

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. **9/2009/0240/RM**

Applicant:

David Wilson Homes East Midlands
Cartwright Way
Bardon Hill

Agent:

Mr Jim Toothill
David Wilson Homes East Midlands
Forest Business Park
Cartwright Way
Bardon Hill

Proposal: **Approval of reserved matters of application 9/0890/0515
for the erection of 309 dwellings and associated works
at Phase 5 Land To The South East Of Swadlincote
Lane Castle Gresley Swadlincote**

Ward: **Gresley**

Valid Date: **25/03/2009**

Update

At Committee on the 28th July 2009 this application was again deferred for further investigations with regard to the widening of the Swadlincote Lane access. The revised plan now indicates this access at 6.2-6.56m wide for a length of some 80m into the site. No further amendments were possible due to the permission already being granted for the Barrett's site.

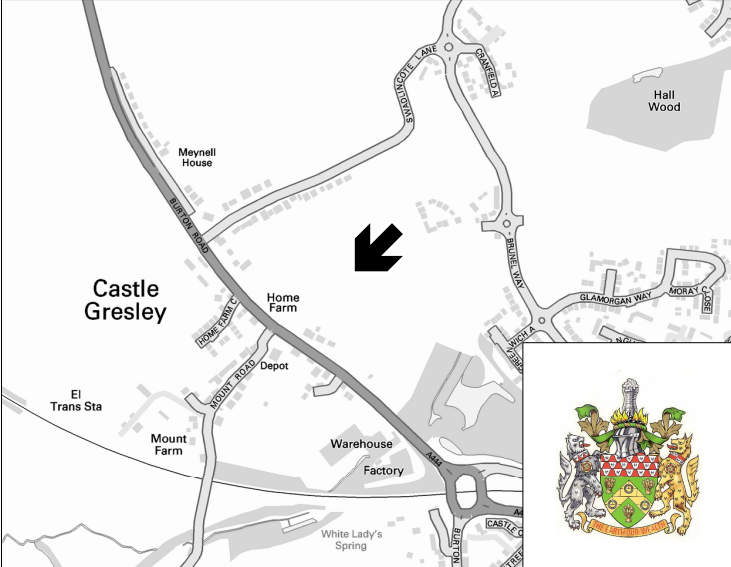
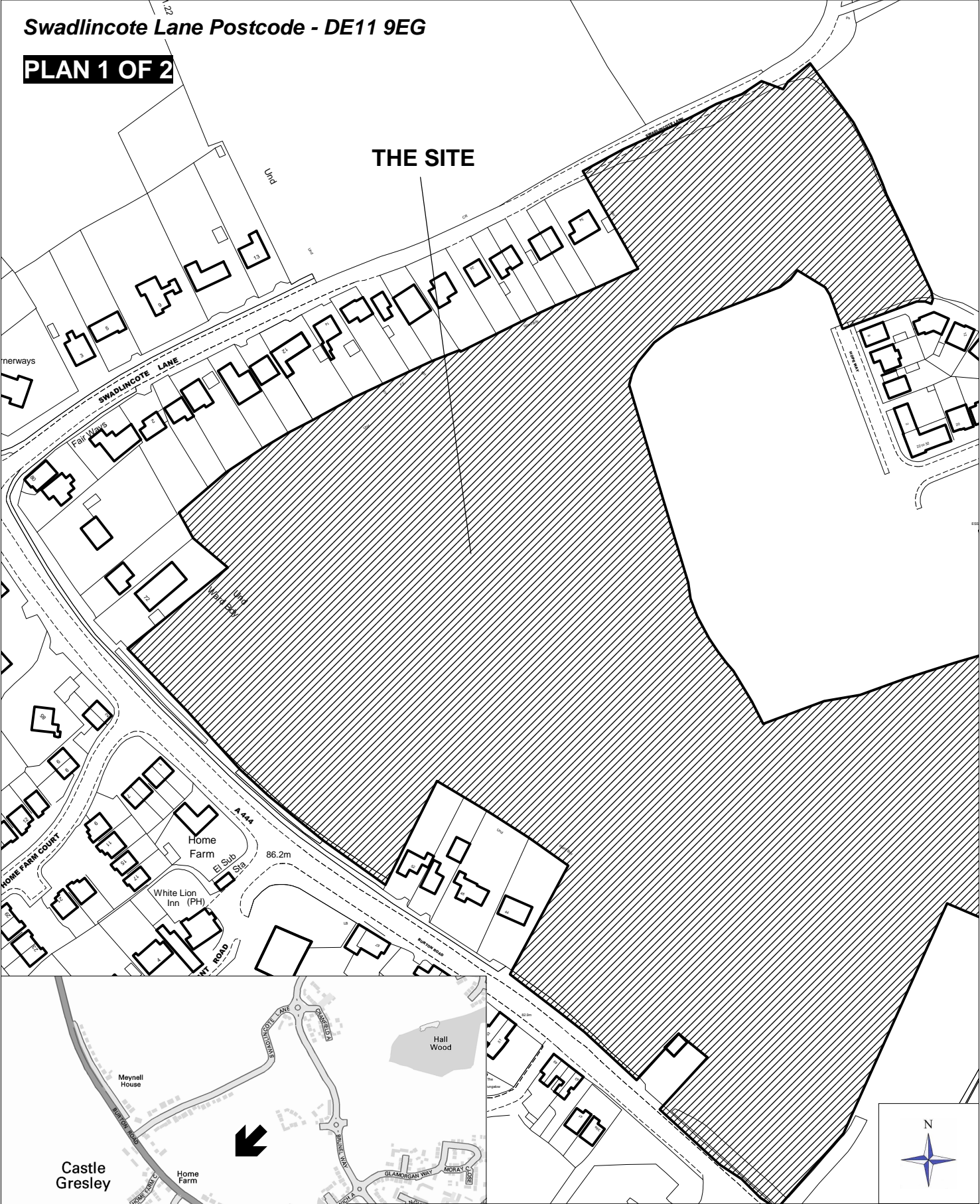
The County Highway Authority has provided further detail in relation to their assessment of the application and this is included in full below.

"The e-mail dated 13 July 2009 from my colleague contained information relating to the adequacy of the proposed carriageway widths to cater for the traffic generated by the proposed number of dwellings. Reference was made to Paragraph 3.13 of Design Bulletin 32 which contained the guidance relevant at the time of the original granting of permission for development of the Swadlincote Lane site. For clarification, Para 3.13 states "Most vehicles...will be private cars and traffic capacity will rarely be a critical issue even in larger schemes. For example a 5.5m carriageway collecting traffic from around 300 dwellings is likely to have a capacity far greater than that required, even at peak times. Such spare capacity should enable carriageways to be narrowed in places to reduce the road area and its visual impact....or to complement speed restraint".

In terms of the Development Control Committee request for further "calculations" or "technical detail" this is not a straightforward exercise since, as outlined above, the criteria attached to residential road guidance is on the basis of theoretical capacity that significantly exceeds the volume of traffic likely to be generated in the context of a particular development.

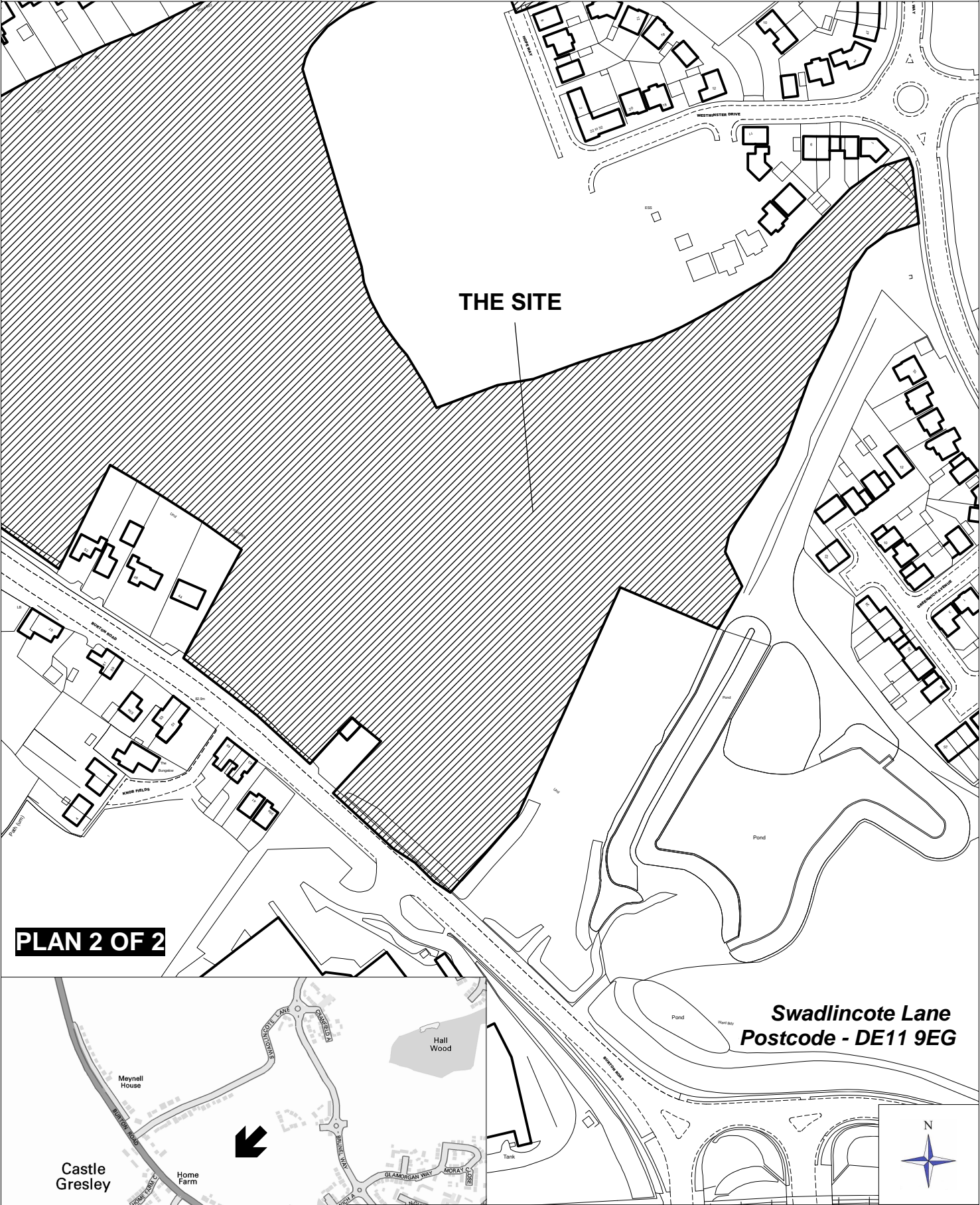
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PLAN 1 OF 2

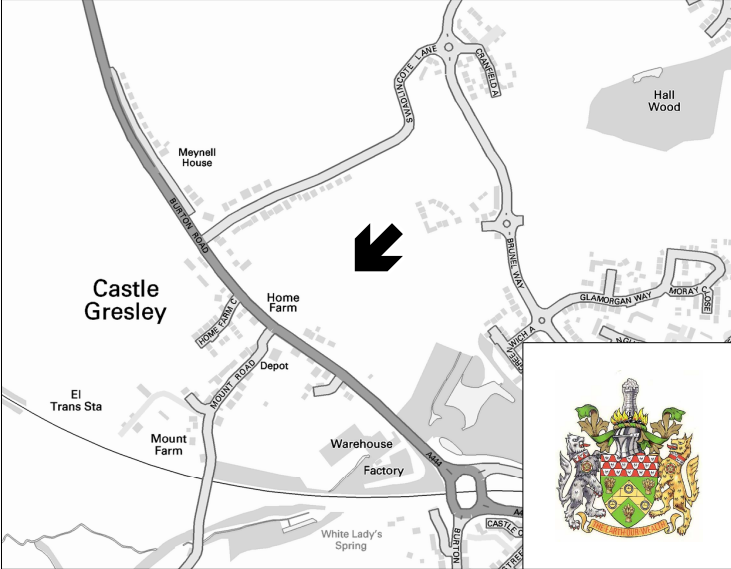


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PLAN 2 OF 2



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However, whilst there is no direct comparison, some parallel can be drawn with Technical Advice Note TA 79/99 "Traffic Capacity of Urban Roads", part of the national Design Manual for Roads and Bridges. This is published by The Highways Agency, and relates to trunk roads although it is adopted by the County Council and, where appropriate, used in scheme design.

The narrowest Urban All-Purpose carriageway width considered within TA 79/99 is 6.1m although it cannot be overemphasised that this is in a trunk road, rather than residential, context. Road type "UAP4" is described as a busy high street subject to a 30 mph speed limit carrying predominantly local traffic with frontage activity including parking, loading and unloading and with unlimited access to houses, shops and businesses. Heavy Goods Vehicle traffic is assumed to comprise no greater than 15% of the total flow.

Even under the circumstances and characteristics described above, road type UAP4 is regarded as having a theoretical capacity of around 1250 vehicles/hour, substantially greater than the potential traffic generation arising from the proposed Phase 5 development which, as indicated in the 13 July e-mail, could be anticipated to be no more than 360 vehicles/hour in each of the morning and evening peaks, divided between the two available routes. This figure is derived from a generally accepted trip generation of around 0.8/detached dwelling in the peak hour, applied to the Phase 5 development of 450 dwellings (it will be appreciated that many of the smaller dwellings proposed will have lower trip generations).

In view of the above it is hoped that the nature of the concerns expressed by the Development Control Committee regarding the "limited" width of the carriageways serving the site have been addressed, and that the adequacy of a 5.5m carriageway width to cater for the predicted traffic flows is confirmed. It will be appreciated that if the concerns were to be translated into a reason for refusal of planning permission then causation of material harm would need to be identified. The Highway Authority does not consider that such a reason would be defensible in the event of an appeal against refusal but of course acknowledges that this is a decision for Committee.

It is understood that the applicants have agreed to provide a 0.5m carriageway widening over a short distance in the northern part of the site. The Highway Authority does not consider that this is more or less acceptable than the originally submitted scheme in view of the very limited length of carriageway involved. It needs to be acknowledged that research carried out in the preparation of *Manual for Streets* emphasised the correlation between increased carriageway width / improved forward visibility and higher vehicle speeds but in this instance it is not anticipated that issues will arise in view of the relatively short extent of carriageway involved and the bend at each end of the length to be widened."

As a result of internal housekeeping by the applicants a further amended plan has been submitted that indicates a change in plot numbers. For clarification the plot numbers mentioned in the report below are changed as follows:-

501-510 = 1-10	601 = 98	691 = 186
502-521 = 2-21	619 = 116	694 = 189
504 = 4	621 = 118	693 = 188
577 = 74	650-654 = 146-150	619-626 = 116-122

The report as presented at last committee follows below with any consultation periods previously referred to having now expired.

Reason for committee determination

The application is brought before the Committee as it is a major application with more than two objections. *The application was deferred at the 16th June Committee to enable a site visit to be held and was also deferred at the 7th July Committee for a discussion between the applicant and Highways Authority with regard access from Westminster Drive. Changes to the report made since that time are shown in italics. The intervening time has also been used to secure further improvements to the scheme (see below).*

Site Description

This 8.08 hectare site is to the south of Swadlincote Lane, Castle Gresley. The main distributor road through Castleton Park is to the east and Burton Road runs along its south western boundary. The site is undulating with its highest point at the centre of the site. The land level adjacent to Burton Road is approximately 2m higher than the road level. The existing residential properties adjacent to the north western and south western boundaries on Swadlincote Lane and Burton Road are a mix of large detached dwellings to bungalows. The majority of the site boundary is immediately adjacent to Burton Road; however, there are four detached properties in the centre of the site frontage. There is also a builder's yard further along this road to the south east. This site has outline permission for a dwelling granted in May 2008.

The previous phases of the Castleton Park development are continuing to be constructed from the Brunel Way roundabout along Westminster Drive. Approximately 50 dwellings are still to be constructed in the central section of the site under a previous permission for 119 dwellings approved in February 2007 (9/2006/1280). Swadlincote Lane is in the process of being stopped up and a turning head constructed which would provide access for three additional dwellings from the Lane. The north eastern part of Swadlincote Lane would serve as an access for this development from the main roundabout on Brunel Way.

Proposal

This reserved matters application proposes the erection of 309 dwellings on the remainder of the Phase 5 part of the Castleton Park development. The reserved matters are appearance, layout and scale.

The proposed footpath/cycleway runs through the centre of the site and would create a link from the main development on Brunel Way through to Burton Road to the west. All along its length dwellings front onto it. This would provide for the main diversion of the current route of footpath 40. In the centre of the site the footpath/cycleway link opens up into an area of public open space framed by dwellings. Public open space is also proposed in the southern corner of the site adjacent to the balancing lagoon and landscape buffer zone adjacent to phase 1 of the development.

The majority of the parking is to the side of dwellings or in rear parking courtyards which is a design feature of the overall development to reduce the visual impact and dominance of cars in the streetscape. The main estate roads link with the western part of Swadlincote Lane and Westminster Drive which both link directly onto main roundabouts on Brunel Way. These estate roads are curved to reduce vehicle speeds and also allow for a more interesting development where dwellings curve around the corners creating landmarks to aid navigation around the site. Along Burton Road the

majority of dwellings face the road but the development would not have a direct relationship with the road as no vehicle access is proposed and the existing hedging along the frontage would be retained.

The majority of dwellings are two storey, however three storey town houses have been used to frame the footpath / cycleway link, surround the public open space and add interest on the main corners of the estate roads. Two and a half storey properties are dotted around the site often adjacent to the three storey dwellings. There are no three storey dwellings proposed adjacent to boundaries with existing residential properties on Swadlincote Lane and Burton Road. Plots 650 – 654 are two and a half storey properties adjacent to the Swadlincote Lane boundary; however, there is a distance of 35m from the rear elevation of the existing property to the north.

The range of property sizes are as follows:-

- 9 No. - 1 -2 bed apartments
- 21 No. - 2-3 bed affordable houses
- 21 No. - 1 bed life / coach houses
- 34 No. - 2 bed houses
- 93 No. - two storey 3 bed houses
- 35 No. - two and half storey 3 bed houses
- 31 No. - three storey 3 bed houses
- 44 No. - two storey 4 bed houses
- 6 No. - two and half storey 4 bed houses
- 11 No. - three storey 4 bed houses
- 1 No. - two storey 5 bed house

Twenty five dwellings would be classed under the PPS 3 definition of affordable housing. The outline application included a definition for affordable housing based on floorspace and the total of affordable houses on the overall development exceeds the specified land area in the outline Section 106. Therefore these properties are additional affordable housing.

The majority of properties would have 2 car parking spaces which includes a garage. The smaller properties and apartments would have one space with some visitor parking.

Planning History

9/0890/515 – Outline - Residential Development of approximately 58.3 hectares of land to the south east of Swadlincote Lane, Approved March 2000

Phase 5

9/2006/1280 – Approval of reserved matters of application 9/0890/0515 for the construction of 119 dwellings and associated works, Approved February 2007
9/2007/0415 – Amendment to Phase 5 of scheme approved under 9/2006/1280, Approved June 2007

Responses to Consultations

The County Highway Authority had concerns about some of the detail set out in the original submission and amended plans have now been received primarily to address these concerns. The Authority is now broadly satisfied with the scheme although it considers that access to a few remaining plots via 'drive-unders' are not ideal. However, it considers that these concerns are not sufficient to recommend refusal.

The Derbyshire Police Crime Prevention Design Advisor states that the layout plan in general is acceptable apart from a few hard barriers such as gates and fencing to all communal parking areas with open access. There is a landscaped area that runs to the rear of communal open parking area, which is a concern for security. There is no detail of enclosure or purpose/ function of this green corridor. Natural surveillance of these areas is required. It is recommended that the land be divided to provide amenity for the apartment blocks and /or incorporated into garden space where possible. As in line with the rest of this phased development, the physical security measures should comply with the "Secure by Design" scheme.

The Leisure Services Manager has no objection subject to a landscaping plan setting out which areas are to be offered for adoption.

The Environmental Protection Manager has no comment.

The Contaminated land Officer has no objection subject to a phased contamination survey condition.

Severn Trent Water has no objection subject to conditions relating to drainage.

Derbyshire Wildlife Trust has no objection but comments that there are protected species on adjoining land.

The Environment Agency has no objection subject to there being no increase in surface-water run-off from this section when compared with the original outline layout. Conditions in relation to surface water drainage are recommended.

Responses to Publicity

Twenty letters of objection were received and are summarised as follows:

- Westminster Drive is too small and narrow for the main access
- Green spaces not sufficient; there would be a lack of green children's areas
- The site is popular with dog walkers and wildlife
- Westminster Drive is the main point of entry
- Developers should supply a school or shops for this size of development
- The hedge opposite No.41 Burton Road should be retained
- There would be a loss of privacy to No.72 Burton Road due to five south eastern facing windows facing the rear of proposed properties
- There would be an overshadowing of No.72
- Plots 619 and 620 are only 1m from the boundary with No.72 Burton Road and would be overbearing
- When a garage was proposed for No.72 Burton Road it could not be set far forward but plots 619 and 620 are.
- Properties on Wyedale had a 10m privacy zone and at a meeting at Gresley Old Hall, residents were told they would have a similar area
- There is a concern over maintenance of fencing due to 12 properties being on their boundary
- Parking would be insufficient
- 309 dwelling plus what has already been constructed requires a local distributor road of 6.75m in width with 2m footpaths and 2 points of access

- Future residents would use Westminster Drive as a main route to the A444 thus increasing traffic
- Plots 691 and 694 require access across a private road and 694 has paths that access onto this road
- Developers have not consulted existing residents
- Developers stated that there would be no additional traffic on the private road
- Public rights of way have been ignored
- Hope Way cannot take extra traffic as it is too narrow
- Speed bumps should be installed on Westminster Drive
- There would be a devaluation of properties on Westminster Drive
- Alternative accesses should be considered
- Residents were told that plots 502-521 were owned by the National Forest and no dwellings could be built and it would be maintained as a woodland walkway to the balancing lagoon
- Westminster Drive has an on-street parking problem
- It is unclear what is proposed as boundary treatment to the rear of 34 Swadlincote Lane
- Proposed properties are not in keeping with Swadlincote Lane
- The proposed properties to the rear of 17 Westminster Drive would be 5 metres away from the boundary and a balcony is proposed that would overlook their garden.
- The 15 metre window to window distance between the proposed properties and that of 17 Westminster Drive is below the 21 m standard and existing shrubs on the boundary which provide screening would have to be removed.
- An alternative access for construction traffic should be used as Westminster Drive is too narrow.
- *The area to the rear of properties on Westminster Drive was designed as a landscape area with a woodland walkway which would also contain surface water run-off.*
- *There is woodland with a pond in the vicinity so there may be Great Crested Newts in the area.*
- *What does the term "Affordable Housing" mean?*
- *Plots 501 –521 are small 2 bedroom properties which are not in keeping with the area.*

Development Plan Policies

The relevant policies are:

East Midlands Regional Plan: Policies 2, 3, 12, 14, 26 and 48.

Local Plan: Housing Policy 2, Housing Policy 11, Environment Policy 10,

Transport Policy 6, Transport Policy 8, Recreation and Tourism Policies 4 and 8.

National Guidance

PPS 1, PPS3, PPG13, PPG17.

Planning Considerations

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

- The principle of the development
- Residential amenity
- Appearance and Burton Road streetscene

- Landscaping and Public Open Space
- Highways issues
- Other issues mentioned by objectors

Planning Assessment

Principle of Development

The principle of residential development on this land was established in the granting of outline consent in 2000 (9/0890/515). This is the final phase of the overall development and only details in terms of the appearance, layout and scale can be considered at this stage. The access and landscaping were agreed as part of the outline permission.

Residential Amenity

Firstly, in relation to the relationships between dwellings within the development a detailed assessment has been carried out to ensure that the Council's space standards and relationships which have been agreed on other phases have been met. The amended plans include some changes to distances that were considered substandard and the amended layout is considered acceptable in this regard. The orientation of properties and distances between them has ensured that private rear garden areas are not substantially overlooked.

A section of the relationship between the proposed properties and 17 Westminster Drive has been produced. This indicates that the proposed property would have a 2.1 metre lower land level than that of the existing property and thus only the first floor windows would be visible above the 1.8m boundary treatment. The proposed Juliet balcony on plot 504 would be 18 metres from this property and is only a feature and not a useable balcony. Overlooking of this property is not considered significant due to the land level difference and the fact that the proposed properties are at an angle. A window to window distance of 15 metres is therefore considered acceptable in this case.

Since the application was deferred discussion with the applicant with regard to the above relationships has brought to light an issue with regard to the existing screening on the boundaries of properties on Westminster Drive. The existing planting will have to be removed due to garden stability issues and works required on the rear boundaries of these properties. However, a 1.8m fence with a 600mm trellis has now been indicated on the layout plan together with planting on the area adjacent to these properties. An additional condition would further control these details. Plots 501 – 510 have been moved further away from the Westminster Drive properties and all window to window distances now comply with the Council's standard of 21 metres, irrespective of the proposed boundary treatment and planting. Therefore overlooking of these properties is not considered to be significant. In relation to Plot 694, the first floor bedroom windows on the southern elevation of the proposed dwelling would now be obscure glazed by condition and new bedroom windows would be inserted into the front and rear elevations, thus improving the relationship with the existing property 8 Hope Way.

Secondly, in relation to the impact on the amenity of existing properties on Swadlincote Lane, amendments have been sought to improve the relationships and increase the distances between the properties. Land levels of the existing properties and the adjacent proposed properties were requested due to the sloping nature of the site.

A distance of 30m from the rear of the proposed properties and the rear elevations of properties on Swadlincote Lane has been maintained to protect privacy. The window to window distances would vary to between 30 – 40 metres which is well in excess of the

21m standard. No.72 Burton Road is a bungalow that has five windows on its side elevation adjacent to the site. The majority of these windows are secondary; however, there is a bedroom window on this side. A distance of 18m has been achieved between the nearest proposed dwelling in order to meet the Council's space standards. Plots 619 and 620 have been moved further away from Burton Road and the boundary with No.72 Burton Road to reduce their impact on this property and to improve their appearance in the streetscene. The position of these dwellings is now considered acceptable.

In relation to land levels of the proposed properties along the boundary with existing properties on Swadlincote Lane, the majority are slightly higher (between 500mm – 700mm) which is not considered significant and would not reduce the privacy of these properties when taking into account the distance of around 30 m between the properties. Proposed properties to the rear of 72 Burton Road would be 2.4 -1.8m higher than the land level of the property. However, this follows the existing slope from Burton Road and would be at a distance of 25m and is therefore considered acceptable as it meets the SPG standard. Plots 619 – 626 proposed along the southern boundary of this property reduce in height towards Burton Road and therefore towards the rear of the property are 540mm higher and reduce to 1.6m lower than 72 Burton Road, adjacent to Burton Road. This is considered an acceptable relationship.

No's 44, 50, 48, 44 Burton Road are in the centre of the sites frontage onto Burton Road and thus would be surrounded by the proposed properties. A distance of 10 -11 metres is maintained adjacent to the boundaries with these properties and main aspect distances are between 38 - 40m. Plots 601 and 577 are nearest to these existing dwellings and each has a side elevation adjacent to the boundaries which have small bathroom windows on the first floors. The relationship with these existing properties is considered acceptable.

Adjacent to 52 Burton Road the proposed properties slab levels increase to the north east along the side boundary of the property from 200mm – 2.2m higher than the property. This follows the existing slope of the site and that of the existing property's 30 m rear garden. Proposed properties to the rear of these existing dwellings on Burton Road vary in slab level from 1.2 – 1.7m higher at a distance of 38 – 40 m. The nearest proposed property to the side of 44 Burton Road would be 1.26m lower than this dwelling.

In order to protect the amenities of these existing properties in the future permitted development rights for extensions on some plots should be removed by condition.

Appearance and Burton Road Streetscene

Seventeen of the thirty one proposed house types have been previously been approved on other phases of the development. A good mix of dwellings is proposed and the size and design is considered compatible and in keeping with that of the previous phases. A mixture of brick detailing, arched lintels, door frames and canopies, balconies and bay windows serve to add variety. The use of the three storey properties to frame the focal open space and main estate roads together with two and half storey properties with dormers serves to add interest to the internal streetscenes. Overall the design of the dwellings is considered to be high quality in accordance with national and regional guidance and the standard that has already been set on the wider site.

Along the Burton Road frontage the proposed properties maintain slab levels similar to the existing properties 44 - 52 Burton Road. The distance from the road is also similar and the majority of the proposed properties have their main elevations facing the road.

The mass is broken up in sections by an internal road and the footpath/cycleway link. The site is approximately 2m higher than the road level and there is an existing 1m high hedge along the boundary which shall be retained by condition. It is acknowledged that the streetscene in this area of Burton Road would change significantly, however, considering the land levels and proposed properties only being two storey detached properties similar to existing properties they would not appear overly dominant or unexpected. Their impact could also be reduced further by careful consideration of the external materials, which shall be dealt with by condition.

Landscaping and public open space

The principle of the landscaping layout was agreed at outline stage and the size and location of the areas of public open space is compatible with this layout and that of the development masterplan. Tree lined footpaths/ cycleways have been incorporated and provide sufficiently overlooked focal points. The boundary treatments for the areas of public open space and footpath/cycleways are open railings which ensure their security. The landscape strip, referred to by the Crime Design Advisor, forms a ditch and is thus not able to be sectioned off into amenity spaces. However, the area and the communal parking is considered to be significantly overlooked by the proposed properties and previously approved properties to provide natural surveillance and a condition relating to crime prevention measures should also help.

The amount of woodland planting and public open space was stipulated in the outline application's Section 106 together with their locations in relation to the Masterplan. A detailed soft landscaping plan can be required by condition. The hedge along the Burton Road boundary would be retained as part of this scheme.

Highways issues

An amended layout has been received which incorporates most of the changes requested by the Highways Authority and is very similar to details previously approved on recent phases. The proposed development is to be accessed from both Swadlincote Lane and Westminster Drive. The principle of obtaining access from Westminster Drive was granted in 2000 in the outline permission. Westminster Drive has thus been designed to provide access to the development and on the advice of the County Highway Authority is of sufficient width to do so. Under the latest amendment Public Footpath 39 would not require diverting but Footpath 40 would be mainly diverted via special new footpath/cycleways prior to the commencement of development (although this requires a separate authorisation).

The Highways Authority has provided the background with regard the access via Westminster Drive since the 7th July Committee as requested.

The carriageway of Westminster Drive is 5.5m wide, and this width is sufficient to allow any two vehicles to pass each other with a margin of ½ metre. Such a carriageway is therefore suitable for use as a major collector road serving developments of 300 dwellings, as per the Derbyshire County Council's 'Roads in Housing' design document (based on national design criteria in the Department of Transport document DB32), which were the guidelines at the time the road layout was first considered and accepted.

The advent of 'Manual for Streets' as the current design document has not changed this concept, except that housing layouts are now expected to be more dense. This, together with the view that traffic congestion is no longer to be considered as being an important issue, thereby results in it being acceptable for a higher number of dwellings to be served by a 5.5m wide road.

Approval of this application would result in a total of about 450 dwellings on Phase 5 as a whole. The vehicle generation from this number of dwellings is estimated at 360 veh/hr in the peak hour, some of which would use Swadlincote Lane and the remainder via Westminster Drive. If all traffic used the Westminster Drive route, this would still be well within the theoretical capacity of a 5.5m carriageway, as affirmed by para 3.13 of DB32.

A highway requirement for the acceptance of the first part of Phase 5, was for a second access to be provided via Swadlincote Lane, as a single access to Phase 5 via Westminster Drive alone, as originally submitted by the developer, was not considered acceptable, both for the purposes of access for emergency service vehicles and convenience of access generally.

The applicants have acknowledged that the layout has been planned in accordance with the Highway Authority's requirements and in phase 5 follows the same principles as on all former phases. As such they have not made any access/road layout amendments to the scheme.

Other issues raised by objectors

The majority of objections were received from properties within the Castleton Park development and only two letters were received from existing established properties on Burton Road and Swadlincote Lane. The provision of shops, medical centre and school for the overall development was considered at outline stage and as such is detailed within the Section 106 agreement. The access for plots 691 and 694 has been amended and would no longer be accessed by a private drive. The area where plots 502 – 521 are proposed was included in the development principle plan for the outline permission and thus was not proposed as part of the woodland walkway. However, a footpath/cycleway runs along the south eastern boundary alongside the woodland buffer zone as originally envisaged and links to the balancing lagoon to the south.

All boundary treatments and retention of hedging would be controlled by conditions. The applicants are aware of the existence of protected species on adjacent land to the south of the site and the need for any appropriate licences. *There is a balancing lagoon to the south east of the site, which is not affected by this proposal. Surface water drainage is controlled by condition as recommended by the Environment Agency.*

Plots 501-521 are small 2 bedroom apartments and houses, which are classed as "affordable housing". There is a national requirement to provide this type of accommodation on a housing site of this size and their location is considered appropriate within the site's context. Affordable Housing is defined in PPS3 Housing as "social rented and intermediate housing, provided to specified eligible households whose needs are not met by the market".

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 approval of details subject to the following conditions:

1. Notwithstanding the originally submitted details, this approval shall relate to the amended layout drawing no. S0000_100_01 Rev L, the amended housetype for

Plot 694 drawing no. P341.08 and elevations and floorsplans for plots 501-510 drawing no's S0000/500/03 and S0000/500/04.

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

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

Reason: To ensure the free flow of traffic on the adjoining highway.

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

Reason: In the interests of highway safety.

4. No dwelling shall be occupied until the estate road serving the dwelling has been constructed to base level in accordance with the County Council's specification for new housing development roads.

Reason: To ensure that each dwelling is afforded access.

5. The proposed private vehicular access driveways shall be surfaced with a solid, bound material (i.e. not loose chippings) prior to the occupation of the dwelling to which they relate.

Reason: To prevent the deposition of extraneous material on the public highway in the interests of highway safety.

6. Dwellings shall not be occupied until space has been provided in accordance with the approved application drawings for the parking for residents and visitors, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use. Garages & parking spaces shall be kept available for the parking of motor vehicles at all times, and 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, unless otherwise agreed in writing.

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

7. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority.

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

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

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

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

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

10. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

11. Prior to the commencement of the development hereby approved full details of the proposed bin stores and the materials for surfacing the bin collection areas shall be submitted to and approved in writing by the local planning authority. The bin stores and collection areas shall be provided in accordance with the agreed details prior to occupation of the relevant dwellings.

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

12. 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.

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

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

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

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

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

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

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

15. The Footpath/Cycleway/Greenway/public open space shall be landscaped, hard surfaced and opened for public access prior to the occupation of the 50th dwelling on this phase unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of permeable public access across the site.

16. Prior to the commencement of development, a landscaping scheme (including an implementation plan) for the affected length of Swadlincote Lane so as to ensure that the route is not physically accessible by vehicular traffic, shall be submitted to and approved in writing by the Planning Authority.

Reason: In the interests of highway safety.

17. The footpath/cycleway link where it meets Burton Road shall have a gradient of 1:20.

Reason : In the interest of cycling and highway safety.

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, the dwellings on plots 577, 587, 600, 601, 619, 621, 623, 632, 633, 642, 643, 644, and 645 hereby permitted shall be not be enlarged or extended without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.

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

19. Prior to the commencement of the development of plots 501 - 510, details of the fencing and planting on the northern boundary with 15 and 17 Westminster Drive shall be submitted to and approved in writing by the Local Planning Authority and completed prior to the commencement of the development in accordance with the approved details and retained thereafter.

Reason: In the interests of the appearance of the area and to protect the amenity of adjoining properties.

20. Prior to the commencement of the development, a scheme for the phasing, completion and use of all public footpaths/cycleways and public open spaces shall be submitted to and agreed in writing by the Local Planning Authority and the areas shall be completed and made available for use in accordance with the agreed phasing.

Reason: In the interests of the appearance of the area and amenity of future residents of the area.

21. The en-suite, bedroom and living room windows (excluding the french doors) on the first floor on the north western elevation of Plots 502 and 504 and the first floor bedroom windows on the southern elevation of Plot 694 shall be permanently glazed in obscure glass.

Reason: To avoid overlooking of adjoining properties in the interest of protecting privacy.

Informatives:

This permission is subject to conditions on the outline planning permission approved under the Council's reference 9/0890/0515/O and to the agreement under Section 106 of the Town and Country Planning Act 1990 that accompanied that permission.

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

Further to the comments above relating to rights of way the County Highways Authority advise that the layout affects the route of definitive public right of way footpath no. 40, as shown on the definitive plan. The Footpath will need to be diverted prior to works commencing.

Any security measures implemented in compliance with the approved scheme should seek to achieve the 'Secured By Design' accreditation awarded by Derbyshire Constabulary. Written confirmation of those measures should then be provided to the Local Planning Authority.

For the discharge of the site investigation, as a minimum, the report should include:

- a) Details of an overview of the initial walkover survey to including the identification of contaminants from other sources e.g. gases emitted from natural organic deposits such as coal, or structures such as disused drains.
- b) Detailed on site sampling to identify any contamination.
- c) The locations of any contaminated zones within the site including details of more extensive and geographically wider investigation of these zones. This will provide a more reliable picture of the distribution of contamination on the site and reduce the risk of failing to discover a hot spot of contamination.
- d) An assessment of any off site impacts such as the effect on watercourses etc.
- e) A thorough explanation of the chosen remedial measures including depth, breadth of excavation and details of soil replacement.
- f) Plan of action if further contamination is identified during remediation.
- g) Details of the measures to verify that the contaminant has been removed to an acceptable level.
- h) The identification as to whether a long-term monitoring and maintenance programme is required, if so, details of the plans.
- i) Details of the long and short term risk to human health including the construction phase and post-development.

j) Details of the British Standards or other guidelines used in both the assessment and remediation measures proposed.

Further guidance can be obtained from the following:

I. Model Procedures for the Management of Land Contamination CLR 11

II. CLR Guidance notes on Soil Guideline Values, DEFRA and EA

III. Sampling Strategies for Contaminated Land, CLR4 1994, DoE.

IV. Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.

V. Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.

VI. Guidance for the Safe Development of Housing on Land Affected by Contamination' Environment Agency. ISBN 0113101775.

C:\Scp\Planning\Gis\DNPD66.DOC Soil contamination or the potential for it is a material planning consideration and must

be taken into account by a local planning authority in the determination of a planning application. This site is suspected to be contaminated with chemicals associated with farming. The responsibilities for providing information on whether and how a site is contaminated rests with the developer, as does the subsequent safe development and secure occupancy of the site. Under these circumstances, you should undertake a site investigation and submit the results and remediation proposals as part of the planning application.

If a reclamation strategy is submitted and agreed by the planning authority compliance with it will be condition of any subsequent approval.

The developer will also be required to sign a completion certificate confirming that the works of reclamation have been carried out in accordance with the agreed strategy.

The Water Industry Act requires that there shall be no building over any public sewer crossing the site without the express consent of the Regional Water Company. You are asked to contact Severn Trent Water with regard to ensuring adequate protection/room for maintenance of the sewer.

The proposed layout requires the permanent closure to vehicular traffic of Swadlincote Lane adjacent plot 677. A Prohibition of Driving Order under the Town and County Planning Act must be carried out and completed prior to the commencement of development in the vicinity.

Item **1.2**

Reg. No. **9/2009/0355/SSR**

Applicant:

Stoneheads Associates Ltd
& UK Coal Mining Ltd

Agent:

Mr Stephen Matthews
JWPC Ltd
1 The Quadrangle
Banbury Road
Woodstock

Proposal: **Approval of reserved matters of application 9/2006/0329 for siting, design and external appearance of golf clubhouse, administration building and driving range, associated leisure building and hotel together with associated parking, access and landscaping at Land At Tetron Point (Former Nadins Site) William Nadin Way Swadlincote**

Ward: **Swadlincote**

Valid Date: **08/05/2009**

Reason for committee determination

The application is brought before the Committee at the discretion of the Head of Planning Services as it is a major application of local interest.

Site Description

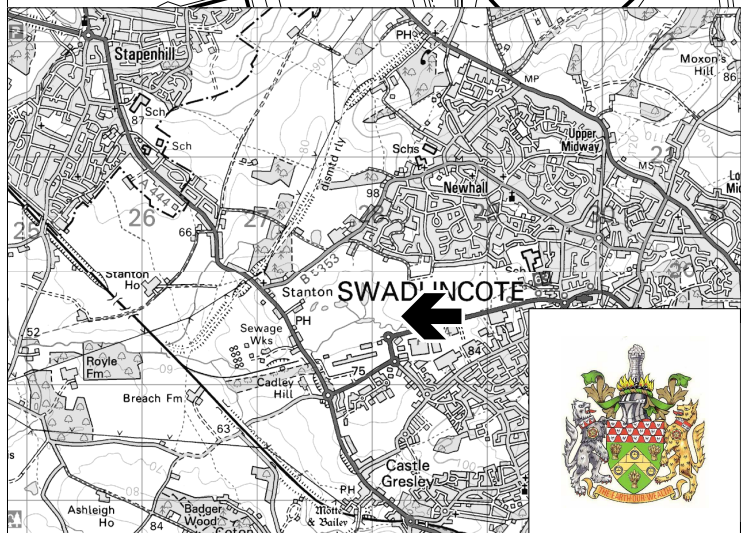
This 4.67 hectare site is located north east of the William Nadin Way and the Cadley Hill Road roundabout, and forms part of the former Nadins opencast coal site. Partial restoration of the site has occurred since the closure of the opencast site in 1999. The site is currently covered with rough grassland with areas of immature trees and there is a large pond adjacent to the William Nadin Way boundary to the south. Darklands Brook runs into this pond and along the southern boundary of the site.

To the south are large metal clad industrial buildings. The wider golf course area beyond the application site boundary (for which an application is also included within the Committee agenda) is rough grassland with a series of ponds and small groups of immature trees. The ground levels fall from north to south from the residential area of Newhall down to the industrial buildings along William Nadin Way and Cadley Hill Road.

Proposal

Reserved Matters permission is sought for the siting, design and external appearance and landscaping of the buildings associated with the development of a golf course.

The buildings comprise of: -



South Derbyshire District Council. LA 100019461. 2009

Golf Club House	1,471.7m ² (15,835 sq ft)
Golf Administration Building	401m ² (4,315 sq ft)
Associated Leisure Centre building	3,607.6 m ² (38,818 sq ft)
Golf Driving Range & Teaching Stalls	522.9 m ² (5,950 sq ft)
Hotel	3,222.7 m ² (34,676 sq ft)

The 83 bed hotel would be the nearest building to the southern boundary and would be at a slight angle with William Nadin Way. The associated leisure building would be opposite the hotel to the north with the car parking area in between. The golf club house, driving range stalls and golf administration building would be to the east. The driving range stalls would be a semi circular structure with a circular parking area to the rear and a circular putting green and seating area. The golf club house would be to the west adjacent to the golf course and the golf administration building would be to the south west.

Access to the complex would be from the existing roundabout to the south via a bridge over the brook. Details of the bridge will form part of a separate application when these details are finalised. A total of 271 car parking spaces are proposed which is broken down into 207 for the main complex, 49 adjacent to the driving range and 15 disabled spaces. 40 covered bicycle stands, coach parking and a service road in between the leisure building and club house are also included in the proposal. The main 18 hole golf course, which is the subject of a separate application to amend the landscaping, would be to the north and west of these proposed buildings with the driving range to the north east. A footpath linking the site with Newhall would separate these two elements. To the south east of the buildings a teaching area is proposed with bunkers, putting greens and a pitching zone. The hotel would be 78 metres from the southern boundary with William Nadin Way with the large pond and conservation zone in between. An area of woodland planting exists on the road boundary and new planting is proposed to the rear of the hotel. The overall design theme is simple, modern mono-pitched roofed buildings of a mixture of aluminium cladding and vertical cedar cladding.

The hotel would be the highest building at three storeys, measuring 71.5m x 14.9m of a total height of 10.7m. The roof would have a slight slope with the lowest edge at 10.1m adjacent to the southern boundary. A glazed entrance canopy is proposed on the northern elevation adjacent to the car park with its mass broken up by the different sections of aluminium and vertical cedar cladding.

The associated leisure building would be the largest building measuring 90m x 40m of a height of 7.7m at its highest point. The building would house a swimming pool, café, gymnasium, 2 badminton courts, 5 squash courts, sauna, steam room and 3 treatment rooms. It would have large sections of cladding with cedar panelling at the ends and large sections of clear glass curtain walling for the swimming pool and overlooking the golf course.

The Golf Club house would be two storey, measuring 30m x 26.3m. At its highest point it would be 8.2m and would slope down to 7.7m. Its ground floor would accommodate a pro-golf shop, bar and dining area and locker area. The first floor would have a larger bar, formal dining area, kitchen, 2 offices and an external balcony area. The front elevation would have a two storey glazed entrance feature and cedar panelling at the ends with high levels of glazing on the shop and first floor bar area. The golf administration building would be the smallest building and would be 5.1-5.5m high and would accommodate a reception area, 2 offices, staff kitchen and rest room and two conference rooms.

The driving range stalls to the east of the complex are semi-circular and would be low level of a height of 3 - 3.6m. 21 stalls and 8 larger draining stalls are proposed which would be open to the front and rear with a covered walkway behind. Materials proposed are cedar panelling with an aluminium roof.

Applicants' supporting information

Statement in Support of Planning Application incorporating Design and Access Statement – This document includes a site description and area context, site history in terms of the previous permissions, description of the proposed buildings and their floorspaces, assessment of the relevant planning policy, detailed evaluation of the main issues and impacts and the Design and Access Statement covering: - amount of development, layout, scale, landscaping, appearance, sustainability, site access and levels. The report concludes that the principle for the buildings and their transport impact was established by the granting of outline permission and their design is considered to reflect the context of the site in relation to the adjacent industrial buildings and the landscaped National Forest area.

Ecological Report – This report outlines the methodology and details the results of the desk study and field survey. It states that a reptile and Great Crested Newts survey is currently being carried out which will shortly be submitted to discharge the relevant outline conditions and generic methods statements and mitigation measures are appended to the report. The report recommends that landscaping shall be designed to enhance the ecological value of the site and fenced buffer areas should be erected around the existing watercourse during the construction phase. The Derbyshire Wildlife Trusts ecological data search for the site is included as an appendix.

Flood Risk Assessment Revised July 2009 – This revised assessment has been produced in order to overcome the Environment Agency's original objection. The Environment Agency's Flood Map shows that the location of the proposed development is mainly within Flood Zone 1, which is considered to have a low risk of fluvial (river) flooding. There is an area in the south east of the site and a section of the proposed access road falling within Flood Zones 2 and 3, which have a medium and high risk of flooding respectively. However, the area that is to be developed is located entirely within Flood Zone 1, with no development proposed in the small area of the site that falls within Flood Zones 2 and 3. Darklands Brook flows through part of the southern area of the development. The access road to the site crosses the watercourse in the south west of the site. The road was constructed previously and is elevated above the 100+CC flood water levels. The watercourse is designated non-main river at this location. An 8m maintenance easement is recommended from the top of both banks of Darklands Brook, which should be open land and easily accessible. The Environment Agency recommends that property floor levels should be raised at least 600mm above the 100 year plus climate change level (68.59m AOD) as a precaution against fluvial and overland flooding. The proposed finished floor levels are more than a metre above this level. Two possible locations for surface water attenuation ponds have been identified subject to planning approval and further detailed drainage designs.

Phase 1 Environmental Risk Assessment – Contamination on site is assessed in this report in relation to its former use as an opencast coal site. Coal seams are identified and groundwater areas. Potential contaminants are identified in relation to the opencast and landfill uses on the site. Risk assessment has been undertaken in terms of human health concerns, groundwater, ecological resources, building services and adjacent land

for all potential contaminants. The report recommends a condition to fully assess and mitigate the risks identified.

Transport Statement – This report states that the access via the spur of the roundabout on the A514 William Nadin Way was identified as having spare capacity with negligible queuing and delay in peak hours periods in the ‘with development’ scenario with Tetron Point fully built-out as this was set out in the Transport Assessment carried out for the outline application granted in 2002. Parking provision is considered to be well within the regional and national maximum car parking standards. It also accords with national policy which promotes the shared use of parking serving various uses where peak levels of use do not coincide. The provision of cycle parking exceeds the minimum requirements. In relation to servicing, the road width would be 6.5m which is sufficient to enable two large vehicles to pass and sufficient servicing areas and turning are provided. A 2m wide footpath would be provided on the eastern side of the proposed access and safe pedestrian routes across the car parking area are provided. A coach parking bay would be provided with sufficient turning in the circular area to the rear of the driving range stalls.

Planning History

9/2006/0329 - Variation of conditions 2, 3, 6, 7, 10, 13, 14, 17 and 18 of 9/2000/0415/O, granted 12/05/09

9/2000/0415 - Outline application (and Environmental Impact Assessment), (all matters other than means of access to be reserved) for the use of land for Business (B1 Use Class), Industrial (B2 Use Class), Storage and Distribution (B8 Use Class) and Leisure Use (Hotel, Drive-Through restaurant, Golf Course (Including Ancillary Facilities), granted 31/01/02

Responses to Consultations

The County Highways Authority has no objections to the proposal. Conditions such as the provision of construction facilities and vehicle parking and manoeuvring space should be covered by the outline consent. A condition relating to vehicle wheel washing facilities is recommended.

The County Greenways Officer identifies that no dedicated walking and cycling access is shown from William Nadin Way through the site to link with the east-west National Cycle Network route NCN63. A north – south link should be provided.

The Environment Agency has removed its initial objection to the application due to an insufficient Flood Risk Assessment in relation Darklands Brook and surface water drainage. A revised Flood Risk Assessment was submitted to address this objection and the further consultation response states that there is no objection subject to conditions. Conditions in relation to the Flood Risk Assessment document and surface water drainage are recommended. Informatives with detailed advice in relation to drainage calculations shall be attached to any permission.

The Design Excellence Officer made comments in relation to the location of cycle parking, use of porous material for the car parking, pedestrian access around the complex and recommended a revision to the hotel's front and rear elevations in terms of windows and sections of the two types of cladding.

The Police Crime Prevention Design Advisor has concerns as these types of complexes can be a generator of crime. A single access point is a good crime prevention measure. The layout of the car park means that there will be a high level of natural surveillance, however, the hotel would need additional car park security measures such as CCTV. A lighting scheme should be of a BS5489 standard.

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

The Contaminated Land Officer recommends the phased contamination condition be attached to any permission.

Derbyshire Wildlife Trust advises that site clearance work should follow the detailed method statements contained in the appendices of the great crested newt and grass snake survey reports produced by AA Environmental LLC dated July 2009.

It is advised that measures are put in place to protect the identified on-site amphibian and reptile receptor sites located to the south-east during the constructional and operational phases of the proposed development.

It is recommend that to avoid disturbance to breeding birds all construction activities and site preparation should occur outside of the main bird breeding season which extends from March to late August. If this is not possible, the area should be checked for nesting birds by a suitably qualified ecologist. If nests are discovered they should be left undisturbed until all young have fledged. This should be attached as a condition of any permission.

It is advised that nesting opportunities for birds and roosting opportunities for bats are provided within the design of the proposed buildings. We would especially welcome the incorporation of swift boxes/bricks within the design of the hotel, which forms the tallest building of the group.

Responses to Publicity

No letters of objection or comment have been received.

Development Plan Policies

The relevant policies are:

East Midlands Regional Plan: 2 Promoting Better Design
3 Distribution of New Development
12 Development in the Three Cities Sub-area
35 Regional Approach to Managing Flood Risk
42 Regional Priorities for Tourism
48 Regional Parking Standards

Local Plan: Environment Policies 7 & 10, Transport Policy 6, Recreation & Tourism Policy 2.

National Guidance

Planning Policy Statement 1 : Delivering Sustainable Development
Planning Policy Statement 25: Development and Flood Risk
Planning Policy Guidance 17 : Planning for Open Space, Sport and Recreation

Planning Considerations

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

- Principle of Development
- Siting
- Design/ External Appearance
- Flood Risk
- Highways Issues
- Ecology

Planning Assessment

Principle of Development

The principle of development was established by the granting of the outline consent in February 2002. This permission encompassed the golf course and associated buildings, 1,255,00 sq ft of industrial floorspace to the south of William Nadin Way, a drive through restaurant, 100 bed hotel and 57,000 sq ft of office floorspace. Each of the uses was restricted to floorspaces detailed on the outline plan. In 2006 a variation of conditions application was approved and supersedes the original outline permission. Since the granting of this 2006 permission, the majority of the industrial and commercial elements to the south of the site have been developed.

The floorspace proposed accord with the original outline floorspace restrictions. 60,000 sq ft was the restriction for the health and fitness club and the combined floorspaces for the golf club house, golf administration building and associated leisure building amount to 58,968 sq ft. 6,000 sq. ft was detailed for the golf driving range and the proposed floorspace is 5,950 sq ft. 35,000 sq. ft was restricted for the 100 bed hotel and the proposed 83 bed hotel is 34,676 sq ft. Their location also accords with the original zoning areas approved at outline; however, the outline plan indicated the hotel to the south on the corner of the roundabout. Siting at this stage was a reserved matter and therefore this application seeks permission for the siting of the hotel in the complex of buildings and a subsequent permission was granted for a industrial building which has since been built in the location where the hotel was originally envisaged.

The wider golf course was restricted in terms of its landscaping by a condition detailed on an outline plan. A linked application (9/2009/0527) to vary this condition is the subject of a separate report to this committee.

Siting

The proposed siting of the buildings grouped around a central car parking with one access off the William Nadin Way roundabout is considered to form a significant gateway to the golf course set back from the road frontage to enable the buildings to be framed in the surrounding landscape and overtime be partially screened by forest planting. The concept is that the proposed buildings would be linked in terms of their users as the hotel guests could use the leisure and golf facilities and make use of conference facilities within the golf administration building for example. The grouping of the buildings also serves to improve the security of the site. The pedestrian routes around the car park and the location of the cycle parking have been amended in accordance with the Design Excellence Officer's comments. The proposed siting is therefore considered acceptable.

Design / External Appearance

The design theme is contemporary with large expanses of glass and cladding, which is considered to be in context with the adjacent industrial buildings and the cedar cladding reflects the National Forest area. The design is simple and each building is similar and proposes the use of the same materials to emphasise that it is a linked complex. The hotel's front and rear elevations have been amended to provide a more horizontal emphasis by smaller sections of cedar cladding framing the windows. The glazed entrance requires more of a feature and further amendments have been requested but have not been forthcoming. Overall the design is considered to reflect the context of the site and would provide an impressive facility within Swadlincote.

Landscaping

The proposed landscaping scheme is considered to be high quality and involves significant tree planting within the car parking area. Trees would define the pedestrian routes around the complex. The proposed landscaping scheme is considered to fit well within the overall golf course site. The use of porous material on the car parking areas and pedestrian priority paving is welcomed.

Flood Risk

The proposed development is mainly within Flood Zone 1, which is considered to have a low risk of fluvial (river) flooding. The Environment Agency recommended that property floor levels should be raised at least 600mm above the 100 year plus climate change level (68.59m AOD) as a precaution against fluvial and overland flooding. The proposed finished floor levels are more than a metre above this level. Two possible locations for surface water attenuation ponds have been identified. The revised Flood Risk Assessment has addressed the Environment Agency concerns in relation to flood risk and they have removed their objection and now recommend conditions in relation to the Flood Risk Assessment and surface water drainage.

Highways Issues

The proposed development accords with the Transport Assessment carried out for the outline application granted in 2002. Parking provision is considered to be well within the regional and national maximum car parking standards. The County Highways Authority has no objections. The outline permission includes conditions relating to details of the access, which in this case includes the design of the bridge, and provision of parking, manoeuvring and servicing prior to use. The provision of construction period facilities and wheel washing facilities shall be attached to this permission.

A north / south footpath link has been included in the linked application for the golf course (9/2009/0527) and is discussed in that report. Derbyshire Wildlife Trust comments in relation to protected species and ground nesting birds are discussed in detail in the report for the golf course and suitable conditions have been considered.

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. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been

submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.

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

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

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

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

2. 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.

3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the buildings have been submitted to and approved in writing by the Local Planning Authority.

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

4. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no's ADL/1908/002(C), ADL/1908/003(C), ADL/1908/004(D), ADL/1908/005(C), ADL/1908/006(B), ADL/1908/007(B), ADL/1908/008(B), ADL/1908/009(B), ADL/1908/010(B), ADL/1908/011(B), ADL/1908/012(B), ADL/1908/013(-), ADL/1908/014(-), TPGC-L013 Rev D and TPGC-L015 Rev D.

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

5. 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.

Reason: In the interests of highway safety.

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

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

7. Prior to the commencement of development a detailed lighting scheme for the car parking area shall be submitted and approved in writing by the Local Planning Authority and the scheme shall be completed in accordance with the approved details unless otherwise agreed in writing.

Reason: To protect the character of the surrounding area and reduce light pollution.

8. Prior to commencement of development of the Associated Leisure Building a scheme for the use of brise soleil blades or similar for shading of the swimming pool shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the agreed scheme unless otherwise agreed in writing.

Reason: To add further features to the building and to provide shading on the south eastern and north eastern elevations.

9. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated July 2009, Ref: 2009s0315, undertaken by JBA Consulting and the following mitigation measures detailed within the FRA:

Section 3.7 and 4.4 Limiting the surface water run-off generated by all rainfall events up to the 100 year plus 20% for climate change critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.

Section 4.4 Provision of a minimum of 1230m³ of surface water attenuation storage within open water pond/s on / or in the vicinity of the site to a 100 year plus 20% for climate change standard.

Section 3.3 Demonstration within the Flood Risk Assessment that the improvement/protection and maintenance of existing watercourse and access culvert will be provided.

Section 3.4.3 and 4.1 No planting of trees, ground levels raising, storage of materials (including soil) or SUDs systems within the FRA site specific 100 year (1% chance in any one year) Flood Plain (FZ3), as shown on Drawing No. 2009s0315-001.

Identification and provision of safe route(s) into and out of the site to an appropriate safe haven.

Section 4.1 Finished floor levels are set no lower than 70.0 m above Ordnance Datum (AOD).

Section 4.3 Provision of surface water flood flow routes around the building layout and landscaping.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, provide safe access / egress, ensure future maintenance of the watercourse, reduce the risk of flooding from blockages to the existing access culvert and to reduce the risk of flooding to the proposed development and future occupants.

10. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system.

Informatives:

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

Applicants must take account of these hazards which could affect stability, health & safety, or cause adverse environmental impacts during the carrying out of their proposals and must seek specialist advice where required. Additional hazards or stability issues may arise from development on or adjacent to restored opencast sites or quarries and former colliery spoil tips. Potential hazards or impacts may not necessarily be confined to the development site, and Applicants must take advice and introduce appropriate measures to address risks both within and beyond the development site. As an example the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas. In coal mining areas there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling alone has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted. Any intrusive activities which intersect, disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. In the interests of public safety the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated.

The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in order to make an assessment of the risks. This can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com. To note and act upon as necessary the comments of the Environment Agency (see attached letter).

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 www.south-derbys.gov.uk/Environment/Pollution/LandPollution/contaminatedlandguide.htm

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. The provisions of the agreement under Section 106 of the Town and Country Planning Act 1990 remain in force in regard to this site subject of the outline permission under code 9/2009/0415.

In relation to condition 9 the Environment Agency advice that the scheme shall include:- Limiting the surface water run-off generated by all rainfall events up to the 100 year plus 20% for climate change critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.

The relevant number of surface water treatment drains which should evolve out of following the SUDs Management Drain Hierarchy (CIRIA document C697 - SUDs Manual).

Provision of a minimum of 1230m³ of surface water attenuation storage within open water pond/s on / or in the vicinity of the site to accommodate the difference between the 21l/s allowable discharge rate and the 100 year plus 20% for climate change critical rain fall event.

A minimum 4m clear access between the top of the bank of the watercourse, and the top of the bank of any surface water storage pond.

Details of how the scheme shall be maintained and managed after completion

Further comments from the Environment Agency include:-

There must be No new buildings (including sheds, cycle storage or garages), structures (including gates, walls and fences) or raised ground levels within 8 metres of the top of

any bank of any river/watercourse, inside or along the boundary of the site, unless otherwise agreed in writing.

The permanent retention of a continuous unobstructed area is an essential requirement for the preservation of the water course corridor, wildlife habitat, flood flow conveyance and future watercourse maintenance or improvement.

Drainage design

We would like to confirm that where developments are required to meet the design principals detailed in PPS25 Development and Flood Risk, the drainage network drawings and supporting calculations to be submitted in support of any planning application will need to be more detailed than those required by the Sewers for Adoption process, see additional drainage information given below. Please refer to paragraph 5.47 of the PPS25 Practice guide which clarifies this requirement.

The proposed on site surface water drainage system should be designed to the Sewers for Adoption, 30 year standard or similar, which is acceptable in principal. However, we require additional details to confirm that surface water system will operate without flooding during the 30 year rainfall event, and not flood or leave the proposed site during the 100 year or 100 year plus 30% for residential, 20% for commercial (for climate change) rainfall event.

For site over 1ha in size, we will need to see the plan and calculations in support of the on site surface water drainage system (i.e. microdrainage output for the 30 year, 100 year and 100 year plus 30% for residential, 20% for commercial (for climate change) rainfall events, including pipeline schedules, network information and results). To demonstrate that no flooding occurs to the proposed development or surrounding area from the above rainfall events.

If the system surcharges we would wish to see a detailed plan (location of any surcharging should be identified as should any resultant overland flood flow routes) and calculations for any surface flooding, including flood flow routes, expected depths, and confirmation that this would not cause flooding to nearby properties. Any excess surface water should be routed away from any proposed or existing properties.

In addition we would like to see any calculations (i.e. microdrainage output for the 30 year and 100 year plus 30% for residential, 20% for commercial (for climate change) rainfall events) in support of any on site surface water attenuation system including sizing and any hydrobrake details and design.

Flood Map Challenge

The above Flood Risk Assessment has only been given a qualitative check, for a flood map challenge or revision, the hydraulic model and rights will need to be made available to the Environment Agency. For more information contact Bethan Gittins FRM Data and Mapping Technical Specialist Tel: 01543 4054983.

If the applicants or agents wish to discuss any of the above or the detailed surface water drainage design prior to formal submission, they should contact Sarah Mallett Development and Flood Risk Officer Tel: 01543 405029.

Item **1.3**

Reg. No. **9/2009/0436/SRF**

Applicant:

Aldi Stores Ltd
Holly Lane
Atherstone

Agent:

Mr Peter Eames
DSP Architects Limited
305 Fort Dunlop
Fort Parkway
Birmingham

Proposal: **The erection of proposed new class A1 food retail store with associated car-parking, servicing and landscaping incorporating sddc recycling area at Land adjacent Huntspill Road / The Mease Hilton Derby**

Ward: **Hilton**

Valid Date: **04/06/2009**

Reason for committee determination

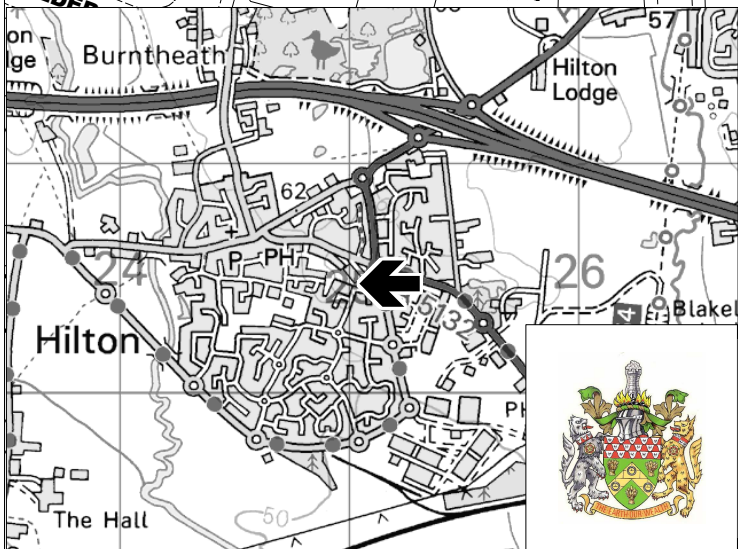
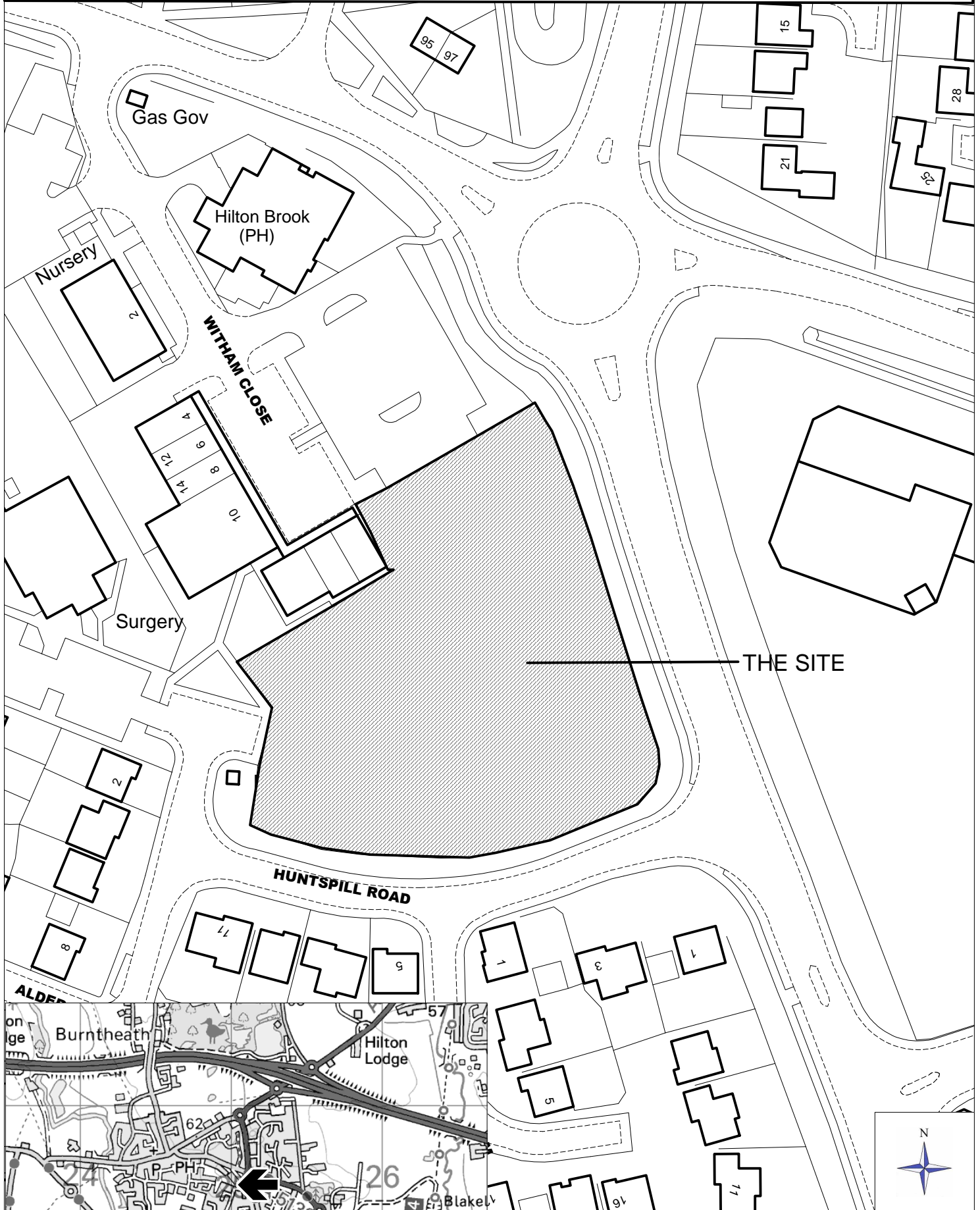
Councillor Plenderleith has requested that this application comes before the Committee as matters of local concern have been expressed about an issue in particular the vehicle access off Huntspill Road and the knock on effect of increased traffic on pedestrian and vehicular safety at the top of Welland Road.

Site Description

The site comprises an area of open ground that is grassed and sits about 0.75m above Huntspill Road. Opposite the site are the houses on Huntspill Road. It is separated from The Mease by a landscaped bund that is now well established; on the opposite side of The Mease are the premises of Hilton Motors. To the northeast of the site are the existing shops and community facilities that are served off Witham Close. The Doctors Surgery is served off the turning head at the top of Welland Road. Houses lie to the south of the Surgery on Welland Road.

Proposal

The proposed store comprises some 1392sqm. ; 900sqm of which would be retail space serving the public. It is proposed that the shop should operate between 0900 and 2000 hours Monday to Saturday and 1000 to 1600 on Sunday and Bank Holidays. It is proposed that the building be constructed in white render and glazing under a flat roof. The building would be located to the north end of the site and back on to the recently constructed shops on Witham Close. The area between the storefront and Huntspill Road would be mainly car parking (including disabled and parent parking); landscaping is also proposed on the frontage to Huntspill Road. Deliveries would occur just prior to the opening of the store.



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South Derbyshire District Council. LA 100019461. 2009

Applicants' supporting information

The application has been amended since submission and this report reflects that amended scheme. The original proposals are available for inspection on the planning file.

The applicant seeks to demonstrate that the new development will bring the benefits of discount food shopping to the local area and shorten shopping journeys caused by the current under provision that is identified in the supporting information. It is contended that the development accords with development plan policies and in particular policy PPS6 and is of an appropriate scale to the role and function of Witham Close Centre, improving viability in accordance with Shopping Policy 2.

The proposals have been amended to improve links through and visual presence on the existing local centre. The site is accessible by a choice of transport including walking, cycling and public transport. It improves the local and surrounding area by providing new pedestrian routes and crossing points to the shopping centre. The supporting documentation has identified that the modest increase in associated traffic with the proposed development would have no significant impact on road safety or highway capacity.

The development includes an on-site recycling centre and the applicant has accommodated the requests made by SDDC including reduced opening hours, restricted delivery times, car-park restrictions and additional landscaping requirements. They have also agreed to the provision of a pelican crossing on The Mease in the position required by the County Highway Authority.

The applicant considers that the development achieves an appropriate mix of old and new styles with modern detailing and asserts that this scheme will provide an attractive addition to Huntspill Road/The Mease and the surrounding Hilton area.

A full copy of all the supporting transport, planning and design and access documents are available for inspection on the file.

Planning History

The application site and adjoining land comprising the pub, day nursery, doctors surgery, vets and the remaining shops and facilities was allocated in the original Master Plan for the redevelopment of Hilton Depot for community and commercial development. The application is the last remaining parcel allocated for this purpose. The redevelopment of the Hilton Depot commenced in 1993 and has continued ever since, with the original housing allocations on the site now almost complete.

Responses to Consultations

Councillor Mrs Plenderleith in response to the Members Section 106 Protocol has asked for contributions to the surfacing of the car park at the football pitches off the Mease, the provision of a sensory garden and offers support for the Parish Council's request for funds for a park off Welland Road.

Hilton Parish Council has no objection to the principle of the development but would wish to see the following matters addressed to satisfy the Council and local residents: -

- The white render and flat roof should be replaced by red brick and pitched roof to be in keeping with its surroundings.
- More high and low level planting should be provided to the Huntspill road frontage to screen the development for the houses.
- An 'access only' restriction should be placed on the road between The Mease, Huntspill Road and Welland Road or the current 'Give Way' sign should be replaced by a 'Stop' sign at the Huntspill Road junction with The Mease. The speed limit on The Mease should be reduced to 30mph.
- The access should be provided with bollards or be gated to prevent/curb anti-social behaviour when the shop is shut
- More parking spaces for parents with children and the disabled should be provided – there are lots of children in the village as demonstrated by the 700 that attend the local primary school.
- Delivery times should be restricted to avoid busy times especially when children are going to and from school.
- The closing time for the store should be limited to 2000 not 2200 as suggested in parts of the application.

In response to the reconsultation Hilton Parish Council now strongly objects to the above planning application on the following grounds:

- a) That the building will not be within keeping of the surrounding area and street scene and would not fit in with the "heart of the village". The Parish Council was not concerned in principle of this application, as this is desperately required. However the impact that the proposed white rendered building with a flat roof will have look like an uncompromising large white hanger, which will act as a huge mirror to the residents on Huntspill Road. If this application is passed it will have a dramatic impact on the surrounding residents' lives. The Parish Council insists that this application be amended to a red brick with a pitched roof the same as other Aldi buildings within the surrounding area and in particular the other buildings on Witham Close. Other amendments such as the installation of bollards, more planting and a pedestrian crossing for safety reasons are welcome.
- b) The Parish Council also repeats its request that consideration be given to form an 'access only' restriction situated on the junction of Huntspill Road, The Mease and the top of Welland Road to alleviate some of the traffic movement in and around this area. Perhaps a 'stop' signs at the junction of Huntspill Road rather than 'give way' signs to restrict some of the speed and to control the traffic better. This would be in the interest of public safety. It would also be beneficial to reduce the speed limit at the top of The Mease to 30 mph. More parking spaces for parents/children and the disabled should be installed as only 3 child and 4 disabled spaces are proposed. With 700 children attending the local Primary School, the parent/children parking provision in particular seems inadequate.
- c) If permission were to be granted then Hilton Parish Council would request that delivery lorries be restricted to avoid early mornings, school time, rush hour and late evenings. The closing of the store to remain at 8pm and no consideration to be given for this to be extended to 10pm now or in the future as quoted in their original design and access statements.

d) Hilton Parish Council has also been asked to consider what we would like to see in the community if Community Money could be negotiated along with this application. Hilton Parish Council would like to request the following:

- Money towards the proposed park on Welland Road/Humber Street for the land swap currently earmarked as a rugby pitch.
- Money towards the Hilton Village Hall Extension.
- Money towards new Parish Council notice Boards
- Money to set up a new user-friendly Parish Council Website.

The County Highway Authority in its initial response requested the upgrading of the pedestrian crossing to the south of Huntspill Road on The Mease – it is expected that this would be achieved through a Section 106 Agreement. Subject to visibility splays and retention clear of obstruction of those splays the County Highway Authority has subject to conditions and the applicant signing a Section 278 to cover other highway works, no objection to the development.

Severn Trent Water has no objection subject to submission of details of foul and surface water disposal.

The Crime Prevention Design Advisor comments that this is a good logical layout well designed in accordance with the Secured by Design principles with good quality lighting and the use of telescopic bollards to reduce unwanted parking and other bollards that would reduce the risk of raids.

The Environmental Protection Manager has requested that the hours of operation be limited to those specified in the application, not the extended hours that are referred to in the Design and Access Statement. There would be concern if the recycling centre included glass as this has the potential to cause noise problems for nearby residents. [The application states that the centre will be for the recycling of cardboard and plastics only – a condition is recommended to ensure that the recycling facilities are so limited].

Responses to Publicity

In response to the initial round of neighbour notification some 5 letter/e-mails of support were received. These basically welcome the development on the basis that journeys to larger shops would be considerably reduced by the presence of the new store. The development is also unlikely to significantly affect traffic entering or leaving the village and will act as a focal point for the village.

Some 28 letters have been received objecting to the development but some acknowledge the need for a larger supermarket but object to the development for the following reasons: -

- a) The site is a social play area and should be retained as such for the local children. The area has always been designated for community use and a further supermarket is not an appropriate use. Alternatively the site could be used for retirement apartments that would then be close to local facilities. Other suggestions are for use as allotments, specialist grassland. The site provides a welcome break between the existing shops and the houses.
- b) There is no need for further shops in an area that is already well served by local shops including the Tesco shop. There is an Aldi store and other similar shops within a seven to ten minute drive of the village and Hilton cannot support a shop

of this kind. The development is an intensification of the local centre that is not needed. A supermarket of this size would be better sited on the commercial land in Hilton Business Park.

- c) The building design does not reflect the character of the other shops in the area. It looks more like Hilton Garage, but that was developed away from housing areas on the opposite side of The Mease.
- d) The Local Planning Authority has done a poor job of integrating the old and newer parts of the village and as such has failed Hilton.
- e) The creation of a supermarket would impact on the rights of residents to enjoy their homes. There needs to be evidence of consideration of the provisions of PPG 24, as the site will generate noise affecting the residents both in terms of the shops and the recycling centre.
- f) The application takes no account of the loss of jobs that might occur in other local shops if this were permitted. So the net increase in jobs would be less than the 20 predicted in the application.
- g) 80% of the shoppers would come from outside Hilton. Thus not much social benefit to the local community.
- h) The recycling centre should be relocated to the far end of the site away from the houses. The recycling centre is only yards from a previous one that was constantly full, emptied infrequently and caused significant levels of litter in its own right. It was also subjected to considerable vandalism.
- i) The development will add to the already significant levels of traffic on Huntspill Road that is a major access to a large number of houses and this could be a hazard to children and result in serious injury or death as well as something similar happening on The Mease. The road also serves the Doctors' surgery. Access from The Mease could be safer or the site would be better served off Witham Close. Lorries will have serious problems accessing the site from Huntspill Road. Indeed the rear of the lorries may overhang the pavements and cause a pedestrian safety problem. The traffic survey is nothing more than a snapshot and does not reflect the true situation.
- j) It should be noted that the speed limit on The Mease is 40mph, not 30 as stated in the application documents, this along with other mistakes; calls into question the accuracy of the information contained in the application.
- k) Some 500 children attend John Port School and catch the school busses on The Mease meaning many of them have to cross Huntspill Road to get to the bus stop. The presence of the school bus stop is not reflected in the submitted information. 600 children attend the local primary school.
- l) It is likely that young people driving cars and motorcycles at excessive speed would use the car park as a focus for anti-social behaviour. The car park should be provided with barriers to prevent access outside shop opening hours.
- m) Insufficient parking will be provided to cope with the 200 cars per hour that are forecast to enter and leave the site. Parking would overflow on to the surrounding roads. The proposed traffic generation will equate to one car per minute using the proposed junction
- n) Lorries frequently park on The Mease to access the local shops causing hold ups on that road. If the ALDI store is permitted then consideration should be given to reducing the speed limit on The Mease.
- o) The ALDI sign proposed at the corner of The Mease and Huntspill Road would be out of keeping with the locality.
- p) Litter, traffic fumes and debris will follow the development and all this will just be left. There appears to have been no effort in softening the impact of the recycling centre for the local residents in the form of landscaping.

- q) There would be increased light pollution and the building will be an eyesore for local residents as the landscaping is all low level and would not screen or soften the impact of the development. Cars using the car park when it is dark will cause disturbance to the occupiers of local houses.
- r) If permission were granted ALDI should be asked to improve cycle links to the site.
- s) Please give consideration to limiting the hours of construction so that residents are not unduly disturbed during this busy period.
- t) If the application had come from one of the major supermarkets it is likely that there would have been more support for the proposal; not many people will use the ALDI store for this reason.

There has also been an objection to the development from the representatives of the adjacent shopping centre in the following terms having reviewed the submitted information :

- a) The existing retail facilities are strong and should provide a sound basis for the future development of the local centre. Any future development should enhance rather than detract from the existing retail provision. It is noted that the proposed Aldi supermarket, which turns its back on the existing retail facilities, neither compliments nor provides any real opportunity for linked parking or trips to the existing neighbourhood centre. The principle of functional integration is certainly not applied to this particular proposal which has been designed as a separate and independent store and which actually discourages functional integration and linked trips. The retail study acknowledges that the existing retail provision in Hilton is operating well and healthily. By implication it meets a clear local need as evidenced by the high level of footfall and strong trading levels. Indeed, in paragraph 4.27 the retail study notes that not only is the existing centre strong but also that it makes an important contribution to the local area. As such the existing retail provision should be protected and any development of the local centre should be seen as an opportunity to enhance not detract from existing provision.
- b) However, a true local centre is not simply a function of floor space (or 'mass') but is, moreover, a function of how the retail proposal actually operates, particularly in the context of existing retail facilities. Paragraph 3.06 of the retail study acknowledges the need to promote vitality and viability of the existing local centre but nowhere is there an explanation of how this might be achieved. The retail study places an over-reliance upon draft planning guidance, specifically the revision to PPS4. However, this draft guidance also recognises the importance of local shopping facilities yet this does not feature in the subsequent analysis. Similarly, the summary set out in paragraph 3.23 makes no reference to existing or emerging guidance, which seeks to maintain and enhance the vitality and viability of existing local shops – not just 'major centres'.
- c) The capacity and impact analyses are all statistical exercises. The assessment of impact in particular makes no reference to design or operational factors. Instead the retail study shows what could be achieved from a properly designed development but makes no reference to what is likely to be the impact from the scheme as submitted.
- d) In similar vein the highways study submitted in support of the application is also a purely analytical exercise placing the proposed development in an isolated

context. In other words, it does not look at the proposed development in relation to the existing retail facilities or the need to enhance the existing retail centre instead, it makes broad and largely unsubstantiated comments such as the proposed development offering 'potential for linked trips' (our emphasis) – 3.5.2. Nowhere is there any explanation of how or whether this linkage can actually be achieved. Section 5 in particular is silent on this.

The above-mentioned objector considers that the submitted amendments do nothing to address their concerns about the impact of the development on the existing shops and businesses.

The other letters received come from objectors who wish to maintain their previous objections and the following additional comments are made: -

- a) There is no objection to the store but there are strong objections to the proposed recycling centre. It is poorly located and when there was a temporary one here in 2006, the site was constantly in need of cleaning by the Clean Team. Traffic congestion at the head of Welland Road would increase if the centre is located here.
- b) There will be up to 21 lorries visiting the site in any week.
- c) The additional land will not help disabled person access because of the difference in levels.
- d) Surface water will flood onto Huntspill Road and Mill Fleam at times of flash flooding.
- e) The modifications are minimal and fail to address original concerns.
- f) The Mease does not perform its function as a village relief road; Huntspill and Welland Roads are used as a rat run to get to the far side of the housing estate. The speed of traffic on the estate roads has been a source of concern to residents in the area for several years and little if anything has been done despite meetings between residents and the Highway Authority.
- g) ALDI would not serve the local village; indeed their application mentions that the intention is to serve the wider area.

Development Plan Policies

The relevant policies are:

RSS8: Policies 1,2, 3 & 12

Local Plan: Housing Policy 1, Shopping Policy 2

National Guidance

PPS 1, 6, PPG 4, 13

Planning Considerations

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

- The Development Plan.
- Government advice.
- Access to the site.
- The design of the building
- Impact on neighbouring dwellings and uses (the shop parking and recycling centre).

- Mitigation measures proposed.
- Other material considerations.
- Section 106 Issues

Planning Assessment

Development Plan Issues

Government advice, Regional and Local planning policy seek to ensure that new housing development is served by an appropriate level of services in order to minimise the need to travel and maximise the sustainability of new housing areas. Hilton Depot was a major redevelopment on brownfield land that started in the early 1990s. The outline planning permission required the submission of a master plan and this was duly submitted with the first application following the grant of planning permission. The land that is subject to this application was allocated in that plan as part of a larger area for community and commercial activity to service the housing and employment areas.

The community and commercial area already includes a range of shops, a doctors' surgery, a children's nursery and a public house. In granting planning permission for the reallocation of part of the employment land for housing a Section 106 Agreement required that the last remaining area for commercial and community uses continue to be marketed for these purposes for up to seven years from the date of the permission. The current applicants acquired the land from the developers having assessed the potential market and have submitted the application in response to that research.

The submitted Impact Assessment has been assessed and the conclusion is that the development satisfies the planning policy criteria at the local, regional and national level. The site is within an allocated area for this type of development, it is considered that the applicants have identified both a quantitative and qualitative need for the development and the development is of an appropriate scale. Overall on the policy issue it is considered that the development would not have a negative impact on the existing retail provision, based on the submitted information and that the site is well placed to meet the needs of the village and the immediate area around Hilton serviced by a variety of modes of transport including local bus services.

Transport and Access Issues.

This is the primary concern of many of the objectors to the development. The main concerns are the capacity of the road to serve the development both in terms of its width, the safety and ease of access for pedestrians through conflict with cars using the shop and delivery lorries. One of the concerns is the speed limit on The Mease which is 40mph.

In terms of pedestrians crossing The Mease, traffic speeds will be considerably reduced by the presence of the pelican crossing that will halt traffic when people are crossing that road. The County Highway Authority has no objection to the development subject to the conditions recommended below and the provision of the traffic light controlled pelican crossing described elsewhere in this report. The applicants have agreed to fund the provision of the crossing to the sum of £40,000 with any unspent monies being returned to the applicants. The County Highway Authority is assessing this offer and the outcome of that assessment will be reported at the meeting if available. The applicant would provide the monies through a Section 106 Unilateral Undertaking.

Huntspill Road is a short road linking The Mease and Welland Road, both entrances to the road are right angle bends and the opportunity to reach high speeds would appear

limited, albeit not impossible. It is not for the Local Planning Authority to ensure that every eventuality is covered as there is an obligation on individual drivers to adapt to the local road conditions and drive with due care and attention.

Inevitably there will be deliveries to and from the site by large vehicles and there is potential for conflict between those vehicles and cars and pedestrians. If cars were parked on Huntspill Road then access to the site would be made more difficult for the lorries. Parking on Huntspill Road is a decision for the drivers/owners and at the moment there is no restriction on vehicles parking on that or indeed other roads in the vicinity. However, road traffic has a right to use the public highway network, parking on the road would be an obstacle to the use of the highway and if that caused a problem to traffic movement then the Highway Authority could give consideration to imposing a traffic order limiting parking. Again there is a duty of care on the drivers of heavy goods vehicles to use the highway to reflect local conditions. Should permission be granted, once the access is constructed the width of Huntspill Road would be wider in that vicinity.

The applicants have amended the scheme to take account of the initial County Highway Authority comments to the extent that there is now no objection from that Authority and subsequently there is no justification to refuse the application on highway grounds.

Impact of the Development

Any impact of the new building on neighbours would arise primarily from the presence of the building, its design and the materials of construction. The building is located to adjoin the existing development and the scheme has been amended to facilitate pedestrian access to the building from the existing shopping area. It is understood that the pedestrian access across land owned by Marston's, may not be exactly as shown on the submitted drawings but there is a willingness on the part of Marston's to facilitate the access by either selling the land to ALDI or by leasing it to them. This potential access has resulted in changes to the design of the building with an increase in the amount of glazed screens on the building to provide a 'face' to the existing shopping area so that the link between the two parts of the site are apparent to users of the facilities. These changes are considered to help to integrate the two parts of the site.

Regarding the materials of construction the preference of the Parish Council and objectors is for the building to be constructed from brick beneath a tile roof. However, use of a pitched roof would significantly and unduly increase the height and mass of the building creating much greater impact on neighbouring properties.

Various alternative designs concepts were discussed with the applicants both before submission and during its consideration. One design was the use of a 'stack' bonded brick system with the glazing elements as proposed beneath a flat roof. However, the applicants for the reasons set out in the resubmitted Design and Access statement did not accept this. In summary they contend that the white render and glazing provide a crisp building that would complement the existing buildings on the site whilst suggesting a 21st century approach to design and minimising the impact to the surrounding vernacular. It would also ensure that the commercial area had a distinctive appearance that is lacking in the use of the more traditional materials that blend it into the surrounding houses.

In conclusion having weighed these arguments officers support the design concept, which the applicants consider to be "a pleasing attractive building unimposing on neighbouring residents whilst improving the setting of the local centre" and consider that

the amended scheme represents an acceptable compromise. It will however be important to ensure that the detailing of the scheme and the proposed areas of landscaping are properly implemented so that the building design objectives are achieved and the building is set in an appropriate landscaped context. To this end, notwithstanding the broad landscaped plan that has been submitted, a condition requiring a full landscaping scheme is recommended.

Other issues raised by the objectors include the impact of the recycling centre and a previous recycling facility that was in a similar position; noise issues both from the building and users of the car park, light pollution from the site and people using the car park and anti-social behaviour at times when the shop is closed. The proposed recycling centre has been suggested at the request of the District Council in response to a request from the Parish Council that has been looking for such a facility for some time. It would contain only plastic (6 containers) and paper (2 containers) as set out on the amended plan. This would be a permanent facility, regularly emptied with provision for a weekly visit from the Clean Team. In addition the facility would be located in the vicinity of a shopping centre where for many hours in a day it would have direct supervision from those shop and the houses in the vicinity. It would be accessible mainly from the shop car park and would also be appropriately lit in the hours of darkness.

Light pollution is also a consideration. A condition is recommended that would ensure that any lighting scheme conforms to the Institute of Lighting Engineers advice to ensure that light does not scatter beyond the site or to adjacent land. The Environmental Protection Manager comments are set out above in response to noise issues and conditions are therefore recommended to limit the hours of construction and to require the submission of details of plant and equipment to be installed on the building. Given the lack of glass recycling facilities, there are no noise objections to the recycling facilities in the location proposed.

Anti-social behaviour seems to occur in any event in the vicinity of the site. The applicants have sought to address the question of the use of the car park when the shop is shut through the use of bollards. The Police Crime and Design Officer has commented that the proposals conform to the principles for designing out crime and this should help to minimise such behaviour.

The basic question is whether the proposal conforms to the provisions of the Development Plan and if so are there material considerations that dictate a decision contrary to those provisions. In the absence of objection from the Environmental Protection Manager or County Highway Authority and compliance with the allocations in the approved Master Plan there are no material considerations that suggest that this application should be refused.

Section 106 Issues

It is anticipated that the applicants will submit a unilateral undertaking to cover the provision of the pelican crossing on The Mease. Whilst it is possible to seek funding for the pelican crossing, the other requests from Councillor Plenderleith and the Parish Council cannot be justified under Section 106 as they have no direct relationship with the proposed development (as required by Circular 05/2005). However it is understood that the applicants are in contact with the local community to discuss local projects that it may wish to become involved with as part of a community involvement program that it operates.

Recommendation

Subject to the receipt of a signed unilateral undertaking to secure funding for the provision of a pelican crossing on The Mease, **GRANT** permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. T08A94-004 Rev B.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.
Reason: In the interests of the appearance of the area.
4. The development shall not be commenced until precise details of the intensity, angling and shielding, and the area of spread of the lights have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity with them. The submitted scheme shall comply with the Institute of Lighting Engineers "Guidance notes for the Reduction of Light Pollution" (2000).
Reason: To preserve amenity and/or prevent danger to road users.
5. Notwithstanding the submitted details no development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include a schedule of planting including species size and spacing, indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
Reason: In the interests of the appearance of the area.
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.
Reason: In the interests of the appearance of the area.

7. Notwithstanding the details on Drawing T08A94-004 Rev B provision for a pedestrian link between the existing shopping area and public house shall be submitted to an approved in writing by the Local Planning Authority before the development is commenced. The approved details shall be implemented within 8 weeks of the official opening of the store and shall thereafter be maintained in place.

In order to ensure that a pedestrian link is established from the application site to the adjacent shopping area.

8. Prior to the first use of the development hereby permitted, the land in advance of the sight lines measuring 2.4m x 45m indicated blue on the attached plan shall be cleared and thereafter retained free of all obstructions to visibility over a height of 1 metre (600mm in the case of vegetation) above the adjoining carriageway level.

Reason: In the interests of highway safety.

9. Before any other operations are commenced, a temporary access shall be formed from Huntspill Road into the site for construction purposes, and space shall be provided within the site curtilage for site accommodation, storage of plant and materials, parking and manoeuvring for site operatives and visitor's vehicles, loading and unloading of goods vehicles, all in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

10. 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.

Reason: In the interests of highway safety.

11. Before the commencement of building works to construct the shop, the new vehicular access shall be formed to Huntspill Road in accordance with a detailed scheme including road levels and drainage design that has first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

12. The premises shall not be taken into use until the parking and manoeuvring areas shown on the amended drawing T08A94-004 Rev B have been laid out, surfaced and provided with drainage these spaces shall be maintained throughout the life of the development free from any impediment to their designated use.

Reason: To ensure that adequate parking provision is maintained available throughout the life of the building.

13. 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.

14. The shop hereby permitted shall not be operate in accordance with the hours specified in the application form unless the Local Planning Authority has granted

a permission to vary the opening hours in response to a planning application made in that regard.

Reason: The form and the Design and Access statement have different opening hours specified, the Local Planning Authority seeks to confirm that the hours approved as part of this planning application are those specified in the application form.

15. During the development of the site hereby permitted, no building or other operations shall be undertaken and no deliveries of materials to or transportation of material from the site shall take place outside the following times nor at any time on Sundays, Bank or Public Holidays: 0800 - 1800 Monday to Friday, 0800 - 1300 on Saturdays.

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

16. Prior to the first use of the site hereby permitted, details of all plant and equipment to be installed on the building to include air handling, air conditioning and refrigeration units shall be submitted to and approved in writing by the local planning authority and implemented in accordance with the approved scheme and thereafter maintained in accordance with the manufacturers specifications.

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

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

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

Informatives:

The vehicular access to Huntspill Road subject to the above condition must be carried out by way of an Agreement under Section 278 of the Highways Act. Works may not commence until detailed design drawings have been submitted to and approved by Derbyshire County Council and the necessary Agreement has been signed.

Pursuant to Section 163 of the Highways Act 1980, measure must be taken to ensure that surface water run-off from the car parking and manoeuvring areas is not allowed to discharge onto the highway.

Item **1.4**

Reg. No. **9/2009/0439/B**

Applicant:

Mr Alan Buckland
Uttoxeter Road
Foston
Derby

Agent:

Mr Philip Brown
Philip Brown Associates Ltd
74 Park Road
Rugby

Proposal: **The removal of Condition 9 of planning permission 9/2008/0577 to allow 12 gypsy caravans to be sited in addition to the original caravan approved under planning permission 9/2000/0119 at Former Castle View Service Station Uttoxeter Road Foston Derby**

Ward: **North West**

Valid Date: **14/07/2009**

Reason for committee determination

Councillor Roberts has requested that this application be brought before the Committee as matters of local concern have been expressed about a particular issue.

Site Description

The site lies to the north west of Hatton, within the Northern Parishes Ward, on the site of a former petrol filling station. The site is level although to the rear it is slightly higher than the surrounding land. A new fence has been erected around the north, west and east boundaries. A public footpath follows the east boundary and beyond the field to the north of the site is Brook Lane. Access would be through the existing site that has access to Uttoxeter Road.

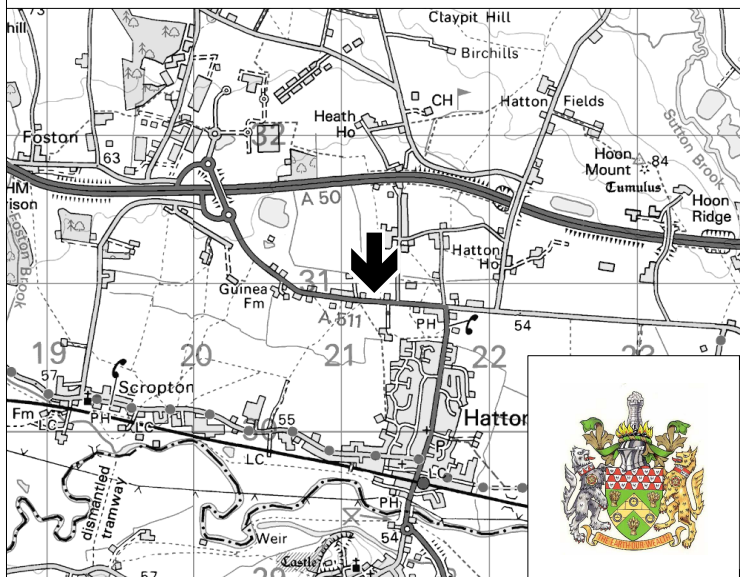
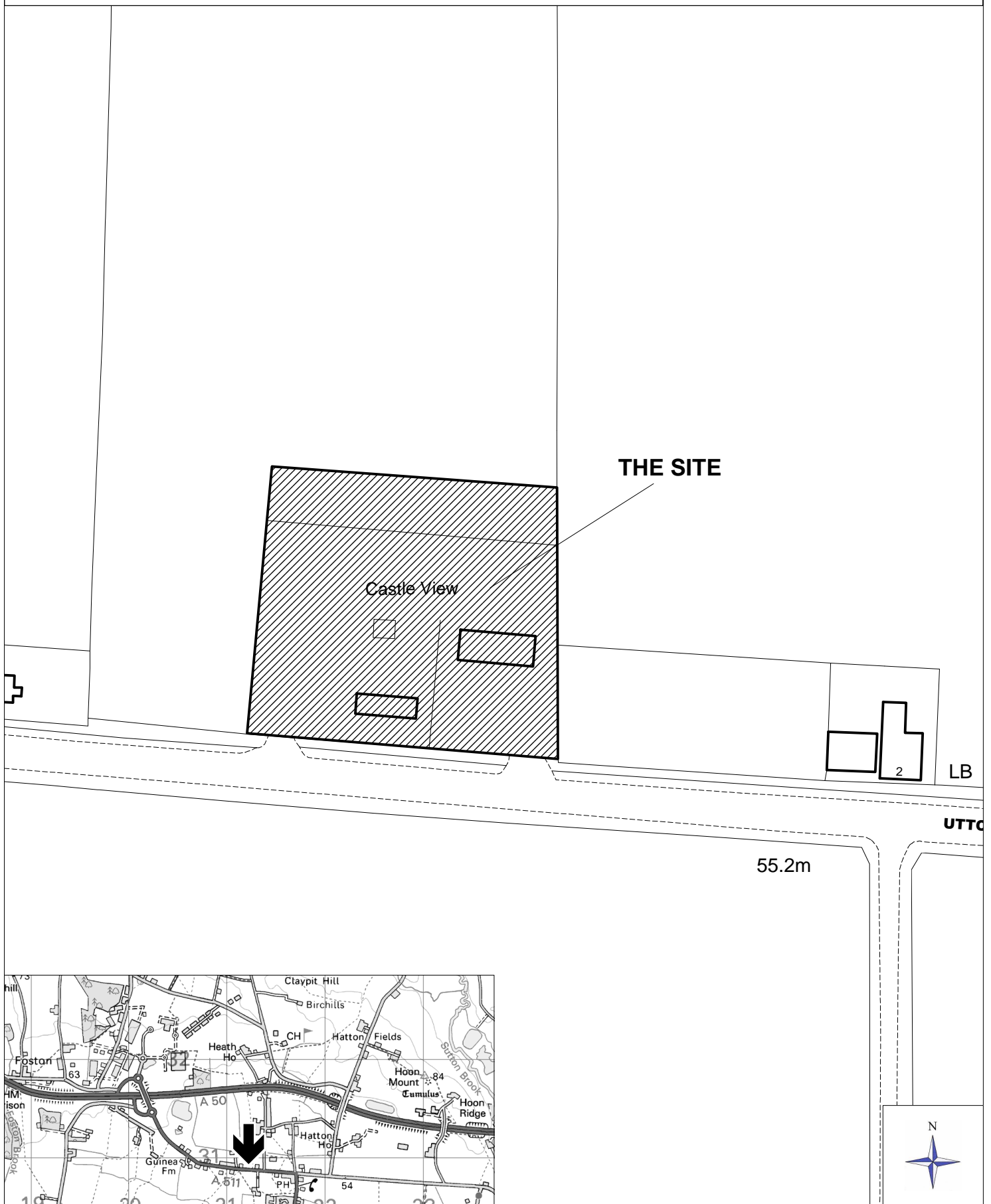
Proposal & Applicants' supporting information

The proposal is to remove Condition 9 of planning permission 9/2008/0577 that restricts the occupation of the land at the rear of the permitted site to 6 transit pitches so that they can be occupied on a permanent basis. The proposal does not involve additional development. The site is located within an area frequented by gypsies, close to services and facilities with safe and adequate access.

Planning History

Planning permission was originally granted on appeal in 2000 for a mobile home on the land to be occupied by a member of the gypsy community.

Permission was granted in 2001 for the erection of toilet and wash facilities.



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Planning permission was granted on appeal in 2002 for 6 additional caravans on land to the side of the original mobile home.

An application for raising the ground levels at the rear of the site to form a parking/play area and a detached sectional double garage was refused in 2004.

In July 2009 permission was granted on appeal for the use of the rear of the site to provide transit pitches for up to six caravans.

Responses to Consultations

Hatton Parish Council views on this site are well known and there is little point in reiterating them.

The County Highway Authority has no objection subject to a condition requiring parking and manoeuvring space sufficient for one vehicle to be provided within each plot.

No other responses to consultation have been received.

Responses to Publicity

None

Development Plan Policies

The relevant policies are:

East Midlands Regional Plan: Policy 16 and Appendix 2

Retained Local Plan Policies: Environment Policy 1, Housing Policy 15

Other Advice

Circular 01/2006 [ODPM]

Under the terms of the Circular, local authorities are required to rigorously assess the accommodation needs of Gypsies and Travellers and make site specific allocations for new public and private sites in development plans (at that time South Derbyshire was included in those authorities that had no needs survey.)

Derbyshire Gypsy and Traveller Accommodation Assessment 2008

The assessment took account of incidents of unauthorised encampments, the status of existing authorised private sites, the lifestyle and demographic profile of gypsies, the levels of occupancy on private and public sites and the twice yearly caravan counts undertaken on behalf of ODPM (now DCLG). The survey indicated an immediate need for 19 permanent pitches in South Derbyshire.

Planning Considerations

The main issues central to the determination of this application are the need for gypsy accommodation in South Derbyshire and the impact of the additional pitches on the countryside.

Planning Assessment

The provision of six permanent pitches to meet the allocation in the East Midlands Regional Plan for up to 19 pitches would be in accord with National Planning policy for the Gypsy and Traveller community. If permitted this would contribute 6 of the required 19 pitches in the South Derbyshire administrative area.

The question of the impact of the development on the character and appearance of the area has been considered on several occasions in the past with appeal Inspectors concluding that whilst there would be impact on the open and rural appearance of the area it would be partially mitigated by existing and proposed planting and is outweighed by the need for the pitches.

The proposal will not increase the number of pitches on the site and therefore there should not be any additional impact on the appearance of the area beyond that already experienced. The proposal is merely to provide 6 permanent pitches instead of the 6 transit ones already permitted recently at appeal.

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. Within two months of the date of this permission, a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the area.
3. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season after approval and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the appearance of the area.
4. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), within two months of the date of this permission a scheme for the treatment of the boundaries of the site shall be submitted to and approved in writing by the Local Planning Authority. Plans shall indicate the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be

completed within two months of the approval of the scheme unless otherwise agreed in writing with the Local Planning Authority.

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

5. Any caravans positioned on the site shall be capable of being moved lawfully on the public highway, without division into separate parts.

Reason: In order to ensure that no vans are brought onto the land that cannot be legally towed back onto the public highway.

6. The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of Circular ODPM Circular 01/06.

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

7. No commercial activities shall take place at the land, including the storage of materials.

Reason: In the interests of ensuring that the amenity of the occupiers of nearby dwellings is not prejudiced.

8. No vehicle over 3.5 tonnes shall be stationed parked or stored on the land.

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

9. No development shall take place until details (including precise dimensions and proposed surface materials) of a vehicular turning area within the site curtilage adequate to enable all vehicles to enter and leave the site in a forward direction have been submitted to the Local Planning Authority. The turning area as approved by the Local Planning Authority shall be laid out and hard surfaced accordingly prior to the first use of the development and be retained available for that purpose thereafter.

Reason: In the interests of highway safety.

10. Notwithstanding the submitted drawings, the extent of the area to which this permission relates is as defined by the red edge on the attached drawing number 9/2009/0439/A.

Reason: For the avoidance of doubt.

Item **1.5**

Reg. No. **9/2009/0515/L**

Applicant:

Mrs Gene Spencer
63 Castle Street
Melbourne
Derby

Agent:

Mr Tim Summers
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote

Proposal: **Alterations and repairs to the front elevation at 63
Castle Street Melbourne Derby**

Ward: **Melbourne**

Valid Date: **29/06/2009**

Reason for committee determination

This application is brought before committee because the Council is the agent.

Site Description

63 Castle Street is an early 19th century Grade II listed house within the conservation area of Melbourne.

Proposal

The proposed works are as set out in the Applicant's supporting information below.

Applicants' supporting information

The application site is a grade II listed house, circa 1830, in a prominent location in the Melbourne Conservation Area.

The front elevation has suffered from a lack of maintenance with regard to the existing windows and unsympathetic alterations which include the existing render, which is in a poor condition and partially failing, and the existing poorly detailed front door with overlight, which is rotting.

It is proposed to remove the render, clean the exposed brickwork using the Stonehealth JOS system and re-point in a lime mortar. The front elevation will be re-rendered if the bricks are found to be in a poor condition. The bricks that are currently visible due to the failing render would suggest that their condition is good, in which case the bricks will be left exposed and re-pointed.

The proposed replacement front door and overlight have been designed in conjunction with expert advice from the Council's Heritage Officer.



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The existing front windows are to be removed, repaired and then painted with a linseed based paint.

The existing rainwater goods are made from asbestos and fibre cement and will be replaced with cast iron.

The proposed works will therefore restore the front elevation of the building and will help safeguard the fabric of the listed building and the character and appearance of the conservation area.

Planning History

None.

Responses to Consultations

The Heritage Officer has raised no objection. No special planning conditions are necessary as the quality of work is to be monitored and is reliant on the conditions imposed with the restoration grant.

Melbourne Parish Council has no objection.

Melbourne Civic Society supports the proposal.

Responses to Publicity

A neighbour points out that work has commenced.

Development Plan Policies

The relevant policies are:

RSS8: Policy 27

Local Plan: Saved Environment Policies 12 and 13

National Guidance

Planning Policy 15: Planning and the Historic Environment.

Planning Considerations

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

- The impact of the proposals on the historic fabric, character and setting of the listed building.
- The impact of the proposals on the character and appearance of the conservation area.

Planning Assessment

The proposals conform to the above-mentioned policies.

63 Castle Street is a Grade II listed house that has been on Derbyshire County Council's Buildings at Risk Register for some time owing to its neglected condition. This application

has arisen from a scheme of restoration works jointly funded by the District Council's Environmental Health and Planning Departments.

The proposed works were subject to extensive pre-application discussions with the Heritage Officer and the scheme of works is all as expected.

The proposed works will have a positive effect on the historic fabric of the Grade II listed building thereby preserving its character and setting. The restoration work to this prominent facade will also enhance the character and appearance of the conservation area.

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 works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

Reason: To conform with Section 18(1) of the Planning and Listed Buildings and Conservation Area Act 1990.

Item **1.6**

Reg. No. **9/2009/0527/BM**

Applicant:

Stoneheads Associates Ltd
& UK Coal Mining Ltd
C/O Agent

Agent:

Mr Stephen Matthews
JWPC Ltd
1 Banbury Road
The Quadrangle
Woodstock

Proposal: **The variation of condition 11 of planning permission
9/2006/0329 revised landscaping layout at Land At
Tetron Point (Former Nadins Site) William Nadin Way
Swadlincote**

Ward: **Newhall**

Valid Date: **12/06/2009**

Reason for committee determination

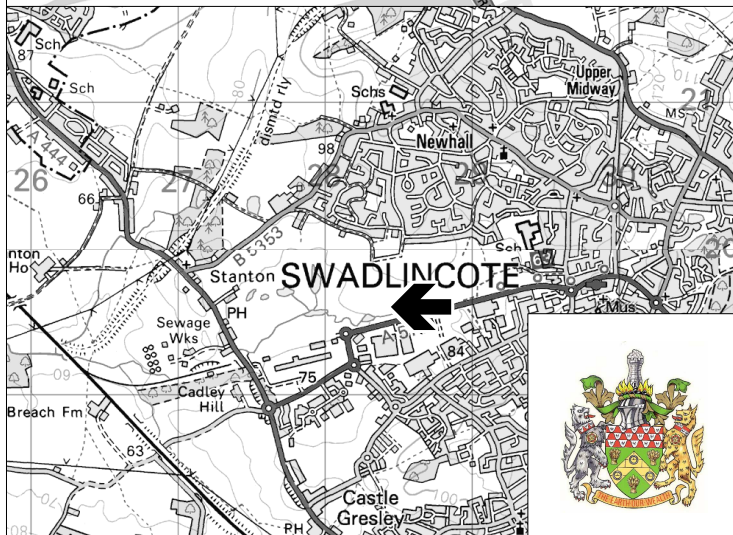
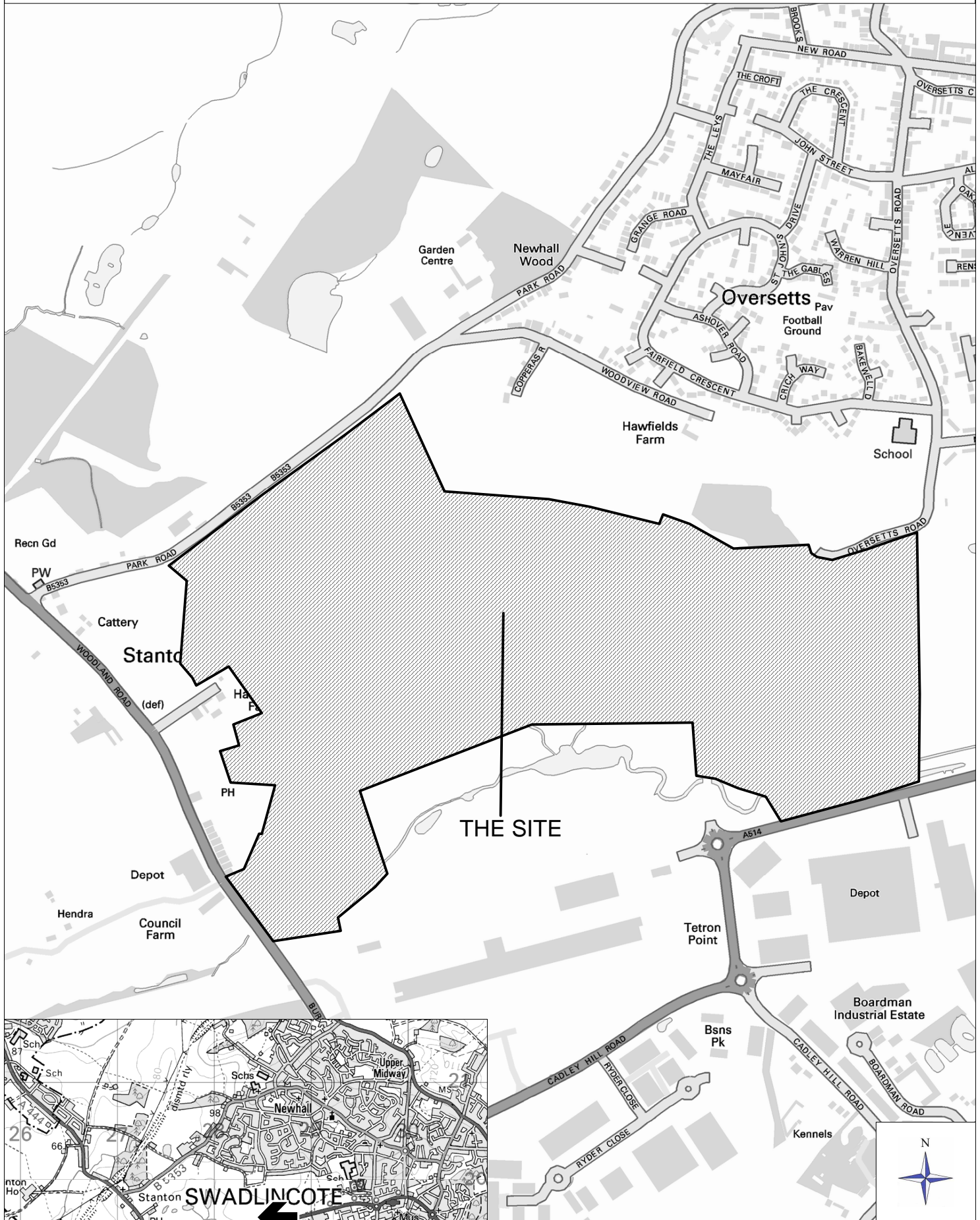
The application is brought before the Committee at the discretion of the Head of Planning Services as it is a major application of local interest.

Site Description

The application site measures 58.76 hectares and is located to the north of William Nadin Way, on the western edge of Swadlincote. The residential area of Newhall is to the north and industrial area of Church Gresley is to the south. The A444 Woodland Road runs along the western boundary and there are open spaces and school playing fields separating the site from the residential areas to the north and east.

The site is currently rough grassland with a network of ponds and ditches and slopes down from the north to the south. There are areas of immature trees around the site and the Darklands Brook crosses the southern part of the site. To the south are large metal clad industrial buildings that were part of the original outline permission. A section of land immediately to the north west of the roundabout and opposite Bison's is currently undeveloped.

The site is currently accessed off William Nadin Way via a roundabout on the junction with Cadley Hill Road. The site forms the north-western part of the wider former Nadins opencast coal mine. Opencast coal working commenced in February 1992 and finally ceased in May 1999. Partial restoration of the site has occurred since its closure with a view to use as a golf course as envisaged in the Restoration Plan for the site.



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Proposal

A Section 73 permission is sought for the variation of condition 11 of planning permission 9/2006/0329 for a revised landscaping layout for the golf course.

Condition 11 reads:-

“Notwithstanding the submitted details, the landscaping of the golf course shall be implemented in accordance with the drawing 9729K”.

The re-design is required due to changes in the redevelopment proposals of the wider site by UK Coal resulting in the eastern section and the ponds to the north west of the roundabout no longer being included in the golf course.

The proposal involves provision of an 18-hole golf course, driving range with teaching zones and a golf academy. A championship golf course is proposed which would provide golf for both low handicap players whilst providing a playable course for complete novices. The golf course would be to the north and west of the complex of associated buildings with the driving range and teaching areas to the east that are the subject of a separate report to this committee (9/2009/0355). Existing lakes on the site would be retained and restoration of two dry lakes is proposed together with the construction of bridges over the watercourses. Existing trees would be retained and extensive tree planting is proposed between the fairways and on the boundaries of the site. The areas would be a combination of greens, bunkers, fairways, existing and proposed marsh vegetation, proposed wildflower areas and reed beds, reseeded grassland and proposed hedge planting.

The proposal indicates the diversion of Footpaths 44, 46 and 98, however, these routes are currently suspended and separate diversion applications would be required. A 3 metre wide greenway is proposed along the northern and western boundaries for use by walkers, horses and cyclists. A new footpath is proposed from north to south across the site linking Newhall with Church Gresley through the complex of associated buildings. The footpath would be 60 metres west of the end of Woodview Road to the north of the site and would be bounded by 7 metre high safety fencing to the east adjacent to the driving range and 1.5 metre high chestnut palisade fencing to the west adjacent to the golf course. The route of this footpath is similar to the informal footpath currently in use.

The construction of the golf course would involve the importation of 500,000 cubic metres of material. This material would be used for land formation, safety bunds, tees and greens. This volume includes a current estimated 300,000 cubic metres shortfall from the original restoration proposal. The type of material and construction transportation assessment is detailed in the Supplementary Environmental Statement submitted with the application and is summarised below. As a result of the quantity of waste material to be imported, early discussions were held with the County Council to assess whether the application should be a ‘County Matter’. A subsequent Counsel opinion concluded that the application would fall to be determined by the Council as district planning authority because *‘... the application would be in substance an application for permission to construct a golf course and related development.’* Nevertheless, comments on the application have been requested from the County Council and the Environment Agency to ensure that all matters of substance relating to this type of development are addressed.

Applicants' supporting information

Supplementary Environmental Statement & Non Technical Summary

The main issues covered in this document include: - landscape and visual assessment, ecological assessment, construction transportation assessment, contaminated land and groundwater risk assessment and code for construction practice.

The conservation and ecological enhancement measures proposed include the following elements: -

- the retention and management of existing planting (albeit immature), tree groups and water features (series of waterbodies and the Darklands Brook);
- the retention and management of existing features on the site boundaries, including any hedgerows and the few hedgerow trees;
- the introduction of groups of trees and woodland planting along the surrounds of the golf course and between many of the fairways, to create new native woodland in accordance with the National Forest policy;
- the creation of a range of grassland regimes, from close-cut fairways through semi-rough to wild-flower meadows and downland-style slopes;
- the reinstatement of Public Rights of Way around the site to promote better links with the surrounding housing and adjacent employment areas and countryside;
- the installation of drainage systems to sustainable principles, which will help provide additional habitats for local wildlife.

The site has a landscape character type that arises from its geological base, coal measures, and its current form of unmanaged grassland, ponds and young tree plantations has been in existence for less than 10 years. It is therefore considered that the landscape has not yet developed a regime which would be sensitive to change. Its landscape character and quality should be improved by increasing diversity through the provision of a range of grassland types, strengthening weak tree cover and actively managing and conserving important landscape elements such as the water features, associated emergent vegetation and young woodland.

Great Crested Newts, reptiles and nesting birds are protected species that have been found on the site during surveys between April to June 2009. Further reports have been submitted in order to discharge an outline condition. Mitigation measures include: - protection during construction the series of ponds and ditches, woodland blocks, Darklands Brook and adjacent habitat through buffer strips. A range of new habitats will be created and established on the site, with the aim of increasing the range of species it supports. A License from Natural England would be required to translocate any of the protected species and works during the bird nesting season would be avoided.

The proposed construction phase for the golf course would take a total of five years to complete. The proposed redesign of the golf course necessitates an estimated 500,000 cu m of imported fill material. This will generate an estimated 50,000 two way trips to the site over the construction period. It is predicted that there will be an increase of 4 two-way vehicle movements per hour during the working day on both a weekday and a Saturday as a result of the proposals. This equates to a net increase of 36 daily movements on a weekday between 0800 and 1800 and an increase of some 18 movements on a Saturday between 0800 and 1300. This very modest level of increase will not be perceptible and falls well within the daily fluctuations in traffic flow experienced on the identified construction traffic routes and will not result in a material or adverse impact on the operation of the local highway network. Furthermore, this represents an insignificant impact in comparison to the likely impacts associated with

the construction phase of the permitted scheme. Access to the site is from a roundabout off William Nadin Way which is designed to accommodate HGVs. Vehicles will access directly onto the site and there will be no queuing on the local network. The controls to be applied on the vehicles accessing and egressing the site will ensure that there are no significant dust emissions or mud on the road from the haulage operations.

The 2001 Environmental Statement submitted with the outline application undertook an assessment of contaminated land. This supplementary document does not consider the risks posed by the landfill deposits to the wider site, as this has been previously assessed and agreed in the initial Environmental Statement. This document examines the risk of environmental harm created by importing fill material onto the site. A proportion of this fill material may come from third party sites. Sections 6.6 to 6.9 set out the controlling mechanisms to ensure that any material imported to the site is considered acceptable and does not give rise to risk to controlled waters, both the underlying groundwater and the surface waters at the site, and to human health. Fill material for landscaping can originate from a number of potential sources, including weathered pulverised fuel ash from power stations to soils from construction sites. A significant proportion of the fill is likely to be sourced from earthworks from local construction sites. It is recognised that such material may differ in levels of potential contaminants, from trace natural levels to slightly elevated levels of contamination. It is recognised that if these are not appropriately controlled then they can give rise to pollution, harm to human health or prevent the landscape developing.

In line with current industry practice a Material Management Plan 3 will be developed for the site. This management plan will set out the following information:

- the required engineering properties of each type of material;
- the acceptable levels of contamination in any material that will not pose a risk to controlled waters, human health or the proposed planting. Levels to protect human health and the groundwater will be derived using quantitative risk assessment using industry accepted models 4. The output from the models will be issued to the Environment Agency and the Local Authority for approval;
- the importation controls to be applied to ensure that the materials meet with the specification set out in the Material Management Plan. Importation controls will include prior testing before import, inspection and testing during the importation and placement. The importation controls will be fully documented and records maintained on site; and
- in the event of waste being imported the methods for ensuring Duty of Care is complied with, including checks on Waste Carriers, whether the material has hazardous properties and that the audit trail of the Waste Transfer notes is fully maintained.

The Code for Construction Practice indicates the measures to be undertaken to ensure that the project is an example of good practice and includes a summary of the mitigation measures for the potential impacts of development.

Statement in Support of Planning Application incorporating Design and Access Statement – This document includes: - site description of area context, site history, the proposed development, planning policy and evaluation of revised landscaping layout. The Design and Access Statement covers: - amount of development, layout, scale, landscaping, appearance, sustainability, site access and levels. Conclusions drawn are that the revised landscape layout would greatly enhance the character and appearance of the local area through the introduction of a diversity of landscape types. Public access through the site would be improved. The layout would respect, protect and enhance the ecological value of the site through the careful retention of existing habitats

and provision of new habitats. There would be no significant impact on the local and strategic road network during construction and proper management and monitoring of the construction phase shall be carried out to ensure contaminated ground and ground water risks are avoided. The proposal would provide a much needed and much wanted recreational and leisure uses for the benefit of the local population and local economy.

Landscape Design Statement – This document includes: - site location and context, existing landscape features, site history and character, golf course design concept and development strategy, planting proposals and details of planting species.

In relation to its context, before the coal workings commenced the land levels across the body of the site were several metres higher than they are today. The coal extraction has left a number of hollows which have filled with water to form ponds. A significant portion of the eastern section of the site was an open pit during mining, but has since been partially filled with waste removed from the former Stanton Refuse Landfill. There are a number of mixed native plantations that are beginning to form belts across parts of the site adjacent to the site boundaries and two fairly large groups set within the central section of the site near to the ponds. These plantation belts cover approximately 4 hectares of the site. The additional blocks of native woodland planting proposed between fairways would develop as copses that would merge in views from off the site and appear as a cohesive woodland interspersed with woodland glades. 60-120cm high transplants would be employed of a mix of native deciduous varieties with oak and some evergreen Scots pine and native Black Poplars and Bay Willows planted in the valley.

A new pond would be created in the north corner of the site and managed specifically as a habitat from Great Crested Newts, assisted by the provision of a newt hibernaculum close by. The existing pond in the south east corner of the site adjacent to the proposed hotel would be retained and managed as a wildlife conservation area. The maturing of the tree plantations would result in screening or filtering of nearby views, so that the less natural features of the golf course such as flags and bunkers would become no more than occasional glimpses through the vegetation.

Transport Assessment – This document includes sections covering: - outline planning permission, existing conditions, planning variation, construction phase - access strategy and construction phase – traffic impact. The main conclusions of the transport assessment are that:

- The site has excellent access to the principal highway network;
- The increase in traffic movements during the construction phase on the local highway network will not be perceptible and will not result in a material or adverse impact on the operation of the local highway network;
- The proposals do not constitute a material environmental impact;
- Stoneheads Associates Limited are willing to enter into a Section 106 Agreement or suitably worded condition which would provide a vehicle routing strategy to ensure that all HGV vehicle movements associated with the construction phase are kept to suitable distributor and primary roads (a proposed vehicle routing strategy has been agreed with Derbyshire County Council); and
- Stoneheads Associates Limited will also provide wheel wash facilities on the site access to prevent dirt and detritus being deposited onto the public highway from the site.

Therefore, based on the above, there are no transport grounds for objecting to the proposals to remove condition No. 11 attached to the original planning permission for the mixed-use development at Tetron Point, to enable the landscaping of the golf

course to be implemented in a different way than the approved drawing as part of the original consent.

Planning History

9/2009/0355 - Approval of reserved matters of application 9/2006/0329 for siting, design and external appearance of golf clubhouse, administration building and driving range, associated leisure building and hotel together with associated parking, access and landscaping, pending decision.

9/2006/0329 - Variation of conditions 2, 3, 6, 7, 10, 13, 14, 17 and 18 of 9/2000/0415/O, granted 12/05/09

9/2000/0415 - Outline application (and Environmental Impact Assessment), (all matters other than means of access to be reserved) for the use of land for Business (B1 Use Class), Industrial (B2 Use Class), Storage and Distribution (B8 Use Class) and Leisure Use (Hotel, Drive-Through restaurant, Golf Course (Including Ancillary Facilities), granted 31/01/02

Responses to Consultations

The Environment Agency has no objection to the proposed variation of condition 11, subject to the following which relate to Condition 3, 15 and 17 of the consent 9/2006/0329 and the use of infill material.

- 1) Details of surface water drainage should be submitted to ensure that there is no increase in surface water run-off from the site and no resultant increase in flood risk.
- 2) Details of attenuation of surface water run-off and silt during the construction phase should be submitted to ensure there is no pollution of the Darklands Brook and no increase in flood risk.
- 3) There must be no raising of ground levels within the 100 year (1% chance in any one year) flood plain determined in the FRA undertaken by JBA for the Reserved Matters application 9/2009/0355.
- 4) Details in relation to condition 17 for the construction phase of the proposed development should be submitted. All working compounds must be located outside of the 100 year (1% chance in any one year) flood plain determined by the FRA undertaken by JBA.

An informative in relation to proposed works or structures which may impede the flow of water within a watercourse is recommended.

In relation to the infill material an informative stating that the applicant will need to be aware that if any controlled waste is to be used on the site the operator will need to obtain the appropriate authorisation from the Environment Agency. In England, it is a legal requirement to have a site waste management plan (SWMP) for all new construction projects worth more than £300,000. Because there is a need to record all waste movements in one document, having a SWMP will help to ensure the duty of care is complied with.

The Coal Authority made the following comments: -

1. Our records indicate that the site is within the likely zone of influence from coal workings at shallow to 310 metres depth, with the last date of working being in 1962. It

is also within the boundary of a site from which coal has been removed by opencast methods. In addition, our records indicate the presence of 43 mine entries within or within 20 metres of the boundary of the site. Whilst some of the above have been either treated, removed or dug out during the former opencast operations, we have no information regarding the treatment of 11 of the recorded mine entries on the site. In addition, opencast backfill can have differential settlement and potential gas issues. As a consequence of the above, there may be land instability and other public safety issues.

2. PPG14 requires developers to take into account any ground that is potentially unstable or has gas issues and to overcome these by taking appropriate remedial measures. It is noted that coal mining issues were considered within the Environmental Statement submitted alongside the outline planning application. This notes that, following the former opencast operations, the site was restored in accordance with a Reclamation Plan which anticipated the use currently proposed. It is also noted that the original outline planning permission included an informative note advising the applicant to note and act upon the comments provided by the Coal Authority in response to the application. An informative including the Coal Authorities standing advice together with issues relating to rising minewater and intrusive activities in coal seams, workings or mine entries is recommended.

The Police Crime Prevention Design Advisor made the following comments: -1.5m chestnut paling palisade fencing will not be substantial enough to secure the perimeter. There is a real risk of motorcycling over the course and of constant damage if a secure perimeter boundary is not enforced from day one of development. If natural looking sustainable barriers, as advised, cannot be created then at least 2m high robust steel fencing is essential.

The course has natural defenses with well defined boundaries on two sides. The crime risk is from the North and East Boundaries which have adjacent open land and residential housing estates beyond. These open areas and part of the Nadins site is and has been used by illegal off road motorcycling and Quad bike use. It has been and is common to trespass on and through the site using various access points and footpaths from all sides.

Many courses that have public rights of way suffer from constant trespass, damage to greens, shrubs and trees and bunkers to an extent that it becomes almost unviable to operate and costly to constantly repair and replace the equipment. Building in permanent boundary protection to the North and East using features such as ditches, bunds, planting of gorse and thorny shrubs is considered essential at an early stage. A wide ditch with brambles /gorse is impenetrable and can be a tremendous asset as a wildlife corridor as well as crime prevention buffer zone. Water courses can also be used effectively to define and protect vulnerable boundaries whilst providing natural habitats.

Security of plant equipment during construction is also an important consideration and a secure compound adjacent to the main road will be required as well as good management practices to prevent equipment being left out on the construction site waiting to be vandalised.

Natural England has no comments to make other than stating advice should be sought from the Derbyshire County Ecologist and Derbyshire Wildlife Trust.

The County Highways Authority has no objections to the proposals from a highway aspect based on the content of the transportation assessment in section 5 and Appendix I of the Environmental Statement. There is a need to control the vehicle routing proposals set out therein. Conditions relating to a construction site compound and wheel washing are recommended if they are not already covered by the 9/2006/0329 permission.

County Planning Authority states that the County Council has been involved with the District with pre-application discussions, including giving advice on a scoping opinion in February 2009 and with particular regard to whether or not this proposed variation, which includes the importation of waste material, would amount to a county matter. As the District obtained counsel advice on this matter in June 2009, it would not challenge the legal opinion and therefore the matter can be dealt with by the district.

The County Council has no objection in principle to the variation of the condition, but has reservations about the amount of material to be imported. Whilst it would accept that some material is required to form tees, greens and bunkers, it considers that this could be achieved with significantly less material than proposed in this application. The result of the proposal will be to extend the visual intrusion associated with the development of the site and introduce a contrived landform at odds with the natural landscape in the immediate area. The County would like to see a reduced amount of material imported and the works carried out on site progressively phased with appropriate environmental conditions to protect the amenity of the area. These could include conditions relating to the control of: on-site processing plant, material sampling methods, working hours and noise emissions. Any further comments will be reported verbally at the committee.

The County Council's Archaeologist states that as the entire site has been subject to opencast coal extraction during the 1990s the site retains no archaeological potential.

The Contaminated Land Officer recommends that the phased contamination condition be attached to any permission, as it was not included on the outline consent.

The Environment Health Officer recommends that dust be adequately controlled by the sheeting of vehicles, use of bowsters and wheel washing facilities. Noise is not considered to be a major issue due to the proposed hours of working.

The Council's Landscape Consultant considers the landscape design to be acceptable.

The Council's Footpath Officer states that all of the footpaths that cross the site were suspended back in the 1990s. The request for the Revocation Orders were sent to the Secretary of State two years ago and is still being processed. The paths were suspended in part due to safety concerns. Assurances that there would be no reduction in the overall meterage of footpath on the site, that egress and access points would remain the same where possible, and that the wildlife aspects (contiguous with the paths) on the site would not be reduced is required.

Derbyshire Wildlife Trust comments are based on the receipt of the completed survey reports for great crested newt and grass snake produced by AA Environmental in July 2009. The surveys have identified the presence of low populations of great crested newts and grass snakes within the development area. Proposed mitigation proposals, including detailed method statements, are contained within the appendices of each report. It is advised that the contents of the mitigation proposals and the procedures

outlined in the Method Statement satisfactorily address the concerns expressed in our previous response with regard to these species. The provision of two on-site receptor sites is supported as detailed in the reports and is sufficient for the number of animals recorded by the survey. However, should it become obvious during the site clearance process that more great crested newts and/or grass snakes are present than initially anticipated a review of the mitigation proposals will be necessary which should involve consultation with Natural England and the Derbyshire Wildlife Trust. The retention of a 10m buffer zones is welcomed around the ponds and areas where great crested newts were recorded within which there would not be any works. We would further request that this buffer is extended to cover the area around pond 3 where a great crested newt was recorded. The creation of a new pond designed specifically for great crested newt in the northern part of the site is welcomed and supported. There remains a concern over the loss of nesting habitat for ground nesting birds including skylark and lapwing. It holds the view, which is acknowledged by the Environmental Consultant, that the habitats created within the context of the golf course will not be suitable for such species. It advises that consideration should be given to the provision of off-site compensation for loss of this habitat. This could take the form of identifying and securing the long-term protection and enhancement of suitable nearby sites or, as a last resort, financial contribution to the enhancement of an existing local site. It notes that areas of adjacent habitat suitable for ground nesting birds to the east and south of the site boundary have been identified by the consultants. The retention of the Typha beds (Bulrush) and reedbeds is supported, which will remain unaffected by the proposal as confirmed in the e-mail from the Environmental Consultant on 4th August. It is advised that this adequately satisfies our previous concern as we are aware of the ornithological interest associated with this habitat. The provision of a habitat management and monitoring plan for the site produced in consultation with the Derbyshire Wildlife Trust is recommended.

The National Forest Company welcomes the intention to finally complete the restoration of the former Nadins opencast coal site to its intended end use. The reduction in the site area is noted and the developer should compensate for the reduction in green space. The overall design concept for the golf course is considered acceptable. They are concerned that the plans do not involve the reinstatement of Footpath 44 and the length of time needed to compete the proposal. If the land to the east is to be developed consideration of how the site will link is necessary.

Responses to Publicity

No letters of objection or comment have been received.

Development Plan Policies

The relevant policies are:

East Midlands Regional Plan:

Policy 3 Distribution of New Development

Policy 12 Development in the Three Cities Sub-area

Policy 35 Regional Approach to Managing Flood Risk

Policy 42 Regional Priorities for Tourism

Policy 48 Regional Parking Standards

Local Plan:

Environment Policies 7 & 10,

Transport Policy 6,

Recreation & Tourism Policy2

National Guidance

Planning Policy Statement 1: Delivering Sustainable Development

Planning Policy Statement 9: Biodiversity and Geological Conservation

Planning Policy Statement 25: Development and Flood Risk

Planning Policy Guidance 17: Planning for Open Space, Sport and Recreation

Planning Considerations

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

- Principle of development
- Landscape character and quality
- Ecological Impacts
- Highways issues in relation to construction
- Contaminated Land

Planning Assessment

Principle of development

The principle of constructing a golf course on this site was established by the granting of outline planning permission 9/2000/0415 and the subsequent variation of conditions permission 9/2006/0329. Condition 11 of permission 9/2006/0329 specifically approved the golf course landscaping layout as it appears on plan 9729K. Therefore the golf course layout was fully approved. This application seeks to vary this condition, therefore the decision to be made relates to changes proposed to this approved plan.

These changes include: - a reduction in the size of the golf course from a 18 and 9 hole (total 27 holes) to a single 18 hole course; amendments to the footpaths crossing the site and an increased amount of imported material to the site. The area of land to the east of the line of Oversetts Road and area of ponds to the north west of the roundabout was originally included in the outline application and are no longer proposed as part of the golf course.

When comparing the layout of the approved golf course and the one proposed in detail, together with the reduction in size, the driving range is now between Oversetts Road and Woodland View rather than between the 18 hole and 9 hole golf course as originally proposed. The proposed new footpath that runs from north to south follows a similar route as the one proposed on the outline plan and also runs through the golf buildings complex. In the outline Footpath 44 cuts through the centre of the golf course adjacent to the ponds. Footpath 46 was diverted around the boundary and only cut through the course in small sections. Footpaths around all boundaries of the site were also proposed.

This proposal involves a new footpath crossing the site from north to south. Footpath 44 would be replaced by this new footpath, albeit in a different location. Footpaths 46 and 98 would be diverted around the boundary of the site by the 3m wide greenway. The reduction in crossing points across the course is proposed due to security concerns outlined by the Police Crime Prevention Officer and due to the reduction in the site area. Therefore, a balance has to be sought, however, the formal diversion of the footpaths would be the subject of separate diversion applications. There is an existing Sustrans route in South Swadlincote which presently culminates at the eastern end of William Nadin Way, which in accordance with the Council's Cycling Strategy would potentially provide a safe route parallel to William Nadin Way. It should be noted that a direct link

between Swadlincote town centre and the industrial area may as a result of this current application need to take a more indirect route.

As a consequence of the reduction of the golf course, the layout of the golf course and positions of fairways and new tree plantations have changed considerably. At the time of the outline details of the woodland and grassland areas were not specified in terms of species. When comparing the two schemes the amount of woodland planting along the boundaries and between the fairways is similar, however, it must be noted that as the site is reduced in size and includes a larger driving range, woodland areas have had to be reduced accordingly.

Landscape Character and Quality

The landscaping scheme detailed in both the Landscape Design Statement and Supplementary Environmental Statement is considered acceptable as it would provide sufficient areas of woodland planting within and on the boundaries of the site to soften the more formal fairways, greens and bunkers of the golf course and help to blend it within the surrounding open land to the north and east. The native trees, meadows of wild flowers and swaths of grassland that are proposed would encourage a variety of wildlife and offer significant improvements to visual amenity. Section drawings of each fairway and across the site have been provided in order to discharge condition 15 of permission 9/2006/0329. The cross sections that cross the site from north to south indicate a 1m higher land levels than existing and in places between the fairways to be mounds of 2.5m to 3m higher than existing levels. Overall the level changes are not considered to be significant when compared with the existing levels on the site.

In relation to the comments made by the County Planning Authority, a detailed report justifying the amount of infill was produced in the early stages of the golf course design. The consented scheme (9729K) was modelled using AutoCAD and KeyTerra Firma software by AAe to determine the need for fill material. The difference between the current site levels and the agreed restoration levels indicate that up to 310,000 m³ of fill material would need to be imported onto the site, primarily in the western section. This volume of material does not include additional material required to construct the individual holes, including raised tees, greens, safety bunds and other features to aid playability and safety or to provide suitable planting medium for the woodland areas to meet the National Forest aspirations and other landscaping required on the site.

In addition, as both schemes have been modelled at 2 m contour intervals, the western section of the consented scheme has been overlaid on the proposed scheme. The modelling illustrates that the proposed scheme is not significantly different from the consented scheme. This factor also helps to validate that the volume of material required to construct either golf course layout would not be vastly different.

Ecological Impacts

Derbyshire Wildlife Trust has no concerns in relation to the protected species on site since the submission of detailed reports. The mitigation measures in relation to the proposed receptor sites for Great Crested Newts and reptiles and the proposed buffer zones shall be controlled by a condition requiring the submission of a Habitat and Management and Monitoring Plan.

In relation to the off-site provision of habitat for ground nesting birds or a contribution in lieu of provision, which is recommended by the Wildlife Trust, this is not considered a reasonable request due to the extant outline permission for the site. Since the closure of the opencast site in 1999, the approved Restoration Plan has always envisaged the end use of the site as a golf course. The Wildlife Trust was involved in the outline application

and no request for provision of this habitat was made at this time. It is therefore considered that the proposed mitigation in terms of the construction works being phased so that in the short term areas on the site will be available for the next couple of years with replacement habitat constructed as the golf course is allowed to establish is acceptable. Separate legislation governs that any clearance exercise completed cannot disturb any nesting birds and this would be under the supervision and control of the on-site Ecologist. A condition as outlined above to control mitigation is considered to be all that is required.

Highways issues in relation to construction

The County Highways Authority has no objection to the Transport Assessment submitted with the application in relation to the movements of vehicles required during the construction phase. A condition controlling the vehicle routing as detailed in this document shall be attached to any permission. The provision of a site compound during construction was controlled by condition 17 on the outline permission; however, a wheel washing condition to prevent any dust nuisance shall be placed on any permission. Outline condition 16 controls the details of the proposed access and bridge over Darklands Brook.

Contaminated Land

As the site was previously used for opencast coal extraction and a landfill site, contamination issues are important. A phased contamination condition is required on this permission as it was not included on the outline consent and is required by changes in regulations since that time. Informatives to ensure the correct construction methods and information on the infill material are provided are recommended by both the Contaminated Land Officer and the Environment Agency. These controls shall ensure there is no contamination of the existing watercourses on site.

In relation to the Police concerns regarding the boundary treatment, the provision of ditches along the boundaries has been investigated, however, due to the reduction in size of the overall golf course, there is not sufficient space within the site. Therefore, a condition requiring defensive planting adjacent to the 1.5m high boundary fencing shall be attached to any permission to achieve the same end.

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. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

(b) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

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

2. Unless otherwise agreed in writing with the Local Planning Authority, approval of the details of the siting, design and external appearance of the buildings and the

landscaping and means of enclosure of the site shall be obtained from the Local Planning Authority in writing prior to the commencement of the development of the specific site to which the details relate.

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

3. Unless otherwise agreed in writing by the Local Planning Authority, details for the disposal of surface and foul water including routes of sewers shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of the development to which the drainage (foul and surface water) relates.

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

4. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor, designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: In the interests of pollution control.

5. Any tanks for the storage of oils, fuels or chemicals, hereby approved, shall be sited on impervious bases and surrounded by impervious walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks plus 10%. All filling points, vents or gauges and site glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and be protected from accidental damage. All filling points and tank overflow pipe outlets shall be designed to discharge downwards into the bund.

Reason: In the interests of pollution control.

6. Notwithstanding the originally submitted details, with exception of uses B1, B2 and B8, this permission shall relate to the gross floor areas as set out in the "Summary Schedule of Floor Areas" shown on drawing number 99113 SK1 Revision H and these total floorspaces shall not be exceeded.

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

7. Unless otherwise agreed in writing with the Local planning Authority, all development on the site hereby permitted shall be provided with vehicle parking, manoeuvring and servicing provision prior to its first use in accordance with the Council's published standards and maintained thereafter for their designated use.

Reason: To ensure that all the activities associated with the development are contained within the curtilage of the site, so as to avoid parking and manoeuvring on the highway to the detriment of highway safety.

8. Notwithstanding the submitted details, prior to the commencement of building operations on adjoining areas, the boundaries with the proposed landscape areas and wildlife sites shall be fenced with chestnut pale fencing to a minimum height of two metres and be staked at 3 metre centres. The fencing shall be retained in position until all building works on adjoining areas have been completed unless otherwise agreed in writing with the local planning authority.

There shall be no storage of materials, plant or machinery within the fenced areas or any alteration in ground levels.

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

9. There shall be no tipping or deposition of materials within the area fenced under condition 8 above without the prior written authorisation of the local planning authority.

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

10. Unless otherwise agreed in writing by the Local Planning Authority, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of the erection of the buildings to which they relate. Thereafter, the development shall be constructed in accordance with the agreed levels.

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

11. Notwithstanding the submitted details, the landscaping of the golf course shall be implemented in accordance with the drawing TPGC L013 Rev D.

Reason: For the avoidance of doubt.

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

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

13. Details of any scheme to illuminate the driving range shall be submitted to and agreed in writing by the Local Planning Authority prior to the first use of the driving range hereby permitted. No other lights other than those agreed in the scheme shall be installed or used on the site.

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

14. Notwithstanding the submitted details, all details of access shall be submitted for approval by the Local Planning Authority and designs where right-turn harbourages are required shall be in accordance with the Design Manual for Roads and Bridges, unless otherwise agreed in writing with the Local Planning Authority. The agreed details shall then be implemented in full prior to the first use of the access to which they relate.

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

15. Unless otherwise agreed in writing with the Local planning Authority, in relation to each distinct development site, before any other operations are commenced, a temporary access shall be formed into the site for construction purposes, and a space shall be provided within the site curtilage for site accommodation, storage of plant and materials, parking and manoeuvring for site operatives and visitors vehicles, loading and unloading of goods vehicles, all in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

16. No works shall be undertaken to the west of Zones 4 and 4A or to the east of Zone 5 which may affect the stability of the A444 principal road or associated structures until detailed designs and calculations have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

17. The proposed development of the golf course shall be carried out in accordance with the mitigation measures detailed in the Great Crested Newt Survey dated July 2009, unless otherwise agreed in writing.

Reason: In the interests of protecting the established habitats of any great crested newts which inhabit the site.

18. Prior to the commencement of any development of zone 4 and 4A (as shown on drawing 9729K) the Darklands Brook shall be rerouted in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. The revised course shall generally follow the line shown on drawing 9729K.

Reason: In the interests of preserving the ecological integrity of the brook prior to any disturbance that may be caused by the development of the adjoining land.

19. There shall be no discharge of surface water into the public foul/combined sewer.

Reason: To avoid unnecessarily taking up capacity in the public sewerage system specifically provided for the essential disposal of foul sewage.

20. Unless otherwise agreed in writing by the Local Planning Authority, before any development commences on each individual industrial unit, a scheme shall be agreed with the planning authority that specifies the provisions to be made for the control of noise emanating from the each unit and the associated curtilage. The provisions shall be implemented in full prior to the first use of the unit to which they relate and be retained as such thereafter.

Reason: To protect the nearby dwellings from being adversely affected by the noise from construction and subsequent operation of each unit.

21. The newt hibernacula shall be installed on the site in the positions shown on drawing TPGC L013 Rev D and in accordance with mitigation measures detailed in the Great Crested Newt Survey July 2009, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of providing suitable conditions for the promotion of the occupation of the site for great crested newts.

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

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

23. 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.

Reason: In the interests of highway safety.

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

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

25. 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.

26. Prior to the commencement of development of the golf course a vehicle routing strategy for the construction traffic shall be submitted and approved in writing by the Local Planning Authority and thereafter the approved route shall be used.

Reason: In the interests of highway safety.

27. Prior to the commencement of development of the golf course details of defensive planting adjacent to the 1.5m high boundary fencing adjacent to the golf course, including adjacent to the proposed footpath (excluding the driving range) shall be submitted and approved in writing by the Local Planning Authority and be planted in accordance with the approved details.

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

28. Prior to commencement of development a Habitat Management and Monitoring Plan (including the receptor sites indicated on drawing No. 083096/01 and buffer zone widths) shall be submitted and approved in writing by the Local Planning Authority and mitigation shall be carried out in accordance with the approved details.

Reason: In the interests of the preservation of the protected species and their habitats.

29. Notwithstanding the submitted details, prior to the commencement of any works in zone5, full details of the proposed rail head, including a timetable for any works, shall be submitted to and approved in writing by the Local Planning Authority. The rail head and associated development shall then be implemented in accordance with the approved scheme and timetable only.

Reason: For the avoidance of doubt, no details having been submitted.

30. Prior to commencement of development details of the 7m high security fencing shall be submitted and approved in writing by the Local Planning Authority and the fencing used shall be in accordance with the approved details, unless otherwise agreed in writing.

Reason: In the interests of visual amenity of the surrounding area.

31. Before the rail link is first brought into use, a full assessment of the impact of the rail link, including any measures of mitigation and a timetable for their implementation, shall be undertaken, submitted to and approved in writing by the Local Planning Authority. This shall include :
- An ambient noise survey
 - Predicted noise levels
 - Number and type of drains
 - Proposed times of operation
 - Types of acoustic barriers and levels of reduction.

Any necessary works shall then be implemented in accord with the agreed timetable.

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

32. Any other reasonable conditions recommended by the County Planning Authority.

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

Informatives:

The provisions of the agreement under Section 106 of the Town and Country Planning Act 1990 remain in force in regard to this site subject of the outline permission under code 9/2000/0415.

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

Applicants must take account of these hazards which could affect stability, health & safety, or cause adverse environmental impacts during the carrying out their proposals and must seek specialist advice where required. Additional hazards or stability issues may arise from development on or adjacent to restored opencast sites or quarries and former colliery spoil tips. Potential hazards or impacts may not necessarily be confined to the development site, and Applicants must take advice and introduce appropriate measures to address risks both within and beyond the development site. As an example the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas. In coal mining areas there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling alone has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted. Any intrusive activities which intersect, disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. In the interests of public safety the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated.

The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in order to make an assessment of the risks. This can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com. Further comments from the Coal Authority are as follows:-

It is also considered that, as part of developing detailed proposals for the site, the applicant should, to the satisfaction of the Local Planning Authority and subject to 2 below, propose any mitigation measures necessary to ensure the stability and safety of the proposed development.

1. It should also be noted that there are currently issues in relation to rising minewater within the vicinity of the site. As a result, this may give rise to a risk of minewater emissions within the site and to the water course within the southern part of the site. The Coal Authority is currently considering options for the development of a minewater treatment scheme to address these issues.

2. Drilling into coal seams and abandoned mine workings has serious health and safety implications. The applicant should be reminded that any intrusive activities or investigation works which intersect, disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. In the interests of public safety the Coal Authority is concerned that risks

specific to the nature of coal and coal mine workings are identified and mitigated. Further information can be obtained from the Services section of the Coal Authority web site at:-

www.coal.gov.uk/services/permissions/index.cfm

The Contaminated Land Officer advises the following:-

- 1) Confirmation of any imported material onto site in the form of waste transfer notes, details of the methodology used in the importation of the soil and the results to determine that the soils are suitable for use will be required. We will also require the methodology used to derive the GACs to which samples of the imported materials will be assessed against to determine their suitability.
- 2) The importation of materials or works over the landfill must not impede the design and current management system that already exists at the landfill. It is recommended that the Environment Agency is consulted prior to any works being carried out.
- 3) Should any materials require off site disposal Waste Acceptance Criteria (WAC) testing must be carried out and the waste sent to the appropriate disposal site.
- 4) We will require details of any amendments to the gas regime, due to the imported material to site.
- 5) As there is a potential that the buildings are to be founded on a different strata details of an amended sulphate class may be required.

The Environment Agency Advises that:-

If the operator wishes more specific advice in terms of the infill material they will need to contact the Environment Management Team at our Fradley office on 01543405041 or look at available guidance on our website <http://www.environment-agency.gov.uk/subjects/waste>

In England, it is a legal requirement to have a site waste management plan (SWMP) for all new construction projects worth more than £300,000. The level of detail that your SWMP should contain depends on the estimated build cost, excluding VAT. You must still comply with the duty of care for waste. Because you will need to record all waste movements in one document, having a SWMP will help you to ensure you comply with the duty of care.

Further information can be found at <http://www.netregs-swmp.co.uk>

Under the terms of the Land Drainage Act 1991, the prior written consent of the Environment Agency is required for any proposed works or structures, which may impede the flow of water within any watercourse.

2. PLANNING AND OTHER APPEALS

Reference	Place	Ward	Result	Cttee/delegated
9/2008/0880	Hartshorne	Hartshorne/Ticknall	Dismissed	Delegated
9/2008/0892	Coton Park	Linton	Dismissed	Delegated
9/2008/0940	Linton Heath	Linton	Dismissed	Delegated
9/2008/1047	Mickleover	Etwall	Dismissed	Delegated
9/2008/1071	Dalbury Lees	North West	Dismissed	Delegated
E/2008/00092	Hilton	Hilton	Dismissed	Delegated



Appeal Decision

Site visit made on 6 July 2009

by **Christine Thorby MRTPI, IHBC**

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

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Decision date:
20 July 2009

Appeal Ref: APP/F1040/A/09/2103232 **27 Tower Road, Hartshorne, DE11 7EU**

- 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 H Smith against the decision of South Derbyshire District Council.
- The application Ref 9/2008/0880/O, dated 30 October 2008, was refused by notice dated 18 December 2008.
- The development proposed is a new dwelling.

Decision

1. I dismiss the appeal.

Main issues

2. The main issues in this case are firstly the effect of the proposal on the character and appearance of the area having regard to its countryside location and secondly the effect on highway safety.

Reasons

Character and appearance

3. Tower Road forms part of a compact group of houses located outside a development boundary and within the countryside. It is lined with mostly semi-detached houses set in generous gardens and when viewed from the front it has a fairly suburban character. However, to the rear of Tower Road is open, agricultural land and the long, generous gardens contribute to the spacious and rural character of the countryside.
 4. The proposed house would be built in the back garden of no 27, behind the existing house which would not be typical of the relationship of any of the surrounding houses. There is some variety in the pattern of development with nearby houses on Tower Road set in a crescent shape and a detached house adjacent to the appeal site set well back from the street. However, none of these houses are located immediately behind another house or close up to the rear boundary as the proposed house would be. It would therefore disrupt the pattern of development, relate poorly to nearby houses and appear out of context in Tower Road.
 5. Moreover, the loss of the open garden which is visible from the nearby houses, the street, the surrounding land and public footpath would erode the contribution the garden makes to the countryside, detracting from the character and appearance of the area. The proposal would not be necessary to
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the operation of a rural based activity nor would it require a rural location. It would there conflict with the South Derbyshire Local Plan (LP) environmental policy 1 and housing policies 6 and 8 which seek to protect local character and appearance, including that of the countryside.

Highway safety

6. Although there is a 30mph speed limit, Tower Road is a small, no-through road where cars are likely to be travelling slowly and stopping at a destination on the road itself. I have also taken into account that the appeal site is located towards the blind end of the road where cars would be slowing down. There are a number of other driveways along the road where cars manoeuvre in and out with the driver's visibility hampered by hedges and fences; however, no records of any accidents have been put before me for the road. In these circumstances, as there would be a turning area and cars could leave on a forward gear, I do not consider that the proposed access would cause any significantly risk to pedestrians or drivers. The proposal would comply with LP transport policy 6 which aims to protect highway safety.
7. I conclude that although the proposal would not affect highways safety this would not overcome its harmful effect on the character and appearance of the area and the appeal fails for this reason.

Christine Thorby

INSPECTOR



Appeal Decision

Site visit made on 6 July 2009

by **Christine Thorby MRTPI, IHBC**

an Inspector appointed by the Secretary of State
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Decision date:
21 July 2009

Appeal Ref: APP/F1040/A/09/2103736

Land to the rear of 75 and 77 Coton Park, Linton, DE12 6RF

- 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 Peter Robinson against the decision of South Derbyshire District Council.
- The application Ref 9/2008/0892/FM, dated 20 September 2008, was refused by notice dated 17 November 2008.
- The development proposed is the erection of a single 2 bedroom dwelling.

Decision

1. I dismiss the appeal.

Main issues

2. The main issues in this case are:
 - i) The effect of the proposal on the character and appearance of the area.
 - ii) The effect of the proposal on the living conditions of the neighbours with particular regard to outlook.
 - iii) The effect of the proposal on highway safety.
 - iv) Whether the proposal would promote sustainable patterns of development.

Reasons

Background

3. The appeal site is a part of residential estate lining part of Coton Park. The estate has a homogenous character with mainly short rows of terraced houses set in generous front and rear gardens. Coton Park is a busy main road, which splits into two at a curve in the road, one part continuing as the main road and one part becoming a quiet spur with a pair of semi detached houses (nos 75 - 77) at the corner. The appeal site is formed from land at the rear of 75 - 77 which may have been their former garden. The proposal house would be a two bedroom, chalet bungalow fronting onto the busy part of Coton Park.

Character and appearance

4. In my view, the location of the proposed house close to the rear boundary, its awkward angle within the plot and the large area of parking and turning space at the front would make it relate poorly to the pattern and layout of the surrounding development. There would be large areas of blank wall on the

front gable, and together with the lack of detail, particularly to the ground floor, the house would appear bland, detracting from the street scene. The front gable and dormers would appear as heavy features making the proposed dwelling appear bulky. In its prominent corner location, leading into the village from the countryside, its unsympathetic appearance would be evident and it would detract from the character and appearance of Coton Park and the wider area.

5. No information has been submitted about the new house on the opposite side of the road, but it differs from the appeal scheme in that it is two storeys, well proportioned and of reasonable appearance. It also is located away from other development and it stands alone as a prominent corner house. Its presence would not therefore justify the appeal proposal. I conclude that the proposal would fail to respect its context, and would detract from the character and appearance of the area contrary to the South Derbyshire Local Plan (LP) housing policy 5B.

Living conditions

6. Although the proposed house would be located close to the boundary with No 79, the gardens to Nos 79 and 81 Coton Park are quite long and the houses to these properties are located some distance away. For these reasons, it would not detract from the outlook of the occupiers of Nos 79 and 81 Coton Park. It would comply with LP housing policy 11 (ii) which seeks to protect residents' amenities.

Highway safety

7. The house would front onto a busy road in a very dangerous spot between two blind bends. Cars can travel at up to 30mph, and with on-coming drivers visibility limited by the bends, any manoeuvres outside the appeal site would be hazardous. The Council are satisfied that the number of parking spaces shown would be sufficient to comply with their parking policies which the site. However, if one car is parked in the garage and another one on the drive there would be insufficient room to drive in and turn, in order to be able to drive out in a forward gear. In this situation reversing or manoeuvring out onto the road would be likely posing a significant risk to highway safety.
8. Although the appellant has put forward an additional plan (Dwg No 2) showing three parking spaces and an extended turning area, I cannot see how cars parked in spaces 2 and 3 would be able to use the turning area if either space is already occupied. In the absence of convincing evidence that adequate turning facilities would be available I am led to the conclusion that there would be a significant risk to the safety of users of the highway, contrary to the aims of LP housing policy 11(iii), transport policy 6B.
9. A very limited footpath exists outside the appeal site and there is no safe pedestrian access. I note the dispute with the Council about land ownership at the front of the site; however, the appellant has indicated a new footpath would be provided on this land. Land ownership is not a planning matter and in any event, a condition could be imposed preventing the development from proceeding without securing the footpath shown on the plans. Therefore, I do not consider that the appeal should fail in this matter.

Sustainable pattern of development

10. Although the Council are concerned with the location of the proposal in an isolated estate, the appellant indicates that there is a reasonable bus service to the town of Swadlincote and there is a bus stop close to the appeal site. The proposal would accord with the current (and saved) LP housing policy 5 which identifies the village of Coton Park as suitable for new housing development. There is no evidence before me to show that the proposal would not promote sustainable patterns of development and I do not consider that the proposal should fail in this matter.

Conclusion

11. The proposal would not affect the neighbours' living conditions, fail to provide pedestrian access or fail to promote sustainable development. However, this would not outweigh the harm to the character and appearance of the area and highway safety as I have identified. These are compelling reasons to dismiss the appeal.

Christine Thorby

INSPECTOR



Appeal Decision

Site visit made on 6 July 2009

by **Christine Thorby MRTPI, IHBC**

an Inspector appointed by the Secretary of State
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Decision date:
28 July 2009

Appeal Ref: APP/F1040/A/09/2103650

Land adjacent to Heath House, Linton Heath, Linton, Swadlincote, DE12 6PE

- 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 Peter Robinson against the decision of South Derbyshire District Council.
- The application Ref 9/2008/0940/NO, dated 23 October 2008, was refused by notice dated 22 December 2008.
- The development proposed is the retention of an existing caravan used for security purposes.

Decision

1. I dismiss the appeal.

Preliminary Matters

2. No representative of the Appellant turned up at this site visit. As I was able to see the existing caravan, the appeal site and its surroundings from the highway I made an unaccompanied site visit. The caravan is existing and planning permission was applied for retrospectively. I intend to deal with the appeal on this basis.

Main issue

3. The main issue in this case is the effect of the caravan on the character and appearance of the countryside.

Reasons

4. The appeal site is open land, situated in the countryside, outside the village envelope of Linton. Although the caravan is small, it is isolated within the site, away from nearby houses and agricultural buildings and this makes it stand out, detracting from the open nature of the appeal site. Its temporary, unkempt appearance is unsightly and this is evident from the access road and from surrounding land. It fails to contribute in any positive way to the intrinsic rural character and attractiveness of the countryside.
 5. The appellant indicates that someone is needed to stay intermittently in the caravan to protect the site from unauthorised entry and to protect the horses, feed and equipment that are kept there. However, there is no detailed evidence of any crime risk, no justification as to whether a permanent caravan is necessary and no investigation of other methods of securing the site such as appropriate boundary treatment. With regard to looking after horses, the
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Council indicate that this is not an established, viable or long term use at the appeal site, and this would not be a justification for the caravan.

6. There is existing planting and landscaping is proposed; however the appellant indicates that being visible makes the caravan a deterrent for crime. New planting would not therefore overcome the harm that I have identified. It would be reasonably close to shops but I find that this would not outweigh its significant harm to the character and appearance of the countryside. There is no special justification for a caravan in this location and it would therefore conflict with the South Derbyshire Local Plan housing policies 8 and 12 which seek protection of the countryside.

Christine Thorby

INSPECTOR



Appeal Decision

Site visit made on 14 July 2009

**by Chris Frost BSc(Hons) DipLD FLI CBiol
MIBiol MRTPI**

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**Decision date:
22 July 2009**

Appeal Ref: APP/F1040/A/09/2096323

Staker Flatt Farm, Staker Lane, Mickleover, Derby DE3 0DJ

- 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 James Maher against the decision of South Derbyshire District Council.
- The application Ref 9/2008/1047/U, dated 27 September 2008, was refused by notice dated 21 January 2009.
- The development proposed is for a change of use and the creation of hardstanding areas for the siting of sectional buildings/garden sheds show area and office.

Decision

1. I dismiss the appeal.

Main issues

2. The main issues are:
 - whether the open character of the countryside would be protected;
 - whether car travel would be encouraged; and
 - whether the safety of highway users would be unacceptably compromised

Reasons

3. The site is in a countryside location but abuts a cluster of commercial uses comprising a children's day nursery and flooring company with a warehouse and offices. This proposal would add to the commercial presence in the area by forming a display area for garden sheds and the like along with an office and store.
 4. Saved Employment Policy 5 of the South Derbyshire Local Plan seeks to prevent business development in the countryside (other than within or on the edge of villages). Saved Environment Policy 1 of the plan seeks to prevent new development outside settlements unless it is essential to a rural based activity or unavoidable in the countryside. I consider that the establishment of this new business in this rural location would fall contrary to these policies and this indicates that planning permission should be withheld.
 5. I also note that as the site is in a countryside location, customers are likely to travel by car to this relatively isolated location. Part of the Regional Vision set out in the East Midlands Regional Plan is to reduce the need to travel. This
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vision would not be strongly supported by this development in view of its countryside location away from areas of population and public transport links.

6. The proposed development would result in increased use of the existing, sub-standard, access to Staker Flatt Farm. This would be likely to increase risks associated with the use of this access. However, the anticipated level of increased use amounts to no more than about 10 customers a day plus staff use and occasional deliveries. I do not regard these increased levels as sufficient to reject the proposal on safety grounds.
7. I note that there is already commercial development at Staker Flatt Farm and that in visual terms what is proposed would be far less prominent and significant than existing buildings. Accordingly, the proposed development would not represent a new and isolated intrusion into the countryside. However, it would nevertheless represent a further encroachment into the countryside of a form of development that policies seek resist. Accordingly, while there would be visual advantages associated with locating this development alongside existing commercial development this does not overcome the policy objections associated with allowing further commercial development in the countryside. I accept that the business is likely to generate car journeys wherever it is located, but the need to travel would be likely to be greater in this rural location compared with an urban area close to larger clusters of population
8. While I do not support all of the Council's reason for rejecting the scheme, the conflict with saved Local Plan policies is sufficient to justify withholding planning permission.

Chris Frost

Inspector



Appeal Decision

Site visit made on 6 July 2009

by **Christine Thorby MRTPI, IHBC**

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Decision date:
10 July 2009

Appeal Ref: APP/F1040/A/09/2099737

Cedars Farm, Dalbury Lees, Ashbourne, DE6 5BE

- 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 Mrs Carolyn Annable against the decision of South Derbyshire District Council.
- The application Ref 9/2008/1071/U, dated 22 October 2008, was refused by notice dated 17 December 2008.
- The development proposed is the change of use of agricultural land to residential curtilage.

Decision

1. I dismiss the appeal.

Main issues

2. The main issue in this case is the effect of the proposal on the character and appearance of the countryside.

Reasons

3. Cedars Farm is part of a cluster of residential units, garage blocks and parking spaces located at the southern edge of the village of Dalbury Lees. The area of land to which the proposal relates is some distance from Cedars Farm house, located behind a garage block. Although the house adjacent to the appeal land appears to have a large garden set into the countryside, the appeal site forms part of a wider area of open countryside surrounding the village, which contributes to its rural character and setting.
 4. The proposed change from agricultural to domestic garden would in my view significantly alter the character of the appeal site. The appellant wishes to maintain the land in a semi-agricultural state with fruit trees, a wood store and a chicken coop. However, once changed, the land could be formalised; even the imposition of a condition would not be able to prevent domestic paraphernalia such as washing lines, furniture, play equipment and flower beds being used or taking place on the land. This would be visible from surrounding land, including the public footpath from where the loss of rural character would be evident.
 5. The appeal site is quite large, some 40 metres deep, and it would form a considerable area of land with a domestic character which would alter the rural landscape. It would allow the residential nature of the cluster to encroach into the countryside and result in the loss of countryside, eroding the rural character and setting of village. This effect would be exacerbated by the
-

presence of the adjacent garden. The proposal would not be essential to a rural based activity or unavoidable in the countryside and therefore it would fail to comply with the South Derbyshire Local Plan Environmental Policy 1 which seeks to protect the countryside.

6. I note reference to the keeping and stabling of horses on an adjacent field but no information has been put forward about this matter, and I do not know which site this relates to. I acknowledge that the existing garden to the house is small. I accept that there is local support for the scheme and that it was an unsightly paddock where rubbish was dumped. However, none of these matters would outweigh the harmful effect to the character and appearance of the countryside that I have identified.

Christine Thorby

INSPECTOR



Appeal Decision

Site visit made on 15 June 2009

**by F M Cherington DipURP MRTPI MRICS
MBEng**

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**Decision date:
23 June 2009**

Appeal A Ref: APP/F1040/C/09/2097886

10 Hawthorn Close, Hilton, Derby, DE65 5FQ

- The appeal is made under Section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Alan Cumming against an enforcement notice issued by South Derbyshire District Council.
- The Council's reference is E/2008/00092.
- The notice was issued on 13 January 2009.
- The breach of planning control as alleged in the notice is the erection of a two storey side extension.
- The requirements of the notice are to permanently remove the roof of the two storey side extension and replace it with a roof to be constructed in accordance with planning permission 9/2006/0282, approved plan – Drawing No 01, Rev 1.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in Section 174(2) (a) of the Town and Country Planning Act 1990 as amended.
- **Decision: I dismiss this appeal and uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under Section 177(5) of the 1990 Act as amended.**

Appeal B Ref: APP/F1040/A/09/2097794

10 Hawthorn Close, Hilton, Derby, DE65 5FQ

- 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 Alan Cumming against the decision of South Derbyshire District Council.
- The application Ref 9/2008/0703/FH, dated 2 July 2008, was refused by notice dated 26 August 2008.
- The development proposed is a double storey extension to the left hand side of the house (amendment to approved building plan).
- **Decision: I dismiss this appeal.**

Procedural Matters

1. The appeal property is a two storey detached house within a modern residential estate. Planning permission was granted for a two storey side extension with a pitched and tiled roof to match that of the existing house in May 2006. The plans were amended during consideration by the Council such that the extension is no longer rectangular on plan but tapers towards the rear. The Appellant amended the roof construction during building operations so that only part of the rear roof is pitched and tiled and the remainder has been constructed as a flat roof. An application to retain the roof as constructed was refused in August 2008 and is the subject of Appeal B.
-

2. The reason for refusing planning permission is the same as that given for issuing the enforcement notice the subject of Appeal A and the Council's objection relates only to the flat roofed element of the rear roof construction. I therefore consider both appeals together.

Reasons

3. The policy context for considering this development is Local Plan Housing Policy 13. This indicates that extensions will be permitted provided that they are of a scale and character in keeping with the property and not detrimental to the amenities of adjoining properties or the general character of the area. The extension is still of similar size to that permitted and its scale is not an issue. However, the flat roof constructed has resulted in a large projecting timber box feature almost 3m long and almost 0.5m deep on the gable end. The Council considers this detail to be an incongruous feature out of keeping with the house and its surroundings to a point where the visual amenity of the area is harmed.
4. The Appellant considered that the approved plan was only indicative but the permission granted was for that amended design. I appreciate that it was necessary to deal satisfactorily with rainwater run off but other solutions exist, as offered by the Council in correspondence, which would have retained a pitched roof design. The Appellant considers that this change is not significant enough to be a breach of the permission but I do not share that view. Whilst lead is a traditional material, the resultant large projecting box feature is not characteristic of the house itself or surrounding properties and I do not share his view that it improves the overall aesthetics of the site.
5. This flat roof with its projecting box feature is very prominent in views from the end of Hawthorn Close, from some nearby houses and in views from the public footpath linking this cul de sac to Ivy Court, also a residential cul de sac. In my view, it introduces a discordant and unsympathetic feature which is not only out of keeping with the existing house but also out of character with other houses in this attractive residential area. The Appellant refers to the design of other buildings in the village such as the school, village hall and Scout building but those are not domestic buildings in scale, design or character and I am not therefore persuaded that they provide support to this case.
6. I have taken account of all other matters raised, including the history of this development and the Appellant's concern at the manner in which this matter has been dealt with by the Council. However, I find nothing to persuade me from the view that this flat roof with its projecting box feature is so out of keeping with the character of the existing house and so harmful to it and the character of this attractive residential area, as well as conflicting with policy guidance for the protection of such matters, that planning permission should not be granted for its retention. I have also considered whether this harmful visual impact could be satisfactorily overcome by possible conditions but I find none which would achieve that necessary aim. I consider the compliance period in the enforcement notice to be more than adequate to enable a satisfactory resolution of this matter. Both these appeals must therefore fail.

F M Cherington

INSPECTOR