

31/07/2007

Item 1.1

Reg. No. 9/2005/0991/B

**Applicant:**

Atkins Family Trust  
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Derby  
DE65 6LG

**Agent:**

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**Proposal:** The renewal of planning permission 9/2001/0889/R for the erection of a 200 bedroom hotel with restaurant and associated parking on Land To The South Of Doles Lane And Adjoining Derby Road Findern Derby

**Ward:** Etwall

**Valid Date:** 18/08/2005

**Reason for committee determination**

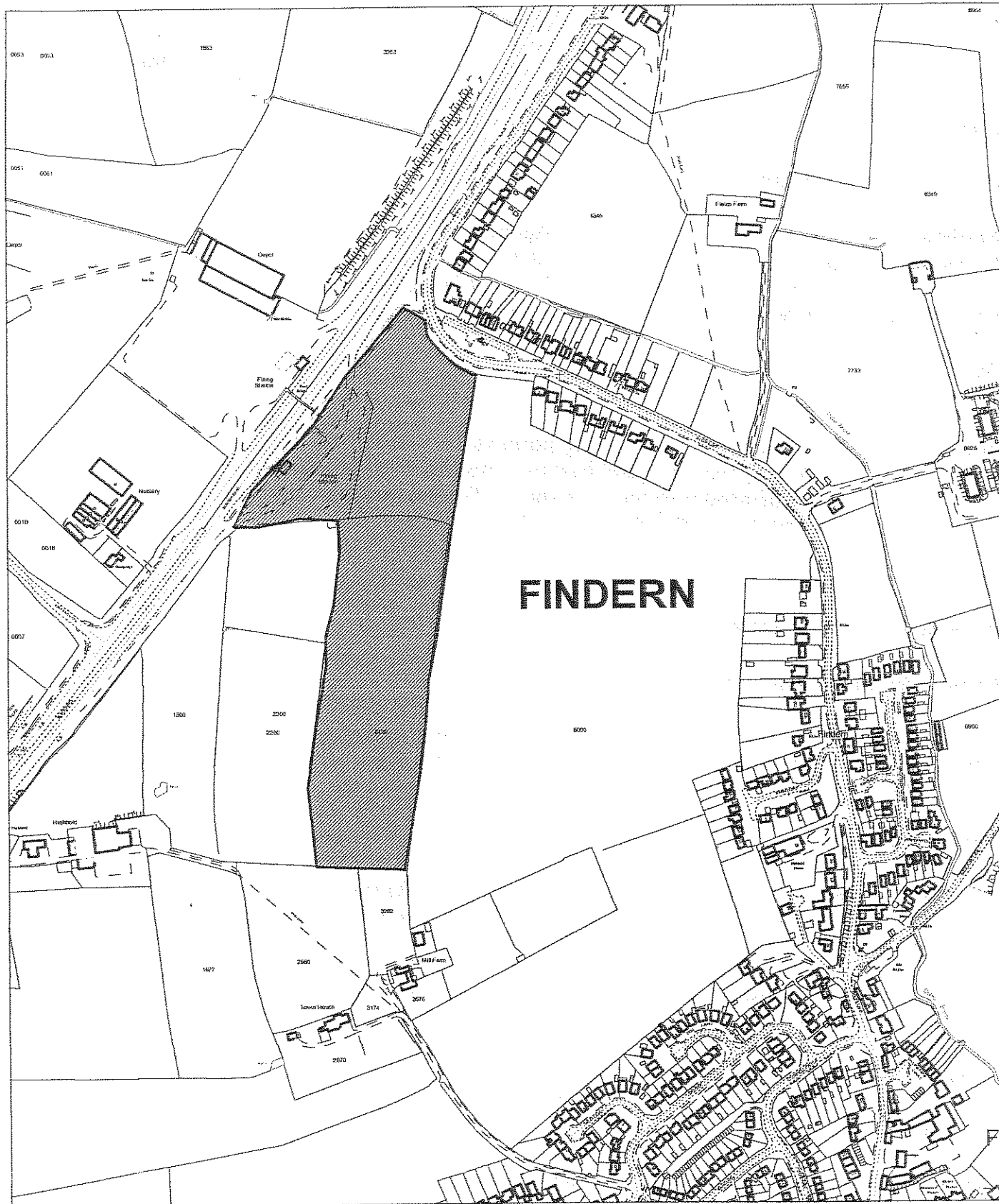
The application is brought to the Committee at the request of Councillors Mrs Hood and Ford as there are issues of wider public concern that warrant consideration by the Committee.

**Site Description**

The site comprises the filling station off the southbound carriageway of the A38 and the fields to the rear and south of the filling station. There are hedges to most boundaries but the boundary to Doles lane/Burton Road comprises a fence. Doles lane/Burton Road is at a higher level than the application site. Since submission the development of the site has been extended to incorporate some highway verge on the north side of Burton Road Findern, within this area are various services, the route of a public footpath, and a drainage ditch that passes beneath Burton Road. The field to the south of the site rises towards the Mill and Mill Farm.

**Proposal**

The proposal is for a 200-bed motel. An indicative Plan accompanying the application shows two arms of three storeys buildings with a central access point. Final details would have to be the subject of a reserved matters application. Parking provision would in the main be situated on the site of the petrol filling station with additional parking between the building and Doles Lane. A balancing lake is also indicated between this car parking area and Doles Lane, again final details of this would be the subject of a reserved matters application.



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

9/2005/0991/R Land to the South of Doles Lane & adjoining Derby Road  
Findern

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Date Plotted 20/7/2007

NORTH ↑

Plot centred at 430442 331110

Scale 1:5000

Access to the site is now proposed from Burton Road in Findern that has a direct link to the A38 junction at Findern. The access would comprise a continuation of Burton Road into the application site, the formation of a roundabout and a link back into Doles Lane. The future of the existing bend between Doles Lane and Burton Road is not stated in the application. This element of the proposal would involve the loss of trees on the Burton Road frontage.

The applicants are aware that the removal of the access to the site from the A38 to Burton Road is a significant change to the proposals. In response to this the applicants are proposing that a 2.0 metre high noise attenuation fence between the A38 and the houses on Burton Road (320 metres approx) be erected at their expense; they would enter into a Section 106 Agreement to secure its provision.

### **Applicants' supporting information**

The applicants state that the Authority will be aware that outline planning permission for the hotel has been granted previously with subsequent renewals.

Repetition of previous planning conditions on decision notice 9 2001 0889 R conditions numbered 1, 2, 3, 4, 5, 6, 7 with a change to the plan number to reflect the revised access arrangements, (8 is no longer appropriate), 9, 10, 11, (12 is no longer appropriate), 13, 14, and 15 subject to the changes where noted would be entirely acceptable.

The applicants appreciate that access from Doles Lane to satisfy the requirements of the Highways Agency and Derbyshire County Council as highway authority may cause some concern for local residents notwithstanding that the highway authorities consider the proposed Doles Lane access arrangements to be entirely acceptable.

Accordingly, the applicants state that they are prepared to make a financial contribution secured by a section 106 agreement that could be used for enhanced noise attenuation measures along Doles Lane where residents currently experience noise from existing traffic conditions along the A38. This would involve a 320m x 2.0m high noise attenuation fencing being erected along the Burton Road frontage. It is proposed that a sum of a maximum of £128,000 for noise attenuation measures will be payable to the Council within 2 months of the hotel development commencing.

A combination of the proposed noise attenuation financial contribution, proposed roundabout junction and the proposed landscaping including balancing lake will ensure that any traffic impact is acceptable, traffic calming is introduced onto Doles Lane and that existing levels of amenity are reasonably safeguarded or enhanced taking into account the long term commitment for a hotel on this site.

The applicants state that the Authority should be aware that since the hotel permission was last renewed in 2002 the provisions of the adopted Structure Plan and Local Plan have NOT changed and neither has PPG13. PPG21 was cancelled in September 2006 and replaced by the Good Practice Guide on Planning for Tourism. The previous Officer's Committee Report on the renewal stated that "Planning Policy Guidance Note 21 encourages hotels on the edge of the main urban areas to provide a range of accommodation to meet the needs of the travelling public. But it also states that there is no need to treat hotel development any differently from other development in the countryside".

Instead of that guidance the Good Practice Guide has been introduced that emphasises in paragraph 1.1 that such development "is of crucial importance to the economic, social and environmental well-being of the whole country". The Guide states in paragraph 2.3 for example that in 2003 tourism was responsible for 20% of new jobs in the East Midlands. The Guide now states in Annex A under a heading of Hotel and serviced accommodation in paragraph 6 that "National planning policies set out in PPS7 Sustainable Development in Rural Areas makes it clear that the expectation is that tourism accommodation requiring new buildings should be located in, or adjacent to, existing towns and villages".

Under paragraphs 14 and 15, the Good Practice Guide states that:  
"Other types of budget hotels and similar types of development such as motels and travel lodges cater more for car-born travellers, often for a single overnight stay – e.g. business travellers en-route to a destination. In such cases, the preference of developers will be for sites on major traffic routes outside of the centre of large towns or tourist centres. However the aim should be to make any development as sustainable as possible and it will not normally be appropriate for such developments to be located in open countryside away from major settlements. Edge of town centre locations, for example on a ring road or on a major route out of the town centre, will usually be the most appropriate locations if a town centre location is not suitable, available or viable.

For out of centre locations, design and layout of the development is likely to be of considerable importance in deciding whether it is acceptable in planning terms. Depending on the setting, an open layout in which careful attention has been paid to achieving a high standard of design and landscaping is likely to be more acceptable than a dense concentration of buildings."

The applicants state that this renewal application is therefore still consistent with the requirements of Development Plan policies and Government guidance, particularly as its location is NOT "in open countryside away from major settlements" .... will cater for the A38 "car-born traveller" and the nature of the site will encourage "an open layout in which careful attention has been paid to achieving a high standard of design and landscaping" that can be secured through reserved matters and is illustrated in principle on the illustrative layout.

The conclusion in the previous Committee Report is therefore still valid i.e. the site is "located not far from the Toyota factory and is not far from the boundary with Derby City. The following recommendation is made on balance, given the long standing nature of the permission, the relationship to the trunk road and Toyota and the reuse/improvement of the petrol filling station site".

In these circumstances (where it is anticipated that this will be the last requested renewal of permission as there are now at least two serious experienced hotel developers/operators that wish to develop a hotel on this site) The applicants hope that the Authority will be able to reach a similar conclusion to the previously reported renewal i.e. recommend that subject to the applicants entering into a section 106 agreement to cover a financial contribution to noise attenuation measures along Doles Lane that planning permission is granted subject to the conditions previously found to be appropriate subject to the changes listed above.

## Planning History

Permission for a 200-bed hotel was first granted in 1980, subsequently there have been several renewals of that permission the last of which was in August 2002 and expired in 21 August 2005. The current application was submitted on 18 August 2005 prior to the previous permission expiring and is thus an application to renew that planning permission.

## Responses to Consultations

The consultation exercise has been undertaken in two phases – the first following the original submission date, the second more recently to reflect receipt of the amended scheme. Accordingly there are two responses for each consultee to reflect the original comments and the subsequent responses.

Findern Parish Council has serious objections to the development, whilst it notes that there is no access to the site from Doles Lane, there is concern about the potential noise and light pollution and potential nuisance from residents and diners in the Car Park. The Parish Council is also concerned that a pedestrian link from Doles Lane would encourage people to park on Doles Lane to avoid having to travel to the Toyota Island to turn round. The access from the A38 is very dangerous and should be investigated thoroughly before the access is permitted.

Findern Parish Council continues to object to the development for the following additional reasons: -

- a) It considers that the three storey buildings would be out of keeping with the area when there appears to be considerable land available for lower buildings.
- b) The position of the noise attenuation fencing is not shown and may reduce traffic noise from the A38 but there would be a major increase in traffic along Burton Road and through Findern Village.
- c) The existing access should be improved and reused. NYK on the opposite side of the A38 continue to use its access/egress and there is no justification whatsoever for the use of Burton Road/Doles Lane.
- d) There is concern that the balancing lake may not be adequate to prevent flooding in the locality as the Doles Brook already overflows its banks under storm conditions and a slight excess would cause flooding problems for the residents of Doles Lane.
- e) No landscaping is shown on the plans for the area between the proposed lake and Doles Lane.
- f) This is agricultural land and it is considered that the land should not be developed especially as there are proposals for a hotel on the A38/A50 interchange at Toyota.

- g) No assessment of the Ecological implications and ramifications has been undertaken. Residents have every right to expect that such an in-depth study would be undertaken.
- h) The Parish Council would expect to be involved in any negotiations relating to the provisions of a Section 106 Agreement.

The Highways Agency has submitted an objection to the use of the access/egress to the A38 and directs that planning permission be refused but stated that it would be willing to consider an alternative access to the site that did not involve the use of the A38.

The Highways Agency has no objection to the amended scheme subject to a condition requiring the permanent closure of the access/egress to the A38 and a means of enclosure along the A38 frontage.

The Environment Agency has no objection subject to conditions.

The Environmental Protection Manager has noted that part of the site is a former fuel station and that a standard condition requiring the submission of a desktop study is necessary.

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

### **Responses to Publicity**

The consultation exercise has been undertaken in two phases – the first following the original submission date, the second more recently to reflect receipt of the amended scheme. Accordingly there are two responses (a) and (b) for each consultee to reflect the original comments and the subsequent responses.

#### **Initial Consultation**

A total of 15 letters were received objecting to the development for the following reasons: -

- a) There are sufficient hotels in the locality and another one is to be built at the Toyota interchange these are significant changes since the last permission was renewed. It is reasonable however to bear in mind that the permission has been in place for many years and perhaps the market is suggesting that the site is not suitable for a hotel.
- b) Although on the edge of a village, this development is not in keeping with a village environment. This is an agricultural site a green field and the development would not be in keeping with the character of the area. Only a small part of the site was used as a petrol-filling site.
- c) The requirement for there being no access to the site from Doles Lane should be maintained as a requirement. Since the permission was last renewed, there has been the creation of the NYK facility with traffic leaving that site to

travel north and south bound on the A38 and there is potential for accidents with the conflict between HGV's and traffic trying to enter the application site.

- d) Other environmental conditions should be imposed from the previous permission to protect trees, ensure proper drainage and provide adequate landscaping. There should be a proper assessment of the impact on local wildlife that includes protected bird species (badgers, barn owls, lapwing and redwing). The trees and high hedges should be retained should development be permitted.
- e) The existing sewer system is not capable of taking the flows from a 200-bed hotel.
- f) The field already floods and the creation of a 200-bed hotel could adversely impact on the land drainage system. There is concern that additional development would cause flooding. Each new development has brought its own problems and this proposal is seen as adding to the drainage problems even with the proposed balancing facilities. The Council should be able to reassure residents of the appropriateness of the surface water drainage system.
- g) The car parking area and the associated uses of the site would cause noise and disturbance to local residents. There is the possibility of parking occurring on Doles Lane. The amount of proposed car parking has increased from 270 to 450. Residents already suffer noise and light pollution from the NYK depot opposite.
- h) The lighting of the site would add to light pollution in the locality and steps should be taken to minimise this if permission were granted.
- i) There is a pedestrian access proposed from Doles Lane and this will cause unauthorised parking on Doles Lane by those who do not want to utilise the main access to the site. Previous conditions restricting vehicular access to Doles Lane should be retained and pedestrian access should also be precluded.
- j) No development should be permitted on the slope up towards the Mill and Mill Farm, as this may be visually intrusive.
- k) Houses would be overlooked and privacy for residents would be compromised.

### Second Consultation

32 letters have been received in response to the second application that make the following additional points of objection:

- a) None of the residents on Burton Road have been notified of the application, particularly the change of access.
- b) There would be increased traffic through Findern village with many more cars, up to 500, and delivery lorries using Burton Road and Doles Lane. Traffic would speed down Burton Road to get to the Hotel, drivers not realising they

- are no longer on the A38. There are already many businesses and houses along the lane that would be adversely affected by this development.
- c) There have been three accidents on the Burton Road/ Doles Lane bend in the past year – this is currently a simple bend – the roundabout would confuse matters and cause more accidents. However, it is acknowledged by one respondent, that the island may make the access safer.
  - d) Little or no account appears to have been taken of the impact of the major housing areas at either Highfields Farm or Willington Power Station on Burton Road/Doles Lane.
  - e) There is no pedestrian crossing point on Doles Lane. It would be harder for pedestrians to cross the road to use the footpaths in the vicinity. It would increase hazards for pedestrians, school children who use the pavements to get to school
  - f) The proposed noise fence would be an eyesore and become damaged over time and is an insult to local residents. It should be built on the A38 side of the hedge so that the hedges and trees can be retained. The fence would do nothing to reduce traffic noise on Burton Road.
  - g) This proposal would result in the loss of trees on the Burton Road frontage. As many as possible should be retained. One ash that softens the appearance of the NYK building would certainly be lost to create the new island access to the site.
  - h) A three-storey hotel would be out of keeping with the area and would cause overlooking of the houses. The end of Doles Lane is already dominated by the NYK building and the hotel would add to this dominance to the detriment of the area. Other applications for development served off Burton Road/Doles Lane have been refused.
  - i) There would be smells, cooking odours arising from the development.
  - j) Drivers on the A38 would be confused by the headlights of cars turning around the island in such close proximity to the trunk road.
  - k) The existing access is no better or worse than many others on the A38, why is the Highways Agency saying it is not acceptable for this use.
  - l) House prices would be devalued.

## Development Plan Policies

The relevant policies are:

RSS8: Policies 2,3,4, 6,25 & 44

Joint Structure Plan: General Development Strategy Policies 1,2 & 4; Leisure & Tourism Policies 1,2 & 5; Transport Policies 4 &15

Local Plan: Environment Policy 1; Recreation & Tourism Policy 1; Transport Policy 6

## Planning Considerations

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

- The Development Plan
- Government advice
- Access considerations
- The impact on the community
- Noise and light
- Land drainage issues



- Loss of trees
- The offer of Noise attenuation fencing

## **Planning Assessment**

The provision of roadside hotels is encouraged in the Government advice in the Good Practice guide that replaced PPG 21 on Tourism. The Development Plan policies came before the publication of that advice and place reliance on the highway safety and amenity considerations for residents in the vicinity of the proposed site as well as impact on the countryside. These issues are considered below.

A hotel has been proposed on this land over many years and has not been implemented. This application was submitted prior to the expiry of the previous permission. The principle of the development has therefore been accepted in the past and it is for the Local Planning Authority to be satisfied that the planning policy circumstances have changed significantly if it wishes to refuse planning permission. Given the policy position remains substantially unchanged in that the Structure and Local Plan remain in place it would be difficult to refuse the application on policy grounds.

## **Access Considerations**

There is a major change in this application from those that were previously permitted in that the access is now proposed on the junction of Doles Lane and Burton Road. The design of the access meets the requirements of the County Highway Authority and the Highways Agency has no objection subject to the existing access points on the A38 being closed off in accordance with a scheme to be approved. The Highways Agency was not willing to accept the development on the A38 as it is considered detrimental to highway safety given the close proximity of the on slip road from the Findern junction. In previous planning permissions, as identified by objectors to the development, conditions required there to be no vehicular access to Doles lane/Burton Road and required the provision of a landscape bund along that frontage to mitigate the impact of the development on the occupiers of properties on Doles Lane. A bund would be possible along much of the frontage to Doles Lane and the opportunity exist to create additional screening on the land that would become isolated should the access be constructed, indeed the County Highway Authority requires that the treatment of this land be determined before any development is commenced. On balance the physical impacts of the development would be considered neutral, other than the use of the road by traffic accessing the site.

On the access point, which is raised by all the objectors, the County Highway Authority advises that the access proposals are acceptable. Burton Road is a wide road that used to form part of the A38. It is capable of carrying the traffic to and from the site and the Authority would have to demonstrate that highway safety would be compromised if the development were permitted. The County Highway Authority accepts the proposed access and it would be difficult to demonstrate that highway safety would be compromised to a point where refusal could be justified. Conditions are recommended to ensure that screening is available for the dwellings on the Doles Lane/Burton Road frontage in the vicinity of the site to the maximum possible.

## **Impact on the community**

The highway impact is considered above. The application is in outline and in drawing up the access proposals the applicant drew up a potential layout for the site. However, the design and appearance of the building are reserved for subsequent approval. It may be that a hotel operator developer has different ideas for the layout and height of the building. The views from the majority of the houses are capable of being mitigated by a suitable landscaping scheme based around the proposed balancing lake as discussed above. The community would have the opportunity to consider the detailed design along with the Local Planning Authority to ensure that any built development minimises the impact on the local area should the principle of the development be accepted.

## **Noise and light**

These issues would be addressed as part of the approval of reserved matters and appropriate conditions are recommended. Much has been made in the objections of the noise from the depot across the road. This was the case when it first opened but mitigation measures were agreed with the Environmental Protection Manager and he has confirmed that there are no ongoing complaints against the depot. Similarly the lights and noise sources would be controlled on the development site.

## **Drainage issues**

The Environment Agency has been closely involved in the scheme and has no objection to the development subject to conditions. The proposals include the provision of a balancing lake that would be designed to take account of climate change. The idea of the lake is to ensure that surface water draining to watercourses is the same or better than is the case if the site remained a field. The Environment Agency and the Environmental Protection Manager require conditions to ensure that any contamination on the site is properly addressed before the development is commenced.

## **Loss of trees**

The development would result in trees and hedge plants being lost to form the access and develop the site. The most significant is the ash referred to by the objectors. However, that tree is not protected by the TPO. The area order covers part of the filling station site and none of the trees in this part of the site have any great amenity value. A new order could be considered once the landscaping scheme is implemented.

## **Noise attenuation fencing**

The applicants have stated that they recognise that the change to the application would increase traffic levels along Burton Road. They are aware that dwellings on Burton Road are subjected to traffic noise from the A38. Accordingly, they have offered to provide monies to erect a fence in an attempt to assist in reducing road noise for those dwellings. It is realised that the fence would not be a total solution to the noise but may help to mitigate its impact. The applicants propose funding for a 320-metre length of fence of £128,000. The funds would be provided and it would be for the highway

authorities to implement the scheme. It is stressed that the access would work without the fence.

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 receipt of a signed unilateral undertaking to provide noise attenuation fencing on Burton Road **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 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. The development shall not be commenced until precise details of the intensity, angling and shielding, and the area of spread of the lights have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity with them. The submitted scheme shall comply with the Institute of Lighting Engineers "Guidance notes for the Reduction of Light Pollution" (2000).

Reason: To preserve amenity and prevent danger to road users.

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

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

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

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

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

5. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the LPA without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

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

6. 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. The scheme shall utilise sustainable drainage principles and shall not result in an increase in the rate and/or volumes of surface water discharge to the local land drainage system. The details submitted for surface water disposal shall indicate the locations of all pipework and balancing ponds together with calculations to justify the submitted scheme.

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

7. 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.

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

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

9. Prior to the first use of the site hereby permitted, details of a fume extraction and any air handling or air conditioning systems (to include extraction rates,

discharge height, elevation drawings where necessary, and conditioning) shall be submitted to and approved in writing by the local planning authority and implemented in accordance with the approved scheme.

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

10. 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.

11. The details required pursuant to condition 2 shall include areas for the parking, manoeuvring and loading of all vehicles likely to visit the site at any one time and those spaces shall be hard surfaced and marked out prior to the first use of the development and thereafter retained for that purpose.

Reason: In the interests of highway safety.

12. 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.

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. Before development is commenced details of a scheme to permanently close the existing direct vehicle access/egress from the site onto/off the A38 (T) shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highways Agency. The submitted scheme shall include details of a barrier to be erected along the trunk road frontage to the site. The approved details for the permanent closure of the access/egress shall be

implemented prior to the first occupation of the hotel hereby permitted and shall thereafter be maintained in place.

Reason: To ensure that the A38 Trunk Road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10(2) of the Highways Act 1980 by minimising disruption on the trunk road from traffic entering or emerging from the application site and in the interests of highway safety.

16. Before development is commenced details of the type of 2 metre high fence and its location within the highway limits along the length of Burton Road frontage as described in your letter dated 18 January 2007 shall be submitted to and approved in writing by the Local Planning Authority. The implementation of the scheme shall be in accordance with a schedule agreed in writing with the local Planning Authority prior to the commencement of the development.

Reason: To mitigate the noise impact of traffic on the A38 for residents of Burton Road Findern

17. Before development is commenced until space has been provided within the site curtilage for site accommodation, storage of plant and materials, lorry loading/unloading parking and manoeuvring, employee and visitor car parking and manoeuvring in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be maintained in place throughout the construction period.

Reason: In the interests of highway safety and to ensure that all construction vehicles and materials are stored clear of the public highway.

18. The development shall not be brought into use until the access roundabout and associated highway works have been implemented generally as shown on Drawing No CS-014708/H/SK08 PO1 in accordance with detailed designs first approved by the Local Planning Authority in consultation with the Highway Authority.

Reason: In the interests of highway safety.

19. The development shall not be taken into use until the treatment to the redundant section of the Doles Lane Carriageway to the intervening verge between the existing and proposed carriageway and to the section of footpath linking Doles Lane with the A38 Trunk Road has been implemented in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

Reason: In order to ensure that the land between the new and existing highway is treated in the interests of the amenity of the area.

20. Building development shall be limited to the areas shown on the attached plan no 9/2001/0889A and such development shall be limited to that described on this decision notice.

Reason: In the interests of protecting the rural character of the area. Development of the land outside the hatched area would have an adverse impact on the open character of the countryside and be detrimental to the rural character of the area.

## Informatives:

The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from [www.south-derbys.gov.uk/Environment/Pollution/LandPollution/contaminatedlandguide.htm](http://www.south-derbys.gov.uk/Environment/Pollution/LandPollution/contaminatedlandguide.htm)

Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: [dan.calverley@south-derbys.gov.uk](mailto:dan.calverley@south-derbys.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.

Condition 15 is imposed at the direction of the Highways Agency. Pursuant to Section 278 of the Highways Act 1980 no works may commence within the limits of the public highway without an Agreement of the foregoing Act being entered into with the County Council. Also pursuant to Sections 149 and 151 of the Act the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur it is the developer's responsibility to ensure that action is taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

31/07/2007

Item 1.4

Reg. No. 9/2007/0353/FT

**Applicant:**

T-Mobile (UK) Ltd  
 Hatfield Business Park  
 Hatfield  
 Hertfordshire  
 AL10 9BW

**Agent:**

Thomas Duncan  
 Stappard Howes  
 Pheasant Oak Barn  
 Balsall Common  
 Coventry  
 CV7 7GX

**Proposal:**

The erection of 15 metre high monopole supporting six antennas and two dishes with equipment cabinets and ancillary development at ground level, enclosed within a secure 2.1m high palisade compound at Land Adjoining The Picnic Area At The Green Willington Derby

**Ward:**

Willington/Findern

**Valid Date:**

27/03/2007

**Reason for committee determination**

Councillors Ford and Hood have asked that this application come before the Committee as local concerns have been expressed about a particular issue.

**Site Description**

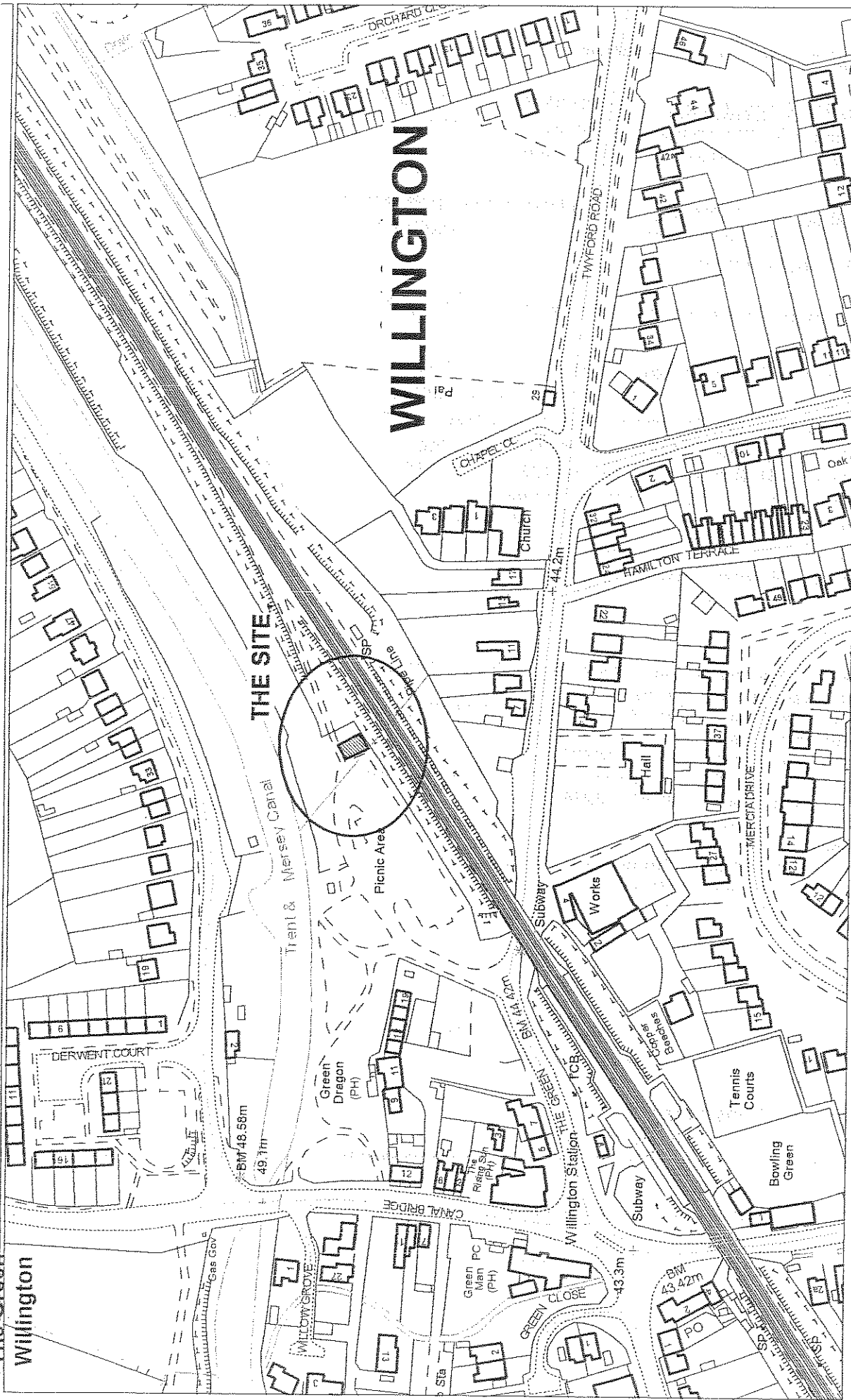
The site occupies a part of the car park adjacent to the Trent and Mersey Canal and operational railway land. The nearest dwellings are on the other side of the railway on Twyford Road, the houses off the access to the car park and on the opposite side of the canal on Findern Lane. These houses are 51,77 and 91 metres respectively from the site boundary.

**Proposal**

As submitted the application is for a 15m high monopole mast coloured to the requirements of the Council. There would be a site compound containing 3 equipment cabinets at the base of the mast. It would contain 6 antennae and 2 x 600mm dishes. Access to the site would be from the car park; no additional planting is proposed as part of the proposals.



**The Green  
Wagon**



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SWADLINCOTE DE11

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## **Applicants' supporting information**

Pre application Consultation – In accordance with the advice in the Council's Supplementary Guidance consultation was undertaken by T Mobile with the Parish Council, District Councillors and this Council.

The application – in submitting the application the applicants has served on the land owner. A certificate accompanies the application stating that the mast would comply with ICNIRP requirements.

A list of alternative sites and the reasons they are not submitted has been put forward

**Options A – Green Dragon public house– 429474 / 328590**

Low 2 storey building with pitched roof, not suitable for an installation

**Option B – Green Man public house – 429389 / 328553**

Listed Building, not suitable for an installation, too low

**Option C – St Michaels's church 429487 / 328166**

Too low to provide the required coverage to the area

**Option D – The Green - streetworks 429459 / 328532**

Unlikely to obtain planning. Maintenance would be very difficult

**Option E – Repton Road Ind Units – 429471 / 328126**

Derelict units. Currently for sale, likely redevelopment

**Option F - Willington Highways Dept Depot 429079 / 328366**

No space available within the depot

**Option G – Recycling Centre, Twyford Road – 429823 / 328539**

No screening, too close to houses and school

**Option H – Dale Farm – 429737 / 328895**

Too far outside of the DSA. Would not provide the required coverage

**Option I – Canal Basin – 429427 / 328631**

Conservation Area. Advised against considering this location, as planning would not be approved.

**Option J – Land off Canal Bridge – 429349 / 328694**

Land was low lying, and would not provide the desired coverage

**Option K – Land off Ivy Close – 429150 / 328328**

Lack of screening, and unsuitable for coverage purposes

## **Planning History**

There is no planning history for this part of the car park but a mast was permitted in 2000 on operational railway land close to the application site.

## **Responses to Consultations**

Willington Parish Council objects/comments on the application in the following terms:

- a) The application form refers to the presence of a telephone exchange on the land; the Parish Council is unaware of this.
- b) A galvanised mast is not acceptable, whether the mast dulls over time or not, its appearance would be unacceptable, it should be painted or coated and a bond held to ensure that it is properly maintained.
- c) The Parish Council requires assurance that there are no other sites available and evidence of the lack of site share is concerning to the Parish Council.

- d) There would be a maintenance problem with the narrow grass strips that would be left should permission be granted. The Parish Council would like to see a mock up of the equipment for the community.
- e) There is little evidence to changes to the application to reflect the site being in the Conservation Area.
- f) The Parish Council cannot recall the previous permission on the nearby site.

Conservation Officer would seek to minimise the impact of the mast by either painting the mast a specific colour or by the installation of a tree mast as the proposed site is adjacent to trees on the car park. *The applicants have been asked to investigate the possibility of installing a cypress tree as an alternative to the monopole mast. The outcome of this request will be reported at the meeting.*

### **Responses to Publicity**

In accordance with the published guidance, site notices have been erected at Willington Primary School (300 metres away) and on Twyford Road Willington (50 metres away). An additional notice was posted on Findern Lane.

No response to this publicity has been received.

### **Development Plan Policies**

The relevant policies are:

Development Plan:  
Local Plan: Community Facilities Policy 4 & Environment Policy 12  
Structure Plan Environment Policy 9

### **Planning Considerations**

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

- The Development Plan
- The impact of the development on the Character and appearance of the Trent and Mersey Canal Conservation Area.

### **Planning Assessment**

The application has attracted little comment from the wider community. The Development plan makes provision for the erection of the mast provided that mast sharing and alternative locations have been investigated. The applicants have listed the alternative sites that have been examined as set out above. There are other installations permitted in the area, however, there is no indication that any of these have been implemented. In this case a mast was permitted on adjacent railway land, but this was never implemented. Having said that the new 3G cells are much smaller than the original cells and more masts are therefore required. Accordingly, the fact that masts are present in the area does not mean that a mast is capable of providing the necessary coverage for more than one operator.

The Parish Council has identified that the mast may have a detrimental impact on the character and appearance of the Conservation Area. It is agreed that a galvanised

mast would not be appropriate and a condition is recommended to ensure that the mast is coloured in a recessive colour. However, the applicant has been requested to specify why an alternative cypress tree could not be used. Whilst a cypress tree is not present in the locality, it is considered that this may help to reduce the impact of the mast on the Conservation Area. A photograph of this type of mast will be displayed at the meeting if the operators indicate that such a mast would be acceptable.

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

## **Recommendation**

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

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

2. Notwithstanding the submitted details and before development is commenced a precise colour for the mast shall be submitted to and approved in writing by the Local Planning Authority. The approved colour shall be used to construct the mast which shall thereafter be maintained in the approved colour.

Reason: In the interests of the character and appearance of the Trent and Mersey Canal Conservation Area.

3. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping including a maintenance schedule for the area in the vicinity of the mast and its compound.

Reason: In the interests of the appearance of the Trent and Mersey Canal Conservation area.

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

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

31/07/2007

**Item** 1.9**Reg. No.** 9/2007/0682/FH**Applicant:**  
Mr & Mrs J A Ogilvie  
Ingleby  
Stanton By Bridge  
Derby  
DE73 7HW**Agent:**  
Mr & Mrs J A Ogilvie  
Ingleby Cottage  
Stanton By Bridge  
Derby  
DE73 1HW**Proposal:** The erection of a wall & access gate across existing driveway at Ingleby Cottage Ingleby Stanton By Bridge Derby**Ward:** Melbourne**Valid Date:** 22/06/2007**Reason for committee determination**

The application is brought to Committee at the request of Councillor Watson who wishes Members to consider the unusual site circumstances relating to the preservation of the appearance of the detached Listed Building.

**Site Description**

The site is located within the village of Ingleby and the property is a Grade II listed 17<sup>th</sup> century timber framed cottage.

**Proposal**

The proposal is for the erection of a brick wall and timber access gate across the existing driveway.

**Applicants' supporting information**

None.

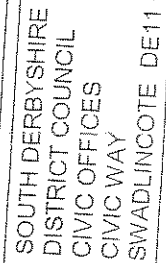
**Planning History**

Listed Building Consents were granted in 1995 and 1996 for repairing and rebuilding the chimney, external alterations including inserting a pitched roof on an attached store and replacement windows. Planning Permission and Listed Building Consent was also granted in 2002 for a rear 2 storey extension.

**Responses to Consultations**

No objections have been received in response to statutory consultations.

Stanton by Bridge



Date Plotted 20/7/2007  
Scale 1:2500

Licence No LA 079375



## Responses to Publicity

2 neighbour objections have been received on the planning application and 5 on the listed building consent application. In summary, the objections raised are that the proposed wall is not in keeping with the character and appearance of the listed building and the character and appearance of the village in general by virtue of its design and materials.

## Development Plan Policies

RSS8: None

Joint Structure Plan: Environment Policy 10

Local Plan: Environment Policy 13 and Housing Policy 13

## Planning Considerations

The main issue central to the determination of this application is the impact of the proposal on the listed building.

## Planning Assessment

The development is set well back from the highway behind the existing side porch, coming off the rear elevation of the main dwelling and stopping short of the neighbouring property, Ivy Cottage, by 15-20mm. There will be no impact on the character of the street scene.

The Design & Conservation Officer has advised that the proposed wall and access gate are of an acceptable design and size in relation to the existing property and would have no adverse affect upon its fabric or character.

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 delegated powers to the Head of Planning Services to deal with any further representations made in the re-notification period ending 1<sup>st</sup> August and  
**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. 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 wall has 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. Large scale drawings to a minimum Scale of 1:10 of external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The external joinery shall be constructed in accordance with the approved drawings.

Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.

4. Pointing of the proposed wall shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish in accordance with Derbyshire County Council's advisory leaflet "Repointing of Brick and Stonework".

Reason: In the interests of the appearance of the building(s).

5. A sample panel of pointed brickwork 2 metres square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority prior to the implementation of any other works of pointing. The works shall be carried out in accordance with the approved sample.

Reason: In the interests of the appearance of the building(s) and the locality generally.



31/07/2007

Item 1.10

Reg. No. 9/2007/0683/L

**Applicant:**  
Mr & Mrs J A Ogilvie  
Ingleby  
Stanton By Bridge  
Derby  
DE73 7HW

**Agent:**  
Mr & Mrs J A Ogilvie  
Ingleby Cottage  
Stanton By Bridge  
Derby  
DE73 7HW

**Proposal:** The erection of wall & access gate across existing driveway at Ingleby Cottage Ingleby Stanton By Bridge Derby

**Ward:** Melbourne

**Valid Date:** 22/06/2007

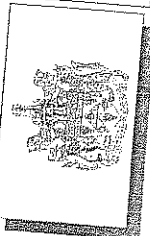
See Report for 9/2007/0682/FH

### Recommendation

**GRANT** listed building consent subject to the following conditions:

1. The works to which this consent relates shall be begun before the expiration of three years from the date of this consent.  
Reason: To conform with Section 18(1) of the Planning and Listed Buildings and Conservation Area Act 1990.
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 wall has 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. Large scale drawings to a minimum Scale of 1:10 of external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The external joinery shall be constructed in accordance with the approved drawings.  
Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.
4. Pointing of the proposed wall shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish in accordance with Derbyshire County Council's advisory leaflet "Repointing of Brick and Stonework".

7001



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- Reason: In the interests of the appearance of the building(s).
5. A sample panel of pointed brickwork 2 metres square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority prior to the implementation of any other works of pointing. The works shall be carried out in accordance with the approved sample.

Reason: In the interests of the appearance of the building(s) and the locality generally.

<b>REPORT TO:</b>	<b>Development Control Committee</b>	<b>AGENDA ITEM: 6</b>
<b>DATE OF MEETING:</b>	<b>21<sup>st</sup> August 2007</b>	<b>CATEGORY: DELEGATED</b>
<b>REPORT FROM:</b>	<b>DEPUTY CHIEF EXECUTIVE</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>G Richards (ext. 5750)</b>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>Land at 1 Wren Close, Woodville</b>	<b>REF: E/2007/00189</b>
<b>WARD(S) AFFECTED:</b>	<b>Woodville</b>	<b>TERMS OF REFERENCE:DC01</b>

### **1.0 Recommendations**

- 1.1 That no action be taken.

### **2.0 Purpose of Report**

- 2.1 To seek the Committee's view on whether or not action is warranted, under Section 215 of The Town and Country Planning Act 1990.

### **3.0 Detail**

- 3.1 Councillor Taylor has raised concerns regarding the state of the land.
- 3.2 The site is located on the corner of Wren Close, which is off Falcon Way. The property is a detached dwelling with modest open plan front and side gardens, which are mostly laid to lawn with a few shrubs and mature trees.
- 3.3 A site visit by a Council Officer found that the lawn has not been cut recently and has gone to seed. Some weeds are present, however the trees and shrubs appear healthy. The Land has no other materials or rubbish tipped on it.
- 3.4 The site is not impacting on the neighbourhood in a manner that can be said to be 'adversely affecting the amenity of the area', due to the fact that it is not being used as a dumping ground, but is merely a garden that it is not tended on a regular basis.
- 3.5 A check of the office records found there is no previous history, relating to land adversely affecting the amenity of the area, associated with this site.
- 3.6 To be judged as Land adversely affecting the amenity of the area, such

that it is expedient to take action under S215 of the Act, significant amounts of tipped materials and waste are normally present and the property is normally in a run down state, where the legislation may be used to secure maintenance works for example; to have windows made good and painted.

- 3.7 The condition of this site is such that it should only be considered as a failure to tend the garden on a regular basis; therefore to take enforcement action would constitute a misuse of S215 of the Act, which may set a precedent for the Council to take action against anyone who fails to cut their grass on a regular basis.

- 3.8 Whilst it is recommended that no further action is taken at this time, should the condition of the site deteriorate, the matter can be reconsidered

#### **4.0 Financial Implications**

- 4.1 Should Members resolve to initiate action under S215 and the owner fail to comply costs may be involved for works in default for which there is currently no budget.

#### **5.0 Corporate Implications**

- 5.1 None.

#### **6.0 Community Implications**

- 6.1 None.

#### **7.0 Conclusions**

- 7.1 'Amenity' is a broad concept and not formally defined in the legislation or procedural guidance, it is a matter of fact and degree. Therefore it is necessary to consider the condition of the site, the impact on the surrounding area and the scope of S215 for tackling problems areas. In accordance with S215 of The Town and Country Planning Act 1990 and The Best Practice Guidance it cannot be said that overgrown grass and weeds constitute land that is adversely affecting the amenity of the area.

#### **8.0 Background Papers**

- 8.1 None.

