

REPORT OF THE HEAD OF PLANNING SERVICES

SECTION 1: Planning Applications 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.

Reference	Item	Place	Ward	Page
9/2006/0885	1.1	Willington	Willington/Findern	1
9/2007/0419	1.2	Swadlincote	Swadlincote	15
9/2007/0420	1.3	Swadlincote	Swadlincote	19
9/2007/0508	1.4	Church Gresley	Gresley	23
9/2007/0510	2.1	Scropton	North West	32

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.

10/07/2007

Item 1.1

Reg. No. 9/2006/0885/MR

Applicant:

Willington Developments LLP

Agent:

JVH Town Planning Consultants Limited
Houndhill Courtyard
Houndhill, Marchington
Uttoxeter
Staffordshire
ST14 8LN

Proposal: Outline application (all matters to be reserved except for means of access) for the erection of a residential development at Calder Aluminium Ltd Repton Road Willington Derby

Ward: Willington/Findern

Valid Date: 25/07/2006

Previously deferred application

Members will recall that this case was deferred at the Committee of 19 June to seek further information regarding flooding and affordable housing. This report has been updated to incorporate comments reported verbally at the last committee and the latest responses from consultees. (Issues relevant to the deferral are shown in italics).

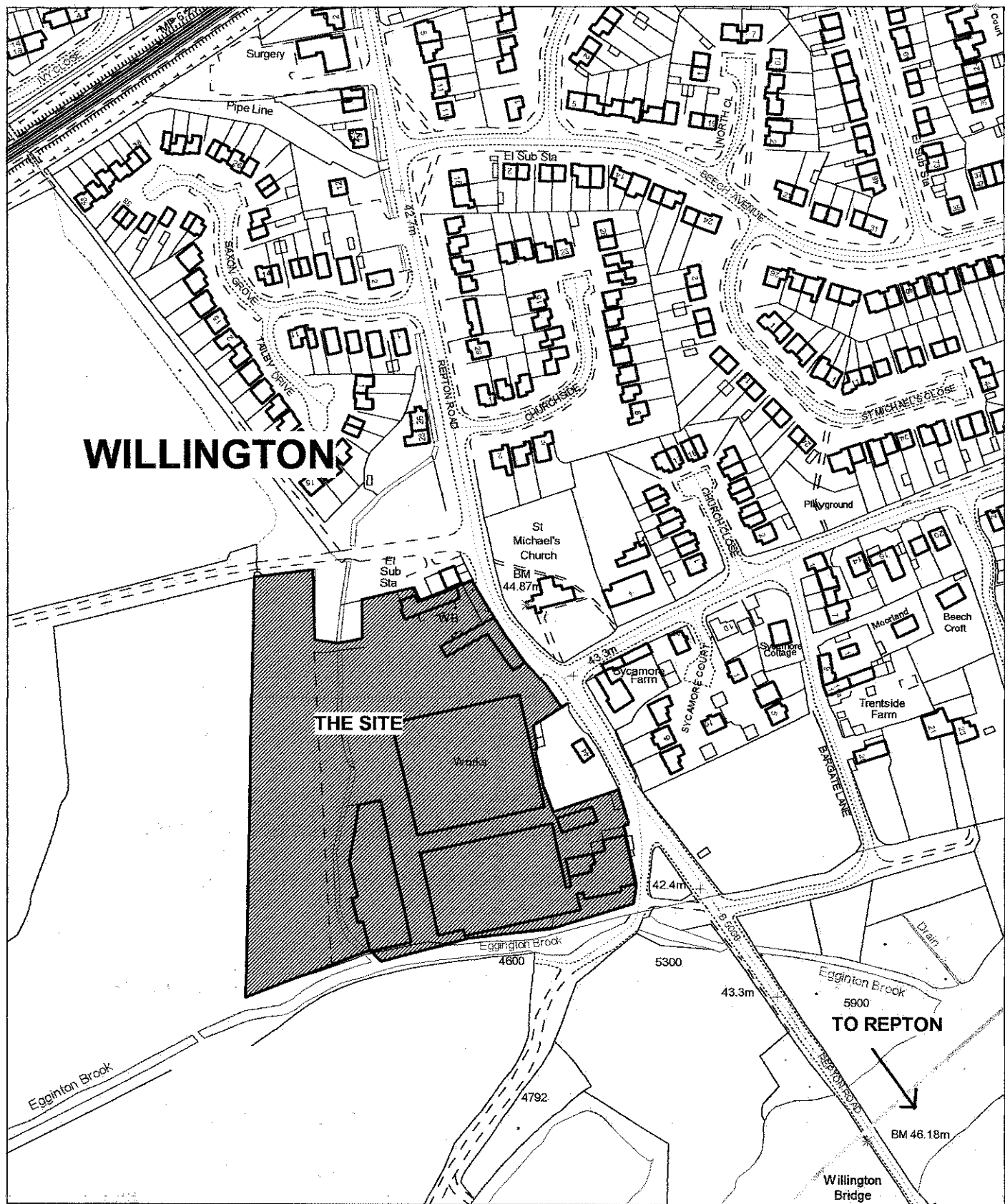
Reason for committee determination


This is a major redevelopment of an employment site and there are issues that require Committee consideration.

Site Description

The site comprises 2.468 hectares (6.1 acres) of disused industrial buildings and storage land comprising seven main buildings, totalling approximately 9,000sqm of space, with an unattractive smelting chimney of around 40 metres in height, which dominates this part of the Willington skyline. The site was formally used for aluminium smelting by Calder Industries and has been vacant since the company's closure after going into administration in March 2004.

The site is located to the south west of Willington on the B5008 Repton Road, opposite St Michaels's Church. The site surrounds, on three sides, a grade II listed building on the Repton Road frontage. It is surrounded to the east and north by residential properties and to the south and west by open countryside.



 <p>South Derbyshire District Council Civic Offices Civic Way Swadlincote DE11 0AH</p>		Date Plotted 29/6/2007	NORTH ↑
	<p>9/2006/0885/MR Calder Aluminium Ltd Repton Road Willington</p>	Plot centred at 429464 328161	Scale 1:2500
	<p>Crown Copyright. All rights reserved. South Derbyshire District Council OS Licence No. LA 100019461. 2006</p>		

Access, by all but light goods vehicles, is limited due to weight restrictions and two low narrow bridges in the village and on Repton Road.

The site is located within walking distance of Willington centre that contains a variety of shops and services. The site is well serviced by public transport with bus stops located directly outside the site. Willington station provides a rail link to Derby to the north and Burton on Trent to the south.

Proposal

The proposed scheme seeks outline consent for residential development on a site area of 2.468 hectares.

The proposed re-development comprises the entire curtilage of the existing site, and includes all of the existing buildings and hard standing areas, as delineated by the application plan. All of the existing buildings, together with the hard standing areas within the red line area would be demolished.

The re-development proposals retain the Willington Brook and river corridor that runs north to south through the site.

The detailed site layout and design of individual dwelling types will be determined in a future Reserved Matters application. However, as part of the assessment of the Flood Risk Assessment, a potential layout for the site has been prepared which suggests that the land to the west of the Willington Brook would be retained as open space.

Access to the site is proposed to be via, what is currently the existing goods entrance point onto Repton Road, but adjusted as necessary, to meet Highway Authority requirements.

Applicants' supporting information

This Application is in Outline form but is supported by fully detailed technical assessments dealing with Highways, Flood Risk, Ecology, Noise and Environmental Conditions.

Also included is a detailed Marketing report detailing the marketing activity that has taken place over the last two years. The marketing for employment purposes has not seen any expressions of interest either to redevelop the site or to reuse the existing buildings. The Casting Shed is considered to be in a dangerous structural condition and generally all the buildings lack insulation and basic amenities and would not provide acceptable accommodation for staff using the site. The processes carried out on the site have eroded some of the steel supporting frames and this further demonstrates the poor structural quality of the remaining buildings. It has therefore been concluded by the applicants that the buildings have reached the end of their useful life.

A Design Statement provides an overview of how the site will be developed, in terms of the final built form and the relationships to the surrounding land and buildings, including the two nearby Listed buildings.

Full copies of all these documents are available for inspection on the file.

Since submission there have been considerable discussions between the Council, applicants and the Environment Agency. Additional information has been submitted to the Environment Agency.

Note Produced By Director of Black & Veatch Ltd

Introduction

Detailed flood modelling was undertaken by Black & Veatch Ltd (The Environment Agency's own consultant for the Fluvial Trent Strategy) and the Flood Risk Assessment prepared by TA Millard Ltd (specialist hydrologists) was based on this model.

Flood Modelling

Modelling covered the River Trent, Eggington Brook and Willington Brook.

- The model was constructed for the Willington Brook from the canal downstream to its confluence with Eggington Brook together with the Eggington Brook from its confluence with Willington Brook downstream to its confluence with the Trent.
- The flood levels in the River Trent were based on the latest available Environment Agency's Fluvial Trent Strategy modelling (also completed by B&V but in their capacity as consultant to the EA).
- The inflows for the Willington and Eggington Brooks were calculated for the entire catchments using PPS25 compliant Flood Estimation Handbook techniques.
- The model was run for several scenarios with different flood flows in the Willington and Eggington Brooks and different flood levels in the River Trent.

The conclusions of the modelling are:

- Although flooding in Willington village can occur from high flows in Willington and Eggington Brooks, the most significant flooding occurs when the River Trent is in flood.
- Whilst some parts of the site are within the 1 in 100 year floodplain it is designated as a Zone 3a site and hence it is suitable for residential development, subject to an appropriate Flood Risk Assessment being agreed with the Environment Agency.
- A detailed FRA was agreed with the Environment Agency (Nottingham) on 17 May 07 when the Environment Agency confirmed that they have no objection to the development proposals.
- The development proposals do not increase the risk of flooding elsewhere in Willington. Because of mitigation measures on the site the development proposals in fact reduce flooding slightly in Willington.
- The FRA establishes that all building floor levels will be set 600mm (2 feet) above the 1 in 200 year (plus climate change) flood level. This also complies with the Association of British Insurers' requirements.
- There will be both a pedestrian and vehicular dry escape route through the site set at the 1 in 200 year flood level.

- Removal of the concrete surfaces, combined with a new sustainable urban drainage system will improve flow characteristics of the site and surrounding drainage systems.
- The proposed improvement works to Willington Brook along Repton Rd will alleviate nuisance flooding to the road in the 5 to 10 year flood event.

Further Information

The Technical Director held a conversation with Mark Swain at Environment Agency's Lichfield office on Wednesday 20 June 07, when the following was confirmed by him.

- Mark Swain had talked to Councillor Brown (SDDC) and confirmed to her that he had seen the general area around the site in flood.
- That the Lichfield office of the Environment Agency was not responsible for Trent/Willington area but their Nottingham offices were.
- He was involved with the recently produced model of the Dove/Eggington Brook but this examines the flooding in Eggington village caused by the Dove and other places upstream of Willington.
- Mark considered that flooding of the proposed site was mostly likely to be influenced by the River Trent and therefore the Eggington Brook was not particularly relevant.
- He did not know anything specific about the site or the development proposals and therefore could not comment further.

This statement has been forwarded to the Environment Agency's Nottingham Office for comment and the reply will be reported verbally at Committee.

Planning History

The site is currently classed as a B2 industrial aluminium smelting works. The applicants assert that the majority of the buildings are in a state of major disrepair and do not meet occupier needs or necessary Health & Safety Standards. There is no demand for such premises, which is evidenced by the marketing report and the more specific details relating to the condition of the buildings.

Responses to Consultations

Willington Parish Council has no objection in principle to the development but has expressed concern about the following issues: -

- a) Flooding issues should be properly addressed albeit that the proposed improvements to the brook course are welcomed; there is concern that the flooding issues may be OK on the site but that there may be effects elsewhere in the village and locality.
- b) Site access is to the satisfaction of the County Highway Authority but the Parish Council would want to see the implementation of traffic calming proposed provided at an early date and would prefer to have a mini roundabout to serve the development.

- c) There is concern that the some of the accompanying information may not be correct in terms of open space provision; Japanese Knotweed has been identified within the site, there is concern that this should be removed as a condition of the development.
- d) The Parish Council would wish to see Section 106 contributions for village amenities to the tune of £48,000.

Egginton Parish Council understands the need to effect a balance between the recycling of industrial land and the risk to flooding, it is considered that the proposed application is too dense for such a rural community, would dangerously impede flood flows - being designated as Flood Zone 3 - and would produce a built commuter environment which would do little to reinvigorate the working and employment opportunities within this settlement. Egginton Parish Council respectfully suggests that a development which incorporates a much less dense built environment and juxtaposes this with open spaces, planting and soft landscaping in a mixed use context, designed to accommodate flood flows, would enhance the existing listed buildings and produce a much more appropriate design solution to this location.

On the basis of the proportion of market to affordable housing being a 90%-10% split, the County Highway Authority has no objection subject to conditions requiring submission of details to ensure that space is available within the site for all storage, workers' vehicles, provision of access at an early stage, wheel washing and the number of dwellings limited to 90. A condition requiring all surface water from the roads and drives to be disposed of separately and full approval of the roads and off street parking.

Severn Trent Water has no objection subject to the submission of details of foul and surface water disposal and that no building over of sewers in the vicinity of the site being allowed.

The Environment Agency has carefully studied the implications of this development, has been satisfied in terms of the sequential approach and has considered the submitted information relating to the flood risk of the site, measures to protect the site from flooding, the implications of those measures elsewhere and the contamination issues arising from the development. The Environment Agency is satisfied that the land can be released for residential development subject to the conditions the Environment Agency recommends in its letter dated 18 May 2007. (*Also see additional comments above*).

The Education Authority seeks a contribution of £3,953/dwelling for primary and secondary school provision.

The Derbyshire PCT seeks £444.00 per dwelling for the provision of health services.

The Environmental Protection Manager notes the contents of the Contaminated Land Desk Top study and states that additional works are required before the development is commenced to establish the works necessary to limit the contamination or gas transmission that may occur on the site. Conditions are recommended to cover this aspect of the development.

The Head of Housing Services has identified a need for affordable housing on this site. Whilst the starting point for negotiations was 20% there have been considerable

discussions about the onsite development problems arising from this development resulting in 10% by agreement.

The Head of Leisure Services seeks contributions for open space and the provision of leisure facilities.

The Police Liaison Officer has no comments at this time but would wish to comment once detailed layouts are submitted.

Responses to Publicity

Three letters have been received commenting on the development in the following terms: -

- a) Of the alternatives to the present use, housing seems the most suitable option subject to safeguards to ensure adequate access, adequate services and minimisation of noise and disturbance.
- b) The site does flood each winter. Any more land take as a result of the development would exacerbate flooding problems elsewhere.
- c) Traffic levels would be increased and cause greater hazards for people who use the roads.
- d) There is concern locally that the site may be contaminated.

Development Plan Policies

The relevant policies are:

RSS8: Policies 2,3,16,20 &22

Joint Structure Plan: Housing Policies 5 & 17

Local Plan: Housing Policies 5 & 11, Environment Policy 13

Reference is also made to Government Advice as set out in PPS 3 & PPS 25 – both these documents were in draft form when the application was submitted but have now been published in their final form and it is against the latest guidance that the proposal has been assessed. The Guidance documents in some respects supersede aspects of Local Plan policies.

Planning Considerations

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

- The Development Plan
- Flooding issues
- Highway issues
- Listed Building considerations
- Section 106 contributions

Planning Assessment

The Development Plan

The vast majority of the site lies within the Willington village confine as defined on the Proposals Map for the adopted Local Plan. The area to the west that lies beyond the Willington Brook is excluded from the developable area illustrated on the indicative plan. The removal of a non-conforming use within this residential area of Willington would benefit existing neighbouring residential properties.

There is an identified shortage of land with planning permission for housing in the Derby Sub-Area of the Structure Plan. Given the lack of demand for the site to be used/reused for employment purposes; housing is therefore a legitimate alternative use for the site should all other constraints prove to have been met.

Current Government Guidance

Planning Policy Statement 3 states that Local Planning Authorities should make efficient use of previously developed land with high priority given to the re-use of previously developed land, in sustainable locations.

This is a brownfield site that is both empty and available; the site is no longer required for the existing use. There is no demand for the site to retain its employment status as no offers have been received for the premises. It has been marketed for over 2 years. The marketing report produced by Rushton Hickman dated July 2006 and updated to November 2006 concludes that no serious interest has been forthcoming for the site over this period. No offers have been made for the site throughout the whole period either for a re-use or for redevelopment for employment purposes.

The site is located within easy walking distance to all the village amenities, which include a school, GP Clinic, Post Office, mini supermarket, shops and public houses. This promotes a further key Government objective, the reduction of car dependency through the promotion of walking and cycling. The site is well linked to the centre of Willington via well-maintained footpaths for pedestrians.

The application's technical reports indicate that existing infrastructure serving the site is able to accommodate the redevelopment of the site. In highways terms the redevelopment of the site for the residential use would be acceptable subject to conditions. The site is therefore considered to be in a sustainable location.

PPS 25 & Flooding issues

There has been considerable discussion with the Environment Agency about the Sequential and Exception Tests now found in PPS 25. Briefly, PPS 25 requires the Local Planning Authority to look at all available housing sites and allocate those that are outside the main areas of flood risk before considering sites in areas of a higher risk of flooding. The site is not within the functional flood plain. The site has been subjected to a full flood risk assessment and this accompanies the application. This identifies that the site is compliant with PPS 25 and therefore suitable for residential development. The Environment Agency view now is that it does not object to the redevelopment of the Calder Aluminium site subject to the imposition of conditions required in its consultation response.

One of the issues affecting the decision on this application is the means by which improvement works to the Willington Brook could be achieved. The Environment Agency has accepted that these works are not necessary to protect the application site from flooding. However it notes that there would be community benefits, in terms of a reduced potential for flooding if the works were undertaken. The question is how these works could be implemented.

The developers have made it clear that they have costed these works and have allocated £100,000 to be included in a Section 106 Agreement for this purpose. The problem is that the Developers do not have access to the land to undertake the works. A condition requiring the works to be undertaken as part of the development would be ultra vires i.e. beyond the powers of the Council to impose, as there is no prospect of the developers carrying out the works on land they do not own.

The developers have acknowledged that they wish to see the works undertaken and will use their best endeavours to see the works undertaken. Clearly, there is a prospect that one or more of the landowners not co-operating and the works not being implemented. If this is the case then the developers have stated that the monies would remain available to the Local Planning Authority to spend on other parts of the development. Affordable housing is one of the suggestions, or improving local amenities that has been identified by the Parish Council is another alternative.

This application conforms to National, Regional and Local Planning policies in respect of the re-use of former employment sites.

Highway Issues

The County Highway Authority is satisfied that the development can be undertaken without detriment to highway safety subject to the conditions recommended below.

Listed Building Issues

The setting of the listed buildings in the vicinity of the application site would be enhanced by the removal of the existing buildings subject to the design and appearance of any subsequent dwellings being carefully controlled in the vicinity of the Listed Buildings. The removal of the large unattractive industrial premises and dominant chimney are considered particularly beneficial to the neighbouring historic Grade II Listed Church of St Michael's and the timber framed cottage located between the site and the Repton Road. The setting of both of these listed buildings would potentially be improved by the re-development of the site with careful consideration given to the proposal in terms of scale and massing.

Section 106 Contributions

The Section 106 contributions will provide monies for the additional requirements necessitated by the development and which take into account the high costs of the re-development of this site, due to its former industrial use, which include, asbestos disposal, and ground contamination; by the removal of materials to licensed receiving sites.

In addition to contributions to meet the needs of education, open space, education, health care and affordable housing the applicant has agreed the development would secure £100,000 to fund works to the 4 culverts and bridges on Willington Brook to deal with localised flooding issues in that location and make money available for two automated speed signs in close proximity to the site or for other community benefits.

Conclusion

It is considered that the development is acceptable in planning policy terms – the site lies in the defined village framework, access is acceptable and on site constraints are capable of being met. Funding has been secured to meet local community needs. The main issue has been the impact the development may have on flooding in the village however the Environment Agency raises no objection to the site.

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

Recommendation

Subject to receipt of a signed Section 106 Agreement to secure contributions towards education, health, open space, affordable housing and community benefits such as flood prevention measures and speed signs, **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 before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

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

2. Approval of the details of the layout, scale, appearance, access and the landscaping 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. Any submission made as required by Condition 2 above shall demonstrate that the principles for flood protection/ mitigation as set out in the approved Flood Risk Assessment (FRA) (Ref 5503/21/PML/06-06/1219 Revision B received 22 November 2006 subject to the amendments set out in the letter from Millard East Anglia Ltd to the Environment Agency dated 15 January 2007.) have been applied to the housing development proposed on the former Calder Aluminium site such that the proposed dwellings would enjoy the same level of protection as envisaged in the approved FRA that was based on the illustrative layout that accompanied this application (5503/21/0007 Revision A received on 16 January 2007. The minimum requirements for the development are: a minimum finished ground floor level of 43.92AOD; the development proposals shall demonstrate and provide a minimum gain of 15% in displaced flood volume; proposals shall

provide a dry evacuation route off the site on to Hall Lane; and the submitted layout shall show proposals within the layout, proposals to improve the conveyance of flood water during flood conditions compared to the existing situation as set out in the FRA. Any flood mitigation measures approved shall be implemented before the first occupation of any dwelling unless an alternative method of implementation has been submitted in writing to and approved in writing by the Local Planning Authority.

Reason: in the interests of flood protection and for the avoidance of doubt.

4. The site shall be occupied by no more than 90 dwellings sited to the east of the Willington Brook. The mix of development shall be 90% market housing and 10% affordable housing for rent that shall be dispersed throughout the development in accordance with a scheme that has received the prior written approval of the Local Planning Authority.

Reason: To ensure that the level of traffic generated by the redevelopment equates to that generated by the previous use in the interests of highway safety.

5. 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 protection and pollution control.

6. 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.

7. No development shall 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 building works shall not be commenced until the measures approved in that scheme have been implemented. The scheme shall include all of the following measures (phases I to II) unless the LPA dispenses with any such requirement in writing:

i) Intrusive Site Investigation / phase I

An intrusive site investigation shall be carried out to fully and effectively characterise the nature and extent of any land contamination and/or areas of potential pollution of controlled waters. It shall specifically include a risk assessment that adopts the contaminant-pathway-receptor principle, in order that any potential risks are adequately assessed taking into account the site's existing status and proposed new use. Where samples are taken they shall be analysed in a laboratory that is accredited under the MCERTS Chemical testing of Soil Scheme for all parameters requested (where this is available). Two full copies of the site investigation and findings shall be forwarded to the LPA upon completion of the works.

ii) Remediation method statement / phase II

A written method statement detailing the remediation requirements for land contamination and / or pollution of controlled waters affecting the site shall be submitted to and approved by the LPA, and all requirements shall be implemented and completed to the satisfaction of the LPA. There shall be no deviation from this scheme without the express written agreement of the Local Planning Authority in response to a written submission made in that regard. Any subsequent works shall be carried out in accordance with the approved revised method statement

Reason: In order to ensure that any contamination identified on the site is dealt with in accordance with current practice.

8. Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted demonstrating that the works have been carried out satisfactorily, and remediation targets have been achieved (pursuant to 6 (i) and 6 (ii) above only). The independent report shall be produced by a suitably qualified and accredited body that is unrelated to the submission of the details required by Condition 7 above. The report shall provide verification that the remediation works have been carried out in accordance with the approved method statement(s). Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met.

Reason: In order to ensure that the remediation of contamination at the site has been undertaken in accordance with the approved schemes and that the site is fit for purpose.

9. Any soil imported onto site in connection with the development shall be sampled at source and analysed in a laboratory that is accredited under the MCERTS Chemical testing of Soil Scheme, for all parameters requested (where this is available), the results of which shall be submitted to the LPA for consideration. Only the soil approved in writing by the LPA shall be used on site.

Reason: In order to ensure that soils imported to the site do not introduce new contaminants to the site.

10. No development shall take place until monitoring at the site for the presence of ground gas and a subsequent risk assessment has been carried out in accordance with a scheme to be agreed with the LPA. All gas monitoring must comply with best practice as described in CIRIA C659, Assessing risks posed by hazardous gases to buildings. If the presence of ground gas is confirmed, or there is evidence that migration of ground gas is likely to occur, development shall not commence until satisfactory remedial measures have been taken to control and manage the gas and to monitor the effectiveness of these measures. The Local Planning Authority shall agree all such measures in writing before development is commenced and the approved measures shall be implemented in accordance with the approved scheme and be maintained in place thereafter.

Reason: In order to ensure that any on site gas is mitigated in accordance with current practice.

11. 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 Local Planning Authority. The approved remediation scheme shall be implemented to the satisfaction of the Local Planning Authority and maintained in place thereafter.

Reason: In order that any unexpected contamination is addressed before works to construct dwellings is commenced.

12. Unless otherwise agreed in writing with the Local Planning Authority the sole means of vehicular access between the site and the highway network shall be located at the northern end of the Repton Road frontage. The access shall be designed in accordance with the following criteria:-

- (i) the provision of a 5.5m wide carriageway flanked by 1.8m wide footways
- (ii) the provision of a 10m radius on each side.

(iii) the provision of visibility splays extending from a point 4.5m back from the Repton Road carriageway edge, measured along the centreline of the access, to the extremities of the application site frontage abutting the Repton road highway in each direction. The land in advance of the visibility splays shall be cleared of all obstructions above ground level in advance of any development being commenced and maintained free of such obstructions thereafter.

Reason: In the interests of highway safety.

13. Before any other operations are commenced, a temporary access shall be formed 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.

14. 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.

15. No new buildings, structures (including gates, walls and fences) or raised ground levels shall be constructed within: a) 8 metres of the top of any bank of watercourses, and/or b) 6 metres of any side of an existing culvert watercourse, inside or along the boundary of the site, unless agreed otherwise in writing by the Local Planning Authority.

Reason: In the interests of flood protection.

16. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

Reason: In the interests of the appearance of the building(s), and the character of the area.

17. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate two cars within the curtilage of the dwelling. Thereafter, (notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order, 1995), two parking spaces, measuring

a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of the site.

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

18. 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.

19. Incidental open spaces, excluding areas of incidental landscaping and highway verges, shall be provided to a standard of 2.4 hectares per 1,000 population on the following basis:

4 bed dwelling - 3.5 persons

3 bed dwelling - 3 persons

2 bed dwelling - 2 persons

1 bed dwelling - 1 person.

Reason: To ensure an adequate standard of provision, in the interests of amenity.

20. In submitting the reserved matters, provision shall be made within the layout for the provision of a recycling centre the precise location of which shall be agreed in writing by the Local Planning Authority in consultation with the Authority's Recycling Officer.

Reason: In order that the site makes provision for the recycling of materials not addressed in the Council's kerbside collection system.

21. Severn Trent advises that there are public sewers which cross the site. No building shall be erected or trees planted within 2.5m of the 150mm public foul sewer.

In order to maintain essential access for maintenance, repair, renewal and to protect the structural integrity of the public sewerage system.

Informatives:

The Environment Agency advises that during the period of construction, oil and fuel storage will be subject to the Control of Pollution (Oil Storage)(England) Regulations 2001. The Regulations apply to the storage of oil or fuel of any kind in any kind of container which is being used and stored above ground, including drums and mobile bowsters, situated outside a building and with a storage capacity which exceeds 200 litres. A person with custody or control of any oil or fuel breaching the Regulations will be guilty of a criminal offence. The penalties are a maximum fine of £5000 in Magistrates' Court or an unlimited fine in Crown Court. Further details of the Regulations are available from the Environment Agency.

The Environmental Health Officer advises in respect of Condition 7 above that further guidance on preparation of site investigation reports for generic risk assessments is

given in CLR 11, pp.71-72; and further guidance on preparation of remediation strategy reports is given in CLR 11, p.120.

Further to Condition 7 above the Head of Environmental Services advises that a full checklist of items to include (as applicable) in the verification report can be found in CLR 11, pp 144-147. Additional detailed guidance on verification procedures and reports is provided by the Environment Agency in their draft Verification for Remediation of Land Contamination.

Further to Condition 7 above, vendors' certificates are not accepted as a substitute for post remediation sampling and monitoring results.

The County Highway Authority advises that in drawing up the details required by

Condition 2 above, the internal road and footway layout of the site shall be designed in accordance with the County Council's "Roads in Housing" design guide or such other national or local criteria.

The County Highway Authority advises that in drawing up the details required by Condition 2 above, the internal road and footway layout of the site shall be designed in accordance with the County Council's "Roads in Housing" design guide or such other national or local criteria.

10/07/2007

Item **1.2**

Reg. No. **9/2007/0419/F**

Applicant:

Barracuda Group Ltd
C/O Agent

Agent:

D2 Planning Ltd
2 Oakhurst Road
Stoke Bishop
Bristol
BS9 3TQ

Proposal: **Provision of outside seating area at the bar and
restaurant at 21 West Street Swadlincote**

Ward: **Swadlincote**

Valid Date: **04/06/2007**

Reason for committee determination

The application is brought to committee because of the wide range of issues arising and the fine balance of the decision.

Site Description

The application site is The Paramount Public House located in Swadlincote Town Centre on West Street. As a former cinema, the building occupies a prominent position within the streetscape.

The footway and carriageway in front of the building merges into one shared area and is subject to access restrictions for vehicular traffic.

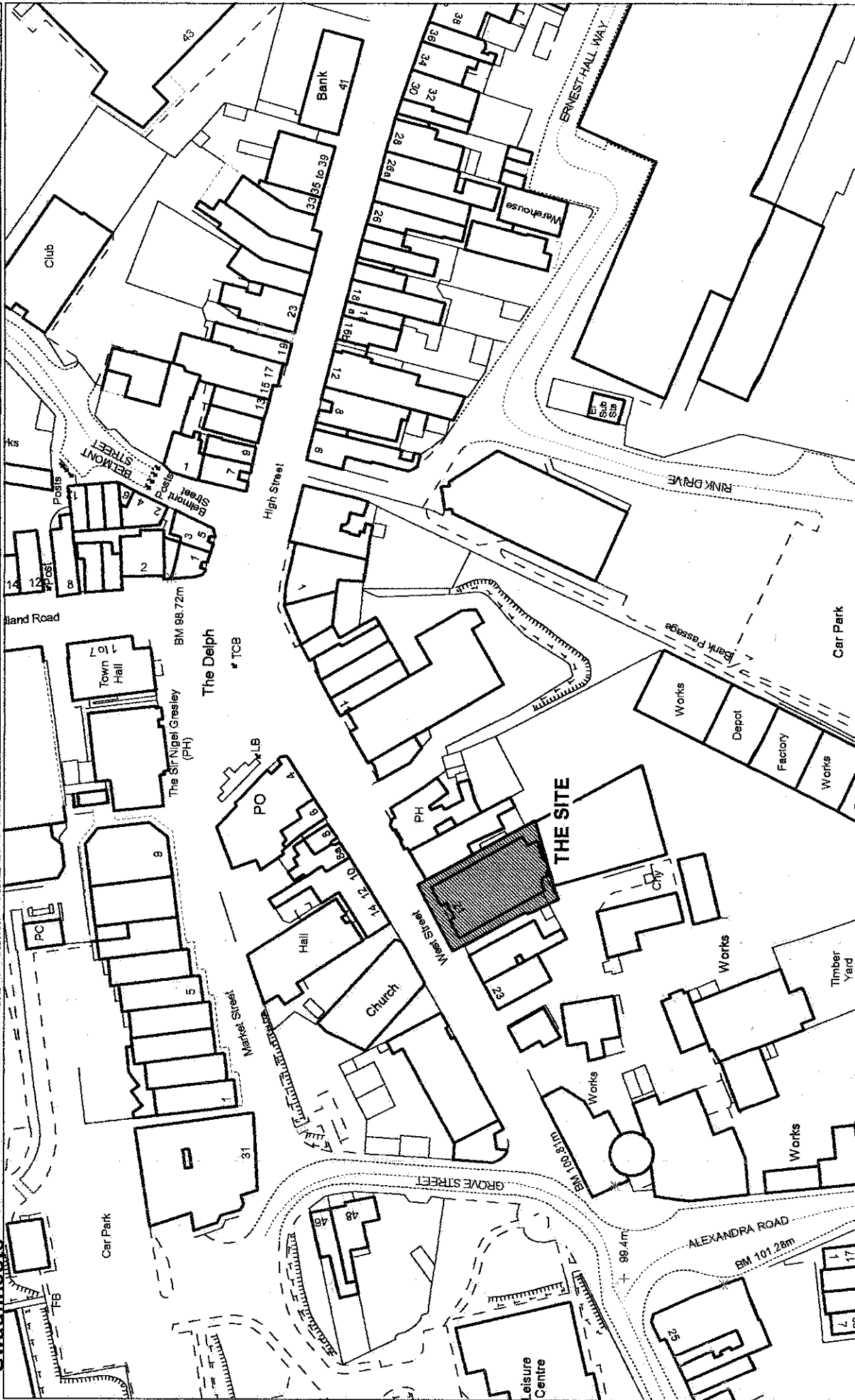
Proposal

The application seeks planning permission to form an outdoor seating area immediately adjacent to the front entrance of the pub. The area in question would be approximately 2.5m in depth and 16m wide across the frontage of the building. The proposed space would be defined by a series of demountable screens which, together with the tables and chairs, would be removed when the outdoor seating area is not in use. At the southern elevation would be a ramped access which would assist access for the disabled.

Applicant's supporting information

9/2007/0419/F 21 West Street

Swadlincote



SOUTH DERBYSHIRE
DISTRICT COUNCIL
CIVIC OFFICES
CIVIC WAY
SWADLINCOTE DE11 0AH

Crown Copyright. All rights reserved.
South Derbyshire District Council
OS Licence No. LA 100019461. 2006

Date Plotted 29/6/2007
Scale 1:1250
Licence No LA 079375

In support of the proposal the applicant suggests that the external seating area would complement the existing building and add vibrancy to the street scene. They also state that the use brings inclusive public access to the building.

Planning History

Planning permission was granted for the change of use of the former cinema to a public house a little over a year ago. The original application for change of use included an area of outside seating to the side of the building but following representation the applicant withdrew this part of the proposal.

Consent was given for the signage for the public house earlier this year.

Responses to Consultations

The County Highways Authority has no objection from a planning point of view but advises that the comments are without prejudice to the decision of the Highways Authority in response to an application for a licence under the Highways Act 1980.

The Design & Conservation Officer raises no objection in principle but suggests that if planning permission is granted that it be for a temporary period to ensure that works for the enhancement of the town centre are not prejudiced. Any permission should also be subject to a condition to secure further details of the screens as insufficient information has been provided.

The Police Liaison Officer has raised concerns from a crime and disorder point of view, in particular the potential use of the freestanding furniture as missiles during a public order situation. Concerns are also raised that the area would be very popular in future for use by smokers. As such the area would be very busy and has the potential for people with alcohol, glasses and bottles spilling onto the public highway. The Police Liaison Officer comments that the previous application for an outside seating area to the side of the public house was the subject of objections from others but the police raised no objections and it comments that the former suggested location would be more preferable to the one at the front.

Responses to Publicity

At the time of drafting this report there had been no response to publicity but the time for consultation has not expired and any representations received will be reported verbally.

Development Plan Policies

The relevant policies are:

Structure Plan: EV9

Local Plan: EV12 & S1

Planning Considerations

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

- The principle of outdoor seating in the town centre,
- Relationship with the Conservation Area,

- Crime and disorder.

Planning Assessment

PPS6 Town Centres, seeks to promote the vitality and viability of town centres by:

- planning for the growth and development of existing centres; and
- promoting and enhancing existing centres, by focusing development in such centres and
- encouraging a wide range of services in a good environment, accessible to all.

In terms of the principle of outdoor seating it is considered that this would have a positive impact on the vitality of the town centre and, if suitably detailed could enhance it. Therefore, it is considered that the proposal could be said to accord with guidance contained in PPS6.

In terms of the relationship of the proposal with the Conservation Area, it is considered that the principle of the formation of an external seating area would be acceptable in the town centre conservation area. However this Council has already committed to a range of improvements, including new hard surfacing, and it is proposed that a roadway be reintroduced along West Street. In order to safeguard the future of the Conservation Area improvements, only a temporary permission is acceptable at the present time as any scheme that would conflict with overall proposals would be unacceptable

With regard to the prevention of crime and the enhancement of community safety, these are matters that are material to the determination of the application. Whilst there is little residential amenity to protect, from a crime and disorder point of view, it would not be appropriate to allow the street furniture to remain on the street at such times in the evening. In order to prevent any perceived threat to public order it is therefore recommended to restrict the times at which the outdoor seating area can be used to 11pm. Beyond then the street furniture should be removed and stored within the building.

Clearly this case is finely balanced. The main objective here is to consider the impact of the proposal on the vitality and viability of the town centre and the conservation area. It is generally acknowledged that diversity in use has a positive impact on town centres adding to their attraction and therefore a focus for the community. As such it is considered that the application should be supported.

Recommendation

Subject to the consideration of any further representations being delegated to the Head of Planning Services, **GRANT** permission subject to the following conditions:

1. This permission shall be for a limited period only, expiring on 10 July 2009 on or before which date the use shall be discontinued 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: To enable the Local Planning Authority to review the proposal having regard to works for the improvement of the town centre that have already been approved.

2. Notwithstanding the submitted photographs, fully detailed scaled drawings of the screens shall be submitted to and approved in writing by the Local Planning Authority prior to the use of the area hereby permitted. The screens shall be provided in accordance with the agreed details.

Reason: In the interests of the visual amenities of the area, particularly having regard to the siting within the Swadlincote Conservation Area.

3. All furniture, screens and any other equipment associated with the permitted outdoor seating area shall be removed from the street and shall be stored within the building between 2300hrs and 0900hrs the following day unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the outdoor seating area does not represent a threat to public order and in the interests of visual amenity.

Informatives:

That a license under the 1980 Highways Act is required from Derbyshire County Council to use the footway and also a license to consume alcohol from South Derbyshire District Council are required.

You are advised that the Council would have no objection to the renewal of this application until such time as works for enhancement of the town centre are due to start. You are advised that details for the purpose of discharging Condition 2 should be based upon simple railings as shown in one of the submitted photographs and the planter screens shown in the alternative photograph would be unacceptable.

10/07/2007

Item 1.3

Reg. No. 9/2007/0420/F

Applicant:

J D Wetherspoon PLC
Watford
Herts
WD14 4QU

Agent:

R J D
P O Box 8782
Great Dunmow
CM6 2WW

Proposal: The formation of a pavement cafe seating area to front of building, to include free standing demountable screens and removeable furniture at The Sir Nigel Gresley Market Street Swadlincote

Ward: Swadlincote

Valid Date: 30/04/2007

Reason for committee determination

The application is brought to committee because of the wide range of issues arising and the fine balance of the decision.

Site Description

The application site is The Sir Nigel Gresley Public House located on the Delph in Swadlincote Town Centre. There is a pedestrianised area to the front of the pub that is used for various events including the weekly market.

Proposal

The application seeks planning permission to create an outdoor seating area immediately adjacent to the front entrance of the pub. The area in question would be approximately 3.5m in depth across the frontage of the pub. The proposed space would be defined by a series of demountable screens which would be removed when the outdoor seating area where not in use.

Applicant's supporting information

In support of the proposal the applicant suggests that the outside café area would enhance the market place by creating a relaxing and sociable environment and that the pub would rediscover a traditional, once popular direction in Swadlincote thus adding to the atmosphere and feel of the town. The applicant also considers that the al fresco

Swadincote



Crown Copyright. All rights reserved.
South Derbyshire District Council
OS Licence No. LA 100019461. 2006

Date Plotted 29/6/2007
Scale 1:1250

Licence No LA 079375



style café area would compliment the market place and would positively encourage trade, thus a strong step in improving the popular, conventional style town centre.

In response to concerns raised by others (see below) the applicant advises that the screens are adjustable and can demonstrate stability on various ground types and gradients. In addition the screens will sit 15cm above ground level, which would limit any impediment to drainage channels. Furthermore, the applicant comments that the screens are demountable and create a flexible system, which can work around any street furniture and market stalls. In addition, whilst it is recognised that the Delph is a thoroughfare, there are alternative routes around the Delph and to some extent the market already impedes movement through the Delph on market days.

Responses to Consultations

The County Highway Authority has raised no objection to the outdoor seating area but states that the development would require a licence under the 1980 Highways Act and that no development should take place until then (should the licence be granted).

The Design & Conservation Officer comments that the application was subject to pre-application discussions and no objection is raised subject to a condition to secure further details of the proposed lettering to the screens.

The Police Liaison Officer has raised concerns from a crime and disorder point of view, in particular the potential use of the freestanding furniture as missiles during a public order situation and overspill of people into the public highway etc. The area would be very popular in future being a designated smoking area. As such the area would be very busy and has the potential for people with alcohol, glasses and bottles spilling onto the public highway. The Police Liaison Officer requests that should the scheme be supported then improvements should be made to CCTV both inside and outside the pub.

The Council's Leisure Services Manager raises concerns about drainage channels being impeded by the proposed screens and conflicts with existing street furniture. Concerns have also been raised about the gradient of the ground at this point. However, of greater concern is the impact on people using the Delph, which is essential public space in the centre of the town. He states that the Market Contractor is concerned about the potential impact of people drinking and smoking immediately adjacent to where traders are working and where customers are shopping and browsing which the Leisure Services Manager supports. In addition to this, every day the Delph is a thoroughfare to other locations in the town, a disembarking point for some community transport services and an access point for events at the Town Hall. It is used for special events, such as the switching on of the Christmas Lights, and on other occasions for charity fundraising and promotional activities for a variety of statutory and non-statutory organisations.

Responses to Publicity

One letter of objection has been received from Geraud Markets, who manage Swadlincote Market on the Delph and who stated that they are currently discussing ways to consolidate the market on the Delph. Their concerns relate to:

- The company being able to fulfilling its agreement with the Council by removing an essential part of an already limited trading area
- Significant negative impact on the operation of the market, which would jeopardise the future viability of the market together with the livelihoods of several long-standing traders.

Development Plan Policies

The relevant policies are:

Structure Plan: EV9

Local Plan: EV12 & S1

Planning Considerations

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

- The principle of outdoor seating in the town centre,
- Relationship with the Conservation Area,
- Resulting relationship with the Market and related pedestrian activity,
- Crime and disorder.

Planning Assessment

In terms of the principle of outdoor seating it is considered that this would have a positive impact on the town centre and would only serve to enhance it. The formation of such an outdoor seating area could therefore be said to accord with guidance contained in PPS6 Town Centres, which seeks to to promote the vitality and viability of town centres by:

- planning for the growth and development of existing centres; and
- promoting and enhancing existing centres, by focusing development in such centres and
- encouraging a wide range of services in a good environment, accessible to all.

In terms of the relationship with the Conservation Area, as supported by the Council's Design and Conservation Officer, it is considered that the formation of a pavement café would enhance the town centre. The actual furniture proposed to enclose the seating area is simple in design and is considered to be acceptable in terms of its visual impact.

With regard to the impact on the Market, the use of a 3.5m strip in front of the pub could in part conflict with the Market on some days of the week, although this in itself is not considered to represent a reason to refuse the planning application. It would appear that potentially, the stall systems are flexible and would be able to accommodate daily changes to the space available, for example on market days although it is understood that space in the Delph is already limited.

Finally, the prevention of crime and the enhancement of community safety are matters that are material to the determination of the application. The Sir Nigel Gresley Public House is currently open until 1am on Friday and Saturday night. Whilst there is little residential amenity to protect, from a crime and disorder point of view, it would probably not be appropriate to allow the street furniture to remain on the street at such times in the evening. In order to prevent any perceived threat to public order it is therefore recommended to restrict the times at which the outdoor seating area can be used to

11pm. Beyond then the street furniture should be removed and stored within the building.

Clearly this case is finely balanced. The main objective here is to consider the impact of the proposal on the vitality and viability of the town centre and the conservation area. It is generally acknowledged that diversity in use has a positive impact on town centres adding to their attraction and therefore a focus for the community. As such it is considered that the application should be supported.

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. Notwithstanding the submitted details, details of the lettering and motif on the glazed screens shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the use hereby permitted. The screens shall be erected in accord with the approved screen.

Reason: In the interests of the visual amenities of the area, particularly having regard to the siting within the Swadlincote Conservation Area.

3. All furniture, screens and any other equipment associated with the permitted outdoor seating area shall be removed from the street and shall be stored within the building between 2300hrs and 0900hrs the following day unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the outdoor seating area does not represent a threat to public order and in the interests of visual amenity.

4. Notwithstanding the originally submitted details, this permission shall relate to the amended details as set out in Peter Wyld's email of 17 April 2007.

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

Informative:

That a license under the 1980 Highways Act is required from Derbyshire County Council to use the footway and also a license to consume alcohol from South Derbyshire District Council are required.

10/07/2007

Item 1.4

Reg. No. 9/2007/0508/MD

Applicant:

Redrow Homes (Midlands) Ltd
Kinsall Green
Wilnecote
Tamworth
B77 5PX

Agent:

The Urban Design Centre
Redrow House
The Lakes
Northampton
NN4 7XD

Proposal: Approval of reserved matters of application
9/0890/0515/O for the erection of houses, roads,
sewers, garages & ancillary works at Land To The
South East Of Swadlincote Lane Church Gresley
Swadlincote

Ward: Gresley

Valid Date: 01/05/2007

Previously deferred application

Members will recall that this case was deferred at the Committee of 19 June to seek the views of the Council's Leisure Facilities Manager and the Police Liaison Officer regarding the means by which the area of tree planting adjacent to the north east boundary should be maintained and managed. This report has been updated to incorporate comments reported verbally at the last two committees and the latest responses from the two consultees. (issues relevant to the deferral are shown in italics).

Reason for committee determination

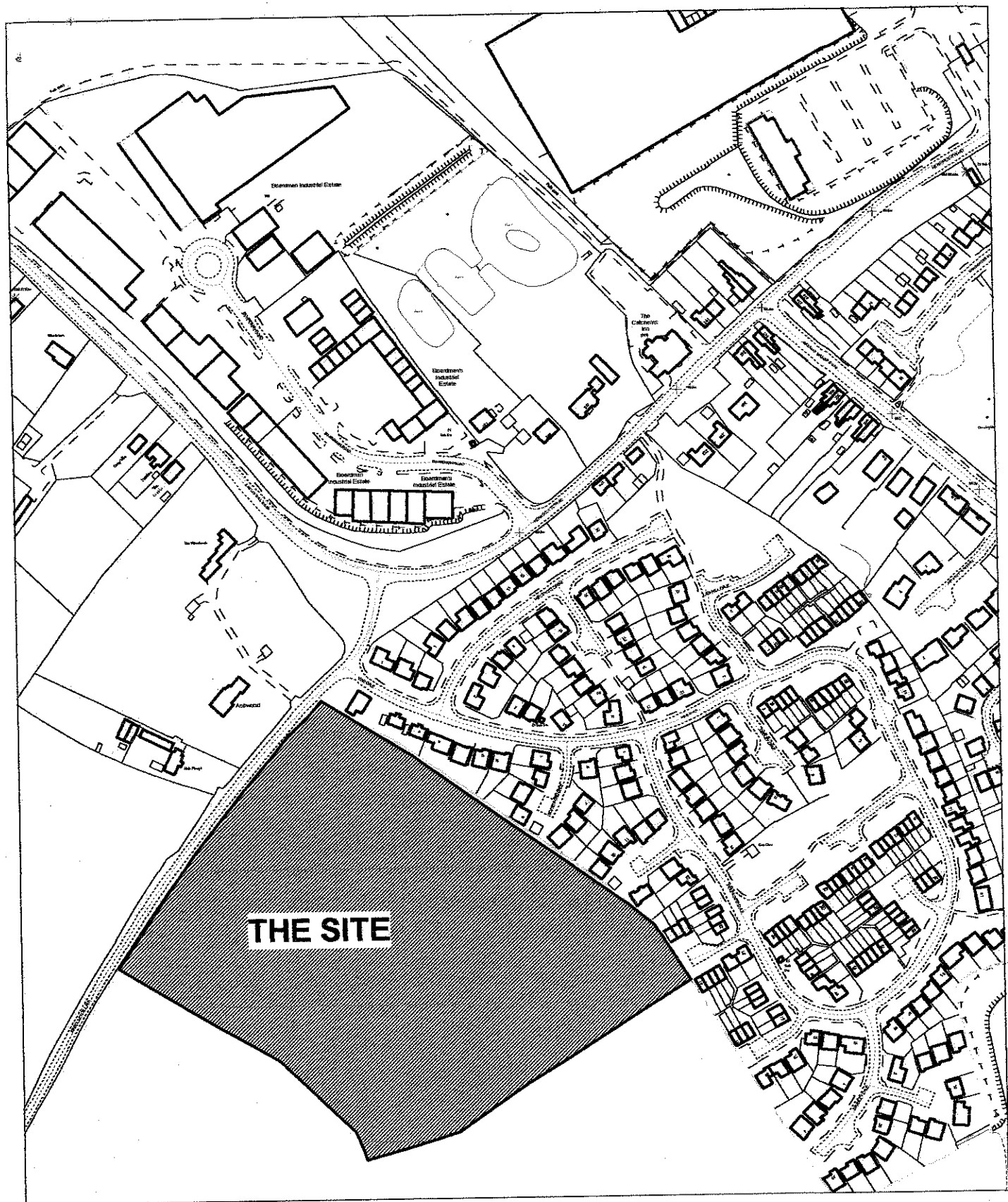
This is a major application that is recommended for permission and there have been more than two objections to the proposal.

Site Description

The site has boundaries with existing houses on the Wyedale estate, Swadlincote Lane and new houses yet to be approved/constructed on other phases of the development.

Topographically the site slopes down from the south east boundary in a north westerly direction towards Swadlincote Lane.

Proposal



South Derbyshire
District Council
Civic Offices
Civic Way
Swadlincote
DE11 0AH

9/2007/0508/MD Land to the South East of Swadlincote Lane
Church Gresley
Swadlincote

Crown Copyright. All rights reserved.
South Derbyshire District Council
OS Licence No. LA 100019461. 2006

Date Plotted 29/6/2007

NORTH ↑

Plot centred at 428560 318892

Scale 1:3000

This is a reserved matters application pursuant to 9/0890/0151/O. It is proposed to construct 148 dwellings and associated infrastructure including an area of open space on some 4.59 hectares of land. The mix of house types ranges from one bedroom apartments to five bedroom detached properties. As originally submitted the scheme includes two apartment blocks. The detail for the development of this small sector of the site has now been omitted for consideration in a further application to be submitted at a later stage.

The proposed layout incorporates current design principles of houses tight up to the backs of footways and some 'home zones' where pedestrians and vehicles share the same space. The area of open space would form a focal point roughly in the centre of the development and a ten metre planting strip is shown beyond 10m rear gardens between the new houses and existing homes on the Wyedale estate.

The majority of properties would be 2 and 2.5 storeys high. The exceptions are a pair of three storey dwellings and the two apartment blocks although none of these would be located close to any existing housing. There are a variety of ridge heights in the types of dwellings proposed across the site ranging between 7.5m and 8.7m for the two storey dwellings, 9.7m to 10m for the 2.5 storey houses and 10.6m for the pair of three storey dwellings. The apartment blocks are also intended to be 10.6m to ridge. The houses proposed closest to the Wyedale estate were formerly all two or two-and-a-half-storeys but since the application has been considered by the committee, members will recall being informed on the last occasion that these are now all two storeys only.

Applicants' supporting information

The applicants have submitted a design and access statement. Amongst other things it states that the location of the development benefits from good access to existing public transport together with cycle and pedestrian links to Swadlincote and Castle Gresley respectively. As to the design of the estate they state that the scheme utilises a perimeter block design to emphasise building form and to create strong and street scenes. Parking is located, as far as possible, to the rear of dwellings to improve street scenes and to reduce the amount of drive accesses whilst at the same time ensuring that the parking courts have adequate surveillance.

Planning History

This application site forms part of a larger area of land allocated under Housing Policy 2 for residential development in the adopted Local Plan. The site was given outline permission in March 2000 and other parts of the site are in various stages of development.

Earlier this year an application for this part of the estate was submitted. However it was unacceptable for a number of reasons and would have been recommended for refusal. This application replaces the earlier submission and addresses the concerns that were raised about design and highway safety concerning the houses but as mentioned above the design of the apartment blocks currently remains unresolved.

Responses to Consultations

The County Highways Authority has been involved with extensive re-engineering of the roads and access to the parking courts in order that they meet the County's standards. The revised plans incorporate the County's requirements and as previously reported verbally, the County Highways Authority has confirmed that with the imposition of conditions the revised scheme is acceptable.

The Police Liaison Officer was generally satisfied with the layout as previously submitted and commented it would meet the standards of the Government approved 'Secure by Design' scheme. One further issue arose from this revised application which has now been addressed. *In response to a request to comment further (see introduction) the Police Liaison Officer has made the following comments:*

- *Should the row/ corridor of planted trees be allowed to remain open at the rear of the houses, it will become a haven for anti social behaviour and be used for alcohol and drug taking as they would be hidden.*
- *It would become a haven for rubbish dumping as has been seen on other older development which will immediately bring the area down and breed more antisocial acts.*
- *There would be no natural surveillance to the rear of the houses and also lots of routes for the burglars/ intruders to escape.*
- *If the trees become part of the enclosed gardens for the occupiers they would have the responsibility and become part of their garden.*

Severn Trent Water is also satisfied subject to conditions.

The Council's Leisure Facilities Manager is concerned about having to take on such an area given the problems the Council has experienced with similar type areas elsewhere and therefore would be reluctant to adopt the planted space but would do so if required (subject to receipt of the relevant contribution).

Responses to Publicity

Neighbours to this scheme have been notified of both this and the earlier application. In order to ensure that all representations are considered, letters received in respect of both schemes are reported below.

There have been 10 representations.

This site has long been allocated for housing and many of the letters acknowledge that there is no objection to housing as a matter of principle. The objections all raise one main concern. The 20m buffer zone shown on the plan approved with the outline application should remain outside of the curtilage of any of the proposed dwellings and should be planted to form a permanent screen between the new houses and existing properties on the Wyedale Estate.

Other matters raised are as follows:

- Loss of privacy
- Loss of view
- Loss of agricultural land
- Loss of wildlife habitat

- Overshadowing
- The high density of the development, the heights of the buildings and lack of open space is out of character with housing in a rural area
- Tree planting could cause structural problems
- Nuisance from noise and disturbance, dust, vibration and water pollution
- 4/5 bedroom dwellings does not address the market shortage of smaller homes
- Gresley has few three storey buildings. The three storey dwellings on the highest part of the site would have the most impact on the skyline and be contrary to assurances that the development would not 'break the skyline'
- The road layout and speed limits would be highly dangerous
- There are existing drainage problems
- The woodland must be protected
- Public footpaths are impassable
- Requests involvement in selecting materials
- The provision of the buffer zone would ease some of the above mentioned issues.

Since the first draft of this report, the following points have also been reported:
Three additional letters of representation have been received raising the following issues (some repeated from earlier letters):

- Five bedroom 2.5 storey properties to the south west of the existing houses will overbear, overshadow and, being three storey, will cause loss of privacy
- New houses are not at 90° to some existing ones which, together with them being on higher ground increases loss of privacy.
- Increase in pollution
- Loss of wildlife
- Contrary to the originally accepted plan when woodland was proposed as far as the public footpath
- Increase in traffic and speed at the existing to Wyedale
- Assurances that new houses adjoining the existing houses would be of similar size and quality. The town houses proposed are not similar and would result in six gardens adjoining the existing one
- Public services and facilities are inadequate
- Previous meeting where promises were made concerning the buffer should hold some weight

Development Plan Policies

The relevant policies are:

RSS8: P2

Joint Structure Plan/Local Plan:

H11(LP)

H2(LP)

H4(SP)

T4(SP)

T6(LP)

Planning Considerations

Given the existence of the outline approval, the main issues central to the determination of this application are layout and design.

Planning Assessment

The development would provide a variety of house types and sizes at a density of some 38.8 dwellings to the hectare in line with current National guidance on the edge of the existing urban area.

The layout has been amended and house types altered in order that the quality of the development be upgraded. It is considered that the layout is acceptable in overall terms with houses for the most part having tight frontage positions and parking in rear courtyards.

With regard to concerns raised by neighbours, the main issue has been the provision of a buffer. Condition 20 of the outline approval stated:

‘No part of any dwelling or free standing garage shall be constructed closer than 20m to the north-eastern boundary of Area A shown on plan EM 3092/1/B.’

The submitted layout satisfies this condition and in addition the applicants have indicated that 10m of the 20m area would be planted. A scheme of planting has also been drawn up to ensure that planting is appropriate for the location and with the substitution of one species and amendments to another, the Council's arboriculturalist has commented that it is acceptable. Whilst there are some existing houses with relatively short gardens fronting Wyedale, the Council's guideline of a minimum 21m back to back is met.

As to other issues raised, some are matters dealt with by other legislation such as the obstruction of public footpaths and some are issues that are not subject to conditions subject to the choice of facing materials.

With regard to landscaping, it is appropriate to apply the Council's usual condition in respect of landscaping to ensure that, in addition to planting within the development, hedgerow planting is provided to the boundary of the site with Swadlincote Lane in line with other approvals that have been granted to other parts of this housing site in order to reflect the character of the Lane.

Given the recent comments sought from the Council's Leisure Facilities Manager and the Police Liaison Officer, it is recommended that the members accept the recommendation as set out below

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. SK_CG_290107 rev F.

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

2. No development shall take place until a site investigation to determine whether the land is contaminated and any associated remedial works have been carried out to the satisfaction of the Local Planning Authority. This will include:
 - A. A desktop study of the area of the proposed development.
 - B. An intrusive site investigation, its scope to be confirmed with the Local Planning Authority, prior to its commencement. The report should contain recommendations for any remedial or further works at the site.
 - C. A remediation method statement, to be agreed with the Local Planning Authority, prior to its commencement at site.
 - D. A remediation validation report along with a signed copy of the attached certificate. This should be supplied prior to the occupation of any buildings at site.

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. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) boundary treatment as shown on the submitted plans 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 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.

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

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

6. 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.

7. 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 levels.

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

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

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

9. Notwithstanding the submitted details, the open space as annotated on the site layout drawing shall be made available for public use within a timescale that has been submitted and agreed in writing by the Local Planning Authority prior to the occupation of the first dwelling on the site hereby approved.

Reason: To ensure that adequate play space is available in accord with reasonable standards.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, none of the dwellings hereby permitted on plots 43 - 49 (inclusive), plots 69 - 75 (inclusive) and plots 100 - 105 (inclusive), shall be enlarged or extended and no buildings shall be erected within the gardens without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

Reason: To protect the amenity of occupants of existing dwellings.

11. Notwithstanding the submitted plans a 2m strip shall be provided along the boundary of the application site with Swadlincote Lane. The 2m strip shall be planted with hedgerow plants in accordance with a scheme (including a timetable for such) to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any development on the site hereby approved.

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

12. Unless otherwise agreed in writing by the Local Planning Authority, the planting belt adjacent to the north eastern boundary shall be planted within the 2007/2008 planting season in accordance with the approved scheme unless otherwise agreed in writing by the Local Planning authority.

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

13. 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.

14. Before any other operations are commenced, a temporary access shall be formed into the site for construction purposes from Swadlincote Lane only, with no access through the site to Castle Road. A physical barrier shall be erected in an appropriate location as agreed in writing by the Local Planning Authority prior to the commencement of building operations hereby permitted. 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.

15. No dwellings shall be occupied until the proposed estate street has been laid out in accordance with the application drawings (as amended), to conform with the County Council's Roads in Housing design guide, and constructed to at least base course level, drained and lit in accordance with the County Council's Specification for Housing Development Roads.

Reason: In the interests of highway safety.

16. The areas shown on the approved plan for the parking and manoeuvring of vehicles shall be laid out, hard surfaced in a solid bound material (i.e. not loose chippings) prior to the first use of the development hereby permitted. Thereafter those areas shall remain unobstructed 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.

17. The gradient of the driveway for a distance of the first 5 metres back from the highway boundary shall not be steeper than 1 in 12.

Reason: In the interests of highway safety.

Informatives:

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.

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.

That the hedgerows on the application site may contain nesting birds. It is an offence under the Wildlife and Countryside Act 1981 to intentionally kill, injure or take any wild British breeding bird or its eggs or damage its nest whilst in use or being built. The nesting season normally encompasses the months March to July inclusive. If you are in doubt as to requirements of the law in this regard you should contact English Nature, Peak District and Derbyshire Team, Manor Barn, Over Haddon, Bakewell, Derbyshire, DE4 1JE.

