

# **REPORT OF THE HEAD OF PLANNING SERVICES**

**SECTION 1: Planning Applications**

**SECTION 2: Appeals**

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

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## **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.**

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
9/2009/0346	1.1	Hartshorne	Hartshorne & Ticknall	1
9/2009/0436	1.2	Hilton	Hilton	15
9/2009/0461	1.3	Melbourne	Melbourne	30
9/2009/0481	1.4	Walton on Trent	Seales	35
9/2009/0490	1.5	Egginton	Etwall	41
9/2009/0495	1.6	Ticknall	Hartshorne & Ticknall	52
9/2009/0519	1.7	Dalbury Lees	North West	55
9/2009/0568	1.8	Repton	Repton	61
9/2009/0604	1.9	Midway	Midway	68
9/2009/0605	1.10	Church Gresley	Church Gresley	75
9/2009/0695	1.11	Aston on Trent	Aston on Trent	85
9/2009/0659	1.12	Stenson Fields	Stenson	90

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.**           **9/2009/0346/NO**

**Applicant:**  
Mr R Evans  
c/o Agent

**Agent:**  
Mr. S. Greaves  
S. G. Design Studio Ltd  
202 Woodville Road  
Hartshorne  
Swadlincote

**Proposal:**           **The erection of five holiday cabins, village shop, tea rooms and hair salon with associated access, parking and landscaping at 124 Repton Road Hartshorne Swadlincote**

**Ward:**                **Hartshorne & Ticknall**

**Valid Date:**        **06/05/2009**

#### **Reason for committee determination**

The application has been brought to Committee at the request of Councillor Murray as local concern has been expressed about a particular issue.

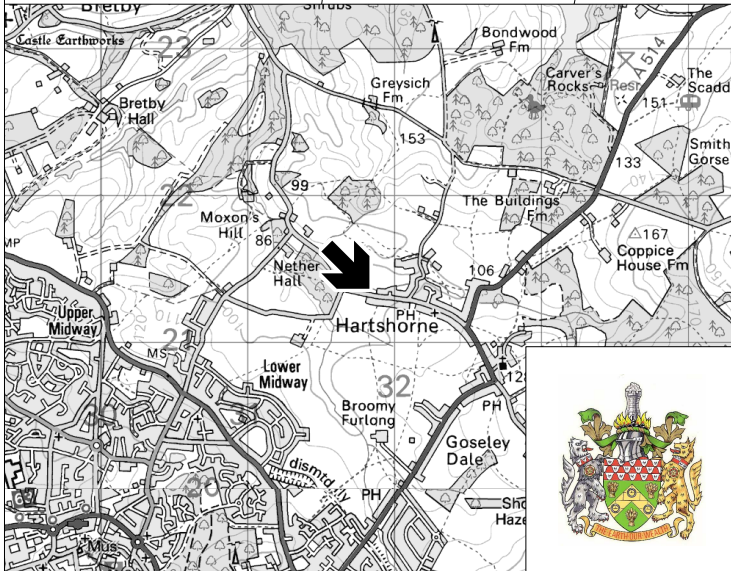
#### **Site Description**

The application site is a greenfield site situated on the edge of Hartshorne village, adjacent to the house and garden of No. 124 Repton Road but outside of the defined development boundary. The site is bordered to the east and south by housing with open countryside to the north and west. A hedge forms the boundary of the site with Repton Road. The site slopes gradually northwards away from Repton Road with the gradient becoming steeper towards the centre as it steps down towards an elongated pond situated in the northern half of the site. To the north of the pond is Repton Brook, a watercourse that flows from east to west across the site and beyond. The land starts to gradually rise beyond this watercourse but remains below the road level by some 3 metres.

#### **Proposal**

The application proposes the erection of five log cabins for tourist accommodation, a village shop, tea-rooms and hairdressers in a woodland setting with associated parking and a small on-site storage building.

The log cabins would provide single storey accommodation consisting of one 3-bed, two 2-bed and two 1-bed lodges. The village shop, tea-rooms and hair salon would be located in a single building built on a split level viewed as single storey from Repton



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**South Derbyshire District Council. LA 100019461. 2009**

Road increasing to 2-storey as it steps down to the existing pond on site with a decked outdoor seating area extending out towards the pond. The shop would be located at ground floor level with an area providing tearoom access for disabled, the main tearoom being located at basement level, and the salon split over two levels. All the buildings would be timber-clad with shuttered windows and cedar shingle roofs. Three of the lodges would be situated to the front of the site at a ground level approximately 0.9m lower than the roadside level. The shop/tea-room would be at a lower ground level such that the ridge line would be lower than the lodges to the front of the site with a further two cabins situated beyond the brook on the northern edge of the site.

A large section of the existing hedgerow to the front of the site measuring some 37m would be removed to provide the required visibility for the proposed new access into the site from Repton Road. This roadside area would be earth mounded and planted with a replacement hedge to form a 'Devon' style hedge set approximately 2m further back from the line of the existing hedge. A 29m length of the existing hedge would remain.

A number of small trees at the centre of the site would be removed with the majority of mature trees along the northern and eastern boundaries retained. An amended landscaping scheme has been submitted proposing extensive landscaping throughout the site with an area of heavy planting towards the front of the site adjacent to Repton Road to assist in screening the development from the roadside and to blend it with the rural surroundings.

An existing overhead cable that crosses the southern part of the site would be diverted underground.

## **Applicants' supporting information**

### Design and Access Statement

The Statement submitted with the application includes the following details: (a full copy is available for inspection on file)

- The applicant has been a resident in the village and a successful business owner in South Derbyshire for 25 years.
- The National Forest Strategy actively encourages tourism to the area, and the log cabins would provide much needed overnight tourist accommodation.
- The village no longer has a shop and villagers have to travel approximately 2 miles plus to the nearest shop.
- The previous village shops were extremely limited in their range of goods for sale and expensive.
- In addition to stocking regionally sourced quality foods, the shop would also stock household essentials and the tearoom would provide a much needed meeting place in the village for community groups and provide a local outlet for arts and crafts.
- The facilities would contribute to community cohesion and provide local employment opportunities.
- Timber clad buildings are proposed with cedar shingle roofs, which are appropriate to the National Forest setting and this edge of village location.
- External shutters to the doors and windows are proposed to add interest and character and also for added security when the cabins are vacant.

- The landscaping concept is to give the appearance of the development sitting within a woodland setting.
- The high density planting would provide an effective tree screen in a relatively short period.

### Flood Risk Assessment

The submitted Flood Risk Assessment identifies that the site lies partially within Flood Zone 3 with a risk of 1 in 100 year flood. Repton Brook is considered to be the primary flood risk to the development and is located directly adjacent to the site. The proposed lodges and shop have all been located within Flood Zone 1.

Due to the topography of the site, it is anticipated that the surface water runoff from the developed areas will be directed towards Repton Brook. The assessment concludes that there is low risk of flooding due to overtopping of the river banks and that flooding caused by increased water levels within the existing pond during flood conditions presents a low risk of flooding to the development. The implementation of mitigation measures as submitted will ensure that any risk of flooding at the proposed development may be reduced to an acceptable level.

### Wildlife Survey

The Ecology Report submitted with the application and subsequent additional reports recommends improvements to enhance the habitat of birds and bats within the site with a series of bird, owl and bat boxes to be positioned on the site post development and measures to improve the environment to attract additional wildlife such as great crested newts, water vole and white-clawed crayfish.

The survey proposes that the enhanced wildlife management strategies of the site will have a beneficial impact for the development and enhancement of all wildlife species within the area and that there will be no detrimental impact with the loss of habitat, any losses being compensated and enhanced.

The report recommends that a 5 year monitoring programme is implemented post development, to monitor the population levels and use of the site by all protected species.

### **Additional Supporting Information**

Additional supporting information has been submitted that includes the following statements and information:

- PPS7 requires that wherever possible accommodation should be in existing or replacement buildings, but new buildings can be supported where there are no suitable buildings available. There are no buildings available on the edge of the settlement that would be appropriate to convert and the location at the edge of the settlement ensures that users of the cabins will be able to access the facilities in the village such as the village pub and restaurant.
- The site can enter into the public footpath network from the village and access nearby beauty spots and the wider footpath network of the National Forest.
- The site is in a good sustainable location in tourism terms, being close to woodlands walks, and recreational facilities such as Calke, Staunton Harold, Foremark, Ferrers Arts and Crafts and Conkers centre.

- The existing and proposed landscaping of the site is of high quality and neither the cabins nor the shop will be prominent in the landscape.
- The scheme is in accordance with Recreation and Tourism Policy 1 of the Local Plan, the provision of holiday cabins and a tea shop and village store is an appropriate use within the National Forest where the scheme will enhance the natural resource of the area.
- The site can provide on site parking and there will be no adverse effect on the residents that live in the village.
- The National Forest support the scheme in their letter dated 22 July 2009 and outline that there is a need to develop a wide range of quality accommodation to cater for the number of visitors to the Forest, particularly holiday cabin accommodation.
- A development of this kind will contribute to the local economy as well as support local business through its operation and supply chain.
- The scheme has been based on extensive market research to support the proposal and through a thorough financial forecast in consultation with Thackers, Marketing Consultant, to ensure long-term viability. The owner is committing his own funds toward the project and has extensive experience in the sector. The submitted financial forecasts demonstrate that the scheme is financially viable and will go into trading profit after approximately 15 months of operation.
- The proposal will provide 10 new jobs and will support the economic base of the local economy.

A letter from The National Forest Company comments that “the site is in a good sustainable location in tourism terms. A great many woodlands have been created around this area enabling woodland walks from the doorstep and recreational facilities nearby.”

A Community Support Survey containing 101 signatures, 17 letters of support from various local business and residents and 2 additional petitions containing 15 signatures and 14 signatures respectively has been submitted in support of the application.

## **Planning History**

There is no recent relevant planning history for the site. An outline application for residential development was refused in 1980.

## **Responses to Consultations**

The Council’s Landscape Consultant has commented that the amended landscaping scheme is a considerable improvement. The roadside area will be earth mounded to form a ‘Devon hedge’ type feature. The site will be heavily planted with native trees and shrubs providing excellent screening in three to five years.

Environmental Health has no objections subject to conditions regarding non-residential hours of use and lighting.

The Contaminated Land Officer has no objection subject to standard contamination conditions.

The Highway Authority has no objection subject to conditions. The re-alignment of the roadside hedgerow as proposed would provide a sightline to the west that complies with the requirements of Manual for Streets.

The Environment Agency has no objection following the receipt of an amended flood risk assessment and subject to the submission and implementation of a surface water drainage scheme for the site and the removal of the proposed temporary access culvert upon completion of the development.

Derbyshire Wildlife Trust, following the receipt of an Extended Ecological Survey Report has no objection. It is recommended that a 5m buffer zone should be established along both banks of the brook to prevent damage or disturbance during both the construction and post development phase in the interests of the presence of white-clawed crayfish. It is recommended that any vegetation removal should be carried out to avoid the bird nesting season. The erection of bird boxes for a range of species and bat boxes within the development and the planting of native trees and shrubs proposed by the landscaping scheme to provide maximum benefit to wildlife is welcomed. A Habitat Management and Monitoring Plan for the site should be submitted to the Local Planning Authority for approval.

Severn Trent has no objection.

Central Networks and National Grid have no objection.

The Parish Council has withdrawn their original objection and now supports the proposal on the basis that none of the cabins are to be let on long-term tenancies.

## **Responses to Publicity**

Fourteen letters of objection have been received from eight households raising the following concerns:

- The entrance to the site is on blind bend and will be dangerous to both users of the site & oncoming traffic.
- There is potential for nuisance & noise late at night, disturbance during building and noise from visiting/use of facilities & servicing.
- There are problems with blockage of the main sewer serving the site.
- Increased traffic and subsequent problems.
- The road is not wide enough to cope with extra traffic.
- Absence of effective, accessible public transport & other non-car modes.
- Use of the road by heavy goods vehicles would increase as a result.
- This section of the road is covered by 30mph but not far from national speed limit signs – drivers often travel in excess of speed limit as they leave village.
- The increase in traffic will increase the likelihood of accidents in this section of road.
- The entrance to the property is on a corner and even allowing for the existing hedge being removed the bend in the road is still there.
- Vandalism
- The destruction of wildlife habitat
- This is the last place in Hartshorne unspoilt by building.
- It is incorrect that villagers have to travel approximately 2 miles to the nearest shop – Goseley shop is  $\frac{3}{4}$  mile, Salisbury Drive & Eureka Stores under 2 miles, Scaddows Farm – tea rooms, farm shop just over a mile away.
- The site of the Chesterfield Inn could be the site of a village shop and is closer to the centre of the village.

- The previous village Post Office closed due to Government cutbacks, not the retirement of the owners.
- There are other community facilities in the village such as Goseley Community Hall & Dethicks Close bungalow community hall within vicinity.
- The tea rooms, shop and salon are not central to the village & people would be inclined to drive adding to traffic in a difficult area of Repton Road. The location would be a problem for the elderly and there is no bus service this end of the village.
- The Community Support Survey dates back to May 2008 is misleading. The impression gained is of log cabin tea-room & local farm shop (not village). The survey shows signatures from as far as 5 miles away.
- Disturbance to local amenity would be inevitable by virtue of the extensive and time-consuming site preparations e.g. extensive LPG installation, removal of overhead power lines, noise pollution.
- The site is greenfield and lies outside of the village framework.
- Successive village shops have not managed to survive in Hartshorne – it is debatable whether another local shop could succeed.
- The increased risk of flooding - there is an inherent problem with water passing through the site.
- There is nowhere on the application that stipulates the lodges are for use as 'holiday lets'.
- Instead of the three chalets at the front there should be a widening of the road, and well organised entrances and exits.
- The site is for families but there is no area for children to play – amount of traffic on site not safe
- Having rented the adjacent field for over 20 years Repton Brook has overflowed onto the floodplain after heavy rainfall. The volume of water that flowed down the brook could be a safety hazard to children
- Once the hedge has been removed the trees and shrubs to be planted would take years to grow so that the entrance to the village would become an eyesore. There would also be no privacy for the occupants of the chalets
- There is a gated entrance and potential issue of safety of children wondering from site, but if the gates are closed there could be a problem of queuing on the approach road.
- If passed could there be a condition re no “all male or all female” hen & stag weekends.
- If the venture fails could the area revert to agricultural use & no properties be sold as permanent residencies.
- Will there be any security lighting on the premises as my bedroom window is directly opposite.
- Unwarranted expansion into the countryside which would render the approach village unattractive and “bitty”.
- The applicant states there are no protected species on site. Has an independent ecological survey been submitted?
- The development requires extensive visibility to the frontage which will result in the loss of a substantial roadside hedge along with wildlife habitat.
- There is already a hair salon in the centre of the village.
- The village is adequately provided with tourist accommodation for instance at The Mill Wheel, The Bulls Head and Upper Hall family accommodation.
- Approval of the application will open up the possibility of further development on other extremities of the village.

Two letters of support in addition to those submitted as part of the application have been received commenting as follows:

- We need a shop in the village which is easily accessible by foot.
- The applicant is to be encouraged to set up a shop and provide holiday accommodation in what appears to be a well-planned and professional manner.

### **Development Plan Policies**

The relevant policies are:

EMRP:

Policy 35 – A Regional Approach to Flood Risk

Policy 42 – Regional Priorities for Tourism

Local Plan:

Environment Policies 1 & 10

Shopping Policy 3

Recreation and Tourist Facilities Policy 1

### **National Guidance**

Planning Policy 7: Sustainable Development in Rural Areas

### **Planning Considerations**

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

- The principle
- Impact on the character of the countryside
- Highway Safety
- Flood Risk
- Wildlife Issues
- Residential Amenity

### **Planning Assessment**

PPS7 supports the provision of new tourist facilities and small-scale local facilities, such as local shops, in appropriate locations where the needs are not met by existing facilities in rural areas providing they are not detrimental to the character or amenity of the area. The policy advises that proposals for new facilities should normally be located in or close to existing service centres or villages. This is further reflected in both regional and local policy. The National Forest Strategy and the Good Practice Guide for Planning and Tourism encourage the provision of tourist accommodation providing it is not detrimental to the area.

The application site is located on the edge of the village confine and within the National Forest where there is a known need for additional tourist accommodation. PPS7 advises that new sites for tourist accommodation should not be visually prominent in the landscape and that any visual intrusion should be minimised by effective high quality screening. The acceptability of the tourist accommodation therefore hinges upon whether it can be effectively screened by planting that is in keeping with the character of the surrounding landscape.

Shopping Policy 3 of the Local Plan allows for the provision of small local shops provided that they do not adversely affect the amenities of neighbouring properties and that adequate provision is made for access, parking and servicing facilities. National and regional policy support the provision of such facilities due to the reduction on the reliance of the private car and the improvement of access to retail services within rural areas. There is currently no local shop within easy walking distance of the village and whilst there is a bus service at the other end of the village to the site access to the nearest shops would be likely to necessitate the use of a car.

In principle both the tourism element and provision of a local shop are acceptable subject to acceptable impact on the character of the surrounding area, local amenity and adequate parking and servicing provision.

The proposed development is well related to the existing settlement and would be viewed against the backdrop of the existing village when travelling from the west along Repton Road with sporadic views between the existing roadside and field boundary hedges and vegetation.

The proposed lodges would be single storey measuring 5m to the ridge. Three of the lodges would be located toward the front of the site and positioned side on to the road. The lodges would be set approximately 0.9m below the road level behind an area of mounding on which a new hedge would be planted. The village shop would sit beyond and be partially obscured by these front lodges and be viewed as single storey from Repton Road measuring 4.5m to the ridge on its lowest side. Lodges 1 & 2 located to the rear of the site would be set at a lower level and obscured from view by the remainder of the development.

The requirement to remove the existing boundary hedge to the front of the site would increase the initial visual impact of the proposed development. Whilst it would normally be expected that sites of this kind would be adequately screened from the outset the impact would be mitigated in time by the extensive landscaping proposed throughout the site which would take approximately 3 to 5 years to establish and provide additional woodland planting within the National Forest Area. The southern part of the site adjacent to Repton Road would be heavily planted with native shrubs and trees to include field maples, oak, ash, birch, aspen and hawthorn providing extensive screening. The limited height of the buildings and use of natural materials would assist in blending the development in with its natural surroundings.

The proposed new access would be located at a point on Repton Road where the speed limit is 30 mph. The alterations to the existing frontage hedgerow would achieve the required visibility in both directions and the Highway Authority has no objection. There is sufficient parking and servicing on site.

The site is affected by Flood Zone 2 & 3 surrounding the Repton Brook area. The proposed built development would be located outside of these areas in Flood Zone 1 (less than 1 in 1000 annual probability of flooding). Following the receipt of an amended Flood Risk Assessment the Environment Agency has no objection to the proposed development subject to a condition requiring the submission of a surface water drainage scheme for the site based on sustainable drainage principles. The application proposes a temporary culvert of Repton Brook consisting of 1200mm diameter concrete pipes to provide a temporary access for construction vehicles to the development area on the north bank of the brook. The submission of a scheme to

ensure the temporary access culvert is removed from the development upon completion can be controlled by condition.

Derbyshire Wildlife Trust is satisfied that the issues raised in their initial consultation response have been addressed by the submission of additional ecology reports. The roadside hedge is not an “important” hedgerow and as such the Trust has no objection to its removal. A Habitat Management and Monitoring Plan for the site demonstrating the long-term management of retained and created habitats together with post mitigation monitoring measures and a 5m buffer zone along the banks of Repton Brook to prevent damage or disturbance with regard to the presence of crayfish can be required by condition

Other than 124 Repton Road the nearest residential properties to the site are located on the opposite side of the road. The properties are set back from Repton Road at a slightly higher level with a number of them having hedgerows along the front boundary. The proposed development would be visible from these properties but would be partially obscured by existing boundary treatments. The proposed planting would, in a reasonable period of time, provide additional extensive screening of the development and act as a buffer to these neighbouring residential properties. The lighting of the development and hours of use of the non-residential elements of the scheme can be controlled by condition. Environmental Health has no objection.

The use of the lodges as holiday lets can be controlled by condition.

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

## **Recommendation**

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

1. The development permitted shall be begun before the expiration of 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 external walls and roof of the building(s), including colour samples, have been submitted to and approved in writing by the Local Planning Authority.  
  
Reason: To safeguard the appearance of the existing building and the locality generally.
3. Notwithstanding the originally submitted details, this permission shall relate to the amended landscaping scheme, drawing no. TNA\_347\_01, received 30 July 2009; amended plan 208\_47\_01 Rev C received 9 September 2009, updated Flood Risk Assessment dated June 2009, Extended Ecology Survey dated 25 July 2009 and Supplementary Ecology Report dated 1 August 2009.  
  
Reason: For the avoidance of doubt, the original submission being considered unacceptable.

4. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.  
Reason: In the interests of flood protecting and pollution control.
5. Prior to any other works commencing, the new access shall be formed to Repton Road. The access shall be laid out in accordance with the application drawing, having a minimum width of 5.5m, 6m radii and provided with visibility sightlines of 2.4m x 45m to the west and 2.4m x 70m to the east, the area forward of which shall be cleared and maintained in perpetuity clear of any obstruction exceeding 1m in height (600mm in the case of vegetation) relative to the nearside carriageway edge.  
Reason: In the interests of highway safety.
6. Prior to any other works commencing, excluding Condition 5 above, space shall be provided within the site curtilage for the storage of plant and materials, site accommodation, loading and unloading of goods' vehicles, parking and manoeuvring of site operatives' and visitors' vehicles, laid out in accordance with a scheme first submitted to and approved by the Local Planning Authority.  
Reason: In the interests of highway safety.
7. Prior to the premises being taken into use, the existing field access at the western side of the site frontage shall be permanently stopped-up in accordance with a scheme first submitted to and approved by the Local Planning Authority.  
Reason: In the interests of highway safety.
8. Prior to the premises being taken into use the site frontage, between the new access and the western access to 124 Repton Road, shall be cleared of any obstruction exceeding 600mm in height relative to road level for a distance of 2m back into the site from the highway boundary in order to avoid conflict between the emerging drivers and pedestrians.  
Reason: In the interests of highway safety.
9. Any gates shall be set back at least 10m into the site from the highway boundary and open inwards only.  
Reason: In the interests of highway safety.
10. Prior to the premises being taken into use, the car parking space shall be laid out in accordance with the application drawing. However, notwithstanding the submitted plans, each space shall be provided with 6m manoeuvring space for ease of drivers entering and leaving (most spaces are only shown with 5m). The parking and manoeuvring space shall be maintained thereafter free of any impediment to its designated use.  
Reason: In the interests of highway safety.
11. The development hereby permitted shall not commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include details of how the scheme shall be maintained and managed after completion.

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

12. The development hereby permitted shall not be commenced until such a time as a scheme to ensure that the temporary access culvert is removed from the development upon completion. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed in writing by the Local Planning Authority.

Reason: The access culvert will cause additional flood risk to the site which will impact upon the access and egress routes, and should be removed before the dwellings are occupied to reduce the risk of flooding to the proposed development and future occupants.

13. Notwithstanding the submitted details prior to the commencement of development a timetable for the implementation of the approved landscaping scheme shall be submitted for approval in writing by the Local Planning Authority. The landscaping shall be carried out in accordance with the approved implementation details.

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

14. No development shall take place until a schedule of landscape maintenance for a minimum period of 5 years has been submitted to and approved in writing by the Local Planning Authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.

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

15. Notwithstanding the provisions of Part C, Class 3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, (or any Order revoking or re-enacting that Order), the lodges hereby permitted shall be used for the purpose of holiday accommodation only and for no other purpose, including any other purpose within Class C3 of the Order without the prior grant of planning permission by the Local Planning Authority. The unit shall not be occupied by any individual or groups of persons for a total period exceeding 28 days in any calendar year. The owner shall maintain a register of occupiers for each calendar year, which shall be made available for inspection by the Local Planning Authority at any time and a copy of the register shall be supplied to the Local Planning Authority at the end of each calendar year.

Reason: The Local Planning Authority is only prepared to grant permission for holiday accommodation because another dwellinghouse in this location would be contrary to the development plan and the objectives of sustainable development.

16. The development shall not be commenced until precise details of the positioning, intensity, angling and shielding, and the area of spread of lights associated with the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity with them. The submitted scheme shall comply with the Institute of Lighting Engineers "Guidance notes for the Reduction of Light Pollution" (2000).

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

17. Notwithstanding the submitted details prior to the commencement of the development hereby permitted a Habitat Management and Monitoring Plan for

the site shall be submitted to and approved in writing by the Local Planning Authority. The Plan should demonstrate how the long term management of retained and created habitats will be funded and implemented and particular emphasis should be placed on the brook and population of crayfish. Post mitigation monitoring should also be included in the form of surveys to monitor the condition of habitats and target species. The development shall be carried out in conformity with the agreed plan.

Reason: In the interests of preservation of protected species and biodiversity.

18. The Shop/Tea-Room/Salon) shall not be open to customers outside the following times of 8.00am to 6.00pm Monday to Saturday and 10.00am to 4.00pm Sunday and Bank Holidays.

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

19. 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.

20. 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.

## Informatives:

There is a public sewer which crossed the site. No building shall be erected or trees planted within 3 metres of this sewer. the applicant may wish to apply to Severn Trent Water to divert the sewer in accordance with section 185 of the Water Industry Act 1991 or for a Building Over or Close to a Public Sewer Agreement.

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 Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (ie unbound chippings or gravel etc). In the event that loose material is transferred to the highway, and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the householder.

Pursuant to Section 149 and 151 of the Highways Act 1980, 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 applicant's responsibility to ensure that all reasonable steps (eg street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness. The erection of flow control structures or any culverting of a watercourse requires the prior written approval of the Environment Agency under s.23 of the Land Drainage Act 1991 or s.109 of the Water Resources Act 1991. The temporary access culvert and new footbridge will require prior consent from the Agency. The consent process is separate from the planning permission.

You are advised to note the comments and recommendations of Derbyshire Wildlife Trust in their letter dated 28 August 2009, a copy of which is attached for your information, when producing the Habitat Management and Monitoring Plan as required by Condition 17 of this permission.

Central Networks has Network within the application site (11kv overhead line and LV overhead line). Any alteration, building or ground works proposes in the vicinity of their cables that may or may not directly affect the cables, must be notified in details to Central Networks. For further information please contact Central Networks, Pegasus Business Park, Castle Donington, Derbyshire, DE74 2TU or email [centralsupportteaminf@central-networks.co.uk](mailto:centralsupportteaminf@central-networks.co.uk) quoting reference number WP09-6719.

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](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](mailto:pollution.control@south-derbys.gov.uk).

**Item**                **1.2**

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

**Applicant:**

Aldi Stores Ltd  
Holly Lane  
Atherstone

**Agent:**

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

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

**Ward:**            **Hilton**

**Valid Date:**      **04/06/2009**

***Update***

*At the last meeting Committee deferred making a decision in order to allow discussions with the applicants with regard to amendments to the scheme to include resiting the building (particularly turning it through 90°) and to increase the amount of landscaping around the site to assist with minimising its impact on dwellings on Huntspill Road. The current position is set out below.*

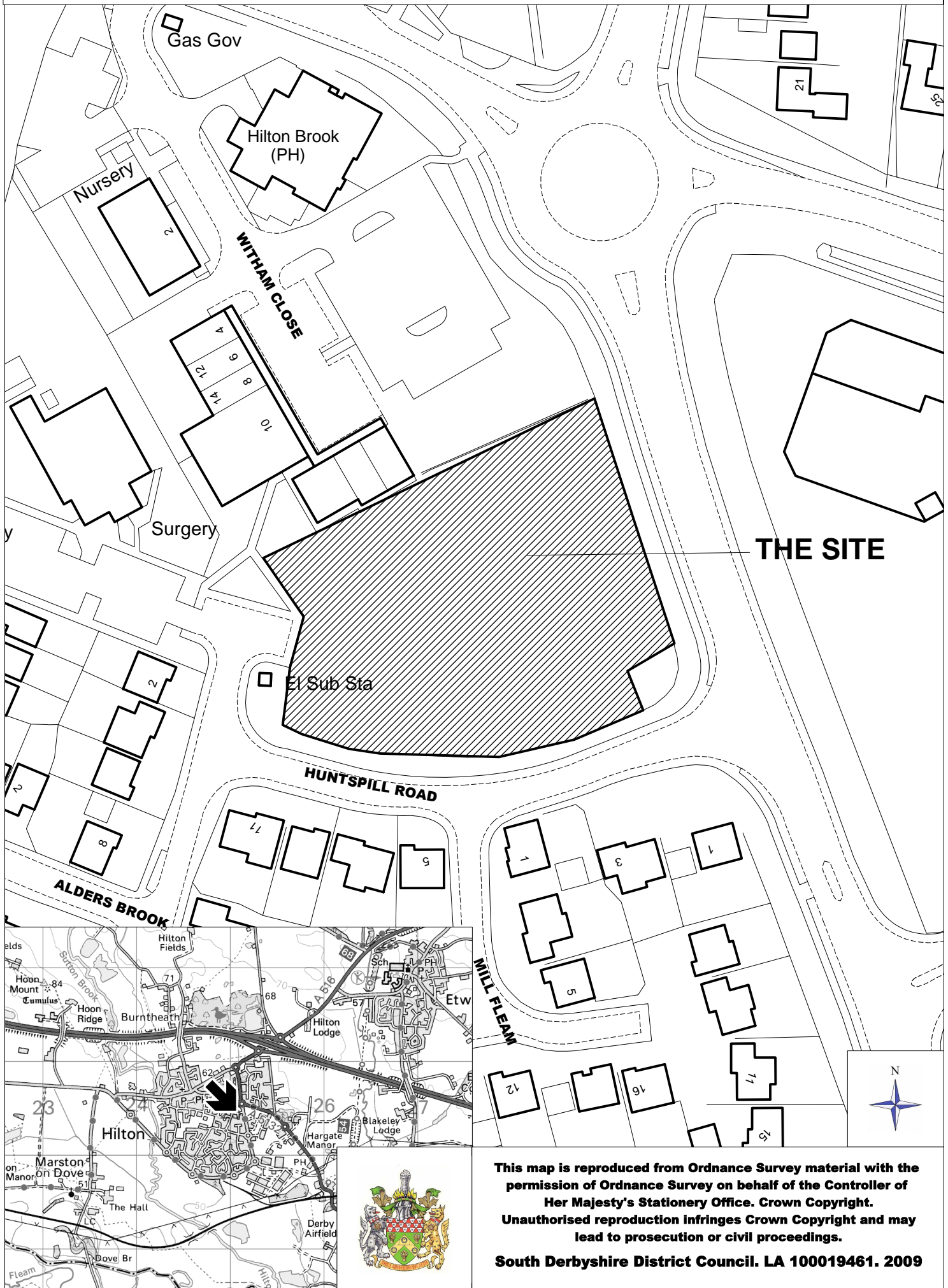
*Landscaping*

*The applicants have amended the illustrative landscaping to increase the number of trees on the frontage of the site and subject to precise details being required by condition this is now considered to enhance the setting of the building and insufficient landscaping could therefore not be justified as a reason for refusal.*

*Access to The Mease*

*Whilst negotiating an access off The Mease was not one of the reasons Committee deferred the decision, further explanation has been received regarding the matter as the applicants noted the Committee' discussion on that point. The ALDI design team had considered such an access at an early stage. A T-junction with a right turn lane would be required and the site is capable of accommodating the access, the right-turn haborage and the visibility splays. However, the issue that could not be overcome is junction separation. The distance from Huntspill Road to the roundabout to the north of the site where The Mease meets the A5132 Egginton Road is approximately 95m.*

*The County Highway Authority considered this suggestion prior to the application being submitted. It's response was to highlight concern regarding junction separation given that in the normal course of events the expectation is on a distributor road such as The*



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South Derbyshire District Council. LA 100019461. 2009

*Mease for the access to be separated from the roundabout/Huntspill Road by the desirable minimum stopping sight distance. That is 90m for roads subject to a 30mph speed limit, more for roads that are subject to a 40mph speed limit. While this can be relaxed in certain circumstances, an access from The Mease would require the stopping distance to be more than halved to meet the required standard.*

*ALDI's team was of the opinion that an access from The Mease would therefore be unlikely to secure the County Highway Authority's support. Hence, the development was promoted with an access from Huntspill Road where these problems do not exist. Highway issues particularly lack of direct access onto The Mease cannot therefore be justified as a reason for refusal.*

*It should also be noted that an access from The Mease would likely require removal of a substantial part of the existing landscaping. On this basis it is considered that the access on Huntspill Road would represent the most satisfactory option in terms of minimizing the impact of the development on the wider area.*

#### **Altering the location of the building**

*Unfortunately turning the building through 90° would involve land owned by a third party. It is not possible to require the applicants to place themselves at the mercy of an adjoining landowner. It would also mean that the delivery bay would be closer to the existing properties on Huntspill Road.*

*Officers therefore reiterated a pre-application suggestion that the applicants 'flip' the building so that the entrance is adjacent to the existing pedestrian links into the shopping area. This would also move the loading area away from the houses on Huntspill Road and Welland Road.*

*The applicants had previously explored the feasibility of 'flipping' the building but concluded that in order to service the loading bay with HGVs and to provide an acceptable access point there would not be sufficient parking facilities to make the store viable. Moreover the store would have negative elevations towards The Mease, and the principle store entrance elevation would not offer any promotion for the store to the existing retail units. One of their prime concerns of the development has been to provide a visual line with the existing centre, which they feel has been achieved by creating a wrap around linkage on The Mease.*

*The applicant states considerable time has been taken to explore all of the options available and they have sought to create a scheme which achieves an appropriate response to many of the restrictions contained within the site, and are therefore confident after reconsidering the siting and layout that the submitted scheme is the most appropriate for the site and will provide an attractive modern visual composition to the adjacent retail development and surroundings.*

*The application is therefore brought back to Committee for determination. The previous report is set out below and the recommendation remains the same.*

#### **Reason for committee determination**

Councillor Plenderleith has requested that this application comes before the Committee as matters of local concern have been expressed about an issue in particular the

vehicle access off Huntspill Road and the knock on effect of increased traffic on pedestrian and vehicular safety at the top of Welland Road.

## **Site Description**

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

## **Proposal**

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

## **Applicants' supporting information**

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

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

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

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

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

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

## **Planning History**

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

## **Responses to Consultations**

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

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

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

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

- a) That the building will not be within keeping of the surrounding area and street scene and would not fit in with the "heart of the village". The Parish Council was not concerned in principle of this application, as this is desperately required. However the impact that the proposed white rendered building with a flat roof will have look like an uncompromising large white hanger, which will act as a huge mirror to the residents on Huntspill Road. If this application is passed it will have

a dramatic impact on the surrounding residents' lives. The Parish Council insists that this application be amended to a red brick with a pitched roof the same as other Aldi buildings within the surrounding area and in particular the other buildings on Witham Close. Other amendments such as the installation of bollards, more planting and a pedestrian crossing for safety reasons are welcome.

- b) The Parish Council also repeats its request that consideration be given to form an 'access only' restriction situated on the junction of Huntspill Road, The Mease and the top of Welland Road to alleviate some of the traffic movement in and around this area. Perhaps a 'stop' signs at the junction of Huntspill Road rather than 'give way' signs to restrict some of the speed and to control the traffic better. This would be in the interest of public safety. It would also be beneficial to reduce the speed limit at the top of The Mease to 30 mph. More parking spaces for parents/children and the disabled should be installed as only 3 child and 4 disabled spaces are proposed. With 700 children attending the local Primary School, the parent/children parking provision in particular seems inadequate.
- c) If permission were to be granted then Hilton Parish Council would request that delivery lorries be restricted to avoid early mornings, school time, rush hour and late evenings. The closing of the store to remain at 8pm and no consideration to be given for this to be extended to 10pm now or in the future as quoted in their original design and access statements.
- d) Hilton Parish Council has also been asked to consider what we would like to see in the community if Community Money could be negotiated along with this application. Hilton Parish Council would like to request the following:
  - Money towards the proposed park on Welland Road/Humber Street for the land swap currently earmarked as a rugby pitch.
  - Money towards the Hilton Village Hall Extension.
  - Money towards new Parish Council notice Boards
  - Money to set up a new user-friendly Parish Council Website.

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

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

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

The Environmental Protection Manager has requested that the hours of operation be limited to those specified in the application, not the extended hours that are referred to in the Design and Access Statement. There would be concern if the recycling centre included glass as this has the potential to cause noise problems for nearby residents.

[The application states that the centre will be for the recycling of cardboard and plastics only – a condition is recommended to ensure that the recycling facilities are so limited].

## **Responses to Publicity**

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

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

- a) The site is a social play area and should be retained as such for the local children. The area has always been designated for community use and a further supermarket is not an appropriate use. Alternatively the site could be used for retirement apartments that would then be close to local facilities. Other suggestions are for use as allotments, specialist grassland. The site provides a welcome break between the existing shops and the houses.
- b) There is no need for further shops in an area that is already well served by local shops including the Tesco shop. There is an Aldi store and other similar shops within a seven to ten minute drive of the village and Hilton cannot support a shop of this kind. The development is an intensification of the local centre that is not needed. A supermarket of this size would be better sited on the commercial land in Hilton Business Park.
- c) The building design does not reflect the character of the other shops in the area. It looks more like Hilton Garage, but that was developed away from housing areas on the opposite side of The Mease.
- d) The Local Planning Authority has done a poor job of integrating the old and newer parts of the village and as such has failed Hilton.
- e) The creation of a supermarket would impact on the rights of residents to enjoy their homes. There needs to be evidence of consideration of the provisions of PPG 24, as the site will generate noise affecting the residents both in terms of the shops and the recycling centre.
- f) The application takes no account of the loss of jobs that might occur in other local shops if this were permitted. So the net increase in jobs would be less than the 20 predicted in the application.
- g) 80% of the shoppers would come from outside Hilton. Thus not much social benefit to the local community.
- h) The recycling centre should be relocated to the far end of the site away from the houses. The recycling centre is only yards from a previous one that was constantly full, emptied infrequently and caused significant levels of litter in its own right. It was also subjected to considerable vandalism.
- i) The development will add to the already significant levels of traffic on Huntspill Road that is a major access to a large number of houses and this could be a hazard to children and result in serious injury or death as well as something similar happening on The Mease. The road also serves the Doctors' surgery. Access from The Mease could be safer or the site would be better served off Witham Close. Lorries will have serious problems accessing the site from Huntspill Road. Indeed the rear of the lorries may overhang the pavements and

cause a pedestrian safety problem. The traffic survey is nothing more than a snapshot and does not reflect the true situation.

- j) It should be noted that the speed limit on The Mease is 40mph, not 30 as stated in the application documents, this along with other mistakes; calls into question the accuracy of the information contained in the application.
- k) Some 500 children attend John Port School and catch the school buses on The Mease meaning many of them have to cross Huntspill Road to get to the bus stop. The presence of the school bus stop is not reflected in the submitted information. 600 children attend the local primary school.
- l) It is likely that young people driving cars and motorcycles at excessive speed would use the car park as a focus for anti-social behaviour. The car park should be provided with barriers to prevent access outside shop opening hours.
- m) Insufficient parking will be provided to cope with the 200 cars per hour that are forecast to enter and leave the site. Parking would overflow on to the surrounding roads. The proposed traffic generation will equate to one car per minute using the proposed junction
- n) Lorries frequently park on The Mease to access the local shops causing hold ups on that road. If the ALDI store is permitted then consideration should be given to reducing the speed limit on The Mease.
- o) The ALDI sign proposed at the corner of The Mease and Huntspill Road would be out of keeping with the locality.
- p) Litter, traffic fumes and debris will follow the development and all this will just be left. There appears to have been no effort in softening the impact of the recycling centre for the local residents in the form of landscaping.
- q) There would be increased light pollution and the building will be an eyesore for local residents as the landscaping is all low level and would not screen or soften the impact of the development. Cars using the car park when it is dark will cause disturbance to the occupiers of local houses.
- r) If permission were granted ALDI should be asked to improve cycle links to the site.
- s) Please give consideration to limiting the hours of construction so that residents are not unduly disturbed during this busy period.
- t) If the application had come from one of the major supermarkets it is likely that there would have been more support for the proposal; not many people will use the ALDI store for this reason.

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

- a) The existing retail facilities are strong and should provide a sound basis for the future development of the local centre. Any future development should enhance rather than detract from the existing retail provision. It is noted that the proposed Aldi supermarket, which turns its back on the existing retail facilities, neither complements nor provides any real opportunity for linked parking or trips to the existing neighbourhood centre. The principle of functional integration is certainly not applied to this particular proposal which has been designed as a separate and independent store and which actually discourages functional integration and linked trips. The retail study acknowledges that the existing retail provision in Hilton is operating well and healthily. By implication it meets a clear local need as evidenced by the high level of footfall and strong trading levels. Indeed, in paragraph 4.27 the retail study notes that not only is the existing centre strong but also that it makes an important contribution to the local area. As such the

existing retail provision should be protected and any development of the local centre should be seen as an opportunity to enhance not detract from existing provision.

- b) However, a true local centre is not simply a function of floor space (or 'mass') but is, moreover, a function of how the retail proposal actually operates, particularly in the context of existing retail facilities. Paragraph 3.06 of the retail study acknowledges the need to promote vitality and viability of the existing local centre but nowhere is there an explanation of how this might be achieved. The retail study places an over-reliance upon draft planning guidance, specifically the revision to PPS4). However, this draft guidance also recognises the importance of local shopping facilities yet this does not feature in the subsequent analysis. Similarly, the summary set out in paragraph 3.23 makes no reference to existing or emerging guidance, which seeks to maintain and enhance the vitality and viability of existing local shops – not just 'major centres'.
- c) The capacity and impact analyses are all statistical exercises. The assessment of impact in particular makes no reference to design or operational factors. Instead the retail study shows what could be achieved from a properly designed development but makes no reference to what is likely to be the impact from the scheme as submitted.
- d) In similar vein the highways study submitted in support of the application is also a purely analytical exercise placing the proposed development in an isolated context. In other words, it does not look at the proposed development in relation to the existing retail facilities or the need to enhance the existing retail centre instead, it makes broad and largely unsubstantiated comments such as the proposed development offering 'potential for linked trips' (our emphasis) – 3.5.2. Nowhere is there any explanation of how or whether this linkage can actually be achieved. Section 5 in particular is silent on this.

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

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

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

residents in the area for several years and little if anything has been done despite meetings between residents and the Highway Authority.

- g) ALDI would not serve the local village; indeed their application mentions that the intention is to serve the wider area.

## **Development Plan Policies**

The relevant policies are:

RSS8: Policies 1, 2, 3 & 12

Local Plan: Housing Policy 1, Shopping Policy 2

## **National Guidance**

PPS 1, 6, PPG 4, 13

## **Planning Considerations**

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

- The Development Plan.
- Government advice.
- Access to the site.
- The design of the building
- Impact on neighbouring dwellings and uses [the shop parking and recycling centre].
- Mitigation measures proposed.
- Other material considerations.
- Section 106 Issues

## **Planning Assessment**

### Development Plan Issues

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

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

The submitted Impact Assessment has been assessed and the conclusion is that the development satisfies the planning policy criteria at the local, regional and national

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

### Transport and Access Issues.

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

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

Huntspill Road is a short road linking The Mease and Welland Road, both entrances to the road are right angle bends and the opportunity to reach high speeds would appear limited, albeit not impossible. It is not for the Local Planning Authority to ensure that every eventuality is covered as there is an obligation on individual drivers to adapt to the local road conditions and drive with due care and attention.

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

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

### Impact of the Development

Any impact of the new building on neighbours would arise primarily from the presence of the building, its design and the materials of construction. The building is located to

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

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

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

In conclusion having weighed these arguments officers support the design concept, which the applicants consider to be "a pleasing attractive building unimposing on neighbouring residents whilst improving the setting of the local centre" and consider that the amended scheme represents an acceptable compromise. It will however be important to ensure that the detailing of the scheme and the proposed areas of landscaping are properly implemented so that the building design objectives are achieved and the building is set in an appropriate landscaped context. To this end, notwithstanding the broad landscaped plan that has been submitted, a condition requiring a full landscaping scheme is recommended.

Other issues raised by the objectors include the impact of the recycling centre and a previous recycling facility that was in a similar position; noise issues both from the building and users of the car park, light pollution from the site and people using the car park and anti-social behaviour at times when the shop is closed.

The proposed recycling centre has been suggested at the request of the District Council in response to a request from the Parish Council that has been looking for such a facility for some time. It would contain only plastic (6 containers) and paper (2 containers) as set out on the amended plan. This would be a permanent facility, regularly emptied with provision for a weekly visit from the Clean Team. In addition the facility would be located in the vicinity of a shopping centre where for many hours in a day it would have direct supervision from those shop and the houses in the vicinity. It would be accessible mainly from the shop car park and would also be appropriately lit in the hours of darkness.

Noise issues are a consideration as is light pollution. A condition is recommended that would ensure that any lighting scheme conforms to the Institute of Lighting Engineers

advice to ensure that light does not scatter beyond the site or to adjacent land. The Environmental Protection Manager comments are set out above in response to noise issues and conditions are therefore recommended to limit the hours of construction and to require the submission of details of plant and equipment to be installed on the building. Given the lack of glass recycling facilities, there are no noise objections to the recycling facilities in the location proposed.

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

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

### Section 106 Issues

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

### **Recommendation**

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. T08A94-004 Rev B.  
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the

development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

4. The development shall not be commenced until precise details of the intensity, angling and shielding, and the area of spread of the lights have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity with them. The submitted scheme shall comply with the Institute of Lighting Engineers "Guidance notes for the Reduction of Light Pollution" (2000).

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

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

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

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

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

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

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

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

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

10. Before any operations commence involving the movement of materials in bulk to or from the site, facilities shall be provided that have previously been approved in writing by the Local Planning Authority, to prevent the deposition of mud or extraneous material on the access roads to the site.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

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

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

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

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

14. The shop hereby permitted shall operate in accordance with the hours specified in the application form that is 0900 - 2000 Monday to Friday 0830 - 2000 on Saturday and 1000 - 1600 on Sundays and Bank or Public Holidays unless the Local Planning Authority has granted a permission to vary the opening hours in response to a planning application made in that regard.

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

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

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

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

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

**Informatives:**

The vehicular access to Huntspill Road subject to the above condition must be carried out by way of an Agreement under Section 278 of the Highways Act. Works may not commence until detailed design drawings have been submitted to and approved by Derbyshire County Council and the necessary Agreement has been signed. Pursuant to Section 163 of the Highways Act 1980, measure must be taken to ensure that surface water run-off from the car parking and manoeuvring areas is not allowed to discharge onto the highway.

**Item**                **1.3**

**Reg. No.**        **9/2009/0461/FM**

**Applicant:**

James Ottewell  
Alexander Bruce Ltd  
Kings Newton Hall  
Melbourne  
Derby

**Agent:**

Mr. Eric J. Lee  
The Stables  
Melbourne  
Robinson Hill  
Derby

**Proposal:**        **The demolition of an existing bungalow and garage and  
the erection of two dwellings at 29 Church Street  
Melbourne Derby**

**Ward:**            **Melbourne**

**Valid Date:**     **25/06/2009**

**Reason for committee determination**

The application is referred to Committee because the recommendation is contrary to the advice of the Highway Authority.

**Site Description**

The site occupies a prominent location in the conservation area and is presently occupied by a bungalow dating from the 1950s.

**Proposal**

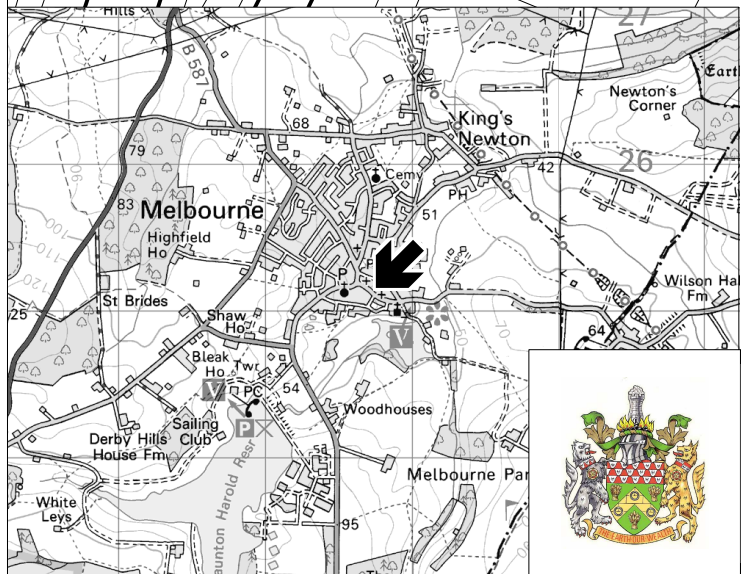
The application seeks to replace the bungalow with two dwellings. One would be a three-storey building and the other a small detached two-storey unit providing single bedroom accommodation. The existing access would be modified to provide access to a garage situated to the rear of the larger unit. The small unit would have no dedicated parking area.

**Applicants' supporting information**

The applicant's Design and Access Statement emphasises the conservation benefits of the development and contends that the on-street parking from the smaller dwelling would not cause additional traffic dangers.

**Responses to Consultations**

The Highway Authority objects because the potential of the additional unit to generate on street parking is considered to be detrimental to highway safety interests.



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South Derbyshire District Council. LA 100019461. 2009

The Parish Council objects on the grounds that the proposed buildings are totally out of keeping with any of the existing properties in Church Street and far taller than adjacent buildings.

Melbourne Civic Society has no objection but feels that a more imaginative design could have been proposed in conjunction with land to the rear.

### **Responses to Publicity**

Two letters have been received both of which support the proposal.

A letter has been received raising some private rights of way issues, but also objecting to increased on street parking and to the larger dwelling being out of character.

### **Development Plan Policies**

The relevant policies are:

East Midlands Regional Plan  
Policies 1, 2, 3, 27

Local Plan  
Saved Housing Policies 5 & 11, Environment Policies 12 & 13 and Transport Policy 6.

### **National Guidance**

PPS1 PPS3 PPG13 PPG17

### **Planning Considerations**

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

- The Principle.
- Impact on the character and appearance of the conservation area.
- Residential amenity.
- Highway safety.

### **Planning Assessment**

The site lies within the confine of the settlement and is previously used land. Therefore residential development is acceptable in principle.

Church Street has an established historic pattern, with traditional buildings set against the highway. The existing bungalow makes a negative contribution to the character and appearance of the conservation area, being of a form and design alien to the prevailing period and set back in the site at an elevated level. The proposed dwellings would respect the historic and architectural context of the conservation area and the development would enhance its character and appearance. The smaller unit would be seen in the context of the adjacent cottage and the larger one would be set against the Catholic Church, itself a large building. It would also be seen along Salisbury Lane, creating a focal point.

The proposal meets the tests in the supplementary planning guidance and the amenities of the occupiers of adjoining dwellings would thus be adequately safeguarded.

On the advice of the Highway Authority the provision of an extra dwelling on this site would lead to on street parking which it considers to be not in the best interests of highway safety.

Notwithstanding the views of the Highway Authority the significant benefits to the conservation area that would result from this development outweigh the marginal increase in on-street parking from the small one bedroom dwelling proposed.

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 originally submitted details, this permission shall relate to the amended drawing no.  
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the buildings and boundary walls have been submitted to and approved in writing by the Local Planning Authority. The buildings and boundary walls shall be constructed using the approved materials only.  
Reason: To safeguard the appearance of the buildings and the locality generally.
4. Large scale drawings to a minimum Scale of 1:10 of eaves and verges, railings, door surrounds and 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 eaves and verges, railings, door surrounds and external joinery shall be constructed in accordance with the approved drawings.  
Reason: In the interests of the appearance of the buildings, and the character of the area.
5. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number, position and finish of heating and ventilation flue outlets shall be agreed in writing with the Local Planning Authority before development is commenced.

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

6. Gutters shall be cast metal (with cast metal fall pipes) and shall be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

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

7. Pointing of the existing/ proposed buildings 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.

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

8. A sample panel of pointed brickwork/stonework 1 metre 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 buildings and the locality generally.

9. 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.

10. 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.

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

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

12. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.

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

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, the dwellings hereby permitted shall not be altered, enlarged or extended, no satellite dishes shall be affixed to the dwelling and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the application site (shown edged red on the submitted plan) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

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

14. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the materials to be used in the construction of the external hard surfaces have been submitted to and approved in writing by the Local Planning Authority. The external hard surfaces shall be constructed with the approved materials.

Reason: To safeguard the appearance of the buildings and the locality generally.

**Item**                **1.4**

**Reg. No.**        **9/2009/0481/B**

**Applicant:**

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

**Agent:**

Mrs Siobhan Spencer  
DGLG  
Ernest Bailey Community Centre  
3 New Street  
DGLG Office  
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**

**Reason for committee determination**

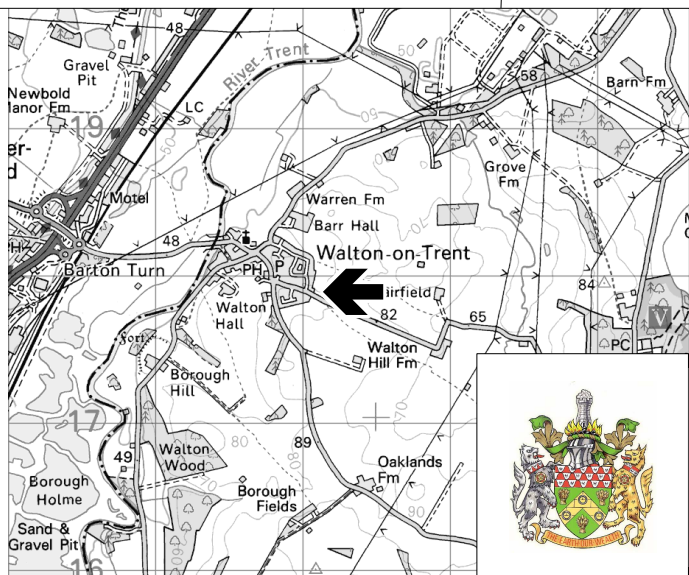
This application has been brought before the Committee at the discretion of the Head of Planning Services as the application is of a controversial nature.

**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.



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**South Derbyshire District Council. LA 100019461. 2009**

## **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;

Local Plan:

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. Notwithstanding the submitted layout plan the caravans shall not be occupied until a revised layout has been submitted to and agreed in writing by the Local Planning Authority.  
Reason: Whilst the Council is satisfied that the additional caravans can be accommodated within the site the layout as submitted was unacceptable as it appears contrary to the guidance given in the Good Practice Guide 2008 - Designing Gypsy and Traveller Sites.

## Informatives:

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

Applicants must take account of these hazards which could affect stability, health & safety, or cause adverse environmental impacts during the carrying out 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](http://www.groundstability.com).

**Item**                **1.5**

**Reg. No.**        **9/2009/0490/FM**

**Applicant:**

Mr & Mrs D Bignall  
Doveside Kennels and Cattery  
Monks Bridge  
Egginton

**Agent:**

Peter Diffey & Associates  
Cotesbach Villa  
54 Woods Lane  
Stapenhill

**Proposal:**        **The erection of a replacement dwelling at Doveside Kennels and Cattery Monks Bridge Egginton**

**Ward:**            **Etwall**

**Valid Date:**     **15/06/2009**

**Reason for committee determination**

Councillor Mrs Brown has asked that this application be brought before the Committee as local concern has been expressed about a particular issue.

**Site Description**

The application site is off the A38 at Monks Bridge and forms a part of the business curtilage to the Doveside Kennels and Cattery. To the south west of the site is the Monks Bridge part of a Scheduled Ancient Monument. To the South East is the viaduct a Grade II Listed Building that carries the Trent and Mersey Canal over the River Dove. The Trent and Mersey Canal is a Conservation Area. The canal towpath is a designated public footpath. On the application side of the canal is a mooring associated with the business that could provide a dry means of escape in the event of a flood.

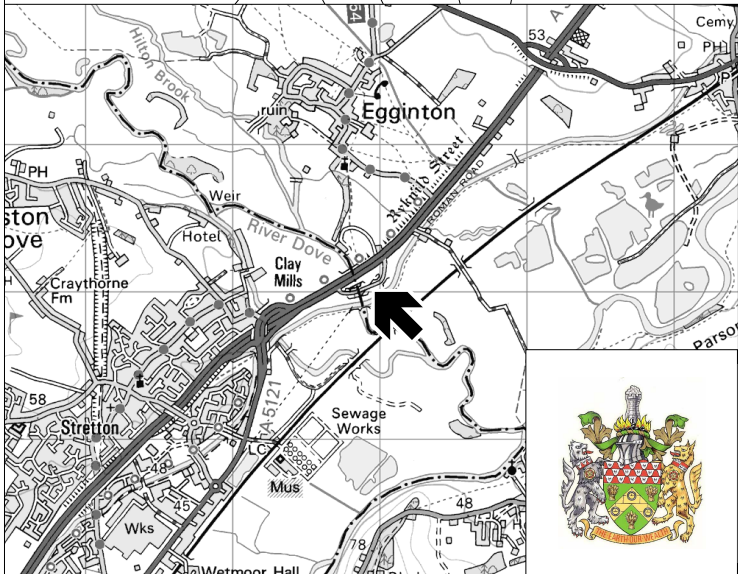
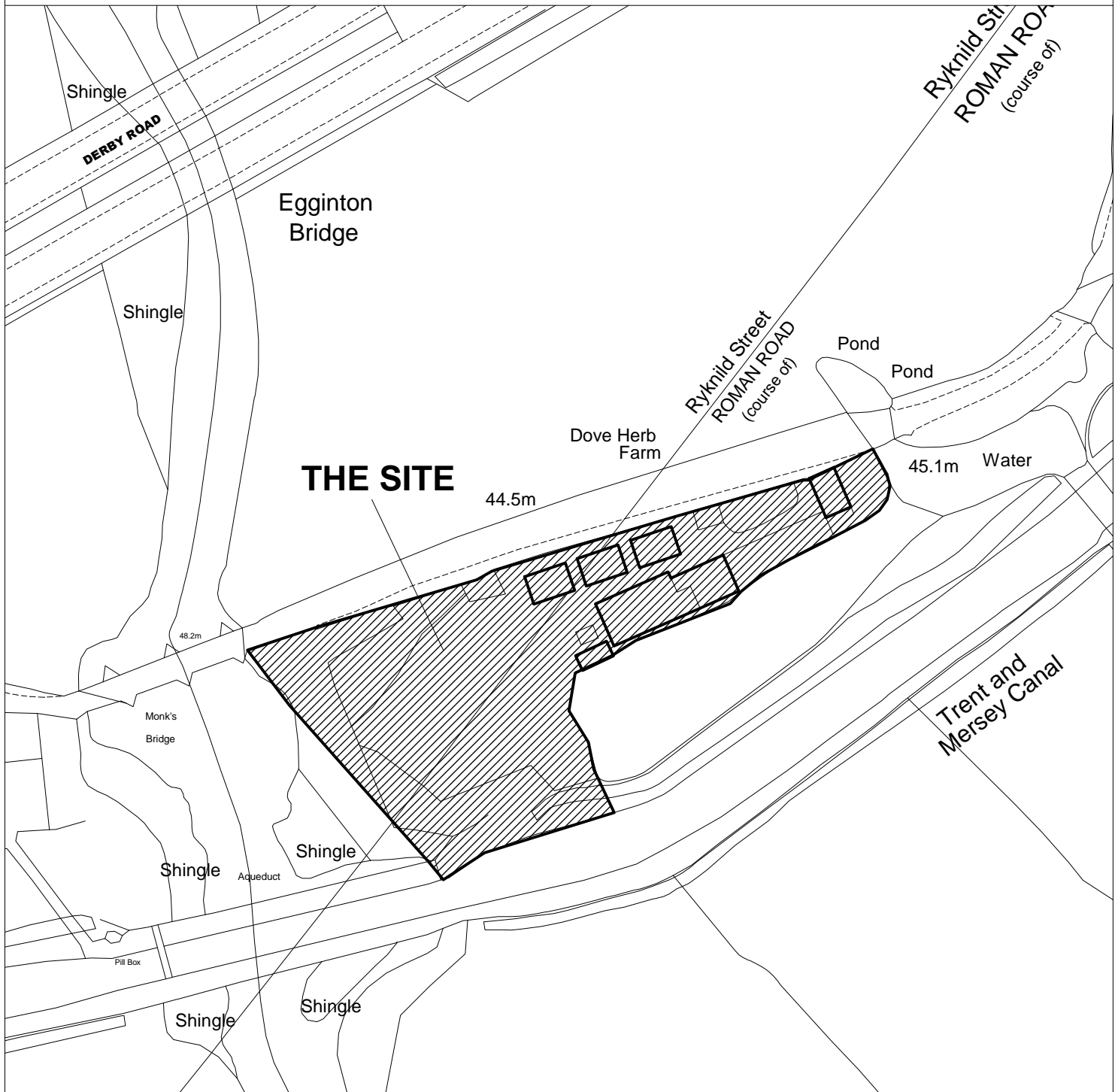
**Proposal**

The proposal is to replace the existing temporary mobile home with a dwelling. It would comprise two storey with three bedrooms, living and dining rooms, kitchen and study. The main elevation of the house would look towards the Trent and Mersey Canal. It would be constructed in red brick beneath a blue/grey Staffordshire plain clay tile. The applicants have undertaken a study of houses along the length of the Canal in South Derbyshire and have drawn up a dwelling that reflects the character of those houses in terms of gable width and bargeboards to the gable ends, the arrangement of windows and their style.

**Applicants' supporting information**

The site has been established as a kennels and cattery since 2001. A temporary dwelling was established to service that business and it has traded successfully since that time. The aim is to replace the temporary dwelling with a permanent house to meet

**9/2009/0490 - Doveside Kennels & Cattery, Monks Bridge, Egginton DE65 6GZ**



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**South Derbyshire District Council. LA 100019461. 2009**

the needs of the business and overcome flood risk concerns. To this end pre application discussions have been undertaken with the Environment Agency to find a position within the site that would meet its requirements. Concurrent discussions also took place with the Local Planning Authority regarding the Conservation Area, Listed Building and Scheduled Ancient Monument issues.

This has resulted in the submission of the current application; the dwelling is sited to minimise the impact on historic assets whilst also providing a location that minimises intrusion into the flood zone and makes provision for the removal of the existing dwelling and lowering ground levels to provide compensation for the areas of the existing site that would be lost to the flood plain.

The new dwelling would have a finished floor level 46.16m AOD. The loss to the flood plain of the new dwelling is 68 cubic metres; the compensatory measures would provide an additional 134 cubic metres representing a net gain to flood plain storage capacity of 66 cubic metres.

Surface water drainage would be to a soak away, foul drainage would be to a sealed septic tank within the cattery compound that would prevent effluent entering floodwaters. The kennels and cattery has a separate sealed septic tank system.

The proposals have been the subject of an exceptions test with the Local Planning Authority that has confirmed the site requires 24-hour supervision. The existing dwelling is poorly located and more vulnerable to flooding than the proposed location that lies above the 1 in 100 year flood zone. The Local Planning Authority has therefore accepted the exceptions test.

A flood evacuation procedure is attached to the FRA and proposes using the canal boat moored at the site to evacuate in the event that flooding occurs unexpectedly. Normally the site would be evacuated upon the receipt of the first flood warning and persons and animals would remain away from the site until the flooding subsides or the warning is removed.

The application is accompanied by an assessment of the business including details of profits and how the business operates over the year. Occupancy varies over the year with 75% in December, rising to 80% in the spring and 100% in July, August and September. There is no month where the kennels are not occupied. The animals require attention morning and evening, exercise takes about 4 staff hours a day, the kennels and cattery take about 6 hours to clear out each day. A person needs to be on site in case of emergency. Animals are also checked each evening up to 10pm at night. At 60% occupancy, on which the above figures are based, there is about 90 man hours work at 100% occupancy that rises to 140 man hours and temporary staff are employed at those times.

The business has made a profit in each of the years that it has operated since 2002/3 rising in each year to 2007/8. Turnover and profit have remained fairly constant since 2005 and it is anticipated that the figures for 2008/9 will be at much the same level perhaps rising slightly. In the light of this, the functional and financial tests set out in PPS 7 for a permanent dwelling on the site, are met by the applicants.

The applicants anticipate that a condition limiting occupation of the dwelling to someone employed in the business will be imposed together with one requiring the removal of the existing dwelling. A condition requiring the compensatory and replacement flood storage

capacity to be provided prior to the occupation of the house and detailed design conditions relating to the dwelling are all acceptable to the applicants.

Since submission the applicants have provided an ecological survey on the likely presence of protected species in the area. An amendment to the original plan has also been made to reflect the comments of British Waterways. In respect of the land ownership issue that British Waterways raised, the applicants state that the land has long been seen as part of their land and there has never been a challenge to the land being in their ownership in the 11 years they have been present on the site. They are seeking to clarify the title of this land through the land registry.

## **Planning History**

A residential presence has been on the site for many years. The site developed as a herb farm in the late 1980's following the illegal occupation of the site by gypsies. A valid enforcement notice against occupation by gypsies remains in place from that time. The herb farm was supervised from a canal barge moored adjacent to the site.

The kennels became established as described by the applicants in the early 2000s and has operated successfully since that time.

A café on the site was removed following the refusal of planning permission.

The mobile home was granted permission in the early 2000's to supervise the business and this has remained in place since then with the last renewal of permission expiring in 2006.

An application for a permanent dwelling was refused in 2005 on the basis that the site lay in the flood plain and the development would adversely affect the character and setting of the Scheduled Ancient Monument the Listed Building and the Trent and Mersey Canal Conservation Area.

In 2008 an application for a Certificate of Lawful Use for the mobile home was withdrawn when it became apparent that the applicants could not meet the circumstances for the issue of a certificate.

## **Responses to Consultations**

Egginton Parish Council: This area has a long history of retrospective planning applications and failed business ventures, which should be now brought to a halt and the area excluded from any further development. The Parish Council objects most vehemently to this development on the grounds that:

The backing up of floodwater primarily causes flooding in Egginton from the Egginton Brook and River Dove which converge in this area and any intensification of development it is believed will only exacerbate the dangers to Egginton. Whilst the proposed dwelling is said to be located outside of the alleged flood risk area, local evidence points to the area severely flooding with therefore increasing risk to all occupants. The dry escape route is not along the recognised towpath but over the aqueduct to where there is no recognised path and therefore relies on the availability of a boat and there is no permanent mooring at this point. This part of the River Dove flood plain now floods quickly, to a great depth and with high velocity flows and with changing climatic pattern of heavier rainfalls it is likely to get worse and the risk

remains. The business itself remains in the floodplain and its canine occupants remain at high risk from flooding events with what is considered to be a poor escape strategy. A tragedy will finish the business and will leave an unnecessary dwelling in the countryside.

It is considered that the dwelling will adversely impact on the parishes' only conservation area of the 18<sup>th</sup> Century Trent and Mersey Canal with its recently renovated James Brindley aqueduct. It does not relate to the bank side features at this location being on the opposite side to the towpath whereas all the buildings related to the canal do. The Parish Council would draw the District Council's attention to the Inspector's conclusions into the recent appeal on the Blue Post Caravan site nearby where he considered that a building in a similar position had adverse effects on views within and into and out of the conservation area and that the development materially harmed the character and appearance of the conservation area at this juncture and thereby conflicted with local plan environment policy 12 and advice in PPG 15, paragraph 4.14 concerning the desirability of protecting the setting of conservation areas.

Should the District Council be mindful to grant permission the Parish Council requests that conditions be imposed relating to the occupancy of the dwelling being restricted to the owners of the business and that in the event of the business ceasing trading the dwelling be demolished.

The County Highway Authority has no comment.

The County Archaeologist has no objection subject to the supervision of any excavations in accord with a scheme of archaeological investigation being undertaken.

The Environment Agency states that the development would only be acceptable if the works are undertaken in accordance with the submitted FRA and the submitted plans.

Severn Trent Water has no objection.

The Derbyshire Wildlife Trust has suggested that an ecological survey is necessary before the application is considered, as there may be protected species within and adjoining the application site. However, the Trust is happy for a condition requiring a survey of the site for great crested newts to be undertaken prior to any building works being commenced and mitigation measures to be put in place should these newts be found in the vicinity of the site. This has now been done and a condition is recommended.

The Design and Conservation Officer comments that this application is for a new house in a sensitive location alongside the Trent and Mersey Canal (conservation area), close to the canal aqueduct over the River Dove (listed Grade II), Monk's Bridge (Scheduled Ancient Monument), and the nearby flood bridges (listed Grade II). It is therefore vitally important that any new house here should be respectful of its setting. The proposal as submitted can meet this requirement provided that the finer details are handled carefully in accordance with appropriate conditions. Although the house is necessarily raised on a plinth, which will increase its prominence, it is of a modest scale and will not be offensive or unduly intrusive. Accordingly there is no objection subject to the inclusion of recommended conditions.

The comments of British Waterways about the distance between the canal and the proposed dwelling have been addressed through the amended plan. Other conditions are recommended by British Waterways and have been included below.

## **Responses to Publicity**

None

## **Development Plan Policies**

The relevant policies are:

EMRP:

Policies 1, 2, 3, 12, 24, 26, 27 & 35.

Local Plan:

Housing Policy 8, Environment Policies 1, 12, 13 & 14.

## **National Guidance**

PPS 1, 7 & 25, PPG 16 & 17.

## **Local Guidance**

Housing Layout and Design, Historic South Derbyshire.

## **Planning Considerations**

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

- The Development Plan and Government Advice.
- The need for the dwelling
- Flood Plain issues
- The Scheduled Ancient Monument, Listed Building and Conservation Area Issues.
- Archaeological Considerations.
- Protected species considerations

## **Planning Assessment**

The Development Plan makes provision for the erection of dwellings in the countryside where it is necessary for the operation of an established business. Temporary homes may be permitted for up to three years to assess whether a business is successful and the business should show a profit for at least one of the three years for which the temporary permission is granted.

This business has been established for in excess of three years and evidence has been submitted demonstrating that the business has returned a profit for at least the past three years. Thus the business is established and the criteria for permitting a permanent dwelling to supervise the operation of the business as set out in PPS 7 Annex A is met.

The Parish Council has objected to the development on the basis that the dwelling is unnecessary and that the site has a long history of failed businesses. The above-mentioned Government advice is that where there is an established rural business that has a functional need for a dwelling to supervise that operation then the Local Planning Authority should look favourably on an application to erect a dwelling to serve the needs of that business. This is a well-established business and it meets the requirements set out in Environment Policy 1, Housing Policy 8 and PPS 7. Accordingly, as the proposal meets these policy requirements, permission with an appropriate occupancy condition would be in accord with usual policy unless material considerations dictate otherwise.

In terms of the Parish Council objection the material considerations in this case are flooding and design and conservation issues.

When an application for a permanent dwelling was last considered in 2005, there was an objection to the development from the Environment Agency on the basis that the development would result in the erection of a dwelling within the functional flood plain that was contrary to its policies. Since then the applicants have undertaken a detailed study of the site and liaised with the Environment Agency to see if there was a location within the site that was capable of meeting the policies to protect the flood plain.

The Environment Agency has raised no objection to this application subject to the imposition of conditions to secure the measures that the applicant has outlined in the application to locate the dwelling, provide compensatory flood storage capacity and to return the site of the existing temporary mobile home to the functional flood plain. These requirements, and others required by the Environment Agency can be secured by planning conditions.

If minded to refuse the application, then the Committee is advised that the flooding issue would be unlikely to be sustainable as a reason for refusal in the absence of support from the Environment Agency.

Equally the previous application resulted in objections in terms of its impact on the aqueduct and the Monks Bridge. This application moves the building deeper into the site, away from the listed structures and the Scheduled Ancient Monument. It is screened from the listed structures by existing permitted permanent buildings associated with the cattery and kennels.

There would be views of the dwelling from the Scheduled Ancient Monument but the view will be one of a traditionally designed canal side dwelling, typical of many such dwellings found along the canal. Thus in terms of the impact on the Scheduled Ancient Monument, the proposal is considered acceptable.

The Listed Building and Conservation Area implications have also been carefully considered both before and after the application was submitted. The view is that the development can be undertaken without undue harm to the heritage assets subject to careful handling of the fine details of the proposed house. Suitable conditions are therefore recommended.

The County Archaeologist has recommended a condition to monitor excavations on the site for the presence of any remains and a condition to this effect is recommended.

A condition is recommended arising from the amphibian assessment submitted by the applicant reflecting the recommendations in that document.

The development has been the subject of careful assessment bearing in mind the constraints on the site in terms of heritage assets and its location in the flood plain. Conditions are recommended to address these concerns and in the light of this the proposal accords with the above-mentioned Development Plan policies.

## **Recommendation**

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

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

Reason: The Local Planning Authority accepts that there is an established rural business on the site that has a functional requirement for a permanent dwelling. Accordingly planning permission is granted to meet the needs of this established business under the provisions of PPS 7 and the provisions of Housing Policy 8 and Environment Policy 1 of the adopted South Derbyshire Local Plan.

2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. C255/RD/1 Revision C received on 5 August 2009.

Reason: For the avoidance of doubt.

3. The occupation of the dwelling shall be limited to a person or persons employed wholly in the operation of the Doveside Kennels and Cattery, Monks Bridge, Egginton, Derbyshire and their family.

Reason: The site is within open countryside where the Development Plan provides that development shall be confined within the limits of an existing town or village, except where there are other overriding reasons to justify a departure from that policy. The functional and financial tests set out in PPS 7 for a permanent dwelling on the site to meet the specific needs of the kennels and cattery are met by the applicants and the Council seeks to ensure that the property remains available to meet the needs of that business given the specific justification for the new dwelling.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 1995 (as amended), the dwelling hereby permitted shall not be altered, enlarged or extended, no satellite dishes shall be affixed to the dwelling and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the application site (shown edged red on the submitted plan) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

Reason: To ensure that any such structures are appropriate to the character and appearance of the building in its setting adjacent to the Trent and Mersey Canal Conservation Area and the nearby Listed Buildings and Scheduled Ancient Monument.

5. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated 12 June, Ref C255 (Appendix 2), undertaken by P Diffey and Associates Ltd and the following mitigation measures detailed within the FRA:

- Soakaway to be utilised for the disposal of Surface water run-off from roof areas.

- Provision of a minimum of 134m<sup>3</sup> of compensatory flood storage to be provided on the site to a 100 year standard, as detailed on Drawing No. C255/RD/1 Revision C.
- 81m<sup>3</sup> of ground works compensation to be provided prior to work commencing on the new dwelling.
- 53m<sup>3</sup> of compensation to be provided by the removal of the existing dwelling, with ground levels reinstated to 45.3m AOD. This must take place as soon as the replacement dwelling is occupied.
- All surplus excavated spoil, demolition and construction materials to be removed from site to a location outside of the 100 year flood plain.
- Flood resilient construction.
- Finished floor levels are set no lower than 46.16m above Ordnance Datum (AOD).
- Foul water disposal system designed with consideration of the flood risk to the site.
- Flood Warning and Evacuation Plan and Procedures to be displayed on site.
- Identification and provision of safe route(s) into and out of the site to an appropriate safe haven.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water, compensatory flood storage, safe access/egress and to reduce the impact of flooding on the proposed development and future occupants.

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. 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.

8. No development shall take place until details of earthworks have been submitted to and approved in writing by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the existing and proposed levels and contours to be formed, showing the relationship of the proposed mounding to existing vegetation and surrounding landform including any works in the vicinity of the Trent and Mersey Canal that may affect its structural integrity.

Reason: In the interests of the appearance of the area and to ensure that the structural stability of the Trent and Mersey Canal is not compromised..

9. Within one month of the occupation of the dwelling hereby permitted, the existing mobile home shown in the Flood Risk Assessment shall be removed from the site and the land shall be restored in accordance with the details shown on Drawing No. C255/RD/1 Revision C.

Reason: To ensure that the mobile home is removed from the site and that the site is restored to a level that provides the necessary flood compensation arising from the erection of the proposed dwelling.

10. No part of the development shall be carried out until samples of the facing materials to be used in the execution of the works have been submitted to and approved in writing by the Local Planning Authority. The approved materials shall then be used in the development hereby permitted.

Reason: To safeguard the appearance of the locality generally and to ensure that the materials of construction are appropriate to a location adjacent to the Trent and Mersey Canal Conservation Area.

11. Large scale drawings to a minimum Scale of 1:10 eaves, verges, chimney stack and 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 eaves, verges, chimney stack and 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 in its location adjacent to the Trent and Mersey Canal Conservation Area.

12. No development shall take place, until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority in writing.

Reason: To enable items of archaeological interest to be recorded/and or preserved where possible.

13. Gutters shall be cast metal (with cast metal fall pipes) and shall be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

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

14. The sash windows in the front elevation overlooking the canal shall be traditionally constructed box sash windows operated with weights and pulleys and the sash boxes shall be set behind the outer leaf of the brick.

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

15. The window sills and external door thresholds shall be of natural stone a sample of which shall receive the prior written approval of the Local Planning Authority. The approved stone shall then be used to construct the dwelling.

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

16. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months

of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.

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

17. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number, position and finish of heating and ventilation flue outlets shall be agreed in writing with the Local Planning Authority before development is commenced.

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

18. Pointing of the existing/ proposed building(s) shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand).

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

19. A sample panel of pointed brickwork 1 metre 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 to construct the dwelling shall be carried out in accordance with the approved sample.

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

20. No part of the development shall be carried out until precise details including paving patterns, specifications and samples of the materials to be used in the hard landscaping works, including the steps to the back door, have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the Local Planning Authority.

Reason: To ensure that hard landscaping is of a scale and character in keeping with the location of the dwelling adjacent to the Trent and Mersey Canal Conservation Area.

21. In constructing the foundations for the dwelling hereby permitted any areas that may provide a refuge for Great Crested Newts in the area of the foundation excavation shall be carefully removed and searched beneath for the presence of amphibians prior to general excavations to create the foundations being undertaken. In forming the garden, paths and car parking areas, similar care shall be taken as described above before any of these works are undertaken.

Reason: In order that any impact on great crested newt habitat is minimised during construction operations.

#### Informatives:

The Environment Agency has no objection to the use of a septic tank for the disposal of foul drainage at this location providing the discharge is to ground via a soakaway. In accordance with Circular 03/99 - Planning Requirements in respect of the Use of Non-Mains Sewerage incorporating Septic Tanks in New Development - a more sustainable method of disposal of foul drainage would be to a package treatment plant that will discharge a higher quality effluent. The applicant should give consideration to using a package treatment plant.

In the event that ground conditions are unsuitable for a soakaway then under the terms of the Water Resources Act 1991, the prior written consent of the Agency is required. The applicant can download the necessary forms to apply for discharge consent at: - <http://www.environment-agency.gov.uk/business/1745440/1745496/1754268/1755575> At the time of applying for a discharge consent the applicant will have to justify why connection to the public foul sewer or the use of a package treatment plant is not possible.

British Waterways advises that the applicant/developer is advised to contact Chris Martin British Waterways East Midlands Operational Support Engineer - 01636 675768 in order to ensure that any necessary consents are obtained and the works are compliant with the current Code of Practice for Works Affecting British Waterways and the Party Wall Act etc 1996.

In respect of the proposed means of egress in the event of flooding, British Waterways advises that option 1 is unlikely to receive consent for access across the off side of the access. In respect of Option 2 it is asserted that the consent of British Waterways would be required for access rights over this land as it is in its ownership.

**Item**                **1.6**

**Reg. No.**        **9/2009/0495/U**

**Applicant:**

Mr Gareth Davies  
3 The Green,  
Ashby Road  
Ticknall  
Derby

**Agent:**

Mr Gareth Davies  
3 The Green  
Ashby Road  
Ticknall  
Derby

**Proposal:**        **The change of use from agricultural land to garden at  
Land at the rear 3 The Green, Ashby Road Ticknall  
Derby**

**Ward:**            **Hartshorne & Ticknall**

**Valid Date:**       **01/07/2009**

**Reason for committee determination**

The application is brought to Committee because the recommendation is to permit something that is contrary to policy and therefore not included in the delegation agreement.

**Site Description**

The application site forms a strip of agricultural land approximately 151.5 square metres in area adjacent to No. 3 The Green. The property forms part of a small group of dwellings situated outside of the village confines of Ticknall but within Ticknall Conservation Area. Agricultural land lies to the north and west of the site with a public footpath running across the northern field.

**Proposal**

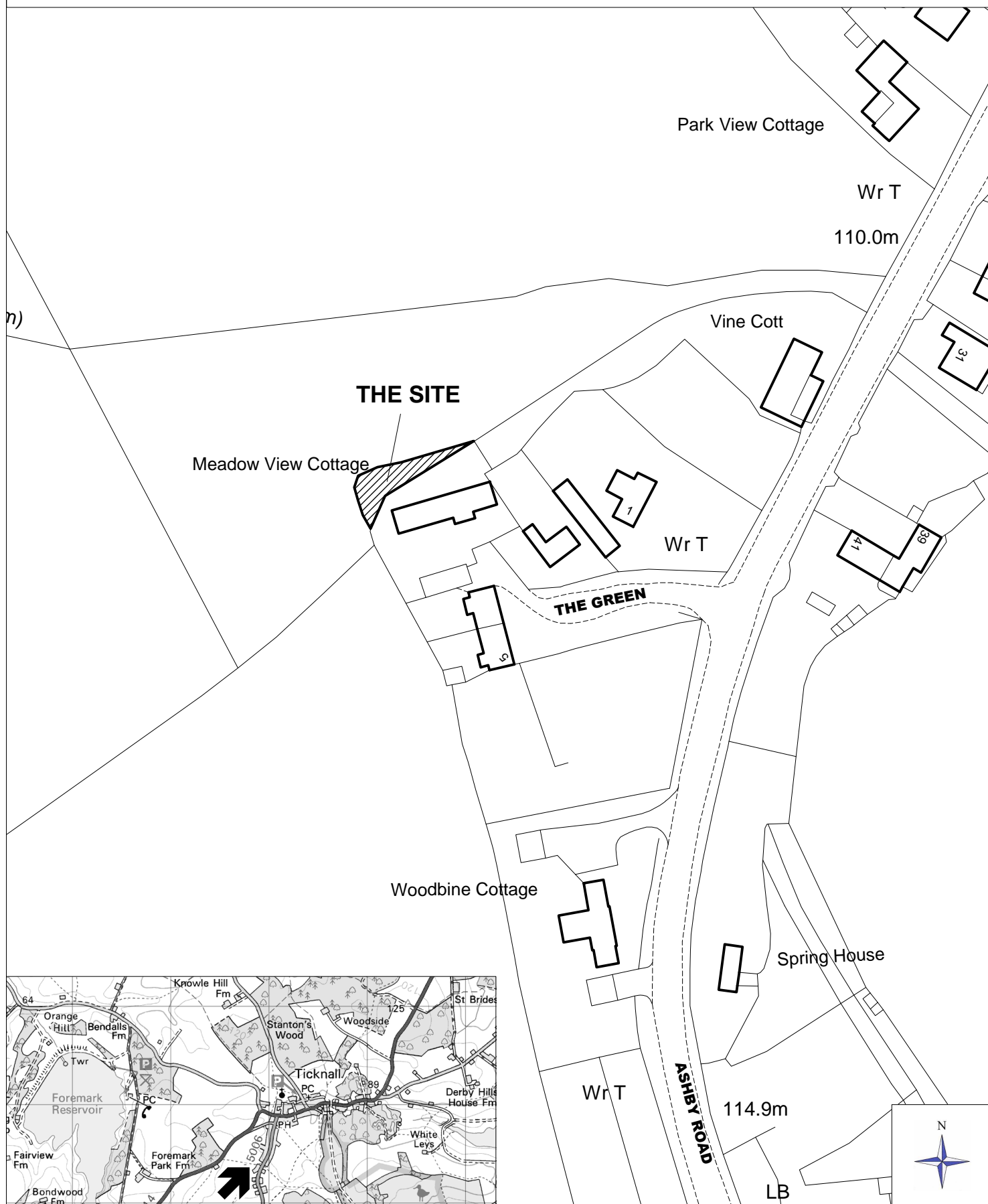
The proposal is to include the agricultural land within the residential curtilage of No. 3 The Green.

**Applicants' supporting information**

The rear garden is very narrow and only 2m wide at the narrowest point. The additional space is required to provide outdoor play space for two young children and provide more protection for the house from agricultural machinery and crop spraying.

**Planning History**

There is no relevant planning history.



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## **Responses to Consultations**

The Conservation Officer has commented that the proposal will have minimal impact on the character of the conservation area and has no objection.

## **Responses to Publicity**

None.

## **Development Plan Policies**

The relevant policies are:

Local Plan: Environment Policies 1 & 12

## **Planning Considerations**

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

- The impact of the proposed use on the character of the area.

## **Planning Assessment**

Although the land in question is visible from the public footpath that runs to the north of the site the material appearance of the area would not be adversely affected and the character of the surrounding countryside and the conservation area would not be compromised. A new hedgerow would be planted along the field boundary and could be required by condition. A condition limiting the erection of permanent buildings on the land would help to secure the openness of the landscape and potential domestication of the land.

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

## **Recommendation**

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

1. 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. In the first planting season following the granting of this permission a new hedgerow including appropriate hedgerow trees shall be planted along the new curtilage boundary with the field in accordance with a planting schedule which shall have received the prior written approval of the Local Planning Authority.  
Reason: In the interests of the appearance of the area.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, no buildings and no gates, walls, fences or other means of enclosure other than approved by this application shall be erected on the application site without the prior written approval of the Local Planning Authority.

Reason: To ensure that any such structures are appropriate to the character and appearance of the building.

**Item**                **1.7**

**Reg. No.**        **9/2009/0519/FM**

**Applicant:**

A S Thompson  
Dovecote House  
Heage Lane  
Etwall

**Agent:**

B. Williamson  
Gilson Design Consultants Ltd  
48 Coach Way  
Willington  
Derby

**Proposal:**        **The demolition of existing two dwellings and the erection of two detached dwellings on the Site of Olivette and The Briars Dalbury Lees Ashbourne**

**Ward:**            **North West**

**Valid Date:**        **24/06/2009**

**Reason for committee determination**

Councillor Bale has asked that the application be brought to Committee as local concern has been expressed about a particular issue.

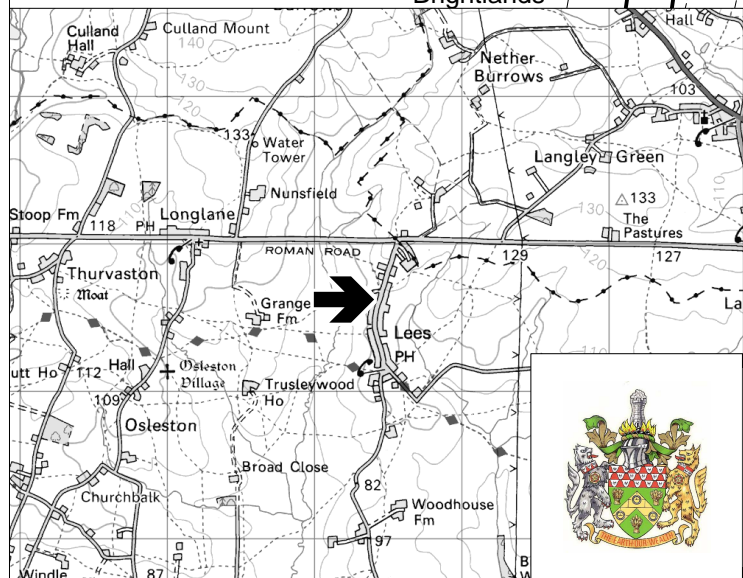
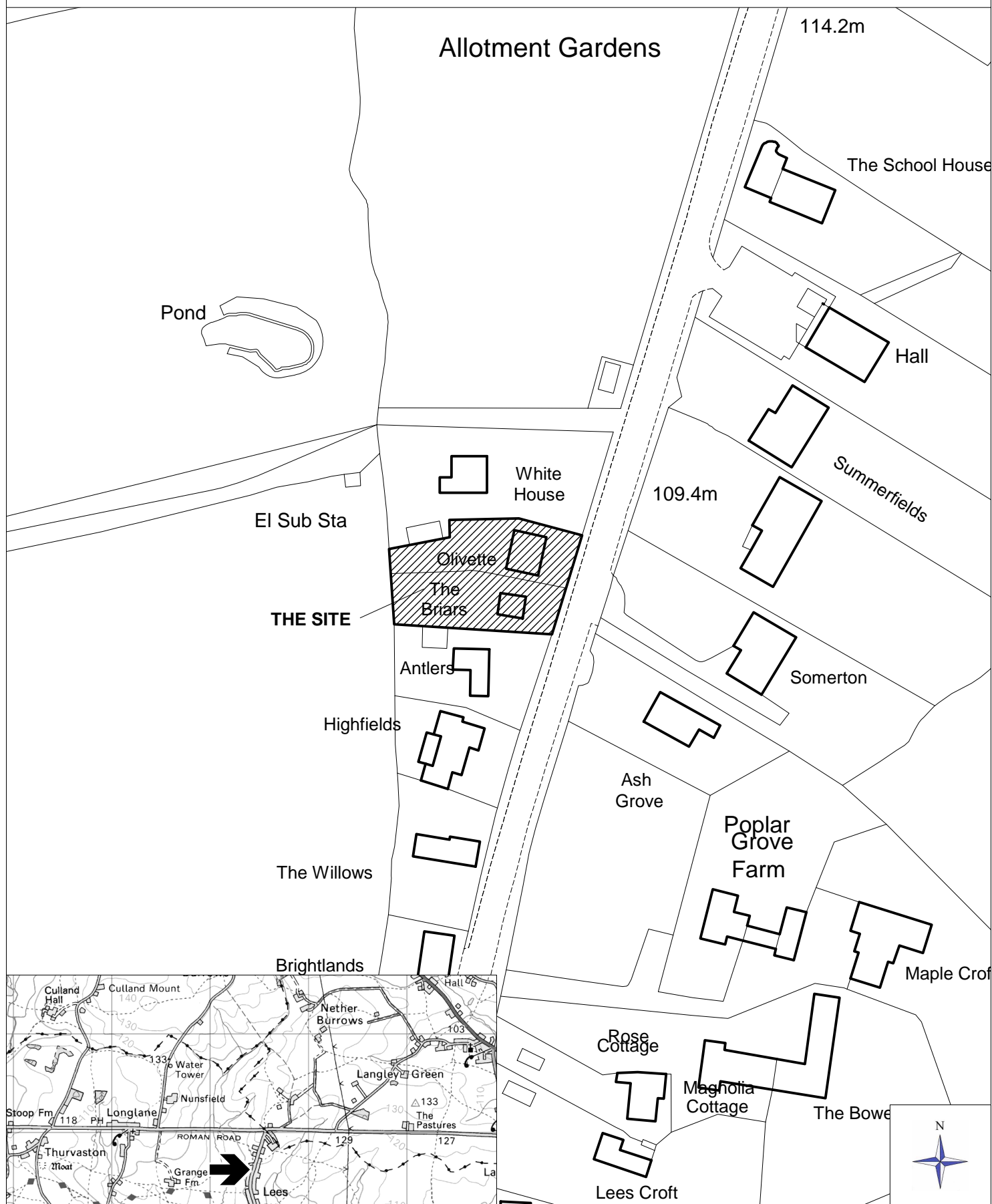
**Site Description**

Two dwellings currently occupy the site fronting onto the road that runs through the village. One dwelling is a bungalow; the other has very much the appearance of a wooden hovel but records indicate that the building was occupied as a dwelling. The site slopes away from the road towards the open countryside beyond.

Existing dwellings flank the site. White Cottage is a traditional cottage that has been considerably adapted and extended from its original form as a pair of 1-up and 1-down cottages. It has main habitable room windows that look towards the site that arise from its original occupation referred to above. However, the extensions that have occurred to the original dwellings mean that there are alternative windows to the habitable rooms that look towards the road and the countryside that lies to the west.

‘Antlers’ is the dwelling that lies to the south of the site. It has some windows in the side that look north over the site. One of these is the only window to a bedroom on this side of the house. The remaining windows and doors in this flank elevation are to stores or bathrooms.

There are dwellings on the opposite side of the lane but these are set well back from the road.



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## **Proposal**

The applicants are proposing two traditional dwellings on the site of the existing two single storey dwellings. Access to the plots would be from the lane.

## **Applicants' supporting information**

The Design and Access Statement that accompanies the application acknowledges the previous appeal and seeks to address the concerns of the Inspector and the Council as expressed in the decision to refuse planning permission. The design of the dwellings has been changed substantially to reduce the feeling of overbearing that arose from the previous design and will provide 2 dwellings that are in keeping with the scale and appearance of houses that not only adjoin the site but also the wider village. The proposed buildings would have arched heads to the windows, plain eaves and verges and have steeply pitched roofs. Offsetting the buildings within the site would assist in adding visual interest to the village as well as integrating the development into it.

The applicants have also addressed the issue of the impact on the windows of the adjoining dwellings. It is contended that the changes in design and an assessment of the Council's adopted standards suggest that the scheme now proposed meets the Council's policy for space about dwellings. The removal of the gable walls that previously dominated the boundaries to the site have been removed and the steeply sloping roof to each boundary will maintain a feeling of openness on the boundaries and have less impact on the amenity of the occupiers of the adjoining properties.

## **Planning History**

An application for two dwellings on the site was made in 2005. The application was refused and a subsequent appeal dismissed.

## **Responses to Consultations**

Dalbury Lees Parish Council has no objection in principle to the redevelopment of the site but considers that there is only a dwelling and a shed on the site. As such the redevelopment of two houses is not a like for like replacement and would represent an increase in the number of houses in the village. The proposed access would result in reversing out into the highway with the consequent hazard that would arise from six additional cars in the village.

The County Highway Authority notes that accesses could be formed without planning permission under permitted development rights. Accordingly, there are no objections to the proposals as they are a one for one replacement of the existing dwellings subject to conditions covering the provision of the accesses, pedestrian intervisibility splays, a visibility splay across the site frontage, construction of a footway across the site frontage and provision of parking space. Various informatives are requested to cover matters that arise for the provisions of the Highways Act 1980.

Severn Trent Water has no objection.

## **Responses to Publicity**

None

## **Development Plan Policies**

The relevant policies are:

EMRP:

Policies 1, 2, 3 & 12.

Local Plan:

Housing Policies 5 & 11.

## **Planning Considerations**

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

- The Development Plan
- The impact on the neighbouring dwellings
- The proposed accesses

## **Planning Assessment**

The replacement of dwellings within a settlement framework has always been acceptable from a Development Plan policy point of view. The issue is one of whether the scale and character of the proposals are in keeping with their surroundings and whether the proposals would adversely affect the living conditions of the occupiers of the neighbouring dwellings.

In dismissing the previous appeal on this site the Inspector considered that the proposed houses were acceptable but that their size and design were such that the proposal would appear cramped and therefore out of character with existing development. The house on Plot 1, adjacent to Antlers would dominate areas of the curtilage and have a marginal effect on the windows in the flank but not to a point where permission could be withheld. The development on Plot 2, adjacent to The White House, would be overbearing on windows and the amenity area immediately outside that dwelling. Taken together there were grounds to dismiss the appeal.

The current application has been prepared with these criticisms in mind. The dwelling on Plot 2 has been moved forward to the road removing it from the windows identified as affected by the Inspector. It is considered that as the main roof slopes away from the boundary this gives a feeling of openness rather than overbearance along the boundary identified by the appeal Inspector. The openings in that flank are to a store and the garage with two first floor roof light to the stairs/landing and an ensuite.

The building on Plot 1 has the same design save that the dwelling would be constructed as a mirror image of the one on Plot 2. Again the roof would slope away from the boundary to Antlers and take away the overbearance the Inspector said was not an issue in its own right, when the appeal was determined but taken with the impact on The White House contributed to the decision to dismiss the appeal.

It is considered that the revised design overcomes the objections raised by the Inspector and that the principle of the erection of these two replacement dwellings would be in accord with the provisions of the Development Plan. This is because there would be no net increase in the number of houses in the village and the development

would now be of a scale and character in keeping with the village without intruding on the private amenity space of the dwellings that immediately abut the development.

Conditions are recommended to require that turning space be provided within the curtilage of each of the dwellings such that a vehicle could enter and leave the site in a forward gear. This and the other requirements of the County Highway Authority are recommended below as conditions and informatives.

## **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. No part of the development shall be carried out until precise details including samples of the facing materials to be used in the construction of the external walls and roof of the buildings have been submitted to and approved in writing by the Local Planning Authority.  
  
Reason: To safeguard the appearance of the existing building and the locality generally.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, there shall be no external alterations, including the insertion of new windows, to the buildings other than as approved under this permission.  
  
Reason: In the interests of preserving the setting of the building and the character of the area.
4. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, the dwelling hereby permitted shall not be enlarged or extended without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.  
  
Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the site area and effect upon neighbouring properties and/or the street scene.
5. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.  
  
Reason: In the interests of the appearance of the building(s), and the character of the area.
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. 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.

8. Notwithstanding the submitted details, provision shall be made within the site curtilage for a minimum of two vehicles to be parked clear of vehicle turning facilities allowing passage to and from the highway in forward gear.

Reason: In the interests of highway safety.

9. 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 each 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 each dwelling unless as may otherwise be approved in writing by the Local Planning Authority.

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

10. Notwithstanding the submitted details the footpath to the north of the site at The White House shall be extended along the whole site frontage in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. The scheme shall then be implemented in accordance with the approved details and thereafter maintained available for its designated purpose.

Reason: In the interests of pedestrian safety

11. The access shall be constructed at the same level as the rear of the footway and in the form of the Local Highway Authority's standard splayed design.

Reason: In the interests of highway safety.

#### Informatives:

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least three months prior notification shall be given to the Environmental Services Department at County Hall, Matlock (telephone 01629 580000, extension 7595) before any works commence on the vehicular access within highway limits.

The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (ie unbound chippings or gravel, etc). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new footway should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads and footways may be obtained from the Department of Environmental Services at County Hall, Matlock (telephone 01629 580000).

Pursuant to Sections 149 and 151 of the Highways Act 1980, 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 applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

**Item**                **1.8**

**Reg. No.**        **9/2009/0568/FM**

**Applicant:**

Mr Philip Wild  
21 The Crescent  
Repton  
Derby

**Agent:**

Mr Mark Blood  
MAB Building Design  
Manor Farm House  
London Road  
Shardlow  
Derby

**Proposal:**        **The erection of a replacement detached dwelling and garage on 21 The Crescent Repton Derby**

**Ward:**            **Repton**

**Valid Date:**      **13/07/2009**

**Reason for committee determination**

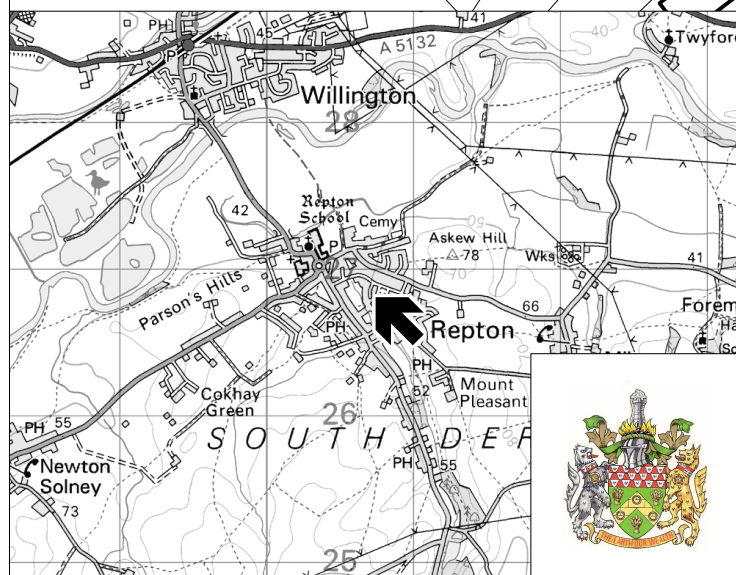
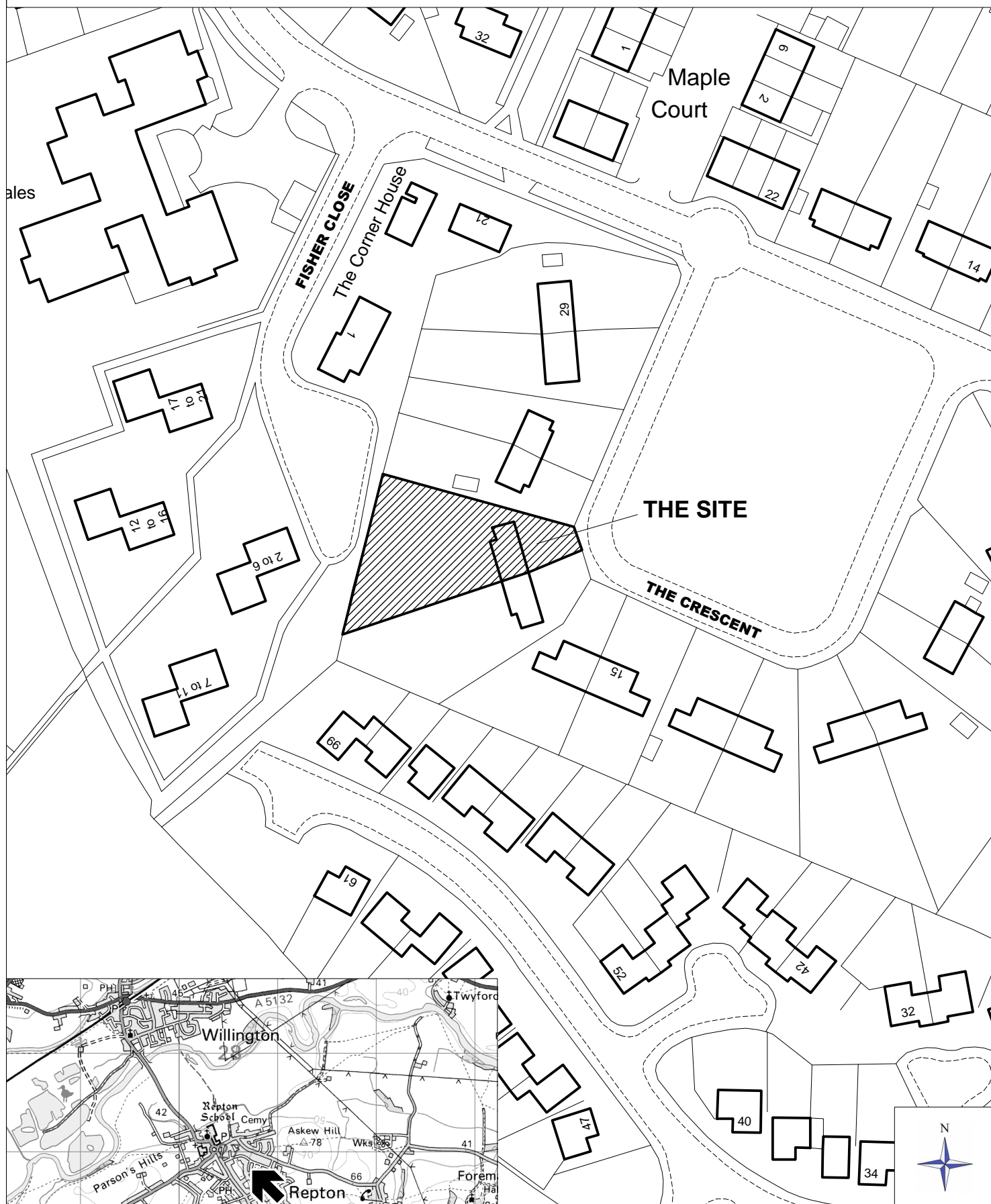
The application is brought before the Committee at the discretion of the Head of Planning Services as it is of local interest and the decision may influence how other redevelopment sites in the vicinity are dealt with.

**Site Description**

The application site is located on The Crescent, a residential area within Repton village. The Crescent consists of a central area of grassland enclosed on three sides by semi-detached dwellings consisting of both bungalows and houses accessed at two points from Askew Grove which borders its northern end. The properties are generally evenly spaced with well-defined gaps between each pair of semis and set back a minimum distance of 10m from the road frontage creating a defined building line. The pre-dominant character of both The Crescent and Askew Grove is of semi-detached c1950s pre-fabricated properties identical to that currently on the application site. The application site is situated on a corner plot in the south-western corner of The Crescent and is currently occupied by a two-storey house attached to No. 19.

**Proposal**

Planning permission is sought for the demolition of the existing semi-detached house and the erection of a replacement four-bedroom detached house and double detached garage. The footprint of the new dwelling would increase that of the existing by approximately 48% with dimensions of the main part of the proposed dwelling being 10.2 m x 7m. The dwelling would be set back approximately 10m from the road frontage mimicking the building line of the adjacent properties. The detached garage would be set back behind the proposed dwelling with driveway access to the side. The ridge height of the proposed dwelling would be similar to that of the neighbouring



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**South Derbyshire District Council. LA 100019461. 2009**

properties with principal windows to the front and rear. Projecting gable features are proposed to the front and rear elevations.

The scheme has been amended in consultation with the Council's Design Excellence Officer increasing the height and width of the proposed gable to the front with a larger expanse of glazing to provide a more contemporary and bolder design. The front gable would project 2.4m from the main dwelling with vertical natural timber stanchions defining the glazing detail and horizontal cedar boarding dividing the glazed areas. Panels of render would sit either side of the timber stanchions. The main entrance would be set back under a portico within the main gable with a wrought iron Juliette balcony with clear inset glass panels at first floor level. The main part of the dwelling would be brick with cedar boarding at first floor level and plain roof tiles. Windows would be timber framed.

### **Applicants' supporting information**

The Local Planning Authority, in pre-application advice, has expressed concern that redevelopment of the site should respect the existing semi-detached character of The Crescent. This character has already been altered to a degree with the development of houses on Askew Grove which includes a terrace of three houses fronting the open space and permission for two detached properties.

The existing house at 21 The Crescent, in common with most of the other properties on The Crescent and several on Askew Grove, has, because of its nature, a limited lifespan. It is a 1950s built pre-fabricated house which was not designed or built to be a permanent dwelling. 21 The Crescent and its neighbours will all have to be either replaced or substantially renovated in the foreseeable future as their condition deteriorates. Multiple ownership of the houses means that it is very likely that much of this redevelopment will be piecemeal, with individual plots being redeveloped on an ad hoc basis, largely in the form of detached houses.

The design of the house, particularly in terms of the way in which it presents itself to The Crescent ensures that the impact of the increased size is kept to a minimum.

### **Planning History**

Permission was granted in 2006 to extend the property but has not been implemented.

### **Responses to Consultations**

The Parish Council has commented that the replacement two-storey property would be out of character with the existing semi-detached bungalows on The Crescent and would detract from the existing layout. They also have concerns regarding the odd appearance of the half of the semi left standing and would not wish the ridge of the proposed property to exceed the height of the existing dwelling.

The Highway Authority has no objection subject to conditions relating to access and provision of car parking and manoeuvring space prior to occupation.

Severn Trent Water has no objection.

## **Responses to Publicity**

None received.

## **Development Plan Policies**

The relevant policies are:

East Midlands Regional Plan:  
Policy 2 - Promoting Better Design  
Policy 3 – Distribution of new development

Local Plan:  
Housing Policies 5 and 11

## **National Guidance**

Planning Policy Statement 1: Delivering Sustainable Development  
Planning Policy Statement 3: Housing

## **Planning Considerations**

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

- Principle of development
- Impact on the character and streetscene
- Design
- Residential Amenity

## **Planning Assessment**

The site is located within the village boundary and is in an established residential area. Under the prevailing policy a replacement dwelling is acceptable in principle provided that it is in keeping with the scale and character of the area.

The Crescent has a strong character and form created by the central area of grassland and the enclosure of the semi-detached dwellings surrounding its three sides. Although there are differences in buildings heights, the semi-detached properties are essentially a group of paired structures with a similar footprint. There are defined gaps between the built forms and each has a similar relationship to the road frontage. It is this repetition and sense of enclosure that creates the special character of the group.

It is recognised that the properties on The Crescent may be of a limited lifespan and that individual ownership of the plots will probably lead to redevelopment of individual plots and as such this is a material consideration. As the first application made in this regard the site is particularly sensitive as development of No. 21 may influence how the Local Planning Authority deals with development of future sites on The Crescent and therefore how the scale, form, massing and materials relate to the context of the surrounding area is of considerable importance. The recent residential development on Askew Grove, though not entirely in the same context as The Crescent, presents an example of how a high quality development can make a positive contribution towards the character and appearance of the area that has a strong development pattern.

A more considered analysis is currently being prepared by the Council's Design Excellence Officer and would form the design basis for any future applications made in this regard. However, this analysis will show that the main design principles for potential future development of The Crescent would hinge on maintaining the existing building line, heights, orientation and spacing between built forms that currently provide the sense of enclosure around the central area of grass.

Although the proposed development of a detached dwelling deviates from the existing pattern of semi-detached dwellings, the alignment of the dwelling on the plot relates to the building line of the adjacent plots and mimics the relationship with the road frontage whilst maintaining a defined space between the neighbouring dwellings. The bold contemporary design would create a strong positive presence in the streetscene but due to its corner plot position and similar ridge height would not be overly dominant. There would be sufficient amenity space and parking provision on site. The simple form and features of the remaining dwelling at No. 19 would allow it to sit comfortably unattached alongside the proposed dwelling.

There is no adverse impact on the amenity of the neighbouring properties.

In view of the unusual and sensitive circumstances of the site it is considered that the proposal represents a positive and sympathetic design solution that would make a positive contribution to the character of the area.

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

## **Recommendation**

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

1. The 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 external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority.  
Reason: To safeguard the appearance of the existing building and the locality generally.
3. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 08048.01 received 9 September 2009.  
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
4. Large scale drawings to a minimum Scale of 1:10 of eaves and verges and 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 eaves

and verges and external joinery shall be constructed in accordance with the approved drawings.

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

5. Notwithstanding any details submitted, precise details of the type, size and position of the proposed rooflight(s) shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflight(s) shall be fitted such that their outer faces are flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.

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

6. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.

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

7. Gutters and downpipes shall have a black finish.

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

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. 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.

10. Prior to any other works commencing, the access shall be provided onto The Crescent. Notwithstanding the submitted drawing, the access shall be cleared and maintained thereafter clear, of any obstruction exceeding 1m in height (600mm in the case of vegetation) relative to road level for the first 2m back from the highway boundary in order to maximise emerging visibility.

Reason: In the interests of highway safety.

11. Prior to the occupation of the new dwelling, the car parking and manoeuvring space shall be provided within the site curtilage and maintained thereafter free of any impediment to its designated use.

Reason: In the interests of highway safety.

12. 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.
13. 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.

Informatives:

There is a public sewer which crosses the site. No building shall be erected or trees planted within 3 metres of the sewer. The applicant may wish to apply to Severn Trent Water to divert the sewer in accordance with section 185 of the Water Industry Act 1991 or for a Building Over or Close to a Public Sewer Agreement.

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.

Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (ie unbound chippings or gravel, etc). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

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](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](mailto:pollution.control@south-derbys.gov.uk).

**Item**                **1.9**

**Reg. No.**        **9/2009/0604/NO**

**Applicant:**

Mr Alan Walker  
South Derbyshire District Council  
Civic Offices  
Civic Way  
Swadlincote

**Agent:**

Mr Glen Oxley  
Derbyshire County Council  
Chartsworth House  
County Property Division  
Matlock

**Proposal:**        **The erection of a structure to provide football changing and community facilities with associated car parking at Land Off Chestnut Avenue Midway Swadlincote**

**Ward:**            **Midway**

**Valid Date:**        **06/08/2009**

**Reason for committee determination**

This application is brought before Committee because the Council is the applicant.

**Site Description**

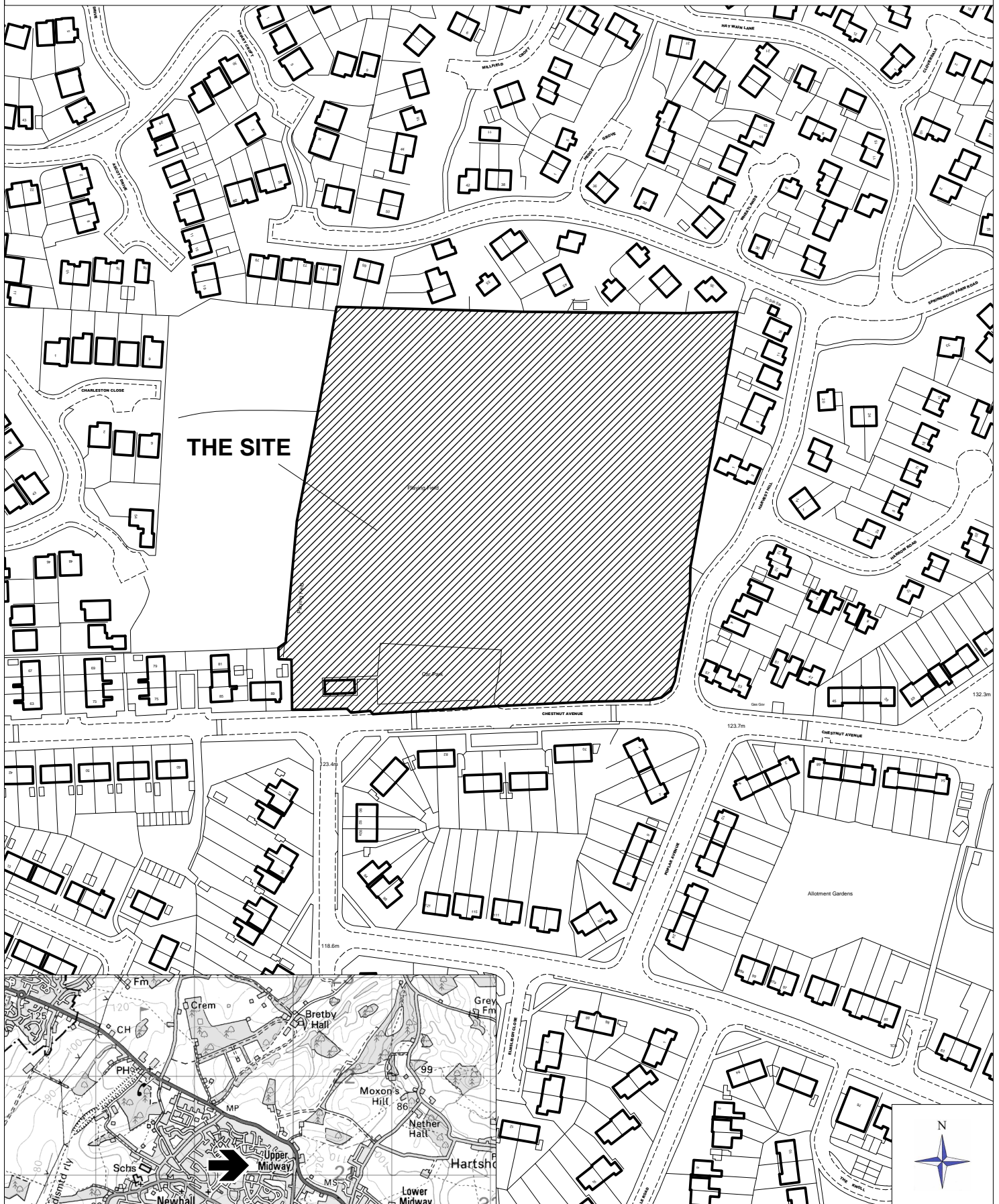
This 2.6 hectare playing field site fronts onto Chestnut Avenue, Swadlincote and is surrounded by residential areas to the north, east and west. The site is predominately grassed apart from the existing car parking area adjacent to Chestnut Avenue and the surfaced play area which is close to the road frontage. It accommodates one football pitch to the north, which has an approximately 2-3m higher land level than the road. An established 2-3m hedge bounds the western and northern boundaries and there is close boarded fencing and walls on the eastern boundary. The existing single storey changing room building is located in the south western corner of the site adjacent to Chestnut Avenue. Surrounding residential properties are a mixture of detached and semi-detached two storey properties, which are predominately red brick.

**Proposal**

A single storey 412 sq m building is proposed in the south western corner of the playing fields site that would provide football team changing rooms, official's changing facilities and storage to serve 2 football pitches. The proposed building would also provide a lounge / hall facility to cater for a wide range of local sport and community groups for all ages and abilities. The proposal also includes landscaping of the existing playing field and embankment to create 2 football pitches and associated landscaping around the proposed building together with a new car parking area.

The proposed building is modern in design under a butterfly roof with a mixture of white and buff coloured blockwork with sections of red cedar cladding above the larger windows. The car parking area would be improved and would provide 44 car parking

9/2009/0604 - Land off Chestnut Avenue, Midway (DE11 0JQ)



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**South Derbyshire District Council. LA 100019461. 2009**

spaces and two disabled spaces. The proposed building would provide:- four shower / changing rooms together with toilets, a storeroom, two disabled / official changing rooms, a office/store, kitchen, a lounge and male, female and disabled toilets. An access road along the western boundary is also proposed to serve the housing development granted permission in December 2007, which originally included this development.

The proposed building would be 1.7 metres higher than the road level and the football pitches would be 3 metres higher than the road level rising to 4m adjacent to the northern boundary. 2.7 m high weldmesh ball stop fencing is proposed along the southern boundary of the football pitches and a 900mm high diamond rail fence is proposed along the path adjacent to the eastern side of the building. The weldmesh fencing would be see-through and thus the openness of the playing fields would be retained. Further fencing details shall be required by condition.

### **Applicants' supporting information**

Design and Access Statement – This document includes:- statement of need, amount of development, building use, layout, scale and context, additional landscaping and appearance. The proposal is part funded through the football foundation and aims to improve existing sport and community facilities within the Midway area. The existing pitch and changing rooms are not adequate to meet the needs of home and away teams. The modern design of the building would create a local landmark. The split in the internal spaces in the building of changing rooms and community use is emphasised by the sections of coloured blockwork. The proposed design has incorporated crime prevention measures.

### **Planning History**

9/2007/1030 - The erection of a residential development of 24 dwellings and new access road together with a new community building, car park and engineering work to re-grade sports pitches, approved December 2007

### **Responses to Consultations**

The County Highways Authority has no objection to the proposal subject to conditions relating to the surface water drainage of the car park, provision of a site compound and construction of the Wellwood Road access. The width of the Wellwood Road access should be 5.5m including a bend of 15 m centre line radius at the lead-in to the adjacent land.

Severn Trent Water has no objection to the proposal subject to conditions relating to drainage and proximity to public sewers that cross the site.

The Police Crime Reduction Design Advisor states that the location has in the past suffered from anti social behaviour. As there is no boundary fencing proposed shutters on windows and doors are necessary. The main door is set back leaving a void covered area where groups could gather. It is recommended that the door be flush with the building. A barrier to the car park is recommended that can be locked when the facility is not in use to prevent unauthorised vehicles gaining access for the purposes of anti social behaviour. A remotely monitored intruder alarm is recommended.

The Council's Landscape Consultant is happy with the proposed scheme and requires one minor change which can be an informative.

The Council's Contaminated Land Officer's comments are awaited.

### **Responses to Publicity**

No letters of objection or comment have been received.

### **Development Plan Policies**

The relevant policies are:

East Midlands Regional Plan:

2 – Promoting Better Design

3 – Distribution of new development

12 – Development in the Three Cities Sub-area

41 – Regional Priorities for Culture, Sport and Recreation

48 – Regional Car Parking Standards

Local Plan:

Environment Policy 10, Recreation & Tourism Policy 1, Community Facilities Policy 1 and Transport Policy 6.

### **National Guidance**

Planning Policy Statement 1: Delivering Sustainable Development

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

Planning Policy Guidance 13: Transport

### **Planning Considerations**

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

Principle of development

Design

Residential Amenity

Crime Prevention

Highways

### **Planning Assessment**

#### Principle of development

Planning permission was granted for 24 dwellings, a community building and improvements to the existing sports pitches in December 2007. The housing part of the development has not been implemented and permission will expire in December this year. Independent funding for the sports / community building and improvements to the pitches has thus been sort from the Football Foundation, however, the approved community building did not meet the criteria for funding and as such a new building has been designed. The principle for the proposed development was established in the granting of permission in 2007.

## Design

In the 2007 permission a modern design of building was sought to provide a focal building to enhance the area and provide a community building of which the residents of the area could be proud, thus encouraging ownership and increased use by community groups. The proposed design is different from the approved scheme, which incorporated separate curved and mono-pitched roofs with a central glazed corridor. Changes were required, as the building was not designed with crime prevention in mind. The proposed building with a butterfly roof and different sections of cladding and large windows still provides a striking building which fits with the design idea originally envisaged. The main elevations are the south and east viewed from Chestnut Avenue and the north viewed from the football pitches. The north and south elevations show the roof pitch from west sloping down to the east and have a split in relation to the white and buff coloured cladding divided by a glazed central section for the entrances. The eastern elevation would be solely white blockwork with three large windows on the northern half serving the lounge area and overlooking the car park. The proposed design is a result of discussions with the Council's Design Excellence Officer.

## Residential Amenity

The nearest residential property is 89 Wellwood Road in relation to which the proposed building would be 28.5 m to the north east. This property has its side elevation adjacent to the playing fields and is set back 7.5m from the road frontage. The proposed building would be set back 27m from Chestnut Avenue. The proposed road that would serve the potential residential properties (granted in 2007) to the rear of 81-89 Wellwood Road would be in between the property and the proposed building at a distance of 10m from the side boundary of 89 Wellwood Road. The western elevation of the building would have high level windows serving the changing rooms. Due to the distance and orientation of the building, the residential amenity of the property would not be significantly affected. Properties opposite the site on Chestnut Avenue are at an angle and over 45 metres away.

## Crime Prevention

Crime prevention measures have been incorporated into the design of the building as criteria for receiving funding from the Football Foundation. All the large glazed sections and entrances would have integrated roller shutters that would be connected to the fire alarm system. These would be set within the reveal of the opening and would be external to protect the glazing. Whilst in design terms, external roller shutters are not ideal, they have been integrated into the building, which minimises their visual impact and would be grey in colour to match the window frames. Steel security doors are proposed to all externally accessed storage and plant areas and concealed rainwater downpipes and gutters together with a roof overhang would deter unauthorised access to the roof and prevent damage to the building. The blockwork proposed has been chosen because it would not make a good canvas for spray paint and graffiti.

In response to the Police comments, boundary fencing has been avoided due to the open nature of the site. However, reasonable precautions have been taken to secure the external openings of the building. The main door entrance faces the street and is therefore open and public and the door is recessed to avoid the need for door guarding which would be necessary under Building Regulations. Door guards and restraints are sometimes used as a leg-up to gain access to the roof. The car park is open to the street and highly visible, however, if there is a problem of unauthorised vehicles gaining

access then a barrier will be considered. The comments in relation to the intruder alarm are noted and will be considered by the applicant.

### Highways

The County Highways Authority has no objection to the proposal subject to conditions relating to surface water run-off and provision of a site compound. The proposal also includes an access road for the previously approved housing scheme to the rear of 81-89 Wellwood Road in order not to prejudice this further development. Conditions in relation to the width and bend of this road and requiring its construction are recommended. A condition requiring the width to be increased by 500mm and a 15m bend can be attached as the applicant has agreed that there is sufficient space available within the site to incorporate the changes. As the proposed access road would not serve the development it is considered that completion of the access should be prior to the occupation of the building.

To conclude, the proposed modern design is considered to provide a focal building for the area and would significantly improve the sports and community facilities within this area of Swadlincote.

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. 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.
3. Before any other operations are commenced 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.
4. Prior to commencement of development further details of the weldmesh ball stop fencing and diamond rail fencing shall be submitted and approved in writing by the Local Planning Authority and constructed in accordance with the approved details.  
Reason: In the interests of the appearance of the area.

5. The building shall be constructed using the materials detailed on plan no. 0801001/SK/02 Rev C, unless otherwise agreed in writing by the Local Planning Authority.

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

6. Prior to the occupation of the football changing and community building the new road junction onto Wellwood Road / Chestnut Avenue shall be laid out, with a 5.5m carriageway width including a bend of 15m centre line radius at the lead-in to the adjacent land, and constructed to base course level including drainage, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order not to prejudice this further development.

7. The car parking spaces shown on the submitted plan no. 0801001/x/105 shall be hard surfaced with a solid bound material and marked out prior to the first use of the development and thereafter retained for that purpose free of obstruction.

Reason: In the interests of highway safety.

8. 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.

#### 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 Environmental Services Department at County Hall, Matlock, before any works commence within the highway for the construction of the vehicular accesses to the site.

Severn Trent Water Ltd advises that there are public sewers that cross the site. No building shall be erected or trees planted within 3 metres of the 225mm sewer and 5 metres of the 450mm sewer. The applicant may wish to apply to Severn Trent Water to divert the sewers in accordance with Section 185 of the Water Industry Act 1991.

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](http://www.groundstability.com). The Council's Landscape Consultant advises that root bulled Betula Pedula should be planted.

**Item**                **1.10**

**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**

**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,
- 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



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**South Derbyshire District Council. LA 100019461. 2009**

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.

## **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 Policy Guidance 13 : Transport

## **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 objections

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**

A) Members delegate authority to the Head of Planning Services to deal with any new issues raised within the neighbour notification period expiring on the 25<sup>th</sup> September 2009; and

B) Subject to (A) **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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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](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](mailto:pollution.control@south-derbys.gov.uk).

**Item**                **1.11**

**Reg. No.**        **9/2009/0695/FM**

**Applicant:**

Mrs Hayley Wiggins  
8 Faires Close  
Borrowash

**Agent:**

Mr David Watkinson  
Watkinson Construction Ltd  
10 Briar Close  
Borrowash

**Proposal:**        **The demolition of existing bungalow and the erection of five bedroom detached house at 64 Derby Road Aston-on-Trent Derby**

**Ward:**            **Aston on Trent**

**Valid Date:**      **24/08/2009**

**Reason for committee determination**

The application is brought to Committee at the request of Councillor Atkin because local concern has been raised about a particular issue.

**Site Description**

The site is a large plot containing a bungalow. The street contains a variety of dwelling types, in the form of bungalows and houses.

**Proposal**

The application proposes the demolition of the bungalow, which would be replaced by a house of conventional 2-storey design, with the roof space used for living accommodation, lit by dormers to the front. The footprint would be roughly equivalent to that of the existing bungalow.

**Planning History**

An earlier application (9/2009/0430), which featured a different detail design approach, has been withdrawn.

**Responses to Consultations**

The Design Excellence Officer notes the variety of house styles and forms in the vicinity and does not consider that there is any good reason to restrict the height of the new dwelling to single storey. The most important contextual element of the street is the predominance of hedges and trees to frontages.

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



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## **Responses to Publicity**

At the time of writing no responses had been received. However, the period for publicity does not expire until 16 September 2009 therefore any received up to that date, will be reported verbally at Committee.

## **Development Plan Policies**

The relevant policies are:

East Midlands Regional Plan Policies 1, 2 & 3.

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

## **National Guidance**

PPS1 PPS31 PPG13

## **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 within the village confine and is previously used land on which a replacement dwelling is proposed. Therefore the development is acceptable as a matter of principle.

Whilst the street contains bungalows, these are part of an eclectic mix of house types and do not produce any definitive context for the site as such. The most important contextual element, identified by the Design Excellence Officer is the vegetated frontage. An appropriate condition would enable control over this matter. The front elevation of the dwelling is of simple symmetrical design and of a height comparable to other two storey properties in the vicinity. The proportion and design of the gable is such that the apparent size of the building would be minimised. As such it would suit its context.

The proposal meets the tests set out in supplementary planning guidance. Therefore there would be no demonstrable harm to the amenities of the occupiers of neighbouring dwellings.

As the proposal is a replacement dwelling there would be no increased risk to highway safety.

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. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority.  
Reason: To safeguard the appearance of the existing building and the locality generally.
3. Except as may otherwise be agreed in writing with the Local Planning Authority large scale drawings to a minimum Scale of 1:20 of eaves and verges and 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 eaves and verges and external joinery shall be constructed in accordance with the approved drawings.  
Reason: In the interests of the appearance of the building, and the character of the area.
4. Gutters and downpipes shall have a black finish.  
Reason: In the interests of the appearance of the building, and the character of the area.
5. 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.
6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.  
Reason: In the interests of the appearance of the area.
7. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no.  
Reason: For the avoidance of doubt, the original submission being considered unacceptable.

8. 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.

9. 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.

10. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate three cars within the curtilage of the dwelling, or in any alternative location acceptable to the Local Planning Authority or as may otherwise be agreed in writing by the Local Planning Authority in accordance with its published standards. Thereafter three parking spaces, measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of each dwelling unless as may otherwise be approved in writing by the Local Planning Authority.

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

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 [http://www.south-derbys.gov.uk/business/pollution/contaminated\\_land/default.asp](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](mailto:pollution.control@south-derbys.gov.uk).

**Item**                **1.12**

**Reg. No.**        **9/2009/0659/FH**

**Applicant:**

Mr Lakhvinder Pabla  
8 Kirkland Way  
Stenson Fields  
Derby

**Agent:**

Mr Lakhvinder Pabla  
8 Kirkland Way  
Stenson Fields  
Derby

**Proposal:**        **The conversion into living accommodation of the  
garage at 8 Kirkland Way Stenson Fields Derby**

**Ward:**            **Stenson**

**Valid Date:**      **11/08/2009**

**Reason for committee determination**

The applicant is a member of the Council.

**Site Description**

The property is a detached house with a parking area to its frontage.

**Proposal**

The application seeks to use the existing garage area as living accommodation. The reason planning permission is required is because a condition attached to the original permission for the houses requires an application to be submitted for such a proposal.

**Responses to Consultations**

None

**Responses to Publicity**

None

**Development Plan Policies**

The relevant policies are:  
South Derbyshire Local Plan: Saved Transport Policy 6

**National Guidance**

None that are material.



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**South Derbyshire District Council. LA 100019461. 2009**

## **Planning Considerations**

The main issue central to the determination of this application is:

- The impact on available parking at the site.

## **Planning Assessment**

With the garage no longer available for use for a vehicle, there would still be parking for at least three cars, which is adequate for this property.

## **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. Parking facilities to accommodate three cars within the curtilage of the dwelling, or in any alternative location acceptable to the Local Planning Authority or as may otherwise be agreed in writing by the Local Planning Authority in accordance with its published standards shall be retained unobstructed for that purpose.  
Reason: In the interests of highway safety.

## **2. PLANNING AND OTHER APPEALS**

(references beginning with a 9 is planning appeal and  
references beginning with an E is an enforcement appeal)

<b>Reference</b>	<b>Place</b>	<b>Ward</b>	<b>Result</b>	<b>Cttee/delegated</b>
9/2008/1090	Sutton on the Hill	North West	Dismissed	Committee
9/2008/1094	Willington	Willington	Dismissed	delegated



# Appeal Decision

Site visit made on 6 July 2009

by **Christine Thorby MRTPI, IHBC**

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

The Planning Inspectorate  
4/11 Eagle Wing  
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**Decision date:**  
**28 July 2009**

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## Appeal Ref: APP/F1040/A/09/2102350

### Land to the South of Common Lane, Sutton on the Hill, DE6 5JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr David Cash against the decision of South Derbyshire District Council.
- The application Ref 9/2008/1090/NO, dated 2 October 2008, was refused by notice dated 24 March 2009.
- The development proposed is the erection of an agricultural building.

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### Decision

1. I dismiss the appeal.

### Main issues

2. The main issues in this case are the effect of the proposal on the character and appearance of the area and the effect on the setting of a listed building.

### Reasons

3. The appeal site falls within Sutton on the Hill which is an attractive rural village surrounded by open countryside. It is an open, elevated piece of land on Common Lane at the western part of the village, with a cluster of houses to the west and the village centre to the east. I have had regard to the markers laid out on the site by the appellant showing where the building would be, and at 3.5m to the eaves I consider that it would be highly visible in the street scene.
  4. The proposed building would have a solid, unrelieved elevation facing the road with plastic coated cladding which could be green. Whatever the colour, it would have a very functional, stark appearance, wholly devoid of any pleasing characteristics that would contribute to the village. Even with the existing hedge, in its elevated position, it would loom above the road, detracting considerably from Common Lane which is part of setting of the village. Any new planting would take time to grow and be temporary in nature and would not therefore overcome the harmful effect of the building. I have taken into account that two glasshouses have been approved at the site. They would be entirely different structures to the appeal proposal; part glazed, lightweight and set back from the road, they would have much less an impact on the character and appearance of the area. There are agricultural buildings located at the very edge of the village, but these are at the limits of development not within the confines of the residential parts of the village.
  5. I find that the proposal would fail to respect its context detracting from the character and appearance of the area. In doing so it would conflict with
-

Planning Policy Statement 1: Delivering Sustainable Development, Planning Policy Statement 7: Sustainable Development in Rural Areas and the South Derbyshire Local Plan (LP) environmental policy 5 which seek to protect local character and that of the countryside.

6. The Grade II listed Sutton Mill sits to the west of the appeal site. Once a watermill and now converted to a house, its historic context is the watercourse, the mill pool and flatter land to the west. However, its setting also includes the elevated appeal site, as this forms part of the approach to the Mill from the east. I consider that proposed building would intrude and overwhelm views eastwards along Common Lane towards the Mill detracting from the wider setting, to the detriment of its historic and architectural character. It would therefore fail to comply with LP environmental policy 13 which seeks to protect the historic environment.

*Other matters*

7. I note that there is significant local concern about highway safety issues. However, the highway authority indicate that subject to the removal or re-alignment of a section of hedge within the site, the necessary visibility sightlines could be provided and there would be no significant risk to users of the highway. Although Common Lane is narrow and the appeal site is close to a bend, I consider that within the village drivers would expect vehicles entering and leaving properties and larger agricultural vehicles would not be uncommon. On-coming drivers would take account of these factors and, subject to the visibility splays being provided, I find that the proposal would not pose a risk to highway safety.
8. The comings and goings of vehicles would not be excessive, their timings could be controlled by condition and there would be no significant noise and disturbance. I accept that there is business need for the building to store equipment and the business would benefit the rural economy. However, neither these nor any other matters raised would overcome the considerable harm to the character and appearance of the area and the setting of a listed building, and these are compelling reasons to dismiss the appeal.

*Christine Thorby*

INSPECTOR



# Appeal Decision

Site visit made on 3 August 2009

by **Sue Glover BA (HONS) MCD MRTPI**

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

The Planning Inspectorate  
4/11 Eagle Wing  
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**Decision date:**  
**21 August 2009**

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## Appeal Ref: APP/F1040/A/09/2103576

### 7 The Riverbank, Willington, Derbyshire DE65 6EQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
- The appeal is made by Mr Ashley Butler against the decision of South Derbyshire District Council.
- The application Ref 9/2008/1094/FH, dated 29 October 2008, was refused by notice dated 15 January 2009.
- The application sought planning permission for the erection of a conservatory without complying with a condition attached to planning permission Ref 9/2006/0857/FH, dated 8 September 2006.
- The condition in dispute is no. 4 which states that: The windows in the side walls of the conservatory shall be permanently glazed in obscure glass.
- The reason given for the condition is: To avoid overlooking of adjoining property in the interest of protecting privacy.

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#### Decision

1. I dismiss the appeal.

#### Main Issue

2. The main issue is the effect on the living conditions of nearby residents in respect of privacy.

#### Reasons

3. The rear conservatory has three large panels of clear glass at each side that are positioned very close to the side boundaries. Part of the side elevations are solid walls replacing the 2m high original fences. However, because of the extent of the glazing very close to the boundary it is possible to see directly into the rear garden of no. 8. There is an outdoor seating area in very close proximity and it is also possible to look into the nearby ground floor lounge windows of no. 8.
  4. From the windows on the opposite side of the conservatory there are clear unimpeded views into the adjoining conservatory at no. 6, which is closely positioned. At both sides there is no substantive boundary treatment to obscure the views from the glass panels. There is therefore a very significant degree of overlooking from the clear glazed panels at the sides of no. 7's conservatory into those areas of nos. 6 and 8 next to the house where residents might reasonably expect some degree of privacy.
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5. The terraced houses are closely positioned and take advantage of the extensive views towards the river and parkland. It might be expected therefore that there would be some degree of overlooking between the gardens before the conservatories were built. However, the views from no. 7's conservatory are views from a habitable room, which has the potential to be in use all year round, day and evening. The side windows may be secondary but the views from these windows are still material.
6. For the reasons set out above I consider that the overlooking from the conservatory and the resulting loss of privacy by the residents of the adjoining houses is unreasonable. There is material harm to the residents' living conditions contrary to the objectives of Housing Policy 13 of the *South Derbyshire Local Plan* and *Extending your Home supplementary planning guidance*. I therefore conclude that condition 4 of planning permission ref 9/2006/0857/FH is necessary and should not be removed.
7. The appellant has made comparisons with the conservatories built at nos. 5 and 6. These were granted planning permission by the Council without conditions requiring obscure glass. Whilst I am unable to comment on the Council's handling of these applications or any perception of unfairness by the appellant, I note that the conservatories at nos. 5 and 6 are smaller with less glazing at the side than the conservatory at no. 7. Any overlooking between other conservatories nearby, or from no. 6 into the appeal property, does not justify the harm that I have identified from the clear glazing of the side panels at the conservatory at no. 7.
8. The resident of no. 8 raises overshadowing but that matter is not before me in this appeal. For the reasons given above and having regard to all other matters, the appeal does not succeed.

*Sue Glover*

INSPECTOR