

## **DEVELOPMENT CONTROL COMMITTEE – 12 July 2005**

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

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

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

#### **2. Appeals**

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When moving that a site visit be held, Members will be expected to consider and propose one or more of the following reasons:

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



12/07/2005

**Item** 1.1**Reg. No.** 9/2004/1495/F**Applicant:**

Mascotta Properties Ltd  
 1 (B) Derby Road  
 Borrowash  
 Derbyshire  
 DE72 3JW

**Agent:**

G. Markwell  
 Graham Markwell Associates  
 1B Derby Road  
 Borrowash  
 Derbyshire  
 DE72 3JW

**Proposal:** The demolition of the existing shop and premises and the erection of six new dwellings at 109 Swadlincote Road Woodville Swadlincote

**Ward:** Swadlincote

**Valid Date:** 12/11/2004

This application was deferred from last meeting in order to seek an amendment from the applicant to omit unit 1 (on the site frontage) from the scheme. A meeting has since been held and the amended scheme received now shows the house at the front omitted as requested and the access not now having to pass beneath the dwelling as shown previously.

**Site Description**

This former shop and premises, now demolished, is on the north side of Swadlincote Road between terraced houses. The width of the front of the site between the existing houses is some 9.4m, which widens at the rear to 24.4m. The depth of the site is some 68m.

**Proposal**

It is proposed to erect five houses, one detached and four semi-detached. A dwelling proposed to fill the gap at the front of the site with a covered passage running through it to give vehicular access to the five dwellings proposed at the rear is now omitted.

**Planning History**

Outline permission was granted on a smaller area of land within the site in July 2003.

**Responses to Consultations**

The Education Authority requires a contribution to local school facilities of £7,884.

The Primary Care Trust requires a contribution to local medical facilities of £444 per dwelling.

9/2004/1495/F 109 Swadlincote Road  
Woodville  
Swadlincote



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Scale 1:1750

Plot centred at 428536 325343

Date Plotted 1/7/2005

9/2004/1495/F 109 Swadlincote Road  
Woodville  
Swadlincote

The Environmental Health Manager comments that the land has been used as a shop and the land to the rear may have been used for light industrial usage and considers there is a possibility that contaminants may be present in the soil. He recommends that the site be investigated to determine whether the land is contaminated and any remedial works undertaken before development commences.

### **Responses to Publicity**

One letter has been received from the neighbouring resident objecting on the grounds of the narrowness of the access, increased disturbance from the new access, inadequate visibility and loss of privacy due to the close proximity of the access. The neighbour's gable wall was left exposed and potentially unstable following the demolition works, however, this appears to have been rectified with the erection of new a secondary gable wall.

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

The relevant policies are:

Joint Structure Plan: Housing Policy 3 and 4

Local Plan: Housing Policy 5 and 11

Emerging Local Plan: H1 and ENV21

### **Planning Considerations**

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

- Highway safety
- Affect on the amenity for neighbouring residents due to increased disturbance and overlooking.

### **Planning Assessment**

The proposal complies with the Council's housing layout guidelines and therefore adequate amenity would be safeguarded for existing residents with regards to privacy and overbearing. Vehicle movements are likely to be relatively low and therefore would not cause undue disturbance to the neighbouring property. Further mitigation could be provided with suitable boundary treatment, preferably a brick wall.

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**

Subject to the applicant signing a unilateral undertaking under Section 106 of the Town and Country Planning Act to secure the payment of medical and school contributions, then **GRANT** permission subject to the following conditions:

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.

2. This permission shall relate to the amended drawings, nos 04 GM 08/35 10 Rev. C, 04 GM 08/35 11 Rev. B, 04 GM 08/35 12 Rev. A, 04 GM 08/35 19 Rev A received on 27 June 2005.

Reason: In the interests of highway safety and in the interests of the appearance of the building and the streetscene.

3. No development shall commence on site in connection with this approval until samples of materials for the external elevations of the development have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved materials.

Reason: To ensure the materials are appropriate to safeguard the appearance of the area.

4. Notwithstanding any details submitted, precise details of the type and size of the proposed rooflight on the front elevation of plot 1, which shall be a conservation type, shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflight shall be fitted such that its outer face is flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of the appearance of the building and the character of the area.

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

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

6. Notwithstanding any details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected, which shall where necessary include boundary walls. 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 and to safeguard the amenities of neighbouring residents.

#### Informatives:

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

12/07/2005

**Item** 1.2**Reg. No.** 9/2005/0040/FH**Applicant:**

Mr A Dawson  
 The Hill Lodge, Deep Dale Lane  
 Barrow-on-trent  
 Derby  
 DE73 1NH

**Agent:**

Tim Foster  
 2 Broomfield Cottages  
 Morley  
 Ilkeston  
 Derbyshire  
 DE7 6DN

**Proposal:** The retention of windows in the garage approved under 9/2003/0480/FH at The Hill Lodge Deep Dale Lane Barrow-on-trent Derby

**Ward:** Stenson

**Valid Date:** 11/01/2005

The application was deferred by Committee on 22 March 2005 following a site visit, for further drawings to be submitted in respect of changes made by the applicant during building works on the garage.

**Site Description**

The site is the former lodge to The Hill and is served by a private drive in conjunction with that property. The subject building is substantially complete and the application seeks to regularise changes made to an earlier approved scheme.

**Proposal**

The new garage is sited in the paddock adjacent to the garden area. It measures 8m x 7m in plan and is some 6.4m in height.

**Site History**

9/0390/1320/F - Stable block. Work commenced within five years of the grant of permission.

9/2002/1020/F - Conservatory. This has not been built.

9/2002/1038/F - Two storage sheds (one in the garden and one in the paddock) and revised plan for stables.

9/2002/1211/F - Hardstanding and access. This work has been substantially completed.

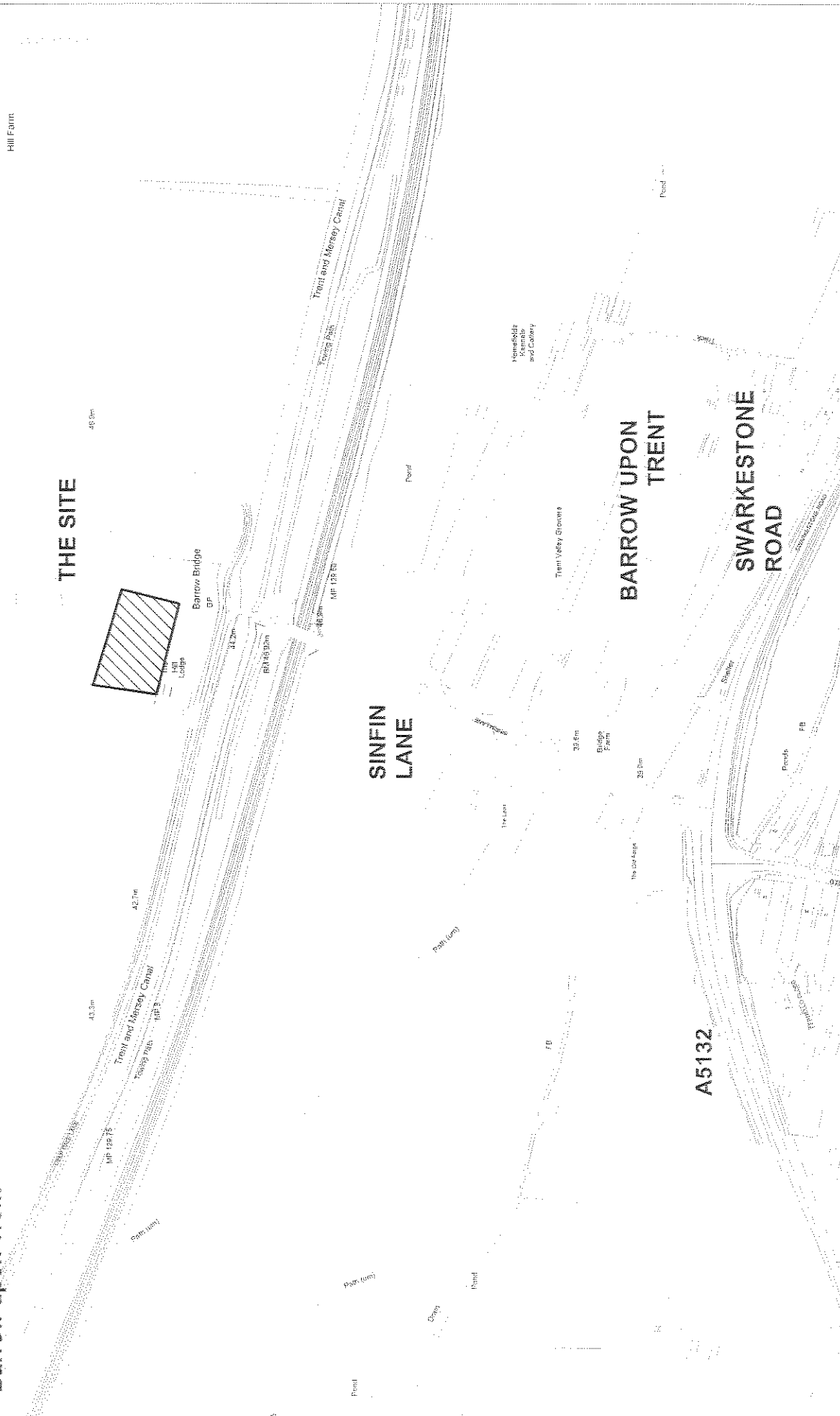
9/2003/0267/F Erection of feed store and tack shed to be attached to stable. Permission refused on the grounds of visual impact.

9/2003/0480/F - Conservatory and garage.

9/2003/1026/U - Change of use and alterations to stables for office use. Refused on the grounds of traffic and the visual impact of the proposed changes.

9/2004/0534/FH - The installation of a balcony, and alterations to previously approved shed.

9/2005/0040/FH The Hill Lodge  
 Deep Dale Lane  
 Barrow upon Trent



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Scale 1:3500  
 Plot centred at 428536 325343

Date Plotted 1/7/2005  
 9/2005/0040/FH The Hill Lodge  
 Deep Dale Lane  
 Barrow upon Trent





9/2005/0194/F – Animal rearing shed. Refused on the grounds of visual impact.

Other unauthorised development at the site is under separate investigation.

### **Responses to Consultations**

The Parish Council has commented that this could be a prelude to a residence.

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

The relevant policies are:

Joint Structure Plan: General Development Strategy Policy 4.

Local Plan: Environment Policy 1.

Emerging Local Plan Policy ENV21

### **Planning Considerations**

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

- The principle of development.
- Impact on the countryside.
- Residential amenity.
- Highway safety.

### **Planning Assessment**

As the development concerns works closely related to an existing residential property, and detail alterations to a scheme with planning permission, the development is capable of being acceptable in principle.

There would be more openings than there were in the previous permitted garage. However whilst the garage would be sited outside the curtilage of the dwelling it would be closely related to it. There is mature existing screen vegetation. Therefore the overall impact of the development on the character of the countryside, as seen from public vantage points, would not be unreasonable.

The property is well way from its nearest neighbours and there would be no demonstrable impact on their living conditions.

There would be no material impact in highway safety as a direct result of this proposal

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. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 179 HL 007 Rev B received 6 May 2005.

Reason: For the avoidance of doubt.

12/07/2005

**Item** 1.3**Reg. No.** 9/2005/0257/F**Applicant:**

Mr B Craig  
 Saxonby 11a Repton Road  
 Willington  
 Derby  
 DE65 6BX

**Agent:**

T. Johnson  
 A. J. Architectural Services  
 41 Faraday Avenue  
 Stretton  
 Burton On Trent  
 Staffordshire  
 DE13 0FX

**Proposal:** The erection of a semi-detached dwelling at Saxonby 11a  
 Repton Road Willington Derby

**Ward:** Willington/Findern

**Valid Date:** 03/03/2005

**Site Description**

The site forms a part of the side garden to 11a Repton Road. It has open boundaries to the front and part of the side boundary. There is a 1.8 metre high fence along rest of the side boundary and across the rear boundary.

**Proposal**

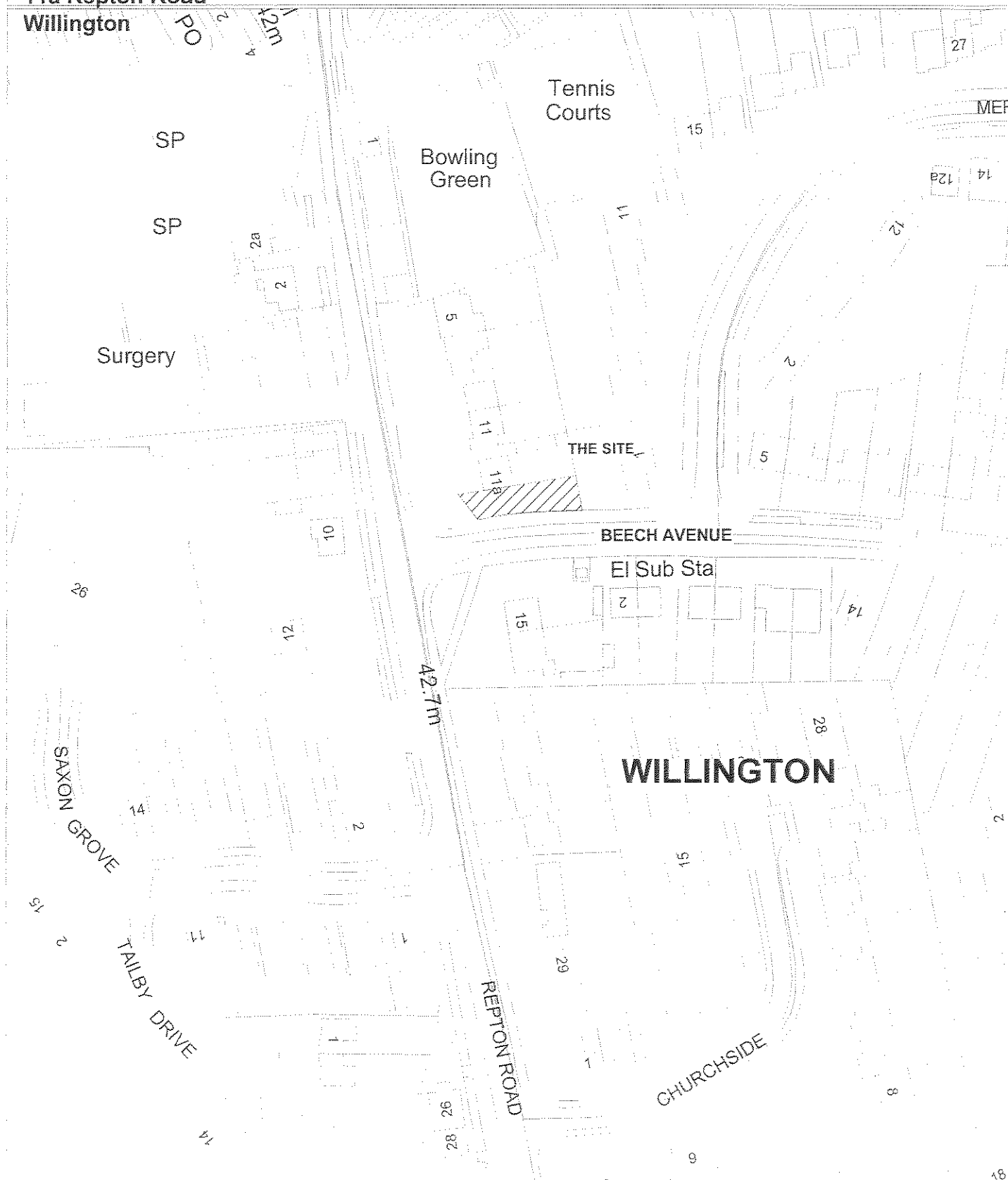
The proposal is to convert the already constructed 2-storey extension into a separate dwelling.

**Applicants' supporting information**

*[The formation of a dwelling rather than an extension means that the application falls into the criteria set by the Environment Agency for new dwellings for dwellings within Flood Risk Zones. The application site falls within Flood Zone 3.]*

In support of the application the applicants have been in correspondence with the Environment Agency. It is their contention that the site and its surroundings did not flood in either 1977 or 2000. The applicants have door boards available to them but did not use them. The applicant's agent has carried out a survey of the site and asserted that the floor level of the new dwelling (extension) is set at 43.720 and that the floor level is therefore above the level set by the Agency of 43.600.

9/2005/0257/F Saxonby  
11a Repton Road  
Willington



Scale 1:1250 Date Plotted 1/7/2005

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Plot centred at 428536 325343

9/2005/0257/F Saxonby  
11a Repton Road  
Willington



## Planning History

An application for the erection of a dwelling in the rear garden of the property was refused and a subsequent appeal dismissed. A subsequent application for an extension to 11a Repton Road was granted permission and has been erected.

## Responses to Consultations

Willington Parish Council has commented that:

- The access to the site is too close to the Repton Road/Beech Avenue junction on a public bus route and it would interfere with the dropped kerb.
- That there is insufficient off road parking space and the hard standing is too close to the footway and joins at an angle.
- A previous application for a detached house has been rejected and the approved use is as an extension.

The County Highway Authority has no objection in principle but would require the parking spaces to be identified before the dwelling is occupied. The applicant has confirmed that a second parking space could be provided at the rear of the garden where there is an existing access. [A condition requiring this is recommended should the Committee be minded to grant planning permission.]

The Environment Agency has objected consistently to the conversion of this extension to a separate dwelling. Notwithstanding the applicant's assertions, the Agency considers that the modelled 1 in 100 year flood level to be 43.9 and the applicants floor level of 43.7 is 200mm below that of the modelled flood level and the residents would be at risk of flooding.

## Responses to Publicity

None

## Development Plan Policies

The relevant policies are:

Joint Structure Plan: Housing Policy 5  
Local Plan: Housing Policy 5

## Planning Considerations

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

- The Development Plan
- The flooding issue
- The Parish Council comments and other matters.

## Planning Assessment

The site lies within the settlement boundary identified in the adopted Local Plan and the formation of a separate dwelling would be in accord with that policy (and in line with later

guidance set out in PPG3) provided that the proposal is in keeping with the scale and character of the settlement. It is considered that the dwelling would be in keeping with the area.

The flooding issue presents a quandary. When dealt with as an application for a household extension, there was no requirement to consult the Environment Agency but its standing advice was followed. One of the considerations is that the finished floor levels should be set above the known or modelled flood levels in properties in flood zone 3 areas. However the standing advice also recognises that increasing the floor levels may not be practicable because of the need for disabled access or because of amenity and visual issues. Thus it advises that measures should be put in place to mitigate the possible impacts of flooding should it occur. The following is an extract from that guidance.

*From a flood risk view point, the ideal mitigation in terms of floor levels is to ensure that these are set to above the known or modelled 1 in 100 year (1% chance each year) river flood level or 1 in 200 year (0.5% chance each year) tidal and coastal flood level at that location. However, in the case of an extension it will often not be practical to raise floor levels given the potential effects on other issues such as access (including that for disabled users), usability and visual amenity. Any proposal to raise floor levels must therefore be discussed and agreed with the Local Planning Authority at the earliest possible stage.*

*The Environment Agency recommends that in areas at risk of flooding, consideration be given to the incorporation into the design and construction of the development of flood proofing measures. These include removable barriers on building apertures such as doors and air bricks and bringing in electrical services into the building at a high level so that plugs are located above possible flood levels. Additional guidance, including information on kite marked flood protection products, can be found on the Environment Agency web site.*

However, the current application requires a consultation with the Environment Agency because it represents the creation of a new dwelling in a flood risk area. It has objected to the proposal for the reasons set out above. In its view the residents of the dwelling would be at risk of flooding if the model of the 1 in 100 year flood event proved to be correct. The year 2000 flood event did not result in the properties on the east side of Willington Road flooding; this was an on-site observation by the Council's Land Drainage Officer and seems to confirm the applicant's observation about that flood event.

It is open to the Local Planning Authority to come to a different view from the Environment Agency but it must be able to justify its reasons for so doing. In this case the extension was permitted and then this application was made. In both cases, people would occupy the structure. If the Committee was minded to grant this planning permission, the flood risk could be minimised by the imposition of a condition to require the installation of the flood prevention measures as set out in the Environment Agency advice as above. This would show that the Local Planning Authority has had regard to the objection but that common sense would dictate that the objection could be set aside subject to the imposition of the condition.

The reference by Willington Parish Council to the previous refusal of permission related to a proposal in the rear garden; the extension that was subsequently permitted is on the side of the house. It meets space about dwelling standards in the adopted Supplementary Planning Guidance and is capable of accommodating two cars in the curtilage. The other issues about the highways have not raised an objection from the County Highway Authority.

The County Highway Authority considers that requiring two spaces to be retained available for parking at all times can be covered by condition

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

### **Recommendation**

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

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.

3. Notwithstanding any details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

4. Before the dwelling is occupied as a separate residential unit, the parking space at the front of the dwelling and the space at the rear described in the applicants letter dated 26 April 2005 shall be provided and thereafter be retained in place in perpetuity.

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

5. Within one month of the date of this permission, details of measure to protect the property from flooding shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall then be implemented before the structure is occupied as a separate dwelling and thereafter be maintained in place.

Reason: In order to mitigate the potential flooding of the property that lies within the 1 in 100 year flood zone.

### **Informatives:**

Further to Condition 4 above the details required to be submitted should incorporate removable barriers on building apertures such as doors and air bricks and any other measures such as lifting electrical installations above the known flood level.

12/07/2005

**Item** 1.4**Reg. No.** 9/2005/0480/M**Applicant:**

Bellway Homes Ltd (East Midlands)  
 Bellway Homes, Warren Court  
 Warren Park Way  
 Enderby  
 Leicester  
 LE9 5GD

**Agent:**

Homewood Design  
 Unit 9 Tamworth Enterprise Park  
 Mariner  
 Tamworth  
 Staffordshire  
 B79 7UL

**Proposal:** The approval of reserved matters of planning permission 9/2001/0299/R for the erection of 23 dwellings and associated works with the addition of 14 dwellings at Premises Of Castle Glade Commerce Castle Road Castle Gresley Swadlincote

**Ward:** Gresley

**Valid Date:** 21/04/2005

**Site Description**

The site comprises the remains of a former Milk depot and the adjoining haulage and storage yard, in a derelict state with several redundant buildings on it. The frontage to Castle Road is in course of development and this would form a continuation of that. On the east and south are existing houses. The eastern boundary is separated from the site by a strong hedgerow (mature hawthorn trees). To the north west is the open land rising up to Gresley Old Hall.

**Proposal**

The application proposes erecting 6 three storey houses, 11 two and a half storey houses, 3 two storey houses and 3 flats in a two storey block along an extension of the cul-de-sac already developed off Castle Road. These would replace 9 previously permitted on that part of the site and add 14 more on the enlarged part of the site. An area of open space is proposed on the boundary with the open land to the rear.

As originally submitted, there were to have been three more three storey dwellings but, following responses from local residents, these have been reduced to 6 in favour of two and a half storeys.

A revised layout incorporates retention of the strong hedgerow on the eastern boundary, a modification to the estate road as requested by the County Highway Authority and the houses adjoining the eastern boundary moved to a minimum of 25.2 metres from the rear of properties on Ashbourne Drive.

[illegible]

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## **Applicants' supporting information**

In response to concerns the applicants have commissioned a bat survey that concludes that there is no evidence of bats in the remaining buildings on the site. Neither do the investigators consider there to be favourable opportunities for them in these buildings but the hedgerow (hawthorn trees) could benefit bats and biodiversity generally.

## **Planning History**

Outline permission for residential development on the whole site of the former milk depot and commercial vehicle site was granted in 1998. Approval for 30 dwellings was granted in 2004. Numerous earlier decisions on the site are no longer relevant.

## **Responses to Consultations**

The Highway Authority recommended alterations to the road layout and additional parking spaces to some of the plots. These have now been incorporated.

The LEA, having reviewed the statistics locally, observes that a contribution to schools is not required.

The Head of Environmental Services recommends implementation of a ground survey (already provided) in case of contamination.

Severn Trent Water has no objection.

## **Responses to Publicity**

13 letters, all from Ashbourne Drive (6 originating from 2 people) object to the application as originally submitted for the following reasons:

- 3 storey buildings are not keeping with the surroundings
- 3 storey houses will overshadow, overlook and cause loss of privacy to the dwellings and gardens to the rear
- the loss of the boundary hedgerow would be damaging to wildlife and amenity and cause further loss of privacy
- bats would be displaced from the buildings on the site
- public facilities (water quality mentioned) would be overstretched
- local residents should have been approached to give them an opportunity to purchase land to extend their gardens onto the land.

Two further letters reiterate the above objections to the amended proposals, querying whether the hedgerow would remain even if it provided for it to do so. Another letters withdraws the objections made earlier but is also concerned that the hedge should be maintained at its present height.

## **Development Plan Policies**

The relevant policies are:

RSS8: Policy 20 (Housing)

Joint Structure Plan: General Development Strategy Policy 3 and Housing 3

Local Plan: Housing Policies 4 and 11.

## Planning Considerations

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

- The design and density of the dwellings
- The effect on neighbouring properties
- Biodiversity and provision of facilities

## Planning Assessment

This is a substitution of details and expansion of the site onto a further area of redundant previously developed land so issues of the principle of residential development are not relevant.

The application complies with Supplementary Planning Guidance in respect of the design and layout with distances between the new and existing dwellings meeting the 20% increase in the required distances (in respect of 3 storey development). The screening and wildlife value of the hedge/hawthorn boundary is of additional benefit (see reference to bats above).

The design and layout of the site and the dwellings is very similar to that in the course of construction. Increasing density is in line with the Government's intention that best possible use of brown field land should be made.

Provision of open space more than meets standards in respect of children's and incidental open space requirements but in respect of formal open space requirements it is considered that assistance to the funding of an external project in the area would be of greater community benefit. Accordingly, a contribution of £20,000 has been negotiated, as has the normal contributions to healthcare facilities.

## Recommendation

Subject to the receipt of a unilateral undertaking covering contributions to open space and healthcare, **GRANT** permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of five years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority.  
Reason: To safeguard the appearance of the existing building and the locality generally.
3. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 074 08 B  
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
4. 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.

5. Any unexpected contamination identified during construction shall be notified to the Local planning Authority together with a statement for its treatment and the work shall be carried out in accordance with the statement as approved by the Local Planning Authority.

In the interests of control of pollution.

6. Notwithstanding the submitted details, prior to the commencement of building operations on adjoining areas, the boundary with the area of the hawthorn trees on the eastern site boundary shall be fenced with chestnut pale fencing to a minimum height of one metre staked at 3 metre centres. The fencing shall be retained in position until all building works on adjoining areas have been completed unless otherwise agreed in writing with the local planning authority.

Reason: To protect the trees from undue disturbance.

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

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

8. 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.

9. Any reasonable conditions of the Local Highway Authority.

Reason: In the interests of highway safety.

#### Informatives:

The proposed development lies within a coal mining area. In the circumstances Applicants should take account of any coal mining related hazards to stability in their proposals.

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

12/07/2005

**Item** 1.5**Reg. No.** 9/2005/0589/F**Applicant:**

Dalbury Lees Parish Council  
 C/O Parish Clerk  
 October House  
 Hulland Village  
 Derbyshire  
 DE6 3EP

**Agent:**

P Wisher - Cairman Dalbury Lees Parish  
 Council  
 Pascoe Vale  
 Dalbury Lees  
 Ashbourne  
 Derbyshire

**Proposal:** The temporary siting of a steel container to store goods and equipment of the parish councils at Land To The North Of White House Cottage Main Street Dalbury Lees

**Ward:** North West

**Valid Date:** 12/05/2005

**Site Description**

The site comprises the corner of a field that has been fenced off on the north and west sides, the area levelled and the container sited on an area of hard standing. There are mature hedges to the south and east boundaries. There is a public footpath running alongside the south boundary of the site that is unaffected by the structure.

There is a dwelling to the south beyond the public footpath and other dwellings to the east on the opposite side of the lane. The road above the site slopes down so the structure is visible on this approach to the village.

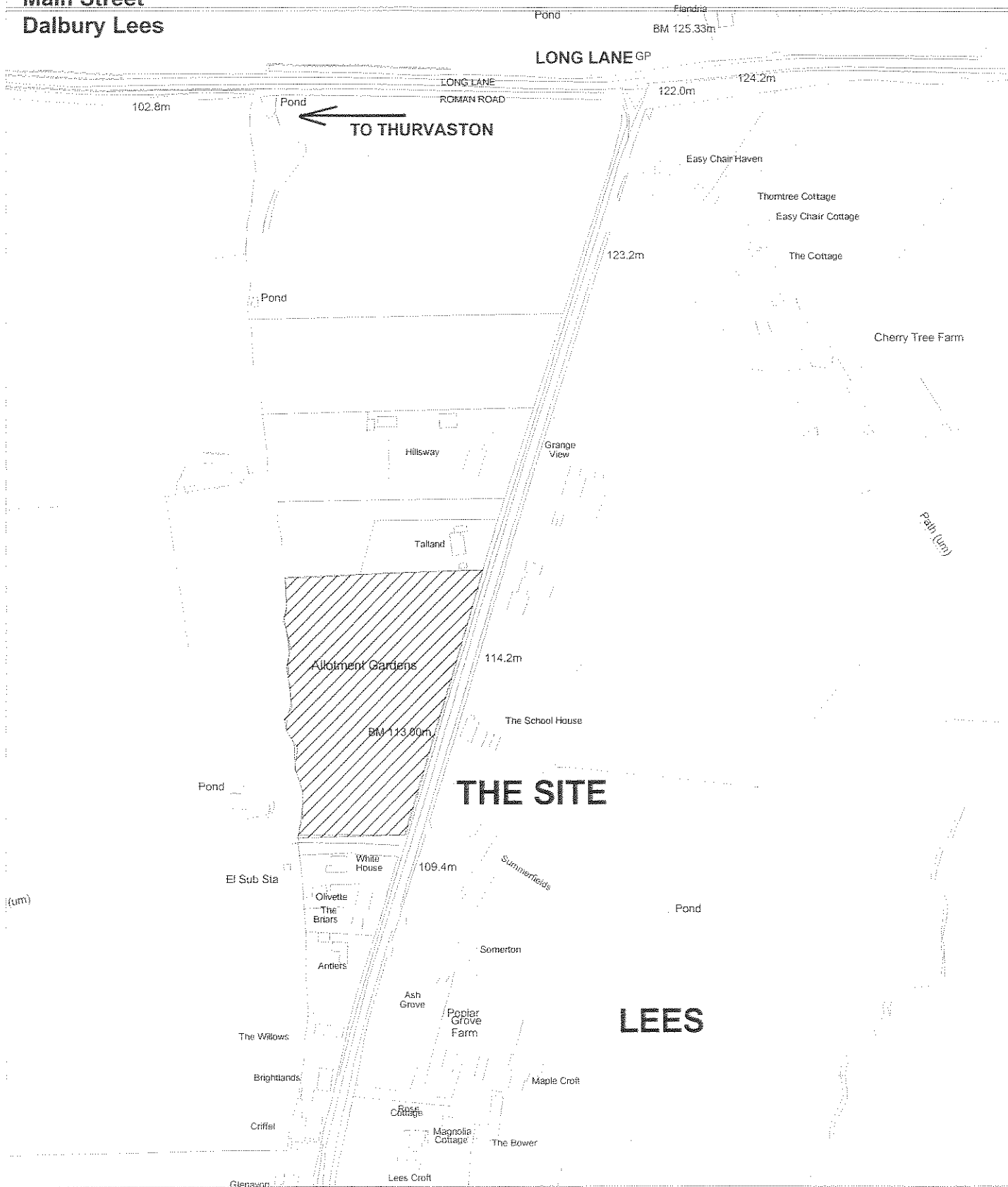
**Proposal**

The application seeks to retain the structure on the land pending the erection of a permanent storage facility within a new building on the site of the new village hall. No time period has been specified in the application for the length that the Parish Council would like to see the container retained on the site but it is hoped that if funding streams become available the new village hall should be in place by the beginning of 2007.

**Applicants' supporting information**

The container stores equipment and goods that are owned by the Parish Council. The materials are used by various community groups to help to raise funds for amongst other things, the new village hall. It is therefore of benefit to the whole community. It had been thought that the container was permitted development by virtue of the rights afforded to the Parish Council by the General Permitted Development Order.

9/2005/0589/F Land to North of White House Cottage  
Main Street  
Dalbury Lees



Scale 1:2500 Date Plotted 1/7/2005

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Plot centred at 428536 325343



9/2005/0589/F Land to North of White House  
Main Street  
Dalbury Lees

The Parish Council has subsequently offered to erect a screen fence above the line of the hedge to help to screen the development from residents across the road.

### **Planning History**

The container was placed on the land earlier this year; the Parish Council asked whether permission was required. It was advised that the Parish Council could have such structures up to a volume of 200 cu. metres provided that the use of the container was directly related to a service provided by the Parish Council. Following a complaint it transpired that the container was being used primarily to store goods for sale at car boot and other fund raising activities that were not related to a service provided by the Parish Council. Accordingly, the Parish Council was asked to submit this planning application.

### **Responses to Consultations**

None

### **Responses to Publicity**

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

- a) The steel container is an eyesore and no attempt has been made to hide it and there was no consultation with villagers about where to site it. It is very prominent when entering the village, especially from the north; it is also visible from Long Lane village. It blights the village and is an abomination it looks more like an industrial estate. The development is contrary to the Council's own guidelines on siting, design and appearance; the appropriateness of the use of the land and the effect it has on the landscape all contrary to the requirements of the Council's adopted policy. Recent developments in the village have been to a high standard and a container like this has no place at the entrance to the village. Even if the hedges were allowed to grow, the container would be very visible during the winter months.
- b) The development involves the change of use of the land and the Council's policy (Policy ENV 7) is that development in the countryside should only be permitted where it is necessary to the viable operation of a rural based activity unavoidable in the countryside or the policy that relates to the landscape (Policy ENV 3). This container meets none of these criteria in these policies. *(The policies referred to in the objection letters relate to the replacement Local Plan that were relevant when the letters were written – from the objectors' point of view the provisions of Environment Policy 1 of the adopted Local Plan would be applicable to the consideration of this application as it has the same basic aim as the policies that were referred to by the objectors).*
- c) The original use of the land was for grazing horses on land enclosed by natural hedges and fencing that fit into the area, whereas the container is poorly painted and stands above the level of the field hedges.
- d) There is no certainty that the new village hall will be built in the near future. The costs are in the region of £60,000 but only £20,000 has been raised so far over a period of 5 years. It would appear that the container is there for the long-term. Temporary structures have a habit of becoming permanent. As the Parish Council has no influence over the

construction of the village hall the application should be regarded as for a permanent structure

- e) There are other storage facilities in the locality, notably at Ednaston, that would be a better solution and it is hoped that the object will be removed very soon.
- f) There is increased noise and disturbance when cars and other vehicles use the facility.

### **Development Plan Policies**

The relevant policies are:

RSS8: None

Joint Structure Plan: General Development Strategy Policy 4

Local Plan: Environment Policy 1

### **Planning Considerations**

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

- The effect of the container on the character and appearance of the area
- Mitigation measures that may reduce the visual impact
- The permanency of the structure.

### **Planning Assessment**

The container does appear as an incongruous feature at the entrance to the village. This is not helped by the paint (albeit green) and lettering that reflects its original use. The appearance of the container could be improved if it were to be painted a uniform neutral colour.

The Parish Council has offered to erect a screen above the line of the hedge to help to screen the container but this is considered to be likely to draw attention to the site rather than help minimise its impact.

Since the application was submitted the roadside hedge has grown and added to the natural screening effect albeit that the container would remain visible to some extent from the road to the north. There are no houses that directly overlook the container at close quarters. There are 2 opposite the site but both are set well back from the road and have their own roadside screen hedges that help to reduce the impact of the container. It is accepted that there are views to the container from the houses but not to a point that it is overbearing. There is a further dwelling on the higher ground to the north that has habitable room windows looking towards the site. This is at a distance of some 50 metres.

The Parish Council has indicated that the structure would be required for a temporary period and that it hoped that the village hall would be available at the beginning of 2007. Residents have called this timescale into question as the hall would cost some £60,000 and only £20,000 of that has been raised. However, in the very recent past a grant of £25,000 has been made to the Village Millennium Committee and other grant applications have been made. It would seem therefore that there is a reasonable prospect of the new village hall being constructed within the timeframe envisaged by the Parish Council.

Although finely balanced, it is considered reasonable to grant a temporary permission for the retention of the container for a period of two years (that is until the end of July 2007) subject to the container being painted a uniform colour to the satisfaction of the Local Planning Authority.

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

### **Recommendation**

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

1. This permission shall be for a limited period only, expiring on 31 July 2007 on or before which date the structure shall be removed and the site reinstated to the satisfaction of the Local Planning Authority unless, prior to that date, an application has been made and permission has been granted for an extended period.

Reason: The container is required to meet the short term needs for storage of goods and equipment prior to the erection of a new village hall for which planning permission exists. The Local Planning Authority accepts the requirement for this short term need and grants permission on that basis as set out in the supporting documentation accompanying the application.

2. Within 2 months of the date of this permission, the storage container shall be painted a dark uniform colour the details of which shall have received the prior written consent of the Local Planning Authority.

Reason: In order to minimise the impact of the container.



12/07/2005

**Item** 1.6**Reg. No.** 9/2005/0596/O**Applicant:**

Mr R Lyon  
 The Stynes  
 Froggatt Lane, Froggatt Bridge  
 Froggatt  
 Derbyshire

**Agent:**

Freeman Associates  
 Rockingham House  
 Swinton  
 Mexborough  
 South Yorkshire  
 S648DQ

**Proposal:** Outline application (all matters except siting to be reserved)  
 for the erection of three dwellings at Land at Bass's Crescent  
 Castle Gresley Swadlincote.

**Ward:** Linton

**Valid Date:** 13/05/2005

The application has been brought to the Committee on the instruction of Councillor Southern.

**Site Description**

The site, measuring 0.8 hectares, forms part of a residual area of housing land recently sold by the Council. This relatively flat grassed area lies at the rear of the now derelict Council flats to the east and is bordered to the north by a hedgerow beyond which lies a residential parking area and residential properties. To the west beyond the public footpath bordering the site is a nursing home currently under construction with further existing residential properties to the south west separated from the site by Arthur Street. The adjacent land to the south east currently forms part of the existing open curtilage land of the former Council flats.

**Proposal**

The application is in outline with all matters except for siting reserved for subsequent approval.

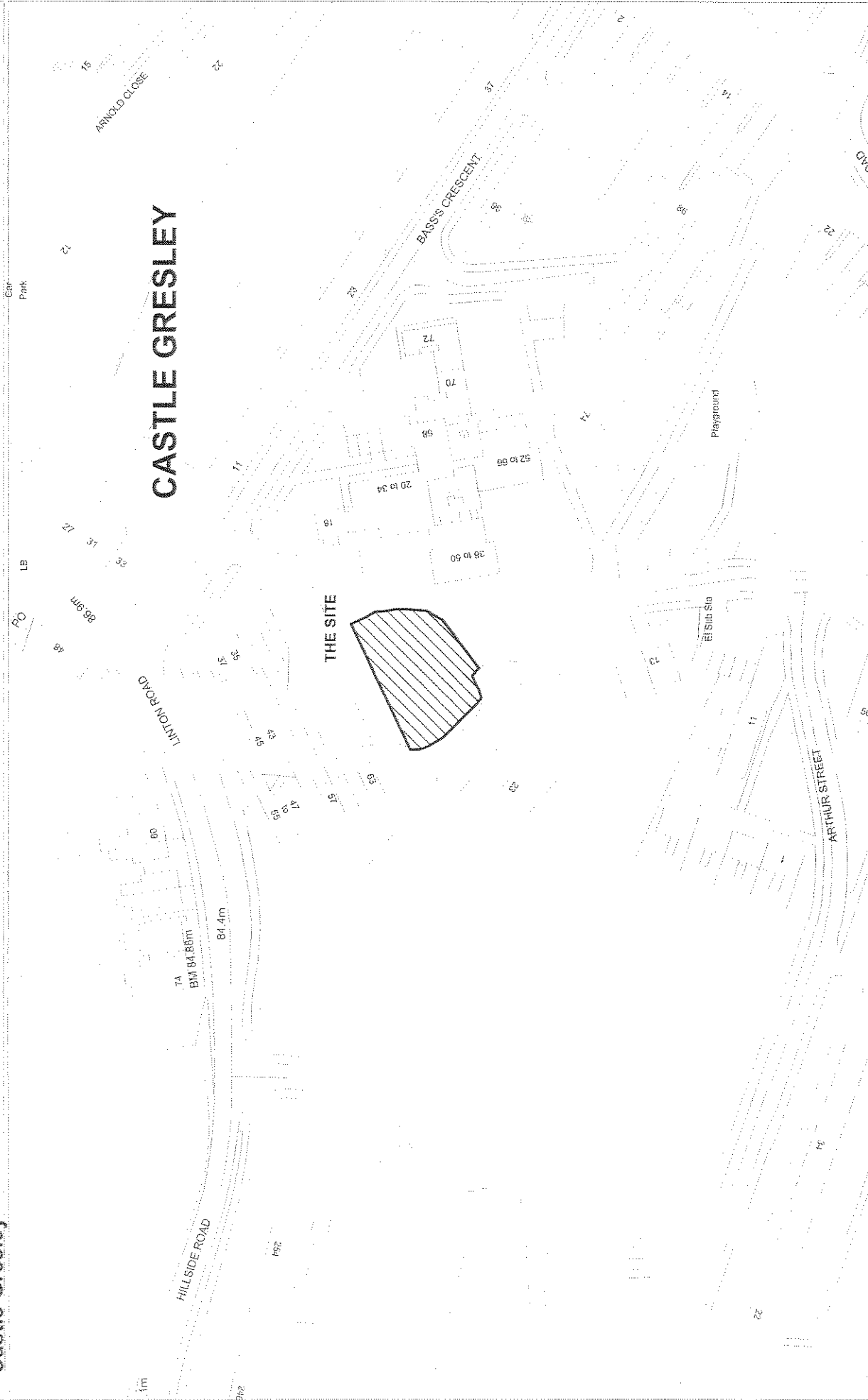
**Responses to Consultations**

The County Highway Authority has no objections subject to satisfactory details of access and parking provision.

Severn Trent Water has no objections subject to drainage conditions.

CLlr Southern has requested the payment of a commuted sum of £1,000 per dwelling towards a communal play and seating area as part of the development of Bass's Crescent.

9/2005/0596/O Land at Bass's Crescent  
Castle Gresley



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Scale 1:1250

Plot centred at 428536 325343

Date Plotted 1/7/2005

9/2005/0596/O Land at Bass's Crescent  
Castle Gresley



## Responses to Publicity

There have been no objections.

## Development Plan Policies

The relevant policies are:

RSS8:

Joint Structure Plan: General Development Strategy Policy 3 & Housing Policy 3

Local Plan: Housing Policy 4

## Planning Considerations

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

- The Development Plan and the principle of development.
- The impact on the character of the area
- The impact on the amenity of adjacent properties

## Planning Assessment

*The development plan seeks to provide new housing development within existing urban areas where the site is substantially surrounded by development in line with the principles of sustainable development. The application site lies within the built-up urban area of Castle Gresley as defined by the adopted Local Plan proposals map and forms part of the open curtilage land to the existing flats and is, therefore, considered to be previously developed land as defined by PPG3. The proposal therefore accords in principal with the requirements of the development plan and PPG3.*

The surrounding area is mainly built-up residential except for the remaining area of open curtilage adjacent to the site and therefore the impact of the proposal on the character of the area would be minimal.

The area of land to the east of the application site forms the remainder of the Bass's Crescent site and is also owned by the applicant. The applicant's agent has confirmed that a planning application is imminent for the refurbishment of this land and the flats. The agent has confirmed that the main aspect at the rear of the flats which faces onto the application site will remain largely as existing and therefore the proposal complies with the Council's *Supplementary Planning Guidance in terms of minimum distance requirements with both the existing flats and the surrounding dwellings.*

*With regard to Councillor Southern's request for a commuted sum payment the applicant has confirmed that they are reluctant to make such a contribution at this stage, however, they would be willing to discuss making a donation of this sum as part of a future planning application for the remainder of the site involving the refurbishment of the flats and surrounding land.*

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. Approval of the details of the design and external appearance of the building(s), the means of access thereto and the landscaping and means of enclosure of the site shall be obtained from the Local Planning Authority in writing before any development is commenced.  
 Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.
3. Notwithstanding any details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.  
 Reason: In the interests of the appearance of the area.
4. 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.
5. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate, in the case of dwellings of four or more bedrooms three cars, in any other case two cars within the curtilage of each dwelling, or in any alternative location acceptable to the Local Planning Authority or as may otherwise be agreed in writing by the Local Planning Authority in accordance with its published standards. Thereafter three parking spaces (in the case of dwellings with four or more bedrooms) or two parking spaces (in any other case), measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of each dwelling unless as may otherwise be approved in writing by the Local Planning Authority.  
 Reason: To ensure that adequate parking/garaging provision is available.
6. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).  
 Reason: To protect the amenities of adjoining properties and the locality generally.

12/07/2005

**Item** 1.7**Reg. No.** CW9/2005/0017/CW**Applicant:**

Biffa Waste Services Ltd  
 C/O Severn Trent Water Limited  
 Park Lane, Minworth  
 Sutton Coldfield  
 B76 9BL

**Agent:**

Biffa Waste Services Ltd  
 C/O Severn Trent Water Limited  
 Park Lane, Minworth  
 Sutton Coldfield  
 B76 9BL

**Proposal:** Proposed in vessel composting, waste transfer facility and extension of existing open windrow composting at Etwall Sewage Treatment Works Egginton Common Egginton

**Ward:** Hilton

**Valid Date:** 26/05/2005

**Site Description**

The site is located in the middle of a large area of land owned and operated by Severn Trent Water Ltd. Immediately adjoining the site is a sludge dewatering plant and other facilities that are linked to the Clay Mills Sewage disposal area. The land subject to the application is at a lower level than some of these buildings. The site is enclosed on its north side by an existing hedge. The Stoke-Derby railway line runs along the south boundary, the existing Severn Trent Water operational site lies to the west and the east boundary is relatively open.

There is a pair of semi-detached cottages some 80 metres from the north of the site boundary. Another dwelling called The Round House lies some 350 metres to the north east of the site. There are dwellings at Gravel Pit Cottages 100 metres to the north and Old Station Cottages 240 metres to the south of the access of Boundary Road with Egginton Road. Gorse Farmhouse lies some 130 metres to the south of the Egginton Road access point on the opposite side of the road.

**Proposal**

The application site is some 3.39 hectares and would comprise an in-vessel composting of green waste within a new building in horizontal tunnels. The new building would also be used to sort non-compostable material, environmental controls would be put in place to filter emissions from these processes. Wood and soil for blending with composted material would be used to produce compost and soil substitutes. There would be a new barn type building to store bulk produce and the extension of the open composting area to finish the composting process once the material has been through the in-vessel system.

CW9/0505/17 Etwall Composting Facility  
Boundary Road  
Etwall

BOUNDARY ROAD

ETWALL ROAD

THE  
SITE

Sewage Farm  
Egginton Common

Sewage Farm

Egginton Common

TO EGGINTON

Date Plotted 17/2005  
CW9/0505/17 Etwall Composting Facility  
Boundary Road  
Etwall

Scale 1:7500  
Plot centred at 428536 325343

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The hours of operation would be 0730 – 1800 Monday to Saturdays when waste would be processed. However, the applicants would wish the site to be open on Sundays and Bank Holidays to receive waste from Civic Amenity sites.

Access would continue from Boundary Road via Egginton Road and thence to the A38. There is no vehicular access to Etwall village and this would continue if permission were to be granted. It is controlled through a Section 106 Agreement. A new internal access road is proposed on the north boundary of the site, this would bring the access closer to the dwelling known as Standpipe Cottages.

### **Applicants' supporting information**

The existing composting operation is carried out in open windrows only. The use of the in-vessel composting system would allow for the initial composting to take place indoors in a controlled environment where initial smells and emissions can be monitored. Material would then be finished off in the extended windrow area. The application if permitted, would allow for the processing of some 72,000 tonnes of waste and would help Local Authorities to achieve their waste reduction strategies.

The applicants contend that the landscape quality of the area is of low sensitivity and that the proposal would not introduce a new use into the area. The extensions to the use relate to the existing site very well. Predicted visual impacts are judged to be minimal. These assertions are backed up by a range of photographs taken from viewpoints around the site and its surroundings. [These and the full landscape assessment can be viewed on the file.]

*In terms of highways issues, the applicants have assessed the existing traffic generation that equates to about 13 HGV movements a day over the 7 hours to 1800. The proposals would involve some 56 HGV movements a day and some 19 movements a day taking finished products from the site a total of 75 movements.*

It is argued that air quality would improve at the site because the initial treatment would be in a building and the composting vessels. There is a dwelling close to the site (Standpipe Cottage) and another, further away (The Round House). The impact of the development is examined in depth in the application documents but the overall conclusion is as above. If permitted air quality monitoring would be undertaken on an on-going basis.

Noise has been assessed as being potentially acceptable and again full details of the survey have been included in the application documents that are available for inspection on the file.

*Other potential nuisances such as vermin, dust, litter and mud and other debris are also considered in the document. Management measures are already in place to deal with these issues and they would be utilised to deal with problems if they arose from the extended site.*

Measures would be in place to intercept any contaminated run-off from the site and contaminated water would be passed to the treatment works.

The applicants do not anticipate that the extended use of the site would have any adverse impacts on the ecology of the area as there are given the previous uses of the site albeit that the land is a candidate wildlife site. The actual site for the works comprises species poor habitats that are not considered to be of high ecological importance.

## **Planning History**

The site was first used for composting activities in the mid 1990's. This application seeks to extend that use and consolidate some of the operation currently carried out in the open within purpose-designed structures.

## **Responses to Consultations**

The County Planning Authority is responsible for undertaking the consultations of which the District Council is one. Planning and Environmental health comments will be forwarded to the County Planning Authority for consideration.

The Environmental Protection Manager has no overall objection but would wish to see the speed bumps in the vicinity of Standpipe Cottages removed and the construction of a 2.0 metre high wall along the road boundary in the vicinity of the cottages to help to minimise noise from vehicles using Boundary Road. He considers this reasonable as there would be a significant increase in lorry movements if the application were to be permitted.

## **Responses to Publicity**

The County Planning Authority is responsible for publicising the proposals.

## **Development Plan Policies**

The relevant policies are:

RSS8: Policies 2, 38 & 39,

Joint Structure Plan: Waste Management Policy 1, 2, 3 & 4,

Local Plan: Environment Policy 1.

## **Planning Considerations**

The main issues central to the determination of this application are the increase in the scale of the operation of the site and its impact in terms of noise, highway and visual intrusion.

## **Planning Assessment**

*This proposal promotes a substantial expansion of the recycling centre that has existed at the site for a number of years. The proposals include the erection of a building where materials would be first processed when most smell problems can occur before being finished off in open windrows prior to the finished material being taken from the site. The finished products would be soil conditioner, soil compost blend, chipped wood and mulch.*

The main issue would be the increase in the number of vehicles to and from the site, the proximity of a dwelling to the site and the noise that would arise from the additional lorries cross the existing speed humps along the access road particularly when they are empty.

## Lorry movements

This would increase from a daily average of 13 to 75 or 76. These would comprise lorries bring waste to the site and those taking the finished materials away from the site plus vehicle movements from the 4 or 5 staff employed at the site.



A Section 106 Agreement controls traffic movements to and from the site on the highway network. All traffic approaches the site from the south and leaves in the same direction. This means that the traffic is not routed through Etwall Village.

Within the site, access is via Boundary Road. At present the speed of traffic is controlled by the use of speed humps. Two of these humps are in relatively close proximity to Standpipe Cottages. The occupiers of this dwelling are potentially to notice an increase in the amount of noise from traffic entering and leaving the site. It is considered that the speed humps should be removed to help to minimise the impact of the noise and the suggested noise barrier be erected as suggested by the Environmental Protection Manager.

The comments of the authority should also require that the existing access arrangements be maintained as proposed in the application and controlled by the Section 106 agreement. This should ensure that the HGV traffic continues to be routed along the A38 and is kept out of Etwall.

The new access road to the site itself from Boundary Road should not in itself have any material impact on the area.

#### Other Noise issues

The applicants seem to have addressed the other noise impacts. These would be from the machinery operating within the building and vehicles managing the windrows. The new windrows would be site away from the house referred to above. The Environmental Protection Manager has been consulted separately on the application and will report direct to the County Planning Authority but it is understood that there are no concerns about this aspect of the proposal.

#### Visual impacts

The additional impacts on the area would be from the new process building. This would be situated in reasonably close proximity to the existing Severn Trent Water buildings and structures on the site. It is considered that there would be no material adverse impact on the character and appearance of the area from this new building. It would also be partially screen by existing trees and hedges.

On the basis of the submitted information, the policies in the development plan and subject to the requirements to review the position of speed humps to minimise noise, the proposal is considered acceptable.

#### **Recommendation**

**ADVISE** the County Planning Authority that South Derbyshire District Council has **NO OBJECTION** to the proposals subject to the following recommended conditions:

1. That the County Planning Authority be requested to the speed humps on the access road in the vicinity of the Standpipe Cottages.

Reason: To minimise the impact of noise on the occupiers of Standpipe Cottages.

2. Before development is commenced details of a boundary wall in the vicinity of Standpipe Cottages shall be submitted to and approved in writing by the County Planning Authority. the approved wall details shall then be implemented in accordance with the approved plan and be thereafter maintained in position.

Reason: In the interests of the amenity of the occupiers of Standpipe Cottages.

3. Before development is commenced details of the landscaping of the site shall be submitted to and approved in writing by the County Planning Authority. Particular attention shall be paid to the planting on the bounds proposed on the south and east boundaries of the site.

Reason: In the interests of the visual amenity of the countryside hereabouts.

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

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

12/07/2005

**Item** 2.1**Reg. No.** 9/2005/0543/U**Applicant:**

Mr Mrs K Ellis  
 Egginton Hall Church Road  
 Egginton  
 Derby  
 DE65 6HP

**Agent:**

Mr Mrs K Ellis  
 Egginton Hall Church Road  
 Egginton  
 Derby  
 DE65 6HP

**Proposal:** The conversion of a plant room to residential use at Egginton Hall Church Road Egginton Derby

**Ward:** Etwall

**Valid Date:** 28/04/2005

This application has been brought to the Committee on the instruction of Councillor Lemmon.

**Site Description**

The site comprises a derelict outbuilding on the outside bend of the access drive to Egginton Hall. It lies within an area of woodland that is just outside the boundary of TPO 124 that covers a large area of the garden and park at Egginton Hall. Across the field lies a row of houses on Fishpond Lane.

**Proposal**

The proposal would be tantamount to the erection of a new dwelling as the building itself is of modest proportions and austere design and would be almost entirely lost amongst the new building works.

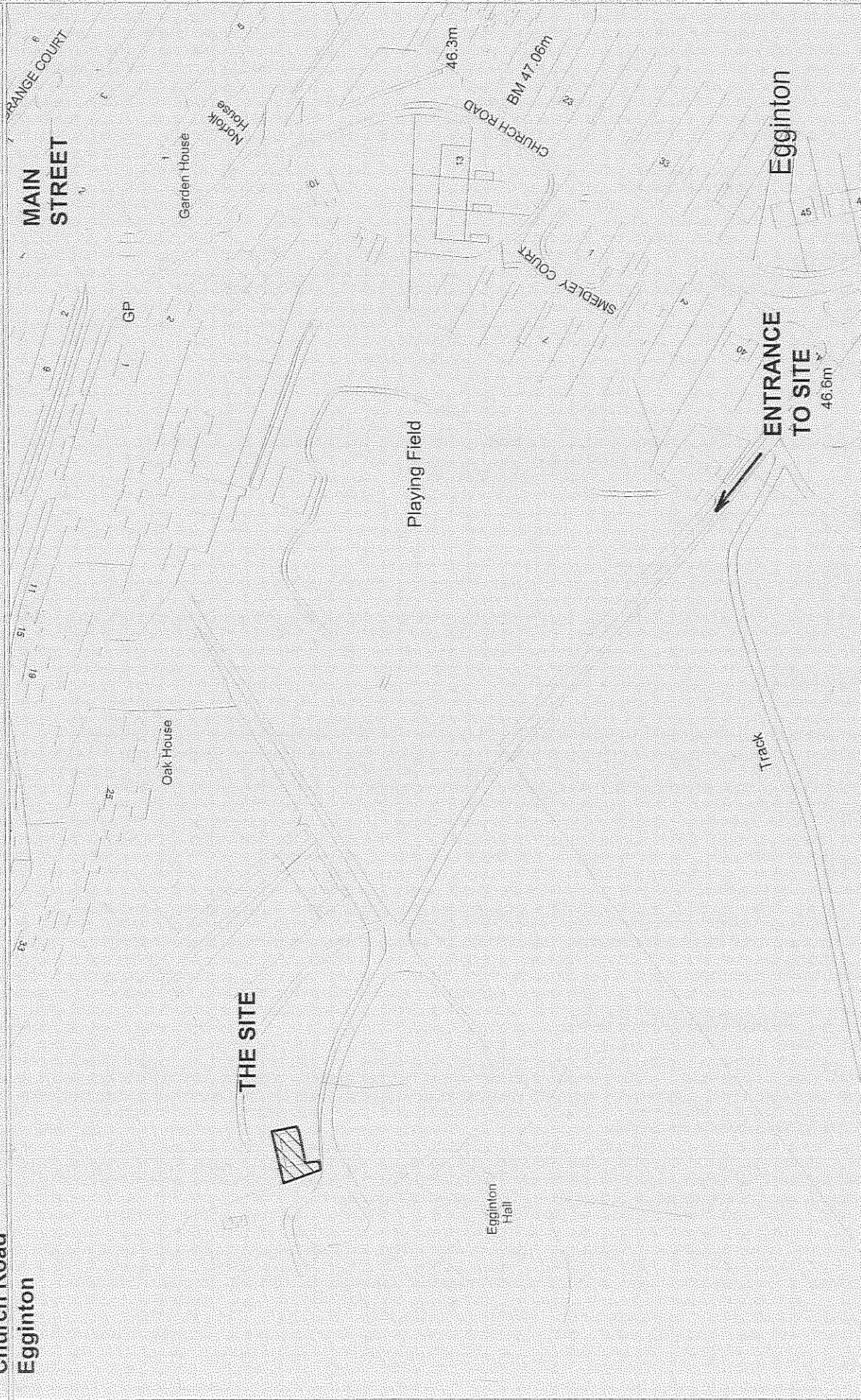
**Applicants' supporting information**


The dwelling is necessary for the security of the main dwelling and to prevent unauthorised access. The applicants have many people coming down the drive and have had to call the police on one incident with an intruder.

The authority is asked to note that there would be no windows overlooking any house and that two people employed by the applicant would occupy the house.

Although the site lies with a flood zone 2 the applicant has asserted that the site has not flooded during recent flood events. It is acknowledged that the land around the site and the house has flooded in the past but the Hall, its outbuildings and the application site have not been threatened. It is asserted that local farmers who have farmed the land for 2 – 3 generations state that since the flood protection bund was erected; flooding has not troubled this area.

9/2005/0543/U Egginton Hall  
Church Road  
Egginton



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## **Planning History**

None for this building but Egginton Hall was re-erected in the 1990's and the grounds have been extensively restored in recent years.

## **Responses to Consultations**

Egginton Parish Council objects for the following reasons:

- a) The building lies within the floodplain and its residential use would undermine efforts to resolve flooding problems in Egginton.
- b) The site is in the open countryside and the Parish Council is not convinced the case for a dwelling has been proven and is also concerned that this would be the thin end of the wedge as if a family moves in there would be a need for more accommodation and garages having a further impact on the countryside and the floodplain.
- c) If permitted then the occupation of the dwelling should be limited to employees of the occupiers of Egginton Hall.

The County Highway Authority has no objection provided that this is viewed as ancillary accommodation to the main dwelling.

Severn Trent Water has no objection subject to a condition requiring the submission of details of the foul and surface water drainage.

The Environment Agency has been consulted at an early stage, but no response has been received. In the light of the recommendation, the application has been brought to Committee. However, if members are minded to grant permission, the formal response of the Environment Agency should be taken into account before a decision is taken.

## **Responses to Publicity**

None

## **Development Plan Policies**

The relevant policies are:

RSS8: Policies 2 & 3

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

Local Plan: Environment Policy 1 & Housing Policy 8.

## **Planning Considerations**

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

- The Development Plan
- The need for the dwelling
- The impact on the character and appearance of the area.

## Planning Assessment

The development plan policies require that housing development is necessary for the operation of an established rural enterprise. Whilst not strictly an application for an agricultural workers dwelling, the advice in PPS 7 is that security is not in itself a reason for allowing a dwelling to be established in the countryside. This proposal is solely for the purpose of providing security for the occupiers of the main house.

There are other ways of providing warnings of intrusion within the grounds that could be implemented to give occupiers fair warning of the approach of intruders and it is not considered necessary to allow the formation a separate dwelling to achieve this.

It has to be stated that the design of the proposed dwelling/conversion would be acceptable as it is typical of an estate cottage that historically would be erected to provide accommodation for staff.

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

## Recommendation

**REFUSE** permission for the following reason:

Established Government and development plan policy requires that if a dwelling are to be permitted in the countryside, then there should be a justification for that dwelling to serve the requirements of an established rural enterprise. This is expressed in general terms within Policies 2 & 3 of RSS. 8 published by the Government Office for the East Midlands and more specifically in General Development Strategy Policy 4 and Housing Policy 8 of the adopted Derby and Derbyshire Joint Structure Plan. Environment Policy 1 and Housing Policy 8 of the adopted South Derbyshire Local Plan also reflect the above stated objectives. In this case the justification for the dwelling is that it is necessary for the security of the occupants of the adjacent large dwelling and the occupation of the dwelling would be limited to the employees of the occupiers of that dwelling. This is considered to be insufficient justification for the creation of a new dwelling in the countryside and as such the development would be contrary to the above-mentioned policies and more recent government advice.

## Decision of the Secretary of State on Called-In Application:

Application by Derwent Valley Meeting Room Trust, C/O Agent

Outline application (all matters except siting and means of access to be reserved) for the erection of a meeting room at Fox Covert Farm Derby Road Aston-on-Trent Derby (9/2003/1205)

The application was called-in by the Secretary of State for reasons that “the proposal may conflict with national policies on important matters.”

The application was heard at a Public Inquiry held on 1-2 March 2005, following which the subsequent report of the Inspector was considered by the Secretary of State.

The overall conclusion was as follows:

1. “The Secretary of State has considered the factors put forward by the applicants and the Council and assessed whether these amount to very special circumstances sufficient to clearly outweigh the identified harm to the Green Belt. He agrees that the proposals in the application would have the potential to create a limited degree of greater openness to the Green Belt through the smaller building footprint, the replacement of unattractive and derelict existing rural buildings, and ancillary improvements to the landscape, that it would result in the beneficial provision of meeting the religious needs specific to the Christian Brethren community in South Derbyshire, and the site would be well-located for a dispersed congregation, and could reduce the applicants’ current travel patterns.
2. However, the Secretary of State attaches great importance to the protection of the Green Belt. He has concluded that the application would be inappropriate development in the Green Belt. There are benefits of the proposal that are recognised but he has found that these do not amount to very special circumstances which clearly outweigh the harm caused to the Green Belt.
3. Furthermore, he considers that the benefits of greater openness would be offset by further harm to the Green Belt through the need for extensive car parking and servicing areas compared to the former agricultural use. Although the Secretary of State considers that the adverse impact of the car park could be mitigated to an extent by landscaping, he does not consider that this would entirely remove it. He considers that allowing urbanising development on an unsustainable site outside existing settlements, with little choice of modes of transport would all have an adverse effect on the Green Belt.
4. In the particular circumstances of this case, he considers that, even taking all the identified benefits of the development into account, they are not sufficient to outweigh the harm to the Green Belt.
5. He considers that the proposals conflict with development plan policies in respect of the control of development in the Green Belt, and also with national planning guidance PPG2, PPS7 and PPG13. The Secretary of State concludes that there are no other material considerations that indicate that he should determine the application other than in accordance with the development plan and national policy guidance.”

The Secretary of State agreed with the Inspector’s recommendation that planning permission be refused.

## APPEAL DISMISSED

Appeal by Rowley Esq

The formation of a vehicular access and entrance wall at Sandstone Ingleby Road Stanton-by-bridge Derby (9/2004/0594)

The application was refused permission for the following reason(s):

1. *The proposed access onto the classified A514, subject to a 40 mph speed limit, fails to achieve the requisite 2m x 120 m visibility sightlines in each direction. Therefore the proposal would result in the introduction of vehicular movements at a location where visibility is substandard, contrary to the best interests of highway safety.*
2. *The formation of the access would involve a substantial alteration to the attractive roadside embankment. Furthermore the proposed wall and gates would be out of keeping with the rural qualities of this part of the designated Stanton by Bridge Conservation area to the detriment of its character, contrary to the following development plan policies:  
Derby and Derby shire Joint Structure Plan Environment Policy 9;  
South Derbyshire Local Plan Environment Policy 12; and Emerging South Derbyshire Local Plan Policy ENV20.*

The Inspector considered that drivers would have difficulty emerging from the access in a safe manner because the available visibility would fall notably short of the appropriate standard of 2m x 120m set out in the national guidance entitled Places, Streets and Movement and that traffic movements associated with the access would be detrimental to highway safety on the A514.

The existence of other accesses to dwellings in the village with more restricted visibility and the substandard junction of Ingleby Road with the A514 were not considered justification for creating another access with substandard visibility. The restriction and traffic problems on the existing shared drive were considered more of an inconvenience as oppose to the highway safety issues that would arise on the principal road.

The Inspector considered the character and appearance of the conservation area in the vicinity of the appeal site derived mainly from the rural scenes along both sides of the A514. The proposed vehicular access would result in the removal of roadside vegetation and the introduction of an obvious element of suburban development in an otherwise unspoilt rural street scene which would neither preserve nor enhance the character or appearance of the conservation area.

In consideration of the above matters the appeal was dismissed.



## APPEALS DISMISSED

Appeal by Mrs Siner

Outline application (all matters to be reserved) for the erection of a dwelling Regal House Main Street Scropton Derby (9/2004/0559) & (9/2004/0929)

The applications were refused permission for the following reason(s):

*1. Transport Policy 6 of the adopted South Derbyshire Local Plan requires that all proposals should incorporate adequate provision for access, parking and manoeuvring. These requirements are repeated in Policy T1 of the emerging replacement South Derbyshire Local Plan. The access to the proposed dwelling would be located on the radius of a junction where an increase in its use would increase the potential for confusion and conflict with other road users to the detriment of highway safety. In addition, the visibility from both the access to the plot and the junction of Brook Lane with Main Street is substandard to a point where any increase in their use would be contrary to the best interests of highway safety. This is contrary to the above Development Plan policies.*

*9/2004/0929/O - In addition, the resubmitted drawing shows visibility sightlines of 2m x 30m onto Main Street. Any access onto a classified road subject to a 30mph speed limit requires 2m x 90m sightlines, which cannot be achieved at the application site and any increase in their use would be contrary to the best interests of highway safety. This is contrary to the above Development Plan policies.*

The Inspector considered the main issue in both appeals to be the effect of the proposals on highway safety.

The existing access to Regal House lies close to the junction of Main Street and Brook Lane, on the radius of the junction. Visibility for emerging drivers is obscured by an existing hedge to the left, and by the alignment of Main Street to the right. The original appeal access would be approximately in the position of the existing access with the second appeal access located some 3 metres to the south and give visibility of some 33 metres in the direction of Main Street which is below the standard for 30 mph traffic.

The Inspector viewed that there was insufficient visibility to the right for drivers emerging from the site for either access to operate safely. The increased distance in the second scheme was insufficient to ensure safety and permitting a shared access would increase the complexity of movements in and out of the site, and increase opportunities for conflict. There was no clear evidence to support the appellant's assumption that vehicle speeds would be contained to 20 mph on the junction when travelling into Brook Lane. The sightlines in the direction of Main Street would be at a level where danger is likely to be caused.

In consideration of the above matters both appeals were dismissed.

## APPEAL DISMISSED

Appeal by Mr Willday

Outline application (all matters to be reserved except for access) for the residential development of land at Staker Flatt Farm Staker Lane Mickleover Derby (9/2004/0970)

The application was refused permission for the following reason(s):

*1. The proposal conflicts with the approved Derby and Derbyshire Joint Structure Plan General Development Strategy Policies 3 & 4 and Housing Policy 6 and the adopted South Derbyshire Local Plan Environment Policy 1 and Housing Policy 8 which seek to permit residential development outside settlements only if it is necessary to the operation of a rural based activity. These policy objectives are also repeated in the emerging replacement South Derbyshire Local Plan at ENV 7 & H1. The development would result in an unnecessary intrusion into the countryside to the detriment of the rural character of the area, which is unwarranted in the absence of such a need.*

The Inspector viewed that the appeal proposal is not linked to any rural based activity and consequently there is no justification for additional dwellings in this location which is not well placed for services and facilities. The proposal would increase the amount of built development on the site and give it a much more developed and urban appearance not in keeping with the rural surroundings and “this pleasant area of countryside”.

The Inspector considered that the design and siting of the proposed dwellings and additional landscaping would not disguise the harm caused and although the proposal would remove the existing forecourt area used for parking and storage for the existing retail use the visual intrusion of this use is not significant enough to warrant the erection of three dwellings in a location where there is a strong presumption against new housing.

With regard to the existing small retail warehouse on site, allowed on appeal in 1999, the Inspector found little weight to the argument that cessation of retail use would benefit local centres and although three dwellings are likely to generate far fewer vehicles than the existing retail use there is little to indicate that existing levels of traffic cause significant highway safety problems.

The Inspector concluded that the proposal would be detrimental to the rural character and appearance of the local area and would not be well placed in relation to services and facilities in conflict with local plan and structure plan policies.

In consideration of the above the appeal was dismissed.

## APPEAL ALLOWED

Appeal by Harpur Crewe Estate

The felling of two Corsican Pine trees covered by South Derbyshire District Council Tree Preservation Order Number 77 at 20 High Street Ticknall Derby (9/2004/0374)

The application was refused permission for the following reason(s):

1. *These mature highly prominent trees are of great amenity value being close to the public highway and also being within the conservation area contribute significantly to its character. Singles and pairs of Corsican pines can be seen in prominent positions throughout the village, planted to celebrate the marriage of the estate owner, Sir Vauncey Harpur Crewe to Isabel Adderley in 1876. The connection of the trees to this locally important historical event is unique to Ticknall and this also contributes to their amenity value.*

*A clear case has not been made as to why the tree has suffered from recent die back and neither consultant has identified a pathogen. In the absence of more convincing evidence to justify felling and in view of the trees' obvious amenity value, the favoured approach is to give the trees the benefit of the doubt for the time being and limit the work to dead wooding and if necessary selective thinning.*

The Inspector's report to the Government Office for the East Midlands acknowledged that the two pines are prominent in the village landscape, along with other pines and as part of the village landscape their removal would be a loss to both amenity and the character of the village scene.

The claim that of the trees association with a marriage of a former member of the local landed gentry was not considered sufficient to set them apart for special consideration.

The Inspector considered that the stability of both trees was in doubt and that the defects were significant enough to make them vulnerable in storm conditions. The safety and potential damage to other important historical features of the conservation area would take precedence in this case; so felling the two trees would be justified.

It was considered that the appeal pine T5 may have contributed to the displacement of the roadside retaining wall, but remedial works would be possible. However, this factor along with the potential damage to the old well and other potential damage combined with the suspected instability of the trees would be sufficient reason for felling.

The report concluded that it would be desirable to plant replacements of the same or similar species, if the trees were felled, in order to maintain the tree related character of the village.

With regard to the Inspector's report the Government Office for the East Midlands allowed the appeal and granted consent to fell the trees.

## APPEAL PART DISMISSED AND ALLOWED

Appeal by Mr & Mrs Murphy

The erection of a single storey extension and a detached double garage at 1a Church Street Coton-in-the-Elms Swadlincote (9/2004/0651)

The application was refused permission for the following reason(s):

1. *Manor Farm is an attractive unspoilt 18th Century Grade II Listed farmhouse of which there are currently uninterrupted views from the north across the frontage of 1a Church Street. The proposed garage and boundary, by virtue of its design, alignment and massing would have a significant detrimental impact of the setting of the listed farm. This would be contrary to PPG15: Planning and the Historic Environment, Environment Policy 10 of the Derby and Derbyshire Joint Structure Plan 2001, Environment Policy 13 of the Adopted South Derbyshire Local Plan 1998, and Policy ENV19 of the South Derbyshire Local Plan Revised Deposit Draft (January 2003).*

1a Church Street lies adjacent to Manor Farm, a Grade II listed building. The Inspector considered that the views along Church Street are important to the setting of Manor Farm “a striking building which contributes strongly to the character of Coton-in-the-Elms”. Despite evidence that buildings across part of the site frontage have since been demolished some years ago the Inspector viewed the form of the gable end which now presents to view to be an important element in the character of the listed building. The proposed garage would be intrusive and result in unacceptable harm to the setting of the listed building and the Inspector therefore dismissed this element of the appeal.

The Council raised no objection to the single storey extension and the Inspector considered this element of the appeal to be acceptable and allowed this part of the appeal.

## APPEAL DISMISSED

### Appeal by Mr Wilmot

The erection of a two bedroom dwelling, the erection of a garage and stables and the blocking of Rose Lane to Main Street and opening Rose Lane to Ingleby Lane Slade House Rose Lane Ticknall Derby (9/2003/0999)

The application was refused permission for the following reason(s):

- 1. The proposed garage and stable building would result in an unacceptable intrusion into an otherwise undeveloped area of open garden land which has been identified in the emerging Local Plan under ENV8 and ENV20 as an important open space which contributes to the environmental quality of the locality and the Conservation Area.*
- 2. The reprioritisation of Rose Lane would result in a significant increase in traffic movements close to residential occupiers who have become accustomed to the light traffic use of a cul-de-sac bringing an unacceptable and unfamiliar level of noise and disturbance which would be detrimental to occupier's amenity.*

The Inspector considered the main issues to be:

- whether the proposed garaging and stable would have a detrimental impact on the openness of the adjoining area designated as important open space, and if so whether this would also have a detrimental impact on the character and appearance of the Conservation Area; and
- whether the increased vehicular use of the length of Rose Lane leading to Ingleby Lane would result in an unacceptable increase in noise and disturbance for the occupiers of dwellings fronting Rose Lane.

The Inspector considered that the designated 'L' shaped open area of land that wraps around two sides of the front garden of Slade House forms an integral part of the wider open area of land. Although the proposed position of the garage and stables is located just beyond the boundary of this area of open land the existing vegetation which forms the boundary of the open area would need to be removed fully exposing the building. In order to avoid any detrimental impact on the setting of Slade House the Inspector commented that the proposed buildings would need to be set well forward of the front elevation which would seriously detract from and have a detrimental impact on the openness of the designated important open space.

PPG15 refers to preserving or enhancing the character or appearance of a conservation area. The Inspector noted that Ticknall Conservation Area is characterised by a number of open areas of which the appeal site is one. These open areas are not generally characterised by the presence of buildings such as those proposed and it was therefore concluded that the presence of such buildings would not preserve or enhance the character or appearance of the Conservation Area.

In conclusion of the first issue the Inspector considered that the proposal would have an unacceptably detrimental impact on both the openness of the adjoining designated area of open space and the character and appearance of the Conservation Area and that the appeal should be dismissed.

With regard to the traffic impact on Rose Lane, the Inspector considered that the lane already served a number of properties and that the additional traffic associated with the proposed dwelling, and vehicles servicing the school, would be unlikely to result in a significant increase in noise and disturbance compared to the existing situation. The Inspector concluded that the proposals would

not result in an unacceptable loss of amenity for residents of properties in Rose Lane due to increased noise and disturbance from traffic visiting the school or accessing the proposed dwelling.

In conclusion of the above matters and with regard to the first issue the appeal was dismissed.