

REPORT OF THE HEAD OF PLANNING SERVICES

SECTION 1: Planning Applications

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 also 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
9/2009/0481	1.1	Walton	Seales	1
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When moving that a site visit be held, Members will be expected to consider and propose one or more of the following reasons:

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

Item **1.1**

Reg. No. **9/2009/0481/B**

Applicant:

Mrs Lynne Haymes
The Pastures
Rosliston Road
Walton-on-Trent
Swadlincote

Agent:

Mrs Siobhan Spencer
DGLG
Ernest Bailey Community Centre
3 New Street
Matlock

Proposal: **The change of use from siting of three gypsy caravans approved by application 9/2004/0537 to 7 gypsy caravans at The Pastures Rosliston Road Walton-on-Trent Swadlincote**

Ward: **Seales**

Valid Date: **03/08/2009**

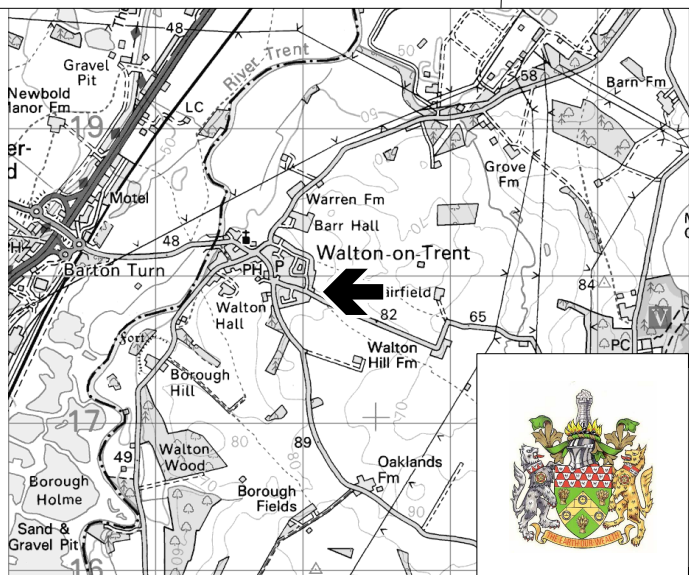
The application was deferred at the last Committee to enable further clarification of need and consideration of environmental impacts.

Need in relation to planning policy

Set out below is a synopsis of the relevant legislation and guidance bearing in mind that the first question that must be asked when determining a planning application is whether or not the proposal accords with the Development Plan (which currently comprises the East Midlands Regional Plan (EMRP) and saved policies in the South Derbyshire Local Plan and where there is a discrepancy the newest document normally takes precedent) together with any material planning considerations that includes Government Circulars and national planning guidance.

East Midlands Regional Plan: Adopted March 2009

- *Refers to Circular 01/2006 that required pitch numbers to be allocated to each Local Authority in order to meet a serious shortfall.*
- *Appendix 2 sets out the minimum net additional pitch requirements up to 2012 (19 for South Derbyshire).*
- *Following 2012, compound growth of 3% per annum should be assumed unless a new Gypsy and Traveller Accommodation Assessment (GTAA) has been completed.*
- *Local Authorities should identify need in forthcoming planning policy documents in the Local Development Framework (LDF).*



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South Derbyshire District Council. LA 100019461. 2009

- *These identified sites should make provision for the minimum as set out in the EMRP, these can be redistributed where this is considered as being appropriate in the relevant GTAA and where joint or co-ordinated LDFs are being prepared.*

Circular 01/2006

- *There should be a rural exception site policy for Gypsy & Travellers, as there is for affordable housing, however, new sites in the Green Belt will normally be considered inappropriate.*
- *Sites identified in the LDF process should be considered as preferable to windfall sites (those not identified).*
- *When considering planning applications, the applicants 'local connection' to an area should not be a reason for refusal.*
- *Applications can be refused in locations that do not comply with planning policies, especially where the authority has complied with guidance and met the needs identified by the GTAA.*

South Derbyshire Adopted Local Plan (1998) saved Housing Policy 15

- *'Gypsy caravan sites will be permitted provided that the site is:*
(i) in an area frequented by gypsies; and
(ii) satisfactorily located in relation to other development; and
(iii) acceptable in environmental terms; and
(iv) reasonably accessible to community services and facilities; and
(v) capable of sympathetic assimilation into its surroundings (including landscaping and screening); and
(vi) adequate provision is made for vehicular and pedestrian access.'

Current Gypsy & Traveller policy is therefore trying to tackle a problem of historic under supply across the country and thus is weighted in favour of approving applications unless there are strong planning reasons to refuse them. The requirement in the EMRP has been derived from the GTAA and up until 2012 this is our minimum target. If we happen to meet the target prior to 2012 or a new GTAA then we will still have to consider the relative merits of an application, as is the case in Council's with no requirement or a very low requirement.

The specific needs of the family relating to the application site.

The needs assessment looked at natural growth of families and the need as circular 1/2006 verifies that Gypsy children needing an education, is a strong material consideration to grant planning permission. It is understood that whilst the site was included in the list of sites present at the time of the GTAA the applicants did not complete questionnaires thus the specific future needs of this particular family were not established.

The agent has stated that the family (i.e. the sons and daughter of the applicant) have children booked in for the school term in Walton on Trent (one child) and Statam Hill (two children) and they are missing schooling at the moment as their parents did not want to be on site unauthorised whilst waiting for the decision on the planning application. The daughter of the applicant is under treatment at Burton hospital and has not been very well of late so needs her mother's help and support. The whole family have local health support, which they cannot always access.

The sons and daughter of the applicant are not on authorised places at the moment but want to get a good education for their children hence the application to remove the condition restricting the numbers of caravans on the site. The request for 4 caravans is to meet current need and for a future pitch for a daughter who will be getting married shortly. The applicant's agent states that 'this pitch can be used by other Gypsy families whilst moving through South Derbyshire.'

Circular 01/2006 states that '... a more settled existence can prove beneficial to some gypsies and travelers in terms of access to health and education services, and employment, and can contribute to greater integration and social inclusion within local communities. Nevertheless the ability to travel remains an important part of gypsy and traveler culture. Some communities of gypsies and travelers live in extended family groups and often travel as such. This is a key feature of their traditional way of life that has an impact on planning for their accommodation needs.'

Therefore the sons and daughter of the applicant who currently do not have a legal base (i.e. they would camp on the roadside) need to be in South Derbyshire for educational and health purposes and occupying caravans on their mother's site which would not require an enlargement of the actual site is justified in both terms of policy and individual need.

Environmental considerations

The impact of the proposed additional caravans on the countryside is considered in the main report. Members will recall that at the last Committee the Head of Planning Services suggested that a landscaping condition could be applied in order to secure planting particularly along the eastern boundary and to retain an amenity area to the front of the site as requested by Members (Such a condition has been added to this report).

Other matters

Members will recall that at the meeting they were advised that Councillor Timms the local ward member wished withdraw his objection other than in regard to the issue of need.

Reason for committee determination

This application has been brought before the Committee at the discretion of the Head of Planning Services as the application is of a controversial nature.

Site Description

The application site is a gypsy caravan site which currently has permission for the siting of 3 caravans, and lies to the north of Rosliston Road to the west of the village of Walton-on-Trent. It is surrounded to the rear and on both sides by open countryside. The site area is approximately 0.2 hectares in size and when the site visit was carried out in August 2009 there was a mobile home on the site, two transit caravans, a horsebox, an unauthorised stable block (currently under investigation by the planning enforcement officer), a dilapidated former stable building and an amenity block, which was approved in June 2009. The site is currently being enclosed with close-boarded fencing (and concrete gravel boards and posts) to the rear and eastern side.

Proposal

The proposal is to increase the number of caravans on the site from 3 to 7 for occupation by family members of the owner of the site - Mrs Haymes. A proposed plan submitted shows five caravans would be sited to the east side of the site with a touring caravan sited behind the existing mobile home.

Applicants' supporting information

A design and access statement accompanies the application, which states that the existing utility block is of sufficient size and capacity to accommodate the increase in caravans proposed.

Information has been provided with the application stating that the occupiers are immediate family members of Mrs Haymes.

Planning History

9/2009/0193 – Retention of an amenity block – approved 08 June 2009.

9/2004/0537 - Use of land for siting of three gypsy caravans and associated facility sheds and new/ altered access - approved 15 July 2004 and implemented.

Responses to Consultations

Severn Trent Water raises no objections to the application subject to a standard condition being applied regarding drainage.

County Highway Authority raises a query regarding the hedge to the east of the site that is overgrown and obstructing the visibility sightline to the east of the access. It has stated that if the sightline is not within the applicant's control then a recommendation for refusal will be given but if it is within their control a conditional approval would be advised. The field to the east was shown previously to be in the applicant's ownership and it is assumed that it has been omitted in error but clarity has been sought regarding this issue.

Pollution Control Officer raises no objections to the application subject to conditions relating to the site being used for residential purposes only, no waste to be imported into the site and no waste burnt on the site.

Walton on Trent Parish Council objects to the application as the application is outside the village boundary, is not in character with the existing development and does not have an acceptable access onto Rosliston Road. Furthermore the Parish Council is concerned that the Health and Safety requirements of the site are not being met, that Council Tax is not being paid and that utilities are not being provided on the site. The Parish Council also state that there are vacancies at two other sites in the district and therefore an extension is not required.

Councillor Timms (Ward Member) objects to the application stating:

- The site was never intended as a permanent settlement and there are plenty of spaces at two other sites therefore there is no need to expand this site.

- Overcrowding – there will be insufficient space between vans and a potential fire risk.
- The site access is insufficient.
- Concerns regarding sewage disposal, drainage and sanitation.
- Little integration between the villagers, education of the children and no doctor in the village.
- House values have dropped in the area.
- Bonfires on site and anti social behaviour from the current residents.

Responses to Publicity

Four letters of objection have been received from local residents and their concerns are summarised below:

- Site not connected to mains sewer or water, creating sanitation problems.
- Concerns regarding flooding due to surface water run off and no soak ways on the site.
- Application does not reference how the utilities will be provided.
- Extra movement of traffic in and out of site may cause a hazard for other road users and pedestrians.
- National and fire regulations should be adhered to.
- Extension of site cannot be viewed as a small family unit as described previously and will make it a site for travellers.
- Sizes of caravans need clarifying, as they could be chalet in appearance and become a small housing site.
- Burning on site of conifers and commercial waste is unacceptable.
- Increase in amount of caravans would adversely impact on character of the surroundings and village as a whole.
- Increase in caravans will increase amount of antisocial behaviour experienced from the site.
- Retrospective applications have been submitted in the past and there is an unauthorised stable block on the site.
- Storage of commercial waste on the site requires consent.
- There are five caravans on site at present which is in contravention of the current consent and there are a minimum of seven vehicles leading to overcrowding.

National Guidance

Planning Policy Statement 7, Circular 01/06.

Development Plan Policies

The relevant policies are:

East Midlands Regional Plan: Policy 16;

Retained Local Plan Policies: Environment Policy 1, Housing Policy 15, and Transport Policy 6.

Other Advice

Derbyshire Gypsy and Traveller Accommodation Assessment 2008.

Designing Gypsy and Traveller Sites Good Practice Guide 2008.

Planning Considerations

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

- the previous history of the site and the highway safety implications of the current proposal.
- Conformity with the Development Plan
- Impact of the development on the countryside and character and appearance of the area.

Planning Assessment

The application site lies within the countryside, where Planning Policy Statement 7 and Development Plan policies seek to strictly control new buildings away from settlements. However Circular 01/06 specifically seeks to increase the supply in the provision of sites for Gypsies and Travellers to address a national shortfall - including in rural areas. This is also reiterated in the East Midlands Regional Plan (2009), which seeks to identify land for additional pitch provision including cross boundary working with other authorities.

The site is an authorised site, which gained planning permission in 2004. The application is to increase the number of caravans from 3 to 7 for immediate family specifically two married children one couple having children of their own. This being the case, the extra 4 caravans can be counted as 2 pitches and thus contribute towards meeting the District's needs as set out in the East Midlands Regional Plan.

Saved Local Plan Housing Policy 15 allows for the provision of private gypsy sites provided they are located in an area frequented by gypsies; satisfactorily located in relation to other development, acceptable in environmental terms, capable of assimilation into its surroundings and has adequate vehicular and pedestrian access.

The main issue here is whether the extension to the existing site will cause any additional intrusion into the countryside to such an extent that the application should be refused. The proposed additional caravans are well related to the existing caravans and would ensure the continued use of the site as a gypsy site and would provide much needed accommodation for the owner's family members. There is an existing amenity building on the site, which will be utilised as part of this application, and the site is well screened from the highway through the provision of existing vegetation. By providing more caravans on this site a need will be addressed and will ensure that further pitches are not taken up in the district, allowing the owner's family members to live with her and reducing the need to travel between sites to visit family making a more sustainable living unit.

The site is screened from the village to the west by a hedge and trees and from easterly and northerly directions by higher land, which reduces the impact on the character and appearance of the surroundings. The siting of an additional 4 caravans will have no significant effect on the character and appearance of the land than that of the three caravans currently sited on the land.

The applicant has been written to regarding the field to the east of the site and assuming ownership is still as shown on the previous application then the County Highways raise no objections subject to standard conditions being applied.

On the Advice of the Pollution Control Officer the site is acceptable in environmental terms subject to standard conditions.

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. Any caravans positioned on the site shall be capable of being moved lawfully on the public highway, without division into separate parts.
Reason: In order to ensure that no vans are brought onto the land that cannot be legally towed back onto the public highway.
3. The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of Circular ODPM Circular 01/06.
Reason: In order to ensure that the application site functions as a site for occupation by the gypsy and traveller community as use for any other purpose would be contrary to the provisions of the Development Plan except for the special provisions in planning policy for the gypsy and traveller community.
4. No commercial activities shall take place at the land, including the storage of materials.
Reason: In the interests of ensuring that the amenity of the occupiers of nearby dwellings is not prejudiced.
5. No vehicle over 3.5 tonnes shall be stationed parked or stored on the land.
Reason: In order to ensure that vehicles stationed, parked or stored at the site are limited in the interests of the amenity of the occupier of nearby dwellings.
6. Space shall be provided within the site curtilage for the parking and turning of one vehicle per caravan, laid out in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority and maintained thereafter free of any impediment to its designated use.
Reason: In the interests of highway safety and to ensure that adequate parking provision exists within the site.
7. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.
Reason: In the interests of flood protecting and pollution control.

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

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

9. 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 caravans; 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.

Informatives:

No permission is given for the submitted layout plan, as this appears contrary to the guidance given in the Good Practice Guide 2008 - Designing Gypsy and Traveller Sites. The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include: Collapse of shallow coal mine workings; Collapse of, or risk of entry into, mine entries (shafts and adits); Gas emissions from coal mines including methane and carbon dioxide; Spontaneous combustion or ignition of coal which may lead to underground heatings and production of carbon monoxide; Transmission of gases into adjacent properties from underground sources through ground fractures; Coal mining subsidence; Water emissions from coal mine workings.

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

interests of public safety the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated.

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

Item **1.2**

Reg. No. **9/2009/0605/SSA**

Applicant:

Miss Amanda Horley
Assura Properties Ltd
3300 Daresbury Business Park
Warrington

Agent:

Mr Ian Humphries
West Hart Partnership
5 Aldergate
Tamworth

Proposal: **The erection of 5 retail units, twelve two-bedroom apartments and two one-bedroom apartments with associated stores and carparking at Land Off Glamorgan Way Church Gresley Swadlincote**

Ward: **Church Gresley**

Valid Date: **10/08/2009**

Members may recall that this application was deferred at the 22nd September 2009 Committee meeting for a site visit. Two further letters of objection have been received since this meeting (within the required time) and are summarised below within the publicity section of this report.

Reason for committee determination

This is a major application and more than two letters of objection have been received.

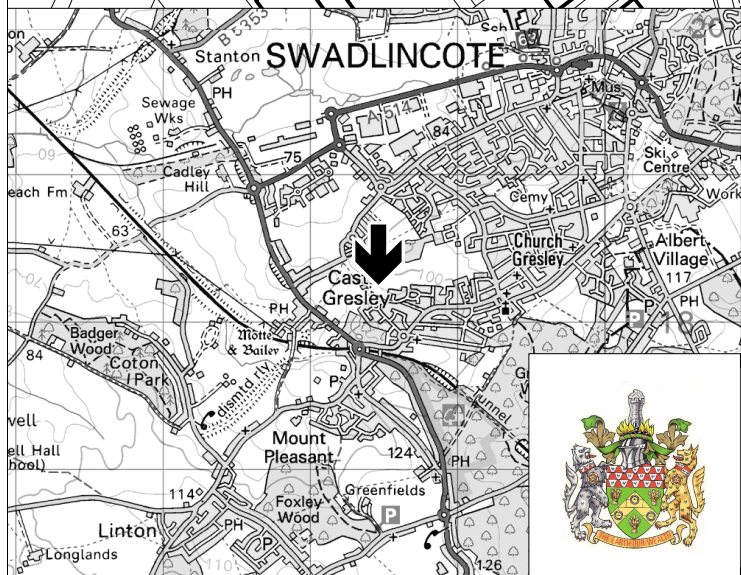
Site Description

The site is located to the west of the recently completed medical centre in the centre of Castleton Park. It is prominently located adjacent to Brunel Way, the main spine road through the estate, with access off Glamorgan Way. It is a part of the designated area of land for use as a local centre, stipulated in the original outline permission for the development (9/0890/0515) granted in 2000, to serve approximately 1,200 dwellings. There is open space to the north with a recently completed play area and a footpath /cycleway runs along the northern boundary alongside a wooded link through the estate. The line of public footpath 39 has been diverted around the site. The land is approximately 2m higher than the Brunel Way road level and rises to 3.2 metres adjacent to the medical centre.

Proposal

Planning permission is sought for a part two storey/ part three storey mixed use building which would incorporate the following accommodation: -

- One 2,500 sq ft retail (A1) unit,



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- Two 1,000 sq ft retail / office (A1 / A2) units
- Two 1,000 sq ft takeaway (A5) units
- Twelve 2- bedroom apartments
- Two 1- bedroom apartments

The proposal would be mixed uses to provide a local shopping centre for Castleton Park, which would complete the local centre envisaged at outline stage. The largest retail unit is proposed on the prominent corner adjacent to Brunel Way and this part is predominately two storeys. A fully glazed ground floor is proposed on the southern and western elevations of this unit in order to provide primary shopping frontages on the most prominent elevations. Fully glazed ground floor frontages are proposed for all of the units on the main southern elevation facing the car parking area.

The proposed building is curved towards the medical centre and some units are set back from others in order to break up the mass of the building. The design is similar to the medical centre with a mono-pitch aluminium roof and a mixture of the red render and buff brick. Red cedar wood cladding is an additional material proposed. Seven large balconies are proposed on both the northern and southern elevations together with ten Juliet balconies.

A car parking and servicing area is proposed to the north of the building together with a bin and cycle store in the north western corner. This area would be enclosed by 1.8 metre high palisade fencing painted black. 14 residential parking spaces are proposed for the apartments accessed from the existing access road completed for the medical centre. Five cycle stands are proposed to the front of the large retail unit on the corner. 14 car parking spaces are proposed in front of the entrances to the units and two disabled parking spaces. This is in addition to the 54 car parking spaces already completed to the south of the site for the combined use for the visitors to the medical centre and the proposed local centre retail units.

Applicants' supporting information

The Design and Access Statement outlines the site context, layout, scale, external appearance, sustainability and access. It details how the design reflects that of the medical centre and how the scale and mass has been reduced to minimise the impact on the adjacent residential properties on Brunel Way.

Planning History

9/2007/1161 - Outline application (all matters except layout, scale and means of access to be reserved) for the development of retail unit A1, A1/A2 and A5 plus 16 apartments (minimum 14 two bedroom units), associated car parking, landscaping and access, refused at Committee 4/3/08 – Dismissed at appeal.

Responses to Consultations

The Environmental Health Manager states that there are no objections provided that the amenity of the residential units are protected by conditions relating to a scheme to control noise from plant and equipment and noise and odour control for the A5 take-away units.

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

The County Highways Authority states that although they would wish parking to be provided for the apartments at the rate of 2 dedicated spaces for each 2-bedroomed apartment, it is accepted that in this particular case, due to the provision of public car parking adjacent to the site, a refusal on such grounds cannot be justified. Accordingly, there are no objections to the application. A condition requiring parking and cycle parking to be provided prior to occupation is recommended.

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

The Police Crime Prevention Design Advisor states that nuisance and anti social behaviour at community based retail shops is common throughout the country. The pavement frontage should not be too expansive, just enough for users to pass comfortably. This can deter skateboarders who prefer these locations and cause damage and nuisance. Bollards can provide essential protection but can also provide seating if careful consideration is not given. Shop fronts should not be shuttered. They should be left clear to maintain good natural surveillance. This includes the omission of marketing materials. It also removes natural light meaning that excessive unsustainable artificial lighting is the only available internal light source. Large areas of blank walls to the ground floor side elevations may attract graffiti and it is important that they are coated to enable graffiti to be immediately removed. Preferably they should be protected with fencing or prickly planting.

Laminated glass is a must for all ground windows to deflect opportunist attack and allow premises to remain operational. A good lighting scheme is also important for all areas including the residents parking. Care should be taken that tree planting along the public footpath to the rear should not aid future climbing access.

In summary recommendations are;

- Move the footpath on the Brunel Way side elevation over (1 m) away from the wall and incorporate protective planting with thorny shrubs or a low feature metal railing fence to maintain defensible space to this side and to prevent graffiti. Estate type fencing is an attractive and identifying feature of this development and not only adds aesthetic design quality but safety.
- Avoid any use of canopies to deter congregation. Bring forward slightly or enclose the entrance to the front residential lobby to prevent congregation and obstruction of the access.
- Coat all external public facing blank elevations with anti graffiti treatments.
- Specify laminated glass to all ground floor and any easily accessible windows and doors.
- Manage the retail units to maintain surveillance through the windows as they were designed for, to deter congregation and reduce artificial light and provide more sustainable natural light.

Responses to Publicity

Three letters of objection have been received and the reasons are summarised below: -

- The area is in danger of over-development.
- There is no need for shops.
- Hot food takeaways attract congregating youths and traffic and there is no need for them as there are a number within 1-2 miles.
- The proposal for shops would mean they would move away from the area.
- The proposed development is far too big for the area in both surface area and height.
- There are too many apartments on the development that are empty and why add shops.
- The area overlooks the play area and would increase teenage gangs hanging around in the evenings.
- Where is the service access to the shops?
- When are all the neighbours going to be consulted?
- There would be an increase in traffic as it is already evident due to the medical centre and there is no traffic calming on Brunel Way.
- There is no indication of what kind of retail units would be allowed.
- A chemist would fit with the surgery but takeaways would increase litter and anti-social behaviour.
- The Police have informed them that the area is on a rapid response for anti-social behaviour.
- *The red paint and yellow brick of the existing Medical Centre is completely out of keeping with the rest of the development.*
- *There is no need for two A5 units within a relatively small development.*
- *They were not consulted (57 Brunel Way) on the application and did not see a site notice.*
- *The proposal should not be granted on the grounds of safety due to the increase in traffic in this residential area.*
- *Pedestrians cross the existing car park to access the play area and children currently play on the car park which would cause a safety issue.*
- *This plan has been refused once so what has changed now?*

Development Plan Policies

The relevant policies are:

East Midlands Regional Plan Policies:

2 - Promoting Better Design

3 – Distribution of new development

12 – Development in the Three Cities Sub-area

22 – Regional Priorities for Town Centres and Retail Development

48 – Regional Car Parking Standards

Local Plan: Housing Policies 2 and 11, Environment Policy 10, Transport Policy 6 and Shopping Policy 3

National Guidance

Planning Policy Statement 1 : Delivering Sustainable Development

Planning Policy Statement 3 : Housing

Planning Policy Statement 6 : Planning for Town Centres

Planning Considerations

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

- Principle of development
- Impact on properties on Brunel Way
- Scale
- Design
- Highways
- Crime Prevention

Planning Assessment

Principle of development

The provision of a local centre was negotiated at the outline stage for the overall development of Castleton Park and the centrally located land was safeguarded for this use on the development masterplan. The area of land was also stipulated in the Section 106 which states that the developer shall make available no less than 0.4 hectares of land within the site indicated on the masterplan as a Local Centre for the erection of buildings for uses within Classes A1, A2, A3 and D1 of the Town and Country Planning Use Classes Order 1987. The medical centre has been recently completed and this proposal completes the site to provide commercial facilities for this large housing development. The granting of the outline permission established that the principle of this development is acceptable.

Impact on properties on Brunel Way

An outline permission for a mixed use retail and residential scheme incorporating 16 residential units was refused in March 2008 for the following reason: -

“Given the amount of accommodation proposed, the resulting building (as demonstrated by the illustrative plans submitted) would be of a scale and design out of keeping with the area and overbearing on the occupiers of adjacent dwellings. As such the proposal would be contrary to Shopping Policy 3 of the Adopted Local Plan in that it would adversely affect the amenities of neighbouring properties”.

The appeal was dismissed on the grounds *“that the proposal would have a materially harmful effect on the living conditions of the occupiers of nearby dwellings in Brunel Way”.*

The Inspector was of the opinion that as the dwellings on Brunel Way were below the level of the road and the proposed building would be 2 metres above it the 3 storey end would be close to the properties and loom over them. He went on to state that although the building was set at an angle, it would occupy much of the outlook directly from the fronts of No's 25 and 27 and would be particularly close and overbearing in relation to No. 27. Therefore the proximity and height of the building in relation to this property was the major concern.

The refused proposal was 3 storeys 4.9 metres from the edge of footpath and this current proposal is two storeys 6.2 metres from the footpath edge. The refused scheme was 33.5 metres from No.27 Brunel Way South and this current proposal would be 35

metres. A sectional drawing submitted with the application indicates the relationship with this dwelling in detail and indicates the proposed building would have a 2.6 metres higher land level than the dwelling and would have a 2.5m higher ridge. The building would be 7.4 metres in height at the frontage (south) rising to 8.8 metres at the rear (north). The combination of increasing the distance away from the property and the reduction to two storeys of this part of the building has addressed the concerns of the Inspector and this relationship is now considered acceptable.

Properties on Glamorgan Way to the south are a distance of 57 -70 metres away across the car park and thus the impact on their amenity is not considered to be significant.

Scale

In relation to scale, the Inspector recognised that nearby housing is also three storeys and "*distinctiveness in this way is not necessarily inappropriate for a building with a particular function*". The three storey dwellings are on higher land to the north east and north west and thus the scale is considered appropriate in respect of its function as a distinctive local centre building adjacent to the similarly designed medical centre. It should be a focal point within the centre of the development and this has been achieved by a combination of its scale and external appearance.

Design

It was considered essential to provide a design that complements the existing medical centre as the two buildings would define the local centre. The mono-pitch roof which slopes up towards the high land to the north, reduces its mass on the main southern elevation adjacent to the car park. Its mass is further broken up by the two storey part adjacent to Brunel Way and a central lower roof section where the stairway is located. Balconies add interest, as does the central glazed section serving the stairway. All materials proposed are therefore identical to those approved for the medical centre except for the red cedar wood cladding. The wood cladding has been incorporated due to the National Forest context and to soften the building. Amended plans indicate cladding on the upper floors to further soften the building.

The proposed 1.8 m high security fencing painted black which would enclose the parking and servicing area to the rear of the building is considered acceptable as it is identical to that approved to the side of the medical centre and screening by trees would be required through the landscaping scheme condition.

Highways

The parking and servicing area to the rear of the proposed building is considered appropriate to serve the commercial units and the residential apartments. 1 space per apartment is proposed, as there are 70 car parking spaces to the front of the building for use by visitors to the apartments. The Highways Authority has no objection to this arrangement. Cycle and bin storage for the commercial and residential units is proposed in a single storey building of wood cladding to the north west of the building. Cycle parking for customers is proposed to the front of the large A1 retail unit.

Crime Prevention

The Police Crime Reduction Design Advisor emphasises the importance of crime prevention measures on a scheme of this nature due to the prevalence of anti-social behaviour on a large number of similar local centre scheme in the country. The narrow width of the entrance to residential units and lack of any canopy providing shelter together with the width of the frontage paving makes the threat of youth's congregating

and obstructing the access to be minimal. Moving the footpath 1m from the side wall was not feasible due to the grading of the bank and the landscaping requirement to continue the line of trees adjacent to Brunel Way. Amended plans indicate bollards to the frontage of the retail units. The site would be significantly overlooked by residential properties due to its open nature and the rear parking area would be secure. Therefore, its openness eliminates areas where people could congregate out of view of the retail units or residential properties. Where full height glazing is proposed, Building Regulations require it to be toughened and laminated. The Council has no control over whether or not windows are obscured internally by posters/back of shelving etc. Crime prevention measures shall be considered when the landscaping scheme is submitted for discharge of condition to ensure defensive planting is incorporated.

Other issues raised by objectors

A housing development of the size of Castleton Park, located approximately 1 mile from Swadlincote town centre, would benefit greatly from the provision of local shops and services proposed and it was a prerequisite of outline permission as it is considered sustainability by reducing the need for residents to travel. Neighbour notification letters have been sent to all properties which fall within the Council's guidelines for requiring notification. A site notice was also placed on Brunel Way and Glamorgan Way. The use classes of A1 retail, A2 offices and A5 takeaways are specified on the floorplans, however, specific end users are not known and this is not a planning requirement. Brunel Way does have traffic calming to slow down vehicles.

In summary, the principle of this type of development in this location was established by the granting of outline permission in 2000. The Inspector's concerns in relation to the impact on the amenity of No.27 Brunel Way South have been adequately addressed by the increase in distance from the property and reduction to two storeys of the nearest part of the building. The scale and external appearance are considered appropriate and would provide a distinctive local centre building which complements the existing medical centre. The proposal therefore accords with Local Plan Shopping Policy 3 in relation to Local Shopping.

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. This permission shall relate to the amended drawing No's 610-300 Rev E, 610-101 Rev F, 610-200 Rev E and 610-302 Rev B.
Reason: For the avoidance of doubt.
3. A sample of the cedar cladding shall be submitted and approved in writing by the Local Planning Authority prior to commencement of development. The building

shall be constructed with the materials detailed on 610-300 Rev E and on the submitted application form, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the building is in keeping with the adjacent medical centre and surrounding area in the interest of the character and visual amenity of the area.

4. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

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

5. Before development is commenced details of a scheme to control noise from plant and equipment generated from within the building and any externally mounted equipment, including details of ongoing maintenance, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of the building and thereafter be maintained in accordance with the approved scheme.

Reason: To protect the amenities of the occupiers of the residential units and the locality generally.

6. 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.

7. Prior to the occupation of the apartments the area shown on the approved plan for the parking and manoeuvring of residents vehicles (including the secure covered cycle parking) shall be laid out, hard surfaced in a solid bound material (i.e. not loose chippings) and marked out. 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.

9. The A5 uses hereby permitted shall not be open to customers outside the following times: 11:00 - 23:00 Monday to Thursday, 11:00 - 23:30 on Fridays and Saturdays and 11:00 - 21:00 on Sundays and Bank Holidays.

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

10. The food orders in association with the A5 takeaway premises shall not be taken at or despatched from the site outside the hours of:- 11:00 - 23:00 Monday to Thursday, 11:00 - 23:30 on Fridays and Saturdays and 11:00 - 21:00 on Sundays and Bank Holidays.

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

12. Prior to the occupation of any of the A5 takeaway units a scheme for the extraction and ventilation of cooking odours shall be submitted and approved in

writing by the Local Planning Authority, and that equipment be installed in accordance with the approved details.

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

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

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

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

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

15. 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.

16. Prior to commencement of development a lighting scheme for the development shall be submitted to and approved in writing by the Local Planning Authority and the scheme shall be implemented in accordance with the approved details.

Reason: In the interests of the amenity of nearby residential properties.

Informatives:

The Environmental Health Manager advises that any potential occupiers of the takeaway premises should contact the Local Planning Authority to ensure that the proposed business is suited to operate from a unit which is in close proximity to residential property. Failure to do so could result in the local authority serving an abatement notice against the business operator under s79 Environmental Protection Act 1990. Failure to comply with an abatement notice may lead to prosecution.

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

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp

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

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

13/10/2009

Item **1.3**

Reg. No. **9/2009/0731/FO**

Applicant:

South Derbyshire District Council
C/O S G Design Studio Ltd
202 Woodville Road
Hartshorne
Swadlincote

Agent:

Mr Stephen Greaves
S G Design Studio Limited
202 Woodville Road
Hartshorne
Swadlincote

Proposal: **The erection of a detached dwelling at 14 Grange Close
Melbourne Derby**

Ward: **Melbourne**

Valid Date: **04/09/2009**

Reason for committee determination

The Council owns the site.

Site Description

The site is vacant, prior to which it was part of the garden to the adjoining property.

Proposal

The application is in outline but is accompanied by illustrative drawings, which show how a house may be accommodated on the site. The means of access is to be determined at this stage.

Applicants' supporting information

The Design and Access Statement emphasises that the dwelling can meet the minimum distances set out in supplementary planning guidance.

Responses to Consultations

Melbourne Civic Society has no objection.

The Highway Authority, Severn Trent Water and the Contaminated Land Officer have no objection in principle.



South Derbyshire District Council. LA 100019461. 2009

Responses to Publicity

Two neighbours object on the grounds of:

- a) Overlooking and loss of privacy.
- b) Grange Close is too narrow for additional traffic and the development would increase danger.

Development Plan Policies

The relevant policies are:

East Midlands Regional Plan Policies 1, 2, & 3

South Derbyshire Local Plan Saved Housing Policies 5 & 11 and Transport Policy 6.

National Guidance

PPS1, PPS3

Planning Considerations

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

- The principle.
- Impact on the general character of the area.
- Residential amenity.
- Highway safety

Planning Assessment

The site lies in the village confine and, being most recently used as garden, can be considered to be previously used land. Melbourne is a settlement with a good range of facilities. Therefore development of the site as proposed would be in accord with general sustainable development principles.

The illustrative scheme indicates how the prevailing character and appearance of the existing houses in Grange Close could be reflected, if not replicated, in the new dwelling. Its location would not interrupt the linear grain of the existing frontages and the highway and there would be minimal visual impact arising from the development.

Whilst the application is in outline the illustrative drawings show that the minimum distances set out in the relevant supplementary planning guidance can be met. Therefore the impact on the amenities of the occupiers of neighbouring dwellings would be acceptable.

Subject to the recommended conditions of the Highway Authority there would be no harm to highway safety interests.

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

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

4. 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.

5. 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.

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.

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

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 level(s).

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

Informatives:

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months prior notification should be given to the Director of Environmental Services at County Hall, Matlock (telephone 01629 580000 and ask for the District Highway Care Manager on extension 7595) before any works commence on the vehicular access within highway limits.

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

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: pollution.control@south-derbys.gov.uk.

Item **1.4**

Reg. No. **9/2009/0747/TC**

Applicant:

Mrs Michelle Mansfield
1 Aston Hall Drive
Aston-on-Trent
Derby

Agent:

Mrs Michelle Mansfield
1 Aston-on-Trent
Aston Hall Drive
Derby

Proposal: **The felling and pruning of trees at 1 Aston Hall Drive
Aston-on-Trent Derby**

Ward: **Aston**

Valid Date: **09/09/2009**

Reason for committee determination

The applicant is a member of staff.

Site Description

The trees are located in the rear and side garden of the property and are a mixture of ages and sizes. The site lies within the Aston Conservation Area.

Proposal

It is proposed to fell 2 holly trees, a western red cedar, an apple, a crab apple, and to prune a horse chestnut.

Applicants' supporting information

Branches of the horse chestnut are touching the roof of the house.

Planning History

Several permissions have been granted for felling and pruning of trees on the site in the past.

Responses to Consultations

Aston Parish Council objects to the felling of the two hollies, the red cedar and the pruning of the horse chestnut.

The Council's consultant arboriculturist has no objection to the removal of the 'mishapen'/topped western red cedar, the two hollies and the crab apple. He considers



that the horse chestnut needs to have a minor pruning to keep it away from the house. In all, the work would result in little loss of amenity in the conservation area. However, he advises that the apple tree, which sits on the front boundary with the drive, is more important and should not be felled but would benefit from pruning instead.

Responses to Publicity

No objections have been received.

Development Plan Policies

The relevant policies are:

Local Plan: Environment Policy 9.

National Guidance

PPG15

Planning Considerations

The main issue central to the determination of this application the impact of the proposal on the conservation area.

Planning Assessment

The trees are located in an area well populated by a variety of specimens. The trees the subject of this notice are generally of poor quality and make very little contribution to the area. Many others on the site that are of high quality will remain. On the advice of the council's consultant with regard to the apple tree, the applicant has agreed accordingly.

Recommendation

That the Local Planning Authority has **no objection** to the proposals. No Tree Preservation Order is therefore required.

Informatives:

You are advised that all work should be carried out in accordance with the British Standards Institute's recommendations for tree work.