combined cycle gas turbine and open cycle gas turbine power station (CCGT).

Section 36 provides, amongst other matters, that a generating station shall not be constructed, extended or operated except in accordance with a consent granted by the Secretary of State. The procedures for obtaining consent provides that where there is an objection to an application by a local planning authority, the Secretary of State must hold a public inquiry before granting consent. In the case of objections being raised by a body that is not a local planning authority, the Secretary of State is not obliged to hold a public inquiry but is required to consider objections along with all other material considerations with a view to considering whether an inquiry should nonetheless be held.

Whilst planning permission is also required because the scale of the works fall outside of deemed permission granted under the Town and Country Planning (General Permitted Development) Order 1995, the Secretary of State is authorised to direct, upon granting consent, that planning permission for the development and for ancillary





development shall be deemed to be granted subject to conditions as may be specified by Section 90 of the Town and County Planning Act 1990.

It should be noted that Derbyshire County Council confirmed on 28 April 2010 that it has no objection to the development.

Site Description

The application site is some 88.90 hectares in size and is located on the eastern fringe of Willington village. The site is accessed by the A5132 Twyford Road, which divides the site between its northern part, the site of the former Willington A & B Power Station, and playing fields on its southern part. The site also includes an easement area for the existing cooling water discharge pipeline to the River Trent. The site is relatively level topography.

The Derby to Birmingham main railway line borders the northern edge of the site providing both passenger and freight rail services. To the north of the railway line lies the Trent and Mersey Canal Conservation Area, the canal linking with Mercia Marina to the north with the A50 beyond. The area between the railway and the canal is primarily agricultural. Willington Footpath No. 4 runs along part of the north-western boundary of the site adjacent to the railway line (and is unlikely to be affected by the development).

Findern Primary School and Buckford Lane lie to the north-east with further agricultural land to the east. To the south of the site lies the River Trent and its floodplain within a predominantly rural area criss-crossed by power lines and the meandering River Trent.

Immediately to the west of the site is a series of operational sub stations forming part of the national grid provided with structural landscaping. This merges into the existing urban fabric of Willington, a settlement focused upon its central road junctions and moving out from its historic core along Twyford Road towards the power station, with extensive residential development heading eastwards along this road.

Included within the application site is an operational sub-station leased by RWE npower to the National Grid and buildings leased to Willington Sports and Social Club and the local Scout Group which are intended to remain unaffected by the proposals.

Planning History

Willington 'A' power station became fully operational in 1957 and in the same year the extension to form Willington 'B' was planned. The former Willington A and B coal-fired stations were decommissioned in the mid to late 1990s and largely demolished between 1999 and 2002. The only remaining structures on site are the five cooling towers, a security gatehouse and cooling water intake and outfall pipework and structures.

The site was subject to a previous outline application for mixed use including residential, employment, retail, community and healthcare facilities with associated infrastructure and landscaping/open space. An appeal against non-determination was considered at Public Inquiry and subsequently dismissed by the Secretary of State on 26 January 2009.

Proposal

The application proposes the construction of combined cycle gas turbines with a capacity of up to 2,000MW and open cycle gas turbines with a capacity of up to 400MW on the site, to be known as Willington C Power Station (WCPS).

The final plant configuration and layout will depend on the choice of main contractor however the scheme described in the application is typical of those which RWE npower expects to be offered. Four separate turbine houses would each contain a gas and steam turbine driving a common generator. The boilers would be in buildings approximately 34m high, 33m wide and 25m long. The four flue stacks would be up to 80m high. In addition there would be smaller buildings including a station control room, offices, stores and water treatment plant. The stacks for the four Open Cycle Gas Turbines would be 55m high and both sets of stacks would be clustered into pairs, giving the appearance of four stacks rather than eight. A workshop and stores building, water treatment plant, administration block, control room and car park would be located close to the station. The (plume suppressed) cooling towers, required to cool the water that is used to condense steam in the steam turbines, before the water is returned to the River Trent, would be approximately 20m high. (The necessary abstraction license for the use of water for cooling from the River Trent was granted by the Environment Agency in March 2010.)

Access to the site would be via the existing access points from the A5132 Twyford Road. The main existing access would be reused for all HGVs during the construction period and as the main access for operational traffic. A separate existing access point on Twyford Road would be used for light vehicles during the construction phase and this would be retained as an alternative access during the operational phase. The existing access at the rear of the site onto Buckford Lane would be retained as a dry access route for light vehicles in the event of flooding on Twyford Road. During the construction phase, the main construction traffic would access the site from the east from the A50, A514 and along Twyford Road, avoiding Willington village.

The fuel to be burnt in the gas turbines would be natural gas, which would be supplied directly to an on-site gas reception plant supplied by a new underground pipeline of between 28 and 30km in length and approximately 0.8m in diameter. The gas pipeline would be the subject of a separate application submitted to the Infrastructure Planning Commission as a major infrastructure project under the Planning Act 2008 for which the Council would be a consultee.

The proposal includes facilities to enable the station to run on oil as a backup fuel. The sidings that served the former A & B power stations would be re-installed and rail would be the main delivery method for oil supplies. A road unloading facility would also be installed so that, if necessary, road tankers could be used for fuel delivery.

Applicants' supporting information

The applicant has submitted supporting information:

- A large number of existing coal, oil and nuclear power plants are due to close in the near future as they near the end of their operational life and will be unable to achieve the stringent new environmental standards that are being introduced. In total the UK is likely to need around 25GW of replacement electricity capacity by 2025, equivalent to more than 30% of today's existing capacity. WCPS is one of

several new power stations currently proposed in the UK to maintain the UK's generating capacity.

- The CCGT plant is a combination of gas and steam turbines, usually driving a single shaft. In the gas turbine, air is compressed and passed into a combustion chamber where it is used to burn the natural gas fuel to produce hot gases at high pressure. This thermal and pressure energy is converted to mechanical energy by expanding the hot gases through the gas turbine. The exhaust heat from the gas turbine is used to boil water and produce steam which in turn drives a steam turbine. In a steam turbine, energy is released from the steam when it is rapidly condensed. Both the gas turbine and steam turbine drive a shaft connected to a generator which produces electricity.
- The WCPS will deliver a 60% reduction in emissions per unit of electricity generated compared with the operation of the coal fired stations that it will be replacing. The proportion of energy converted to electricity is about 60% compared with 35%-40% achieved by existing coal-fired power stations.
- The station will be designed to be 'Carbon Capture' ready, a requirement of the S36 consent, and 'Combined Heat and Power (CHP)' ready. The combined heat and power process provides heat to an industrial process or to heat buildings. At present no CHP opportunities have been identified but the plant will be designed with this capability should the right opportunity arise in the future.
- Once operational the WCPS would have a staff of approximately 100 full time employees, plus additional regular contractors and further contractors for routine maintenance and major overhauls.
- Approximately 26.3ha of the site will be allocated for green infrastructure, including provision for landscaping, nature conservation and recreational purposes. Over 10,000 new trees will be planted.
- The site drainage system will include the restoration of previously culverted watercourses, the use of swales and a new surface water attenuation pond.
- One of the main landscaping areas will be along Twyford Road improving the eastern entrance to Willington village by providing an extensive open grassed verge, with avenue planting, backed by a woodland planting strip to provide screening of the power station. This landscaping will create a new 'entrance to Willington' which could include a 'gateway feature'.
- RWE npower propose constructing a training centre/multi-purpose building within the Twyford Road landscaping area and this would be designed to be of use by community groups. The building could incorporate changing facilities to enhance the use of the playing fields and a pedestrian crossing would be installed on Twyford Road to link it to the sports fields.
- The construction of the new WCPS would involve a construction period of approximately 3.5 years, plus a preliminary demolition and site remediation stage of about 6 months.

- In advance of the commencement of work RWE npower will establish a Local Liaison Committee.

An Environmental Statement has been submitted with the Section 36 application (a full copy of which is available to view) assessing the effects of the proposed development on aquatic ecology and water quality, air quality, ecology and nature conservation, cultural heritage, ground conditions, socio-economic impact, flood risk and drainage, traffic and transportation, noise and vibration and landscape and visual impact.

In summary, impacts on the aquatic environment will be minor at worst; demolition, construction and decommissioning work will be likely to have an insignificant impact on local air quality and operational activities are highly likely to achieve all national air quality objectives set to protect human health; habitat creation proposals and sympathetic management of grassland habitats would provide some but not complete compensation for habitat losses; appropriate mitigation measures would be put in place relating to noise, contamination, flooding and traffic management; and there would be a minor noticeable visual improvement to the site.

Responses to Consultations

A number of organisations have been consulted directly by the applicant as required under the S36 procedure. Those organisations, including the Environment Agency and Natural England, have responded directly to the Secretary of State. Consultee responses to this Authority are summarised below.

The Highway Authority would require the submission for approval of a Traffic Management Plan relating to construction and operation traffic as outlined in the ES. In addition, the Authority would seek through a S106 Unilateral Undertaking the provision of a temporary speed limit and temporary construction traffic signage scheme (the details of which would be agreed as part of a Traffic Management Plan), the provision of a permanent (post construction) speed limit and a condition for alterations to existing lighting along Twyford Road, the provision of a gateway entrance feature and a pedestrian refuge along Twyford Road to the playing fields opposite. A scheme for the control of the Buckford Lane access and for public access to the site in relation to community use as outlined in the ES should be required by condition.

Environmental Health has no objection subject to the mitigation measures identified in the ES.

The Contaminated Land Officer has no objection subject to appropriate conditions for the control and mitigation of contamination within the site.

The Design and Conservation Officer has commented that the proposed development would represent an overall reduced visual impact on the Trent and Mersey Canal Conservation Area by comparison with the existing development on the site. Consideration should be given to sufficient landscaping and screening along the northern boundary of the site to minimise the visual impact of the proposed development on the conservation area, and to conserve the tranquil rural environment of the canal.

The Development Control Archaeologist has advised that the proposals contained within the ES regarding archaeology of medium/regional importance are acceptable however archaeology of national importance should be preserved in situ and the submission

and approval in consultation with the DC Archaeologist of a written scheme of investigation should be required by condition.

Derbyshire Wildlife Trust has advised that the proposed development would have no adverse impact upon any statutory or non-statutory sites of nature conservation interest. The development is highly unlikely to have any direct impact upon badgers but recommend that further survey work should be carried out if construction occurs later than two years from the date of the Environmental Statement. The reserve within the north-west finger of the site for the translocation of great crested newts from pond 6 should be established well in advance of the translocation of the amphibians. The Trust would welcome the restoration of previously culverted watercourses, the creation of an attenuation pond and the use of swales and the retention of specific areas and their management in perpetuity to enhance their existing nature conservation value. Such areas should be adequately protected during the demolition and construction phase. However, these areas are insufficient to mitigate against the loss of 29.81ha of UK BAP priority habitat and the Trust recommends the consideration of additional areas for ephemeral/short perennial vegetation and bare ground where possible. The Trust recommends incorporation of nesting opportunities for birds and that a further assessment of the cooling towers for roosting bats is carried out prior to their demolition. The Trust support the production of a Habitat Management and Monitoring Plan for all retained and created habitats on the site.

Barrow on Trent Parish Council has commented that whilst understanding the need for power generation there is concern in relation to the impact of heavy increased traffic along the A5132 which runs through residential areas of the village and request a temporary improvement of the junction of the A5132 and A514 before construction work begins. The Council request that the applicant provides a grant to cover the cost of installing an automatic lit speeding sign to help combat speeding vehicles and enquires if there is a possibility of giving incentives to construction workers to travel to Willington by train which would be a practical and visible demonstration of the green credentials of the applicant. The Parish are concerned about the lack of information about the routing of the gas/oil piping needed to supply the power station and about the possible air borne and other pollution affects on Barrow which is east and north-east of the proposed site, and with a prevailing south-west wind and request further information in this regard.

Willington Parish Council has submitted a consultation response carried out by consultants and comments that the District Council should secure through a S106 agreement the provision of a Transport Management Plan during the course of the construction phase, and a Travel Plan during the operational phase of the development to ensure traffic management impact is minimised. In addition the Parish request that conditions are applied to ensure the following:

- Adequate road crossings and changing facilities are provided before the training centre/multipurpose building is occupied.
- Noise levels are adequately monitored.
- The stated RWE npower policy of local recruitment should be secured through a S106 agreement.
- Working hours and associated issues of noise are adequately controlled and monitored.

- The feasibility of an alternative access point to the playing fields should access be closed during the construction period.
- A Travel Plan that assesses and responds to the demand for parking should be secured as part of a S106 agreement.
- A comprehensive landscaping scheme that includes the securing of “Avenue Planting” along Twyford Road as outlined in the Environmental Statement.
- The training centre/multi purpose building should be secured by a S106 agreement. In addition the design and layout of this building should be established with the input of the local community including the Parish Council.
- Full details regarding the handling of contaminated soils should be submitted and approved by the relevant specialist bodies.
- Hours of delivery during the construction period should be reduced from the normally accepted hours of between 7am and 9pm as outlined in the ES in consideration of the relatively close proximity of a residential area.

The Trent and Mersey Canal Society has no objection to the proposal on the grounds that the site has a long history of power generation and that there is clearly a need for additional power generation in this area. However, the Society would like to see a suitable green barrier to break up the visual impact of the proposal from the canal, particularly between the canal bridge at Findern to Potlocks Farm and from the rail bridge at Willington towards Willington Wharf.

English Heritage advise that the application should be determined in accordance with national and local policy guidance, and on the basis of the Council’s specialist conservation advice.

Network Rail has no objection subject to consideration of there being no interference with the railway line and associated structures and method statements applied as appropriate for works located within 10m of the railway boundary, the submission of details of landscaping adjacent to the railway and lighting details. Network Rail is fully engaged with the applicants in relation to the installation of a new rail connection to the site.

East Midlands Development Agency is broadly supportive of the proposal but advise of the importance of imposing conditions in relation to the Green Infrastructure element as detailed in the ES.

Central Networks has no objection provided appropriate statutory safety clearances are adhered to.

Severn Trent Water has no objection.

Responses to Publicity

Comments have been received from and on behalf of Madecorn Leisure, owners and operators of Mercia Marina, stating extreme concern about the potential for unacceptable visual impact on the Marina which is “a highly sensitive leisure facility of sub-regional strategic significance”.

“The Marina will hopefully become a significant tourist attraction for the District and region and it is believed that this aspiration and economic viability of the marina could be severely damaged if nothing is done to conceal the power station from the marina.”

The owners request that a planning condition be imposed on any consent requiring the implementation and maintenance of a dense planting scheme of sufficient height to screen the power station development from Mercia Marina prior to commencement of development.

Development Plan Policies

The relevant policies are:

Local Plan: Environment Policies 1, 11 and 14, Employment Policy 7, Transport Policies 6 and 7

National Guidance

PPS1, Planning Policy Statement: Planning and Climate Change – Supplement to PPS1, PPS4, PPS5, PPS7, PPS9, PPG13, PPS23 and PPS25

Planning Considerations

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

- Principle of development
- Visual impact
- Environmental impact
- Economy
- Highway issues
- Conservation and archaeology

Planning Assessment

Principle

The Climate Change Act 2008 introduced a statutory target of reducing carbon emissions by 80% below 1990 levels by 2050, with an interim target of 34% by 2020. The Draft National Policy Statement for Energy (EN-1) recognises that throughout the transition period towards a low-carbon economy there is a need to maintain a security of supply comparable to today's energy supply taking into account the significant closure of existing generating capacity over the coming years, particularly to 2020, as a result of tightening environmental regulations and aging power stations. The Draft National Policy Statement for Fossil Fuel Electricity Generating Infrastructure acknowledges that fossil-fuelled power stations have a role to play in providing both a secure and reliable energy supply whilst the UK move towards a low carbon economy.

In considering the suitability of sites Draft Policy EN-1 advises consideration should be given to national, regional and local benefits (environmental, social and economic) including the contribution to the need for energy infrastructure, job creation and any long-term or wider benefits. Any adverse impacts should be outweighed by the overall

benefits of the development. The development should be as visually attractive as possible as a result of good architecture and appropriate landscaping.

The site is defined as 'brownfield' and has historically been used as a power station. Therefore, given its past usage and that there is an identified national requirement for this type of development there would be no objection to the principle for the redevelopment of the site as a power station subject to all other matters being acceptable.

Visual Impact

The proposed development would represent an overall reduced wider visual impact by comparison with the existing development on site. Photomontages have been produced to accompany the application showing the site as existing and as proposed and indicate that the proposal would be much less visually intrusive. The height of the existing five cooling towers that remain on site is 91m. The submitted details indicate that the highest element of the proposed development would be the four flue stacks which would be up to 80m high. These stacks along with the four stacks for the Open Cycle Gas Turbines measuring 55m high would be clustered into pairs giving the appearance four stacks in total. The main building height would be 34m. The detailed design of the power station would be submitted to the Local Planning Authority for approval pending consent of the S36 application.

The proposed landscaping along Twyford Road, which would include avenue planting backed by a woodland planting strip to provide screening of the power station, would significantly enhance the appearance of the site from this main route into and out of Willington village the details of which could be required by condition.

Environmental Impacts

The development by nature of its scale would inevitably lead to the loss of existing habitats that have established on the existing derelict site. The ES outlines mitigation measures that would provide approximately 26.3ha of green infrastructure incorporated in a provision of landscaping, nature conservation and recreational provision with areas of habitat retained on the sports ground to the south of Twyford Road, the eastern boundary and existing north-eastern wildlife area bordering Findern School and the western finger of land which would include the great crested newt reserve. The requirement for the production of a Habitat Management and Monitoring Plan for all retained and created habitats on the site together with consideration of additional areas for ephemeral/short perennial vegetation and bare ground where possible, the incorporation of nesting opportunities for birds and further assessment of the cooling towers for roosting bats prior to their demolition should be required by condition.

The ES has outlined measures for the mitigation of noise and contamination and these should be required by condition.

A Flood Risk Assessment has been submitted as part of the application and concludes that there is a low risk of flooding to the power station and that the development should not have any adverse impact on flooding within the surrounding area. The site drainage is intended to minimise run-off rates into the watercourses and restore the 'greenfield' run-off rate of that existed when the site was agricultural land. A storm water attenuation pond extending to approximately 1ha incorporating a reed bed, a lined pond and infiltration area is proposed. The main plant of the proposed power station will be

built in areas that are currently within Flood Zones 1 and 2 with floor levels and essential plant set above the 1 in 1000 year flood level to give a high degree of flood protection.

Economy

The applicants anticipates that the number of employees on the site would average approximately 1,000 during the main 3.5 year construction period reaching a peak of 2,000 in the second year. It is estimated that approximately 50% of the 2,000 employees required at the peak of construction could be recruited locally with the remaining employees recruited elsewhere including other parts of the Midlands. Of the 100 staff employed during the operational phase it is anticipated that at least half could be recruited from within daily commuting distance of the site, dependant on the number of suitably skilled personnel residing within the area. Given the current economic climate this is a substantial benefit to the District and region as a whole.

Highways

The preferred route for construction traffic would be from the east, avoiding Willington village, via the A5132, A514 and A50. The application anticipates that the number of HGVs during the peak period of construction would be around 44 per day with measures put in place to control the times when HGVs access the site. The total increase in daily traffic on the A5132 east of the site is estimated to be 17% with a 24% increase in HGV traffic. During the operational phase traffic would be much lower than for the operation of the previous power station with a total of 60 of the anticipated 100 employees on site during the day and night shift limited to the number of operators required to run the plant.

The use of oil at the power station is a contingency and is only likely to be used if gas supplies were to be interrupted. The main delivery method would be by rail but a road unloading facility would be provided as an alternative.

The ES advises that a Travel Management Plan would be prepared and submitted for approval prior to commencement encompassing both construction and operational traffic and it is recommended this be agreed by condition.

The Highway Authority has no objection in principal but would require the applicant to enter into a S106 agreement in relation to the provision of a temporary speed limit reduction and construction traffic signage scheme along Twyford Road during the construction period and the provision of a permanent speed limit (subject to a successful risk assessment) post construction. In addition any approval should be conditioned to require the submission to the Highway Authority of details of the design and phasing of off-site highway works adjacent to Twyford Road comprising street-lighting, a gateway scheme and a pedestrian crossing refuge and requiring the developer to enter into a S278 agreement allowing works within the highway.

Conservation and Archaeology

The Trent and Mersey Canal Conservation Area is located to the north of the application site. Whilst the development would inevitably, due to its scale, be visible from within the conservation area the applicant predicts a minor beneficial impact with the removal of the existing cooling towers. Along the towpath views would be through the existing vegetation with further extensive planting proposed along the northern boundary of the

site, the details of which would be required by a landscaping condition. The impact of the development on the conservation area would be more noticeable when viewed from Mercia Marina however the removal of the cooling towers would represent an overall reduced visual impact and is therefore considered acceptable.

The applicant advises that the layout of the proposed development has sought to avoid impacts upon archaeological sites where possible. The Environmental Statement has been amended to acknowledge the importance of archaeological remains of national importance within the site and it is recommended that a written scheme of investigation be required by condition.

Community benefits

The existing community facilities on site, which include the Willington Sports and Social Club and the use of the former power station training room by the local Scout Group, would be retained as part of the development proposal. In addition, the applicant proposes the provision of a training centre/multi purpose building which could incorporate changing facilities to enhance the use of the playing fields to the south of Twyford Road. The changing facility has been offered as a goodwill gesture by the applicant but as the facility is not deemed by the Authority as being necessary to the development cannot be required as part of a Section 106 agreement. However, the Authority would encourage best endeavours to be made to secure the provision of this facility.

Conclusion

There is no objection in principle to the proposed construction and operation of a combined cycle gas turbine and open cycle gas turbine power station. Any concerns that are unresolved can be conditioned and are as a result of information and detail that is not yet available.

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

- A. That the Secretary of State be advised that this Council raises **No Objection** to the principle of development of the site based on the Environmental Statement submitted that the buildings would be 34m in height.
- B. If the detailed design results in a building above 34m then the Council would wish to have the opportunity to evaluate this impact.
- C. It is requested that the applicant enter into a Section 106 Unilateral Undertaking to secure the provision of a temporary speed limit and temporary construction traffic signage scheme (the details of which would be agreed as part of a Traffic Management Plan), the provision of a permanent (post construction) speed limit and a condition for alterations to existing lighting along Twyford Road, the provision of a gateway entrance feature and a pedestrian refuge along Twyford Road to the playing fields opposite.

- D. The Council would encourage best endeavours to be made to secure the provision of the changing/community facilities within the multi-purpose building as outlined in the submitted Environmental Statement.
- E. It is requested that the matters of concern raised in this report be dealt with by the Secretary of State as appropriate with the possibility of the inclusion of the following conditions and notes to applicant:
1. Prior to commencement of the development, details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site shall be agreed in writing with the Local Planning Authority.
 2. Prior to the commencement of development, details, specifications and where necessary, samples of facing materials to be used in the construction of the external walls and roofs of the buildings shall be submitted to and approved in writing by the Local Planning Authority.
 3. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping/tree planting, 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 during the course of the development.
 4. All hard and soft landscaping 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.
 5. A landscape management plan which shall include long term design objectives, management responsibilities and maintenance schedules for all landscape areas shall be submitted to and approved by the Local Planning Authority prior to the occupation of the development. The landscape management plan shall be carried out as approved.
 6. 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.
 7. a) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.

- b) Prior to occupation of the development (or parts thereof) an independent verification report must 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 should be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
 - d) If required by the conceptual site model, no development shall take place until monitoring at the site for the presence of ground 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'.
 - e) 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 to the satisfaction of the LPA.
- 8. Before any operations commence involving the movement of materials in bulk to or from the site, facilities shall be provided that have previously been approved in writing by the Local Planning Authority, to prevent the deposition of mud or extraneous material on the access roads to the site.
 - 9. The commencement of the Development shall not take place until there has been submitted to, approved in writing, and deposited with the District Council a Traffic Management Plan in relation to construction and operational traffic. The approved Plan shall be implemented and adhered to in accordance with the approved scheme, unless any variation has been approved by the Local Planning Authority.
 - 10. The development shall not commence until details of the design and phasing of the off-site highway works comprising of street-lighting, a gateway scheme and a pedestrian refuge adjacent to the site on Twyford Road, have been submitted to and approved in writing by the Local Planning Authority.
 - 11. Prior to the site becoming fully operational, the off-site highway works shall be laid out and constructed in accordance with the approved details and phasing. (For avoidance of doubt the developer will be required to enter into a S278 agreement with the Highway Authority to comply with the requirements of this condition.)
 - 12. The existing vehicular access onto Buckford Lane shall only be used as a dry access point for light vehicles in the event of flooding on Twyford Road.
 - 13. No development shall take place within the site until the developer has secured the implementation of a programme of archaeological work, in accordance with a written scheme of investigation (WSI) submitted by the applicant and approved in writing by the Derbyshire County Archaeologist.

This scheme shall include on-site work, and off-site work such as the analysis, publication, and archiving of the results. All works shall be carried out and completed as approved, unless otherwise agreed in writing by the Derbyshire County Archaeologist.

14. No development shall take place until the applicant has submitted a written mitigation statement demonstrating how the buried archaeological remains of the Neolithic cursus will be preserved *in situ*, and has obtained written agreement from the Derbyshire County Archaeologist.
15. No development shall take place until a Habitat Management and Monitoring Plan for all retained and created habitats on site has been submitted to, approved in writing by, and deposited with the Council. The plan should include adequate measures adequate post-mitigation monitoring in the form of surveys to determine the condition of created/translocated habitats and the continued presence of key species including the aquatic environment.
16. All areas of retained habitat as outlined in the submitted Environmental Statement shall be adequately protected during the demolition and construction phase by the erection of adequate security fencing the details of which shall be submitted to and approved in writing by the Council. No materials shall be stored within these areas.

Item 1.3

Reg. No. 9/2010/0153/NO

Applicant:

TOYOTA MOTOR MANUFACTURING UK
LTD
BURNASTON
DERBY

Agent:

MR KATSUNORI KOJIMA
TOYOTA MOTOR MANUFACTURING
UK LTD
BURNASTON
DERBY

Proposal: **THE ERECTION OF A TEMPORARY 60M WIND
MONITORING MAST FOR TWELVE MONTHS AT
TOYOTA MOTOR MANUFACTURING UK LTD
BURNASTON DERBY**

Ward: ETWALL

Valid Date: 23/02/2010

Reason for committee determination

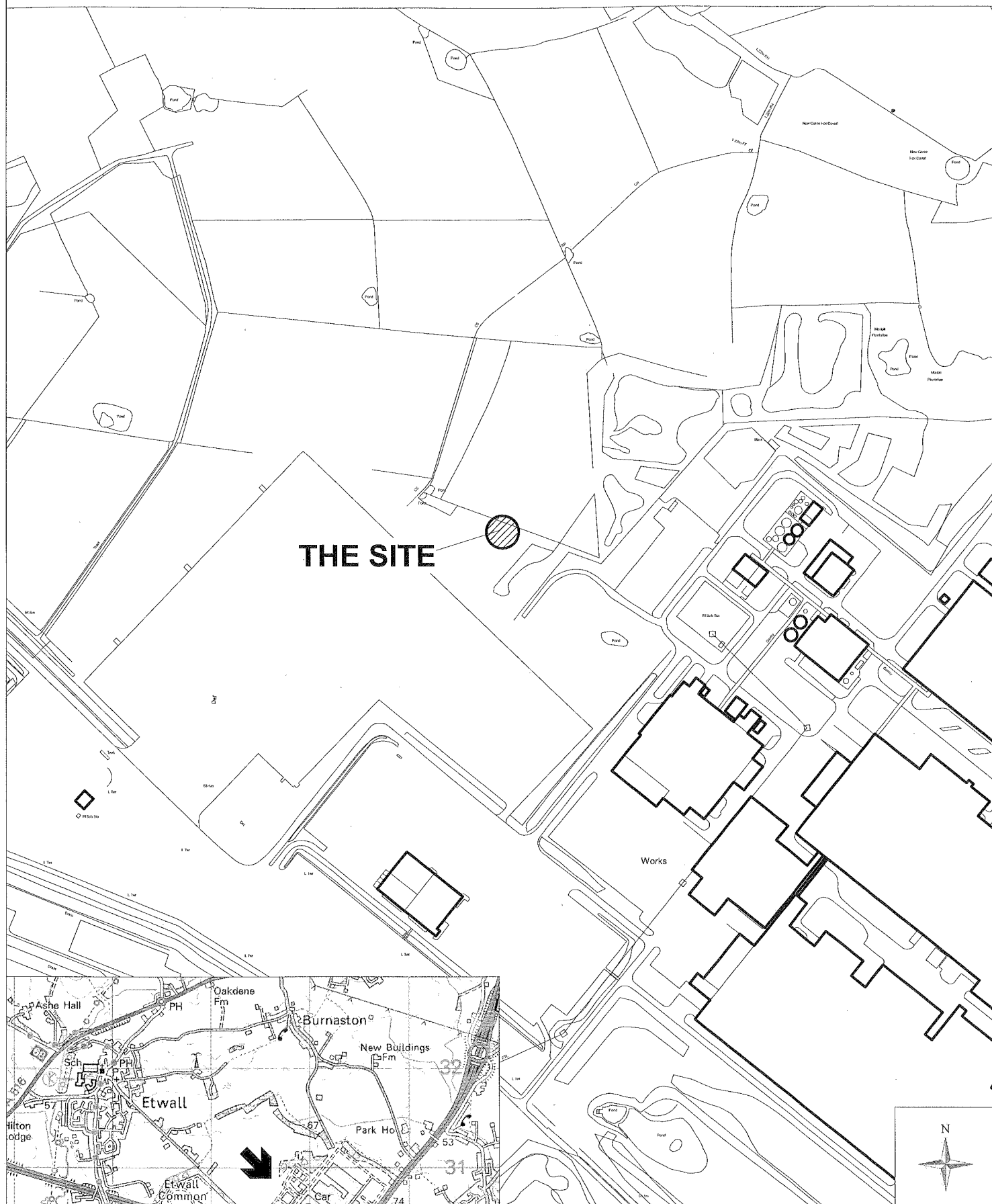
Councillor Brown requested committee determine the application as local concern has been expressed about a particular issue and there are unusual site circumstances that should be considered by the Committee.

Update

At the Committee meeting in April a considerable amount of technical information was presented verbally to clarify issues referred to in the written report. Members resolved to defer consideration of the application to allow officers time to seek independent specialist aviation advice with regard to the information provided by the applicant and the main objector. That advice has now been received and this report rewritten accordingly. (*Whilst amendments are normally highlighted in italics, due to the complex nature of this application the report has effectively been rewritten*)

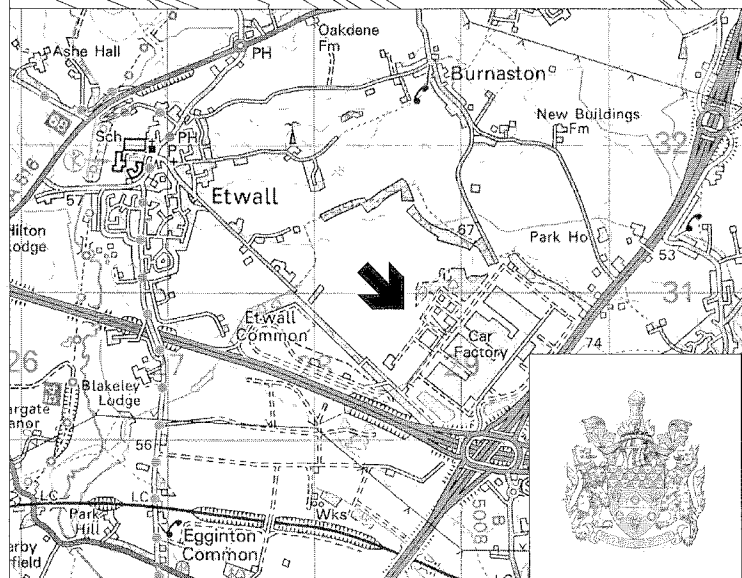
Site Description

The proposed structure would occupy part of a field to the rear of the Toyota complex. Hedges interspersed by trees enclose the field but given the nature of the structure the screening effect of these would be minimal. [For an impression of what the mast may look like there is a radio mast on Findern Lane at Burnaston that is supported in the same way as the proposed structure on the Toyota site. The site lies some 40 feet higher than the nearby airfield.



THE SITE

Works



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South Derbyshire District Council. LA 100019461. 2010

Proposal

The proposal is to erect a temporary 60m (197ft) high wind monitoring mast for a temporary period in a location that has been amended following receipt of responses to publicity.

Applicants' supporting information

Permission is sought for a temporary period expiring on 30 June 2011 to allow time for the mast and wind gauge to be erected on the site. Advice was sought from an aviation consultant prior to submission of the application. There is no requirement to consult the Civil Aviation Authority with regard to an application for an anemometer. The proposal does not breach any of the designations that afford physical protection to surfaces around the airfield to enable safe approach or take off by aircraft. The proposed height and location of the anemometer mast is in compliance with the Civil Aviation Authority publication CAP 168 for an aerodrome of the classification of Derby Airfield which already has trees, chimneys, Willington Power Station and electricity transmission lines and pylons in text relating to the airfield. The airfield does not operate night flying. If the anemometer is erected Derby Airfield would remain compliant with the regulations for safeguarding licensed aerodromes.

Planning History

The mast is proposed on land within the control of Toyota. Planning permission for the development of the Toyota site was granted in 1989. The complex contains a large amount of undeveloped land and it is proposed to locate the wind gauge in such an area.

Responses to Consultations

Burnaston and Etwall Parish Council's have no objections.

The Environmental Protection Manager has no comment.

East Midlands Airport has no safeguarding objection but would wish to ensure that aviation lighting is installed on the mast as near to the top as is possible. It also recommends guidance in relation to wind turbines, which would be relevant if such an application is submitted in the future.

Responses to Publicity

10 letters have been received from the operator and users of Derby airfield at Egginton who object for the following reasons (to the mast irrespective of whether in its original or amended location):

- a) The wind gauge is situated directly beneath the 230 degrees runway that is mainly used for take offs and landings. Its position in this location represents a hazard to aircraft safety. Its top would be at about 240ft above airfield level and in this position planes would be at between 350ft and 600ft on approach. Taking off, aircraft may be at a lower height. A collision between a plane and a fixed object would inevitably be fatal.
- b) The airfield enjoys a national reputation for the quality of its training activities.

- c) The airfield enjoys an official ATZ that extends to a height of 1500ft (normally 2000ft but restricted because of the proximity of EMA) this constricts activities at the airfield. The Toyota site lies within the ATZ.
- d) The agreed route for air traffic entering and leaving the airfield is designed to minimise over flying of nearby villages and has worked well over the years. There would be a reluctance to alter this to the detriment of residents.
- e) There is concern that a subsequent wind turbine would have a hub height at 60 metres with the blade tip extending up to 75 metres. This would aggravate the problem identified earlier of plane/structure conflict. The agents are stating in their promotional material [on its web site] that it is investigating the feasibility and business case for a multi turbine on site wind farm for a major large UK manufacturing plant. There is concern that the wind gauge is the thin end of the wedge.
- f) If the CAA had been consulted it would have provided a related comment. The airfield operators are committed to resisting this and any subsequent application for wind turbines.
- g) Should there be an accident then the operators will hold the Council, Toyota and their consultants culpable in any litigation that may be pursued.
- h) The applicants have incorrectly drawn the extended centre line of the runway so the distance is reduced to 360m from the 500m specified.
- i) Pilots are encouraged to stick to a particular flight path but it is difficult to stick to a particular line and gps traces show the scatter that occurs which relates to the height as well as the line.
- j) Inexperienced pilots have difficulty in ensuring the aircraft is lined up for the approach to the runway.
- k) The ASA report acknowledges that there is an aircraft safety problem caused by the anemometry mast.
- l) The applicant has made no effort to contact the airport.
- m) The identity of the consultant was kept a secret.
- n) Marking the mast more conspicuous by lighting is contrary to the aim of making it inconspicuous.
- o) It is too late to include the mast in the aviation maps and airfield guides as they are published annually and some GPS systems have inherent delays.
- p) A proper risk assessment has not been carried out.
- q) The ASA report does not adequately address the matter of wind and how it determines how the aircraft take off.
- r) The benefits of the applicant and marginal and should be weighed against the disbenefits to the airfield.
- s) It is up to Toyota to fundamentally solve the safety problem.

Other users of the airfield comment as follows in addition to the objections raised above:

- t) Alternative circuits for approach to the airfield are inevitable if the application were approved even with the agreement of the airfield
- u) Toyota should consult with the CAA and others before submitting an application as advised in CAA publications prior to submitting a planning application. The application penetrates the ATZ and may infringe the Air Navigation Order.
- v) Photovoltaic cells would provide a more reliable source of power than wind turbines without the visual intrusion.
- w) This application will lead to applications for wind turbines for which this location is inappropriate.

The Vice President of the Light Aircraft Association states that aviation is not an exact science and gives examples of variables that need to be taken into account. When driving a car variables and hazards are encountered in the horizontal plane but with flying the vertical plane also has to be considered. He states that the area due to the proximity of the A38 is subject to higher than average low level helicopter activity.

Development Plan Policies

The relevant policies are:

Saved Local Plan: Environment Policy 1

National Guidance

PPS 1: Delivering Sustainable Development

PPS 7: Sustainable Development in Rural Areas

PPS 22; Renewable Energy

Planning Considerations

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

- The Development Plan.
- Visual impact.
- Aircraft/Airport Safety Issues.

Planning Assessment

The Development Plan

The Secretary of State has revoked Regional Planning Guidance therefore the Development Plan currently consists of Saved Policies in the Adopted South Derbyshire Local Plan. That document has no policies relating specifically to the use associated with the proposed structure.

The Secretary of State makes it clear that regard should still be had to national Planning Policy Statements. PPSs 1, 7 & 22 all seek to encourage and secure sustainable development and improve the use of renewable energy sources. This particular application is linked to sustainable energy in that it will be used to ascertain whether wind speeds in the vicinity are sufficient to generate wind power. However, the application relates to a much smaller, less intrusive structure that will be in place for a temporary period of time only and therefore it would be unreasonable to subject it to the criteria appropriate for assessing planning applications for actual wind turbines.

Visual Impact

Local Plan Environment Policy 1 deals with development in the countryside. The proposed structure is unavoidable in the countryside because it is associated with an existing development located there i.e. Toyota. Environment Policy 1 also requires that if development is permitted in the countryside it should be designed and located so as to create as little impact as practicable on the countryside. The slender construction of the mast and gauge and its temporary nature would not result in an unacceptable visual intrusion in the countryside. The addition of lights would not make the structure intrusive

to the degree that it should be refused. The proposal therefore conforms to Environment Policy 1.

Aircraft/Airport Safety

The applicants are satisfied that their original suggested position of the mast avoided the protected zones around the airfield. However, whilst still contending that the proposed position is acceptable they have amended the application by moving the mast 250m further away. However, that is the furthest east that the mast could be sited to effectively measure the wind speeds without being adversely affected by wind shear off the main buildings.

There are lots of aviation terms included in both the applicant's supporting information and the letters of objection. However, the designation of relevance to the position of the wind monitoring mast is the Air Traffic Zone (ATZ) relating to Derby Airfield as the site lies within its radius. That designation however does not afford any protection of the land surface within it. What it does is require a pilot flying through it to contact the airfield. Planes making contact should be flying at 1500ft prior to making a descent to the airfield after making contact.

The independent report from ASA commissioned by the Council acknowledges that when strictly interpreting CAP 168 the position of the proposed air measuring mast is in conformity with the aerodrome regulations. Amongst the provision of CAP 168 is the matter of obstacle heights in and around the airfield and the proposed wind monitoring mast complies with those requirements. In drawing up the report the consultants had access to both the information supplied by the applicant and that provided by the airfield operator.

The consultants share to some extent the concerns of the objectors in that on a shallow approach, in a low winged aircraft on the existing circuit pattern views of the mast and gauge could be obstructed. However, where this occurs at other airfields, the usual practice is to change the circuit pattern and update the airfield procedures in the UK Air Information Publication. It is noted that whilst it may be too late to provide that information in publications produced annually other suggestions such as updating the airfield's web site and its operations handbook should be used to ensure vertical and/or lateral separation of aircraft from the mast during the temporary period for which it is required. A verbal warning could also be provided to pilots approaching the ATZ who are obliged to contact the airfield before passing through it.

The consultants confirm that the mast should be conspicuously marked as recommended in the previous officers report and this can be achieved by a condition. It is considered that the wind gauge with its warning light, required by EMA, would therefore be visible for the limited period it and the pole would be in place.

Out of courtesy the applicant and Derby Airfield were afforded an opportunity to comment on the consultants report and their comments where appropriate are included in the Applicant's Supporting Information and Response to Publicity sections respectively above.

Any changes to the operating patterns of the airfield would be for a temporary period only. Whilst they may consider that an appropriate risk assessment has not been carried out that is the function of the CAA in defining the various airspace restrictions related to the airfield.

Conclusion

The proposal conforms to the Development Plan, will be of limited visual intrusion and more importantly does not breach the designated safety zones as prescribed in the CAA Cap 168 in relation to aircraft using Derby Airfield.

Recommendation

GRANT permission subject to the following conditions:

1. This permission shall be for a limited period only, expiring on 30 Septemebr 2011 on or before which date the structure shall be removed and the site reinstated to the satisfaction of the Local Planning Authority unless, prior to that date, an application has been made and permission has been granted for an extended period.

Reason: The application was for a temporary 12-month period to allow monitoring of wind speeds at the factory site. Permission is therefore granted for a 14 month period to allow for the mast to be erected and monitoring to be undertaken over a full 12 month period allowing for construction and de-commissioning and in order to remove the structure at the earliest opportunity from the vicinity of the Derby Airfield Air Traffic Control Zone.

2. Prior to the erection of the supporting structure on the site aviation lighting shall be installed as near to the top of the structure as is reasonably practicable as set out in Civil Aviation Authority publication 168.

Reason: In order to alert aircraft in the vicinity of the wind gauge and support structure that there is a tall structure on the land in the interests of aviation safety.

Informatives:

East Midland Airport advises that if it is decided to proceed with an application for wind turbines there is a requirement to consult with the airport prior to the submission of the application. In addition consultations with the Ministry of Defence and operators of local airfields would also be necessary again prior to making a planning application.

Item **1.4**

Reg. No. **9/2010/0476/U**

Applicant:
MR UPTON
C/O AGENT

Agent:
MR. S. GREAVES
S. G. DESIGN STUDIO LTD
202 WOODVILLE ROAD
HARTSHORNE
SWADLINCOTE

Proposal: **THE CHANGE OF USE OF PART OF THE BUILDING
INTO CONVENIENCE STORE AND RETAIL SHOP
INCLUDING STORAGE, NEW BOUNDARY WALL, SHOP
FRONTS AND ROLLER SECURITY SHUTTERS AT 17
UNION ROAD SWADLINCOTE**

Ward: **MIDWAY**

Valid Date: **24/05/2010**

Reason for committee determination

The application is brought before Committee at the request of Councillor Dunn because local concern has been raised about a particular issue, which should be considered by the Committee.

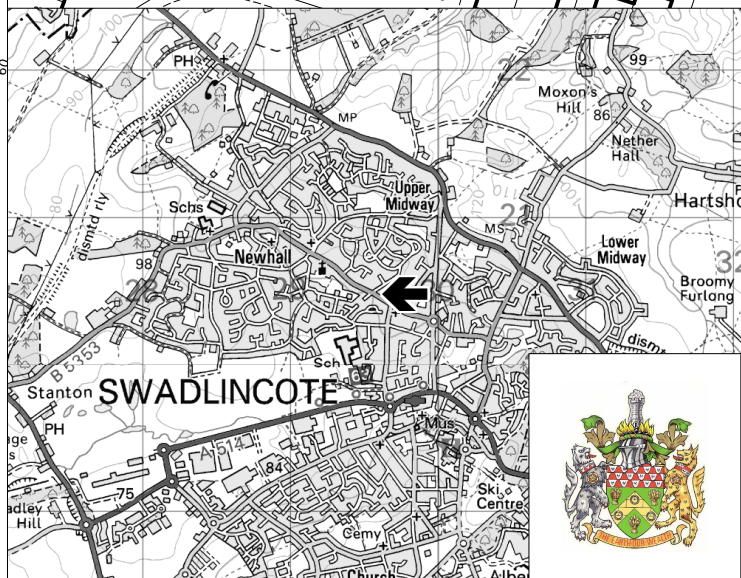
Site Description

This 1,130 square metres site is located on the corner of Union Road and Queen's Drive. There is currently a takeaway fish and chip shop in the end unit adjacent to the south eastern boundary and the remainder of the building is not in use. The majority of the building is single storey with a flat roof, however, there is a first floor above the takeaway. The building is mainly brickwork painted white. The site was a former petrol filling station, the large forecourt canopy having recently been removed. The buildings are set back 15.5m from the Union Road frontage and there is a garage door that faces Queen's Drive which is 15m from the footway. A low level wall encloses the boundaries with the roads and there are two accesses onto Union Road and one onto Queen's Drive. The site is very prominently located on a main road.

Proposal

Planning permission is sought for an extension to the fish and chip shop into the adjacent unit; a change of use of two existing units for convenience retail; and the change of use of the remainder of the building to a warehouse for the adjacent retail use. External alterations involve the insertion of one shopfront and the bricking up of two high level windows together with provision of white roller shutters over all the openings. No changes are proposed in relation to the first floor of the building which would remain in use as an office, storage area and wash room in association with the

9/2010/0476 - 17 Union Road, Swadlincote, DE11 0QF



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South Derbyshire District Council. LA 100019461. 2010

takeaway. The proposed car park would have separate egress and ingress and would provide 18 spaces with two disabled spaces.

Applicants' supporting information

A design and access statement has been submitted which describes the site and the previous land uses and permissions. The majority of the building is vacant. The proposal would provide retail units within an existing residential area, the external changes to the building are minimal and the existing boundary wall would be improved to enhance the visual amenity of the area. The car parking area would be properly laid out and the unsightly garage canopy removed.

Planning History

9/2007/0831 - Change of use to hand car wash, Granted 10/09/2007

9/2006/1300 - The installation of a new shop front, roller shutters and fire exit, Granted 02/01/2007

9/2004/1251 - Erection of local convenience store, takeaway and apartment, Granted 16/11/2004

9/2000/1057 - The retention of a flue on the flank, Refused 02/08/2001

9/1997/0337 - The installation of a new shop front and elevational changes at the proposed hot food takeaway shop, Granted 10/09/1997

9/1996/0747 - The use as a hot food takeaway of the ground floor sales area and the conversion into a flat of the first floor offices, Refused 16/05/1996 – appeal allowed 02/1997.

9/1991/0316 - The retention of use for the spraying of motorcycle helmets and components of the first floor kitchen, granted 24/09/1991

Responses to Consultations

The County Highways Authority notes that the previous use of the site was a petrol filling station with shop, motor vehicle repair, workshop and takeaway. In view of the potential number of vehicle movements generated by such uses, it is not considered that the proposed use would result in an increase in the number of movements to and from the site. On this basis, there are no objections to the proposal from a highway viewpoint subject to conditions relating to the height of the boundary walls adjacent to Union Road and Queen's Drive to retain visibility and laying out of the car park and manoeuvring space.

The Council's Environmental Protection Manager has no objections to the proposals but would recommend a condition limiting opening times of the premises to that requested by the applicant - 0600 - 2200 Monday to Sunday. No deliveries to occur outside these hours either. If the 'Big Fish' is currently open until 11pm, a continuation of this time would be acceptable.

Severn Trent Water's comments are awaited.

Responses to Publicity

No letters have been received.

Development Plan Policies

The relevant policies are:

Local Plan: Environment Policy 10, Transport Policy 6, Shopping Policy 3.

National Guidance

PPS1 & PPS 4

Planning Considerations

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

- The principle of development
- The impact on the amenity of neighbouring properties
- Highways issues
- Visual amenity

Planning Assessment

The principle of development

The site was formally a petrol filling station, shop and vehicle workshop together with the takeaway that remains. Planning permission was granted in 2004 for retail. Given the previous use and the previous permission the principle of retail has been established on the site. The site is well located in relation to existing residential areas and is on a main route to the town centre from the west. The site is therefore accessible by a choice means of transport and would provide services for nearby residents that would reduce their need to travel. Local Plan Shopping Policy 3 states that *'proposals for small shops will be permitted provided they do not adversely affect the amenities of neighbouring properties and adequate access, car parking and servicing facilities are provided'*.

The impact on the amenity of neighbouring properties

The nearest neighbouring properties are 15 Union Road to the south east and properties on St James Court to the rear. The main issue in relation to amenity relates to the takeaway with the potential for odours, litter and late opening hours. The takeaway has been in use since 1997 and this proposal involves extending the servicing area slightly and provision of a food preparation and storage area together with improved staff facilities. Noise and odour control conditions were placed on the 2004 and 2007 permissions. Hours of use is specifically controlled by the 1997 appeal decision which restricted to hours to 09:00 to 23:00 Monday to Saturday and 12:00 to 23:00 on Sundays. The application form states that the proposed retail uses would have hours of opening from 6am until 11pm. The Environmental Protection Manger has agreed that these times would be acceptable.

Given that the takeaway use has been running for 13 years and it is located immediately adjacent to the nearest property 15 Union Road and no letter of objection has been received, the impact on residential amenity would not be significant in terms of

the extension. The two shops would create more activity on the site frontage, however, the previous use as a petrol filling station would probably have generated a higher level of vehicle activity whereas this proposal is within walking distance from the surrounding residential areas therefore potentially limiting vehicular activity further.

The properties to the rear would not be significantly affected as the building separates the parking area from them. The odour from the takeaway use was controlled by the 2004 and 2007 permissions the extension would not impact upon this facility. There are two windows on the rear elevation of the unit that the takeaway would extend into, however, they are 11m from the rear elevations of the nearest properties to the rear and a turning area separates them from the rear private gardens. The windows would serve a room separated from the cooking areas and as such there should not be an odour concern. The servicing of one of the retail uses would be from the existing access onto Queen's Drive and this is in close proximity to 2 Queen's Drive. Servicing hours would therefore be controlled by condition to protect the amenity of this property.

Highway issues

On the advice of the County Highways Authority the vehicle movements generated would not be increased significantly and thus there is no objection subject to their recommended conditions.

Visual amenity

The proposal could significantly improve the appearance of this prominent corner site on a main route into Swadlincote. The removal of the canopy has already improved its appearance. The external changes to the building proposed by this application have been completed and the applicant is aware that he has carried out the works at his own risk. That said the appearance of the building has been improved and all the changes are considered to be in keeping with the existing building. All walls would be painted white and the white roller shutters are acceptable as they match the existing ones on the takeaway unit. The boundary walls would be improved and car parking properly laid out.

Conclusion

Overall, the proposal is considered to have a positive impact on the visual amenity of the area, provide facilities for local residents that are easily accessible and would not have an adverse impact on residential amenity or highway safety.

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. Prior to the premises being taken into use, the boundary wall on the southern side of the loading bay (access from Queen's Drive) shall be reduced in height to less than 1 m relative to the nearside carriageway edge for a distance of 2m into

the site from the highway boundary in order to maximise the visibility available to an emerging driver.

Reason: In the interests of highway safety.

3. Prior to the premises being taken into use, the car parking and manoeuvring space shall be laid out in accordance with the application drawing and maintained thereafter free of any impediment to its designated use.

Reason: In the interests of highway safety.

4. Notwithstanding the submitted drawings, the boundary wall shall not exceed 1m in height relative to the nearside carriageway edge for a distance of 2m on each side of the access in order to maximise visibility for drivers emerging from within the site onto the highway.

Reason: In the interests of highway safety.

5. A sample of brick and coping for the boundary wall shall be submitted for approval in writing by the Local Planning Authority before work commences.

Reason: To ensure the wall is in keeping with its surrounding in the interest of the character and visual amenity of the area.

6. No deliveries shall be taken at or despatched from the site outside the hours of 9am to 11pm Monday to Saturday nor at any time on Sundays, Bank or Public Holidays.

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.

7. The retail uses hereby permitted shall not be open to customers outside the following times 06:00 - 23:00.

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.

8. All the new brickwork shall be painted white to match the existing building.

Reason : In the interests of visual amenity.

9. 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 **1.5**

Reg. No. **9/2010/0482/NO**

Applicant:
MRS ROOK
BLUE POSTS CARAVAN SITE
DERBY ROAD
EGGINTON
DERBY

Agent:
MR P DIFFEY
PETER DIFFEY AND ASSOCIATES LTD
54 WOODS LANE
STAPENHILL
BURTON UPON TRENT

Proposal: **RESUBMISSION OF 9/2009/0700 TO PROVIDE
UTILITY/DAY ROOM AND OTHER MINOR
ALTERATIONS ON THE SITE OF BLUE POSTS
CARAVAN SITE DERBY ROAD EGGINTON DERBY**

Ward: **ETWALL**

Valid Date: **21/05/2010**

Reason for committee determination

Councillor Mrs Brown has asked for this application to be brought to Committee as local concern has been expressed about a particular issue.

Site Description

The application site comprises a part of the land ownership of the gypsy family that occupies the authorised part of the site. The site lies below the level of the Trent and Mersey canal that is a Conservation Area for its whole length as it passes through South Derbyshire. The bridge that passes over the canal is listed Grade II, as is High Bridge House that lies to the south of the application site. There is currently no boundary structure between the authorised site and the rest of the applicant's land ownership.

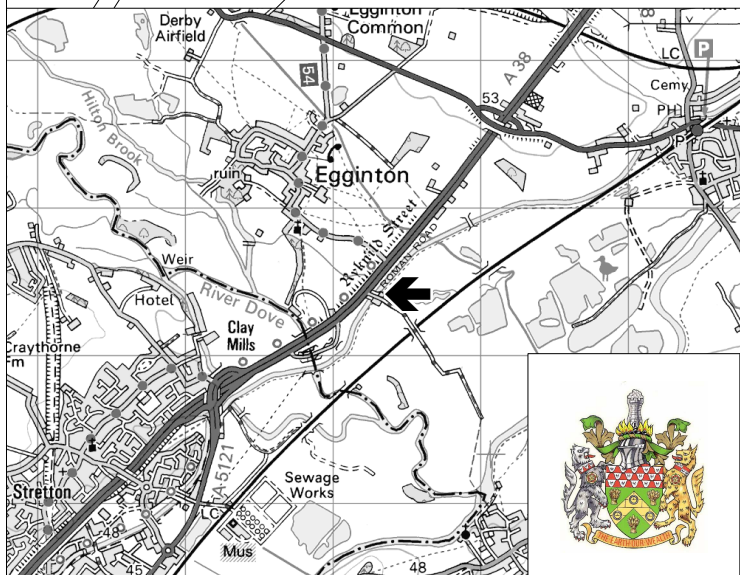
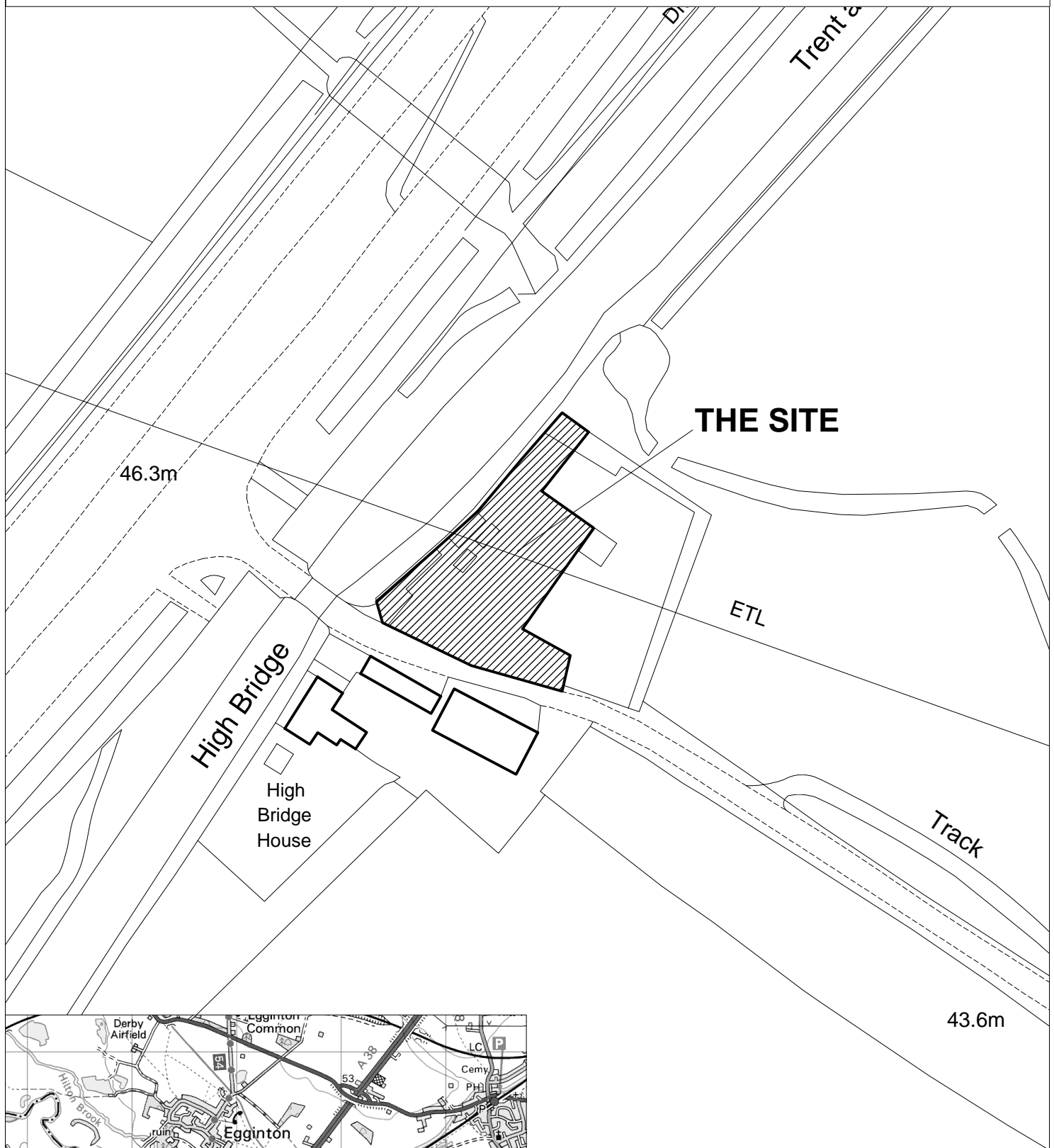
Proposal

The proposal seeks permission for three distinct elements. To seek an enlargement of the day room granted earlier this year (not yet commenced); the retention of a sealed septic tank (currently its removal is required by an enforcement notice) and a further adjustment to the boundary fence between the authorised site and adjoining grassed area.

Applicants' supporting information

The principle of the day room has been established by the grant of planning permission in March. The application seeks to change the internal layout, extend the building by 4 metres and the removal of the front extension thus having the effect of narrowing the width of the permitted building. It is argued that as the principle of the building is

9/2010/0482 - Blue Posts Caravan Site, Derby Road, Egginton, DE65 6HA



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established, no new policy implications arise as a result of this application. Officers, prior to submission of the application, have agreed the design of the amended building.

The previous permission required the submission of details of the foul drainage system to replace the existing provision on the site. The applicants now wish to retain the sealed septic that is located next to the former agricultural building. It is argued that the permitted bio disc system would not function effectively should the site flood. The sealed septic tank would overcome this problem.

It is proposed that the septic tank should be within what they wish now to be the authorised site (i.e. inside the fence line). This also provides, it is argued, a better arrangement for manoeuvring caravans within the site which would be difficult within the area currently permitted.

The applicant's agent has suggested that some of the conditions in the previous permission are superfluous and should not be reimposed.

Planning History

The site is long established having gained planning permission for use as a gypsy site on appeal in 1989 and again in the early 2000s when the occupation of the site was limited to three caravans.

The owners subsequently acquired additional land and expanded the site without the benefit of planning permission. A regularising application was submitted and refused and the appeal dismissed after a public inquiry.

An application for planning permission for a day room and extension of the site was granted planning permission earlier this year. The dayroom however, which would replace an existing poorly designed ablutions block has not yet been implemented.

Enforcement action was then taken to restore the site to its original boundaries and the appeal (again at a public inquiry) against that action was dismissed very much for the same reasons that the previous planning appeal was dismissed. The majority of the provisions of the enforcement notice have been enforced without the need to resort to court action.

However, there are some elements to the enforcement notice that remain to be completed. Action on these was delayed pending the outcome of the previous planning application, as some of the elements would have been affected if the previous application had been refused. These still relate to the erection of a fence to separate the permitted site from the rest of the applicants land ownership, the removal of a septic tank and final works to remove the internal fittings within an unauthorised agricultural building together with the grassing of the remaining area of hardstanding that is within that extended ownership.

Responses to Consultations

Egginton Parish Council has always objected to the development of this site but it respects the decisions of the Planning Inspectorate and the District Council. It nevertheless objects to the further changes proposed in that an enlarged dayroom facility would have a greater impact on the parish's only conservation area. The Parish Council has no objection to the applicants parking their work vehicle at the site but

would prefer to see Condition 11, attached to the previous planning permission, retained in place as its removal could open up the site to undefined business use. The site should be retained for residential use only.

Severn Trent Water has no objection subject to a condition requiring the submission of a scheme for foul and surface water disposal.

The Environment Agency has no objection to the development subject to the imposition of conditions to control the finished floor level; no raising of ground levels except for the footprint of the building; the incorporation of flood resilience measures into the development; the identification of a safe means of escape through the submission; and approval of a flood warning and evacuation plan. The Environment Agency remains concerned that the site is occupied as a gypsy site because of the risk to occupiers from flooding. It is accepted that the amenity building falls into the 'less vulnerable' categories in PPS 25 and the condition is recommended to minimise risk to the occupiers of the site. A copy of the Environment Agency letter has been forwarded to the applicant's agent so the applicants will be aware of these concerns.

British Waterways has not responded to the consultation on this application. At the time of the previous application, British Waterways raised no objection to the principle of the development subject to the imposition of conditions. These related to the position of the building landscaping, tree planting, lighting and the materials of construction. British Waterways requested that its requirements for the construction of the day room be drawn to the attention of the applicants.

The County Archaeologist notes the position of the site and has identified that there may be prehistoric and Romano-British archaeology that would be revealed during the excavation of foundations and service trenches. Accordingly a condition requiring a watching brief during excavations is recommended.

Responses to Publicity

No representations have been received.

Development Plan Policies

The relevant policies are:

Saved Local Plan: Housing Policy 15, Environment Policies 12 & 13.

National Guidance

ODPM Circular 01/2006
PPS 3 & PPS 7

Other Advice

Derbyshire Gypsy and Traveller Accommodation Assessment 2008
Designing Gypsy and Traveller Site Good Practice Guide 2008

Planning Considerations

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

- The Development Plan and other guidance/advice as a material consideration

- The impact on Listed Buildings and the Conservation Area
- Flooding Issues
- Other material considerations.

Planning Assessment

The Development Plan and Government Advice

The Development Plan consists of saved policies in the Local Plan. Saved Housing Policy 15 deals primarily with the location of new Gypsy sites and therefore has little relevance to the determination of this application as the site is already established and the application does not seek to extend it to provide more pitches. It is important however to consider under that policy the extent to which the proposals contained in the application are capable of sympathetic assimilation into their surroundings.

In terms of Saved Environment Policies 12 and 13 the issues will turn on the impact of the proposal on the Conservation Area and the Listed Buildings close to the site. These issues are assessed under the appropriate heading below which also takes into account the more general view of how the proposals sit in their surroundings.

Those aspects of Circular 1/2006 Derbyshire Gypsy and the Traveller Accommodation Assessment 2008 that deal mainly with the number of pitches to be provided bear little weight in the determination of this application as the proposal is not to increase the permitted number of pitches.

Relevant Government Advice is however contained in 'Designing Gypsy and Traveller Sites Good Practice Guide 2008' that recommends as a guide an average family pitch must be capable of accommodating an amenity building, a larger trailer and touring caravan, parking space for two vehicles and a small garden area. The proposal conforms with the advice set out in the guidance.

The impact on Listed Buildings and the Conservation Area

Environment Policies 12 and 13 seek to ensure that development would not have an adverse affect on the character and appearance of conservation areas nor adversely affect the setting of listed buildings. These proposals involve a single storey day room that would replace the inappropriately designed ablutions block albeit that the new structure would be larger. The design of this latest building is considered more sympathetic to the Canal Conservation Area and the nearby listed structures than the permitted but unimplemented day room building the design of which itself was an improvement on the existing ablutions block.

The extension to the site also remains considerably reduced from proposals considered prior to the March application. The issue now is whether the expansion of the site (i.e. moving the line of the fence 3 metres further tapering to a reduced distance across the site) would make a material impact on its location. It is considered that on its own, the additional area of hardstanding would not justify refusing the application even though it is slightly larger than that permitted in March as the difference would be almost unperceivable from outside the site.

By imposing appropriate conditions to remove the existing ablutions block, control the design and materials of construction of the day room and the surface finish of the area of hardstanding, on the advice of the Design and Conservation Officer, the scheme

would be acceptable and actually offer an enhancement to the setting of the listed building and conservation area. In this regard the proposals can also be considered as capable of being assimilated into their surroundings.

Flooding

On the advice of the Environment Agency no new flooding issue would be raised by this development provided that the recommended conditions were attached.

Other Material Considerations

As an aide memoir, on consideration of the previous application, British Waterways had no objection to the principle of the development but originally requested a condition moving the building away from the side of the canal. This would have had the effect of siting the building in close proximity to the agricultural building and increasing the exposure of the site from the Canal Conservation Area. (British Waterways offers no right of support to adjacent property and it is for the applicants to ensure that their works do not adversely affect the canal infrastructure at this point. In other words, British Waterways has the power to ensure that works in the vicinity of the canal do not compromise its integrity; they have confirmed this). However, they have now agreed to the original siting subject to conditions.

In the light of the above the application is recommended for permission subject to recommended conditions that are considered further below.

Conditions

An important issue here is to limit the number of caravans on the site to three, as is the case at present. In addition to conditions requiring that the site be occupied by the gypsy or traveller community, no trade or business, limiting the caravans to those that can be towed on the public highway are also recommended. The applicants have requested the deletion of Condition 11 that controls the use of the site for trade or business. Whilst it appears reasonable to allow a van to be parked on the site, (many households do this), it is considered that removing the condition would potentially increase the use of a substandard access on to the A38 and as such it is recommended that the condition remain in place. This form of condition is also often imposed for members of the settled community.

It will also be important to control the construction of the day room to ensure that its appearance complements the conservation area as well as meeting British Waterway's requirements for protecting the integrity of the canal.

Enforcement Issues

Any outstanding matters from the Enforcement Notice will be reviewed in the event that planning permission is granted.

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. The finished floor level of the building hereby permitted shall be 44.65AOD and there shall be no raising of ground levels in the vicinity of the building other than to provide the patio area outside the amenity block.

Reason: To minimise the impact of the development on the adjacent Trent and Mersey Canal Conservation Area and nearby listed structures

3. The fence shall in the position hereby permitted shall be retained in place to define the area of the approved gypsy site known as Blue Post High Bridge Egginton.

Reason: The curtilage of the approved gypsy site at High Bridge has been the subject of two planning appeals in recent years. The result of each of these appeals was that the extent of the gypsy site should be limited to that originally permitted in 1989. The Local Planning Authority recognises that the original appeal site does not contain all the facilities now recognised as representing good practice under current Government advice. Accordingly planning permission has been granted for the dayroom and an additional area of hardstanding. In the light of this a new boundary to the permitted gypsy site is required and this condition seeks to define that boundary to reflect the requirements of the extant Enforcement Notice, which requires the erection of a boundary fence to so define the permitted gypsy caravan site.

4. The caravans sited on this site shall be occupied solely by persons who conform to the definition of a gypsy or traveller found in ODPM Circular 01/2006.

Reason: The caravan site contributes to the gypsy and traveller accommodation in South Derbyshire and has been permitted as such. The Local Planning Authority wishes to maintain the supply of gypsy and traveller accommodation within the district that would be lost unless there is a condition limiting the occupation of the site.

5. No vehicle larger than 3.5 tonnes shall be kept at the site at any time save for those used in the construction of the facilities permitted by this application.

Reason: The site is accessed via a Grade II listed structure that has a limited carrying capacity. Whilst it is appreciated that construction traffic of a heavier weight may be necessary, the general traffic to and from the site is hereby limited in the interests of the future stability of the structure.

6. This permission authorises the siting of a total of three caravans on the site.

Reason: The site is served via an access to the A38 Trunk Road, the siting of additional caravans could lead to an increased risk to highway safety to the detriment of the occupiers of the site as confirmed by the Planning Inspectorate in its decision dated 6th March 2006 in respect of appeal APP/F1040/A/05/1181438.

7. Before development is commenced, details of the construction of the footings for the day room shall be submitted to and approved in writing by the Local Planning Authority in consultation with British Waterways. The day room foundations shall thereafter be constructed in accordance with the approved details prior to the construction of the rest of the dayroom.

Reason: In order to ensure that the construction of the day room does not prejudice the structural integrity of the adjacent Trent and Mersey Canal in the interests of the canal available for recreational purposes.

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

Reason: To protect the character and appearance of the Trent and Mersey Canal Conservation Area and the setting of the Grade II Listed Structures.

9. Before the development is commenced details for the identification and provision of a safe route(s) out of the site to an appropriate safe haven in the event of a flood warning being received the details shall also indicate the measures to be built into the structure to allow it to be flood proofed at such times. The submitted scheme shall also show the wording for an evacuation plan together with details of any necessary on site signage shall be submitted to and approved in writing by the Local Planning Authority in consultation the Environment Agency. The approved scheme shall be implemented prior to the occupation of the day room.

Reason: To reduce the impact and risk of flooding of the building and to ensure safe egress is available from the site in the event of a flooding event whilst the site is occupied.

10. No development shall take place, until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority in writing.

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

11. Notwithstanding the submitted details no part of the day room building shall be carried out until samples of the facing materials to be used in the execution of the works have been submitted to and approved in writing by the Local Planning Authority. The agreed materials shall then be used in the development hereby approved.

Reason: In the interests of improving the character and appearance of the Trent and Mersey Canal Conservation Area and the setting of the grade II listed High Bridge and High Bridge House.

12. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets.

Reason: In the interests of improving the character and appearance of the Trent and Mersey Canal Conservation Area and the setting of the grade II listed High Bridge and High Bridge House.

13. Large scale drawings to a minimum Scale of 1:10 of eaves, verges, external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The external joinery and associated details shall be constructed in accordance with the approved drawings and shall be provided with a painted finish the colour of which shall have been agreed in writing by the Local Planning Authority.

Reason: In the interests of improving the character and appearance of the Trent and Mersey Canal Conservation Area and the setting of the grade II listed High Bridge and High Bridge House.

14. No part of the development shall be carried out until precise details, specifications and samples of the materials to be used in the hard landscaping works have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the Local Planning Authority.

Reason: In the interests of improving the character and appearance of the Trent and Mersey Canal Conservation Area and the setting of the grade II listed High Bridge and High Bridge House.

15. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number, position and finish of heating and ventilation flue outlets shall be agreed in writing with the Local Planning Authority before development is commenced.

Reason: In the interests of improving the character and appearance of the Trent and Mersey Canal Conservation Area and the setting of the grade II listed High Bridge and High Bridge House.

16. Pointing of the proposed building shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish.

Reason: In the interests of improving the character and appearance of the Trent and Mersey Canal Conservation Area and the setting of the grade II listed High Bridge and High Bridge House.

17. A sample panel of pointed brickwork 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. The works shall be carried out in accordance with the approved sample.

Reason: In the interests of improving the character and appearance of the Trent and Mersey Canal Conservation Area and the setting of the grade II listed High Bridge and High Bridge House.

18. The day room building hereby permitted shall only be used as a day room to serve the existing gypsy site and for no other purpose.

Reason: In order that the Local Planning Authority may retain control over the future use of the premises and in the interests of the amenity of the area.

Informatives:

Further to Condition 8 above, the parking of a business vehicle overnight is acceptable under the provisions of the condition and would not attract the need for investigation under the Town and Country Planning Acts.

Item 1.6

Reg. No. 9/2010/0582/TC

Applicant:

MR MARTIN P BUCKLEY
SDDC - CULTURE & LEISURE
CIVIC OFFICES
CIVIC WAY
SWADLINCOTE

Agent:

MR MARTIN P BUCKLEY
SDDC - CULTURE & LEISURE
CIVIC OFFICES
CIVIC WAY
SWADLINCOTE

Proposal: TREE WORKS TO A COPPER BEECH TREE AT LAND
ADJACENT TO HIGH CROFT CHAPEL STREET SMISBY
ASHBY DE LA ZOUC

Ward: HARTSHORNE AND TICKNALL

Valid Date: 21/06/2010

Reason for committee determination

The Council is the applicant.

Site Description

This mature Copper Beech is situated in a prominent location within Smisby Conservation Area located on a small area of recreational space owned and maintained by the Council.

Proposal

The application proposes the routine crown cleaning to remove deadwood from the tree and the removal of end-weight growth from a large lateral limb on the south-eastern side of the tree which overhangs Chapel Street.

Planning History

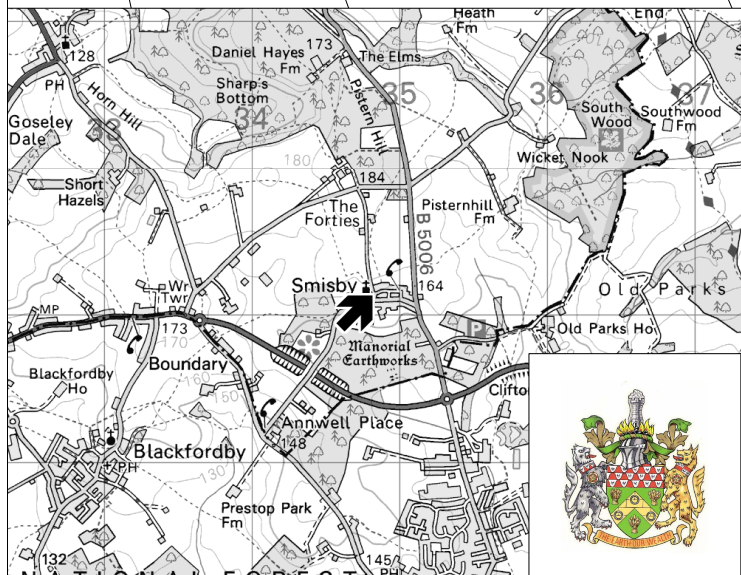
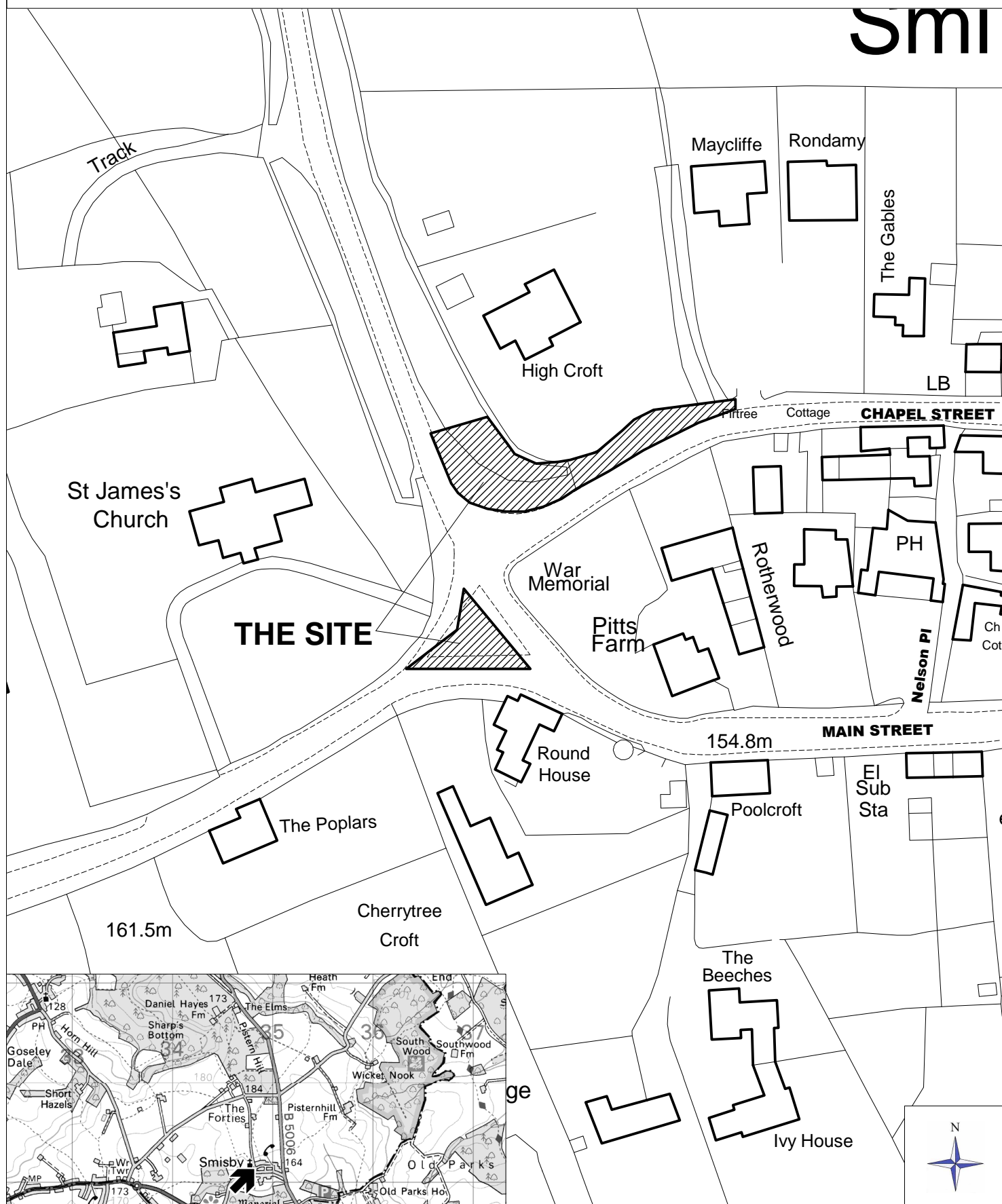
There is no relevant planning history.

Responses to Consultations

Following a meeting on site with Smisby Parish Council and the applicant to explain the extent of the work proposed, the Parish Council has no objection.

Responses to Publicity

None.



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Planning Considerations

The main issue central to the determination of this application is whether the Council objects to the works proposed and therefore considers it expedient to issue a Tree Preservation Order.

Planning Assessment

On the advice of the department's Landscape Architect, the proposed works are considered appropriate arboricultural practice in order to maintain the health of the Copper Beech and are required to minimise risk to public health and safety.

Recommendation

No objection to the works.

Item **2.1**

Reg. No. **9/2010/0512/O**

Applicant:

MR & MRS TIMOTHY &
SUZANNE DODES
OAK APPLE BARN
BACK LANE
SUTTON ON THE HILL
ASHBOURNE

Agent:

MR & MRS TIMOTHY &
SUZANNE DODES
OAK APPLE BARN
BACK LANE
SUTTON ON THE HILL
ASHBOURNE

Proposal: **OUTLINE APPLICATION (ALL MATTERS RESERVED)
FOR THE ERECTION OF A DWELLING AT OAK APPLE
BARN BACK LANE SUTTON ON THE HILL
ASHBOURNE**

Ward: **NORTH WEST**

Valid Date: **07/06/2010**

Reason for committee determination

Councillor Bale has requested that this application be brought before the Committee, as there are special personal circumstances and unusual site circumstances that members should consider. Councillor Bale has requested that the Committee visit the site.

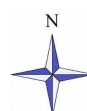
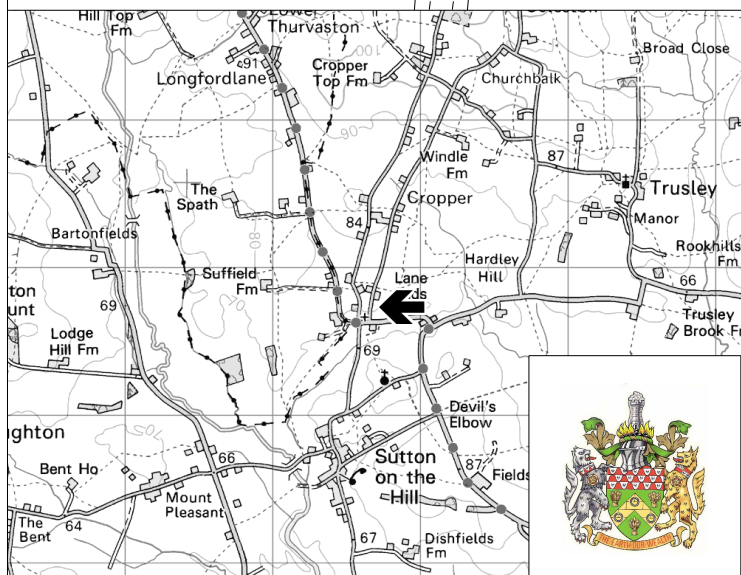
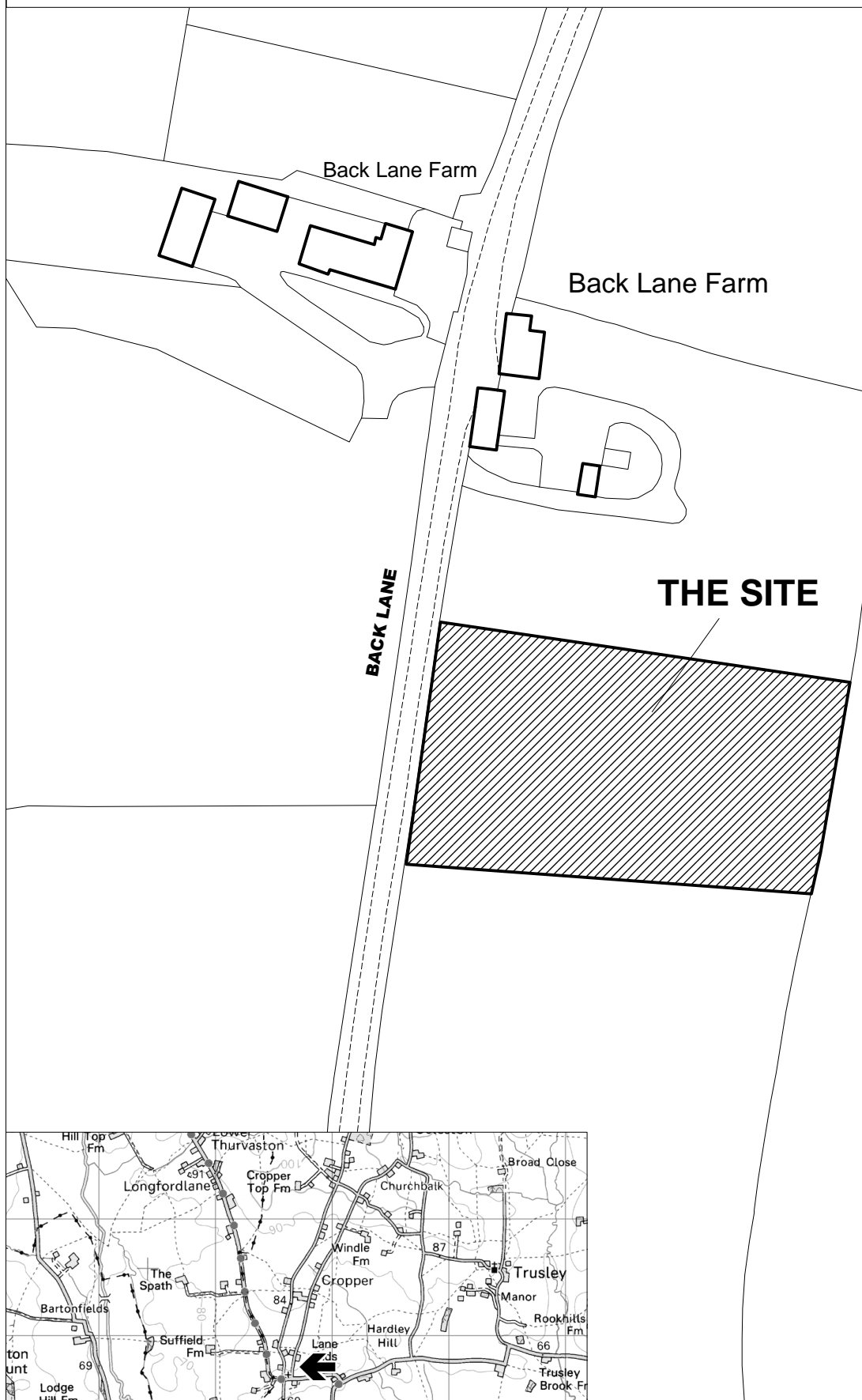
Site Description

The site comprises part of a field owned by the applicants that runs from their current property Oak Apple Barn down to Common Piece Lane. To the south of Oak Apple Barn there are a few trees and a small hedgerow along the the boundary but these do not extend along the full length and there is currently no defined boundary separating the application site from the remainder of the field to the south. Along the roadside the field is enclosed by hedges that are tall and currently effectively screen the site from view other than where there are minor gaps in the hedgerow. Well trimmed hedges define the eastern boundary of the field. The site is generally flat and is currently down to grass.

Proposal

This application seeks permission for the principle of the development. Whilst information has been submitted to show a potential siting and appearance of a dwelling and a potential point of access on Back Lane all of which are reserved for subsequent approval.

The illustrative plans and drawings submitted show a part of the lounge and an office/garden room as single storey; the remainder of the ground floor would comprise master bedroom, wet room, large hall and kitchen with potentially 2 bedrooms, bath and



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toilet rooms above. However it should be noted that the ground floor layout would not as currently proposed comply with the Building Regulations with regard to disabled access.

Applicants' supporting information

It is accepted that the erection of a dwelling in this location is contrary to local and national planning policy. However the applicants consider that the health circumstances of one of them are sufficient to warrant a decision contrary to these policies.

In support of this contention, letters have been submitted from a doctor who confirms that a bungalow would be of benefit for Mr Dodes who has multiple sclerosis and has suffered heart disease in the 1990's. Walking even a short distance for him on the flat is difficult the doctor states. The Directorate of Rehabilitation and Cancer at the Derby Hospitals confirms that Mr Dodes drags himself upstairs and that the existing dwelling is not able to be converted to have a stair lift.

Mr Dodes states he has lived in the area for 28 years and for the past 10 years or so has lived in the converted barn at Back Lane. He has had MS for some 22 years. Mr Dodes is a self-employed chartered surveyor and works from home. His work helps to keep his mind active. He is reliant on his wife and immediate family for support (there are 5 branches of the family within a 2-mile radius of their existing house). It is stated that this family support network close by is essential for his well being.

The applicants state that for 18 months they have sought appropriate alternative accommodation in the locality but without success. Mr Dodes condition has deteriorated in that time to a point where single storey accommodation is becoming essential and a rehabilitation specialist has identified a need for him to have a dwelling that can be guaranteed to meet his long-term needs. His existing housing accommodation is not easily adapted according to the submitted information, nor easily extended.

The applicants considers that the design of the building shown on the supporting plans would be sympathetic to the locality and the accommodation shown would give a degree of independence that is not capable of being provided within the confines of the existing house. Any conversion works to the existing house would involve demolition of the existing building and the works that would be necessary on the existing building would have the same visual imprint on the countryside as the new dwelling.

The applicants argue that a satisfactory access could be provided to Back Lane; traffic levels are not significant and it is argued that the impact of a new access would be minimal on highway safety. Any gates would be set back a minimum of 5 metres from the edge of the highway and trimming back the roadside hedge could provide any visibility splay. Mr Dodes has indicated that he would wish to address the Committee.

Planning History

There is no relevant planning history on the application site but planning permission for the conversion of barns to a dwelling within which the applicants currently live was originally granted in 1994. However records show that it was a subsequent permission granted to the applicants in 1999 for which building works commenced in 2001 and were completed by 2004 that was actually implemented.

Responses to Consultations

The County Highway Authority would have no objection subject to detailed proposal for access to Back Lane having 2.4 x 90 metre visibility splays, the area in advance of the splay being cleared of all obstructions to visibility exceeding 600mm above road channel level, provision of parking and manoeuvring facilities and no gates or barriers within 5 metre of the highway edge with gates opening inwards only.

Responses to Publicity

None

Development Plan Policies

The relevant policies are:

Saved Local Plan: Housing Policy 8

National Guidance

PPS 1, PPS 3, PPS 7

Planning Considerations

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

- The Development Plan
- Impact on the character and appearance of the countryside.
- The applicant's case for development.

Planning Assessment

The Development Plan

The Secretary of State has revoked Regional Planning Guidance therefore the Development Plan currently consists of Saved Policies in the Adopted South Derbyshire Local Plan. The Secretary of State makes it clear that regard should still be had to national Planning Policy Statements. In this instance the relevant PPSs provide national planning policy in relation to housing development in the countryside and the need to protect the countryside for its own sake. They direct development to sustainable locations where there is a range of services available and reliance on the private motor car can be minimised through use of alternative means of transport.

Saved Local Plan Housing Policy 8 requires that in the countryside new housing development can be permitted to meet the requirements of established rural businesses and the replacement of existing dwellings. In this case there is no justification for the erection of the house as a means of supporting an established rural business. Although Mr Dodes works from home he does not do so in a business that needs to be located in the countryside. Therefore there is no justification for an additional dwelling to meet his business needs as that is already met by the existing property. Accordingly the proposed development does not meet the requirements of the Development Plan.

Impact on the character and appearance of the countryside

All development in the countryside has a visual impact in the countryside and screening and additional landscaping can mitigate that visual impact. However, just because you cannot see a development, is not sufficient justification to grant planning permission for development that is contrary to policy. This is because hedges can be cut down and views opened up. This is accepted as being unavoidable where permission is justified but the erection of an unjustified dwelling in the countryside would represent a visual intrusion for many years beyond most current lives.

The applicant's case for development

Personal circumstances are themselves capable of being material considerations in a planning case. However, a sufficient and full justification as to why the personal circumstances outweigh the fact that the proposal is contrary to the Development Plan must be provided. In this instance whilst one can have sympathy for the failing health of one of the applicants the new dwelling will be present for a long time after the particular personal circumstances no longer apply thus resulting in an unjustified intrusion in the countryside that is detrimental to the character of the area. Financial considerations, although important to applicants, are not a material planning consideration.

Conclusion

The main consideration is whether or not the application complies with the Development Plan and it is found that it does not. The applicants have recognised that the development is contrary to Development Plan policy. In considering the weight to be given to the main considerations the absence of a need for the dwelling other than for personal health reasons is not considered sufficient to outweigh the fact that a new dwelling is contrary to national and local policies that seek to protect the countryside and direct new dwellings to sustainable locations.

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

REFUSE permission for the following reason:

In the countryside new housing development is limited to that which meets the needs of established rural enterprises, usually agricultural workers dwellings. Accordingly, for a dwelling to be permitted there has to be a reasoned justification for it to be located in the countryside and that the business it is intended to support should have a viable long-term future. In this application the case for the dwelling is based on the personal needs of the applicant to meet a long-term debilitating illness. Whilst there is sympathy for the personal circumstances of the applicants the justification for the dwelling is not sufficient to outweigh the normal presumption against housing development in the countryside and the erection of a house in this location would represent an unwarranted intrusion into the countryside to the detriment of the rural character of the area contrary to Local Plan saved Housing Policy 8.

2. PLANNING AND OTHER APPEALS

Reference	Place	Ward	Result	Cttee/Delegated
9/2009/0923	Hatton	Hatton	Dismissed	Committee
9/2009/0939	Etwall	Etwall	Allowed	Delegated



Appeal Decision

Site visit made on 23 April 2010

by **Gary Deane BSc(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
15 June 2010

Appeal Ref: APP/F1040/A/10/2121301

2 Scropton Old Road, Hatton, Derbyshire DE65 5DX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr B Littlewood against the decision of South Derbyshire District Council.
- The application Ref 9/2009/0923/FH, dated 29 October 2009, was refused by notice dated 19 January 2010.
- The development proposed is a dwelling to be occupied by a family member with garaging under.

Decision

1. I dismiss the appeal.

Main issue

2. The main issue is the effect of the proposed development on the character and appearance of the local area, having particular regard to, firstly, national guidance and adopted local planning policies; and secondly, the design of the proposed building.

Reasons

Character and Appearance

3. The site is located beyond the village confines of Hatton and within open countryside as defined in the South Derbyshire Local Plan (LP). Planning Policy Statement (PPS) 4, *Planning for Sustainable Economic Growth*, says that local planning authorities should ensure that the countryside is protected. LP Housing Policy 8 reflects this approach and sets a presumption against new housing development within the countryside unless it is essential for certain specified purposes. The development sought, which includes the creation of a new dwelling, would not fall within these categories.
4. The site lies within an area of mixed character. A builders' merchants (Buildbase) lies to the north and west. To the east is a substantial detached dwelling, 2 Scropton Old Road and to the south, on the opposite side of the highway, is a farmyard and pumping station. Despite significant built development nearby, there is a relatively open rural feel to the local area to which the agricultural land to the south of the site, vegetation along Scropton Old Road, and the curtilage of No 2, of which the site forms part, contribute. The proposed development would introduce a substantial built form that would, even though the site is well screened by conifers at present, be prominent particularly when viewed from the adjacent highway and Station Road Bridge,

to the south. The substantial size and scale of the proposed building would erode the broadly open rural nature of the surrounding area and, in so doing, unacceptably harm its intrinsic character.

5. In reaching this view I accept that the site does not form part of the largely undeveloped countryside that separates towns and villages. That does not, however, obviate the requirement where it is national and local policy to strictly control new building even adjacent to but nevertheless outside built-up areas, nor to protect the qualities of the countryside such as those that relate to its openness and landscape diversity. I also acknowledge that some of the existing development nearby, including the Buildbase site, contributes little positively to the character and appearance of the local area.
6. As the site lies outside the village confines of Hatton, as identified on the LP Proposals Map, Housing Policy 5 of that plan does not apply in this case. I note the appellant's points regarding the relationship of the site to the main built up area and its position relative to other, less sustainable locations for new housing that are located within the village confine boundary. I also acknowledge the appellant's view that the site forms part of the wider physical confines of Hatton. However, there are no provisions within LP housing policies 5 or 8 to redefine or interpret the village confines as if the site were part of the urban form of Hatton. In any event, defining settlement boundaries is a matter for the development plan process.
7. The appellant also refers to recent building alterations and extensions involving the nearby Buildbase site, which similarly falls outside the village confines of Hatton. The Council advises that the expansion of existing commercial development at this location would not be contingent upon its inclusion within the defined village confine. This example does not, therefore, lend weight to the appellant's case.
8. The appellant makes reference to LP Housing Policy 6 which makes provision for the infilling of a small gap within small groups of houses in 'other rural settlements'. The explanatory text explains that the policy is directed towards a very small hamlet, ribbon development or a small village within Green Belt, none of which, in my opinion, would accurately describe the immediate context of the site. Equally, the site does not form part of a small group of houses given its peripheral location relative to existing housing and the lack of permanent built development further to the west. I therefore consider that the proposed development would not constitute an infilling opportunity under LP Housing Policy H6.
9. The site does not fall within a designated area of open space and can be classified as previously developed land. These characteristics do not, however, set a presumption in favour of development, as PPS 3, *Housing*, makes clear, nor do they override policies that seek to protect the open countryside. The Government's recent clarification of the advice within PPS 3 also confirms that there is no presumption that previously developed land is necessarily suitable for housing, nor that all of the curtilage should be developed.
10. I therefore conclude on this issue that the proposed development would cause significant harm to the intrinsic character of the local area. It conflicts with the underlying aims of LP Housing Policy 8 which, reflecting PPS 4, seeks to protect the countryside for the sake of its intrinsic character and the diversity of its landscapes.

Design

11. The design of the proposed building reflects its intended appearance as a locomotive shed. This approach would be in keeping with the close relationship of the site with the nearby railway. However, the external features of the proposed building create an awkward, uncertain appearance and an overall function that would not be immediately obvious. Specifically, the residential elements of the proposed building, including the chimney stacks, dormer windows and external double doors, would sit uncomfortably with the industrial features such as the large engine shed doors, high entrance arch and gable parapets. The resultant visual effect is a proposed building that would appear contrived and unconvincing as a locomotive shed. It would be visually obtrusive in a prominent location fronting Scropton Old Lane and out of place in its immediate context.
12. I therefore conclude on this issue that the design of the proposed building would cause significant harm to the character and appearance of the local area. Accordingly, the proposed development conflicts with Policy 2 of the East Midlands Regional Plan that promotes better design by, amongst other things, taking a design led approach which takes into account the local historic character of the area. In reaching this conclusion, I have taken into account the advice within PPS 1, *Delivering Sustainable Development*, which states at paragraph 34 that "design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted."

Other matters

13. The Officer's report of the Council considers that, as an alternative to the proposal, a garage and an extension to No 2 to provide additional living accommodation may be acceptable. These options are materially different to the proposal. In any event, my assessment is based on the development sought.
14. The proposed development would provide residential accommodation, workshop and vehicle storage for the appellant's son. Whilst I have some sympathy for the personal circumstances of the appellant, these do not outweigh the harm that I have identified.

Conclusion

15. I have had regard to all other matters raised including the sustainability credentials of the site and the lack of harm caused to the living conditions of the occupiers of nearby buildings. I have also noted the appellant's points that the site may be contaminated and may not easily revert to garden or an alternative use. I have also taken into account the representations in support of the proposed development. However, these matters are not sufficient to outweigh the harm that I have identified. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR



Appeal Decision

Site visit made on 23 April 2010

by **Gary Deane BSc(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
10 June 2010

Appeal Ref: APP/F1040/A/10/2121773

Land at 110 Egginton Road, Etwall, Derby, Derbyshire DE65 6NP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Andrew Buxton against the decision of South Derbyshire District Council.
- The application Ref 9/2009/0939/FM, dated 4 November 2009, was refused by notice dated 13 January 2010.
- The development proposed is the erection of 2 detached dwellings and 1 pair of semi-detached houses.

Decision

1. I allow the appeal, and grant planning permission for the erection of 2 detached dwellings and 1 pair of semi-detached houses on land at 110 Egginton Road, Etwall, Derby, Derbyshire DE65 6NP in accordance with the terms of the application, Ref 9/2009/0939/FM, dated 4 November 2009, and subject to the conditions listed in the schedule to this decision.

Main issue

2. The main issue is the effect of the proposed development on the character and appearance of the local area.

Reasons

3. The site is located to the rear of 110 and 112 Egginton Road, a pair of substantial 3-storey semi-detached houses, situated towards the southern periphery of Etwall. To the north of the site, along the western side of Egginton Road, ribbon type development fronts the highway, beyond which is modern estate style housing. Similarly, housing on the eastern side of Egginton Road, to the northeast of the site broadly forms part of a wider estate. To the southeast of the site are largely individually built dwellings some of which are set in generous plots. These features give a strong residential character to the local area with some variety in building sizes, types and layout. This variety contributes to the urban grain.
4. The proposed development would be a cul-de-sac arrangement served by a private drive off Egginton Road. These aspects, together with the location of the site to the rear of existing development, would differentiate the proposal from the nearby frontage housing along the western side of Egginton Road. Notwithstanding this, the proposed development would sit comfortably within the site, its immediate surroundings and relate well to the adjacent existing buildings. It would contribute to the range and variety of building styles, forms

- and layout of housing in the local area. These reflect the historical growth of the settlement.
5. The main views of the proposed development would be from Egginton Road, to the south of the site. Approaching from this direction, there would be glimpse views of the front elevation of the proposed dwelling on plot 4. This would visually read as part of the main built up area given its close position relative to No 112. The modest size, scale and height of the proposed dwelling, its orientation at an oblique angle to Egginton Road, coupled with the screening effect of existing vegetation, would ensure that the new building would be an appropriate and sympathetic addition to the local street scene. It would not appear obtrusive nor out of place. Otherwise, the layout of the proposed development, existing vegetation and the position of the site at a lower level than existing development would combine to largely shield the proposed development from public view. I therefore do not consider that the form, layout and scale of the proposed development would be out of keeping with the character of the local area.
 6. Nos 110 and 112 currently mark the southern edge of the main built up area along the western side of Egginton Road. These properties, together with the pair of semi-detached houses on the opposite side of Egginton Road, Nos 73 and 75, are prominent features in the local street scene. They provide a strong demarcation between the main built up area and the open countryside to the south. The modest scale and height of the proposed new building, and the effect of screening by existing vegetation, would subdue the visual impact of the proposed plot 4 dwelling. As a result, it would not visually compete with existing properties in defining the edge of the main built up area. Moreover, the siting and design of the proposed plot 4 dwelling would not appear incompatible with the more substantive and higher gable ends of nearby properties, including No 112. I therefore find the relationship of the proposed dwelling on plot 4 with its immediate context to be acceptable.
 7. There would be a gap between the side and rears of Nos 110 and 112 and the proposed dwellings, when viewed from the south. This gap, together with the varied building and roof profile of the proposed development and existing vegetation would visually 'break up' the scale and extent of built development. The proposed development would not, therefore, appear as a solid wall of built development nor provide an unduly hard edge to the settlement, as suggested by the Council.
 8. New residential development has taken place towards the edge of Etwall. In some cases, this development is visible on the approach to the village and creates an abrupt transition between the main built up area and the surrounding countryside. However, the examples to which the appellant refers differ from the proposal particularly in scale, layout and in the relationship with existing development and the countryside. Consequently, these examples add little weight to the appellant's case. In any event, each proposal should be considered on its individual merits, which I have done in this case.
 9. I therefore conclude that the proposed development would be in keeping with the character and appearance of the local area. It would comply with Policies 5 and 11 of the South Derbyshire Local Plan. These policies seek to ensure that new housing development is of a scale and character in keeping with the village

and provides for a reasonable environment for the public at large. The proposal would also comply with national guidance contained in Planning Policy Statement (PPS) 1, *Delivering Sustainable Development*, PPS 3, *Housing*, and the advice contained within the Government's letter dated 19 January 2010 to Chief Planning Officers to which the Council refers. These documents seek to ensure that new housing development is appropriate in its context and place considerable emphasis on good design to improve the character and quality of an area and to contribute positively to making places better.

Other matters

10. The Council refers to an earlier appeal decision at 90 Egginton Road. This proposal was for a single bungalow in the rear garden of that property. It is materially different to the proposal in scale, type, form, access arrangements and position relative to existing development and surrounding countryside. Therefore, I attach little weight to it. The Council's decision notice refers to paragraph 19 of PPS 1. For the reasons set out above, and on the evidence before me, I do not consider that the proposal would cause a significant adverse impact on the environment.
11. Etwall Parish Council (EPC) raises several additional objections to the proposed development. The design of the proposed development, which reflects the local vernacular with steeply sloping roofs, brick arches over openings and narrow gables, is, in my opinion, acceptable. The site falls within the designated village confines of Etwall, wherein residential development is acceptable. It is not designated as open space nor, on the evidence before me, protected from development in policy terms. The proposed density of development appears to be in keeping with existing housing nearby and would not constitute over-development of the site.
12. There would be some overlooking of the rear gardens of properties that front Egginton Road, including No 104, from the rear of the proposed dwellings on plots 1 and 2. In my experience, overlooking of this type is a common characteristic of the relationship between the rear of houses. Given the separation distance involved, the oblique angle between the proposed and existing dwellings, and the partial screening effect of the rear boundaries of these properties, I do not consider that the proposal would cause an undue loss of privacy for the occupiers of the Egginton Road properties.
13. The level of additional vehicle movements associated with the proposed development would be relatively modest and whilst I note that there may be an issue with regard to visibility at the proposed site entrance this appears to relate to compliance with a condition that was attached to a different planning permission. The revisions made to the proposal appear to resolve the concerns identified by the Derbyshire County Council's Area Development Manager with regard to parking and circulation space within the site. In those circumstances, I do not consider that planning permission should be refused on highways or parking grounds.
14. EPC also raises concern that local services are struggling to support any further housing although I have no detailed evidence to indicate how exactly this would relate to the proposed development. I am therefore unable to conclude that planning permission should be withheld on this basis. Overall, I conclude

that the concerns of the EPC do not significantly weigh against the appellant's case.

15. An interested party objects to the proposal on the basis that the proposed extent of excavation works may lead to drainage problems for nearby properties, including No 112. This is a matter for building regulations. Reference is also made to the nearby sewage treatment works. As the access to this facility would be unaffected by the proposal and Severn Trent does not appear to raise an objection to the scheme, I have no reason to suggest that planning permission should be refused on this basis.

Conditions

16. In attaching conditions, I have had regard to Circular 11/95: *The Use of Planning Conditions in Planning Permissions*. I have attached a condition requiring that the development be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning (No 2). I have amended the Council's suggested condition with regard to external materials to reflect the advice in Circular 11/95 (No 3). This will ensure that the completed development has a satisfactory appearance. The Council's suggested condition that the gutters and downpipes have a black finish is, in my opinion, unduly restrictive and unnecessary to make the development acceptable. It is appropriate that these elements of the scheme similarly require approval under condition 3.
17. I have imposed the Council's suggested condition with regard to details of the eaves and verges of the proposal to ensure that the appearance of the completed development is acceptable (No 4). For the same reason and to safeguard the living conditions of the occupiers of nearby properties, I have attached a condition to require finished floor levels of the buildings and finished ground levels (No 5). This approach extends the Council's suggested condition so that the road, footways and parking areas within the site are also included. I have amended the Council's suggested condition regarding vehicle parking to more closely reflect the advice within Circular 11/95. This condition is required to ensure that there is adequate space for parking and for the circulation of vehicles within the site (No 6).
18. Finally, I have amended the Council's suggested conditions with regard to contamination to reflect the advice contained within the Government's letter to Chief Planning Officers dated 30 May 2008 (Nos 7-12). These conditions are required to protect the health of people and the environment arising from the possible contamination of the site. This approach does not preclude the use of the Council's *Guidance on submitting planning applications for land that may be contaminated*, which is referred to in its schedule of suggested conditions.

Conclusion

19. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Gary Deane

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Refs 6676.1, 6676.2, 6676.5A and 6676.6, and the 1:1250 scale ordnance survey plan which shows the site edged red.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted, including gutters and downpipes, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until details of the eaves and verges of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) No development shall take place until details of the finished floor levels of the buildings and finished ground levels within the site and relative to adjoining land levels have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No dwelling shall be occupied until space has been laid out within the site in accordance with Plan Ref 6676.5A for two cars to be parked within the curtilage of the dwelling of which it forms part, and for vehicles to turn so that they may enter and leave the site in forward gear. The car spaces to be provided shall be kept available for the parking of motor vehicles at all times. The car spaces shall be used solely for the benefit of the occupants of the dwelling of which it forms part and their visitors and for no other purpose and permanently retained as such thereafter.
- 7) An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the local planning authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the local planning authority. The report of the findings must include:
 - (i) a survey of the extent, scale and nature of contamination;
 - (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archeological sites and ancient monuments.

- (iii) an appraisal of remedial options and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's *Model Procedures for the Management of Land Contamination, CLR 11*.

- 8) A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural environment must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 9) The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works.
- 10) Following completion of measures identified in the approved remediation scheme, a verification report (referred to in Planning Policy Statement 23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority.
- 11) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 7, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 8, which is subject to the approval in writing of the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority in accordance with condition 10.
- 12) A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of five years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the local planning authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the local planning authority. This must be conducted in accordance with DEFRA and the Environment Agency's *Model Procedures for the Management of Land Contamination, CLR 11*.