

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).

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.

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

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

Item 1.1

Reg. No. 9/2009/0842/NU

Applicant:

Mr Andrew Price
Botany Bay Caravan Site

Agent:

Mr Alec Statham
Bagworth Road
Barlestone
Nr Nuneaton
Warwickshire

Proposal: **The change of use to a residential caravan site to accommodate four gypsy families with a total of eight caravans and four amenity blocks at Land At Gravelpit Hill Road Hartshorne Swadlincote**

Ward: **Hartshorne And Ticknall**

Valid Date: **28/10/2009**

Reason for committee determination

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

Site Description

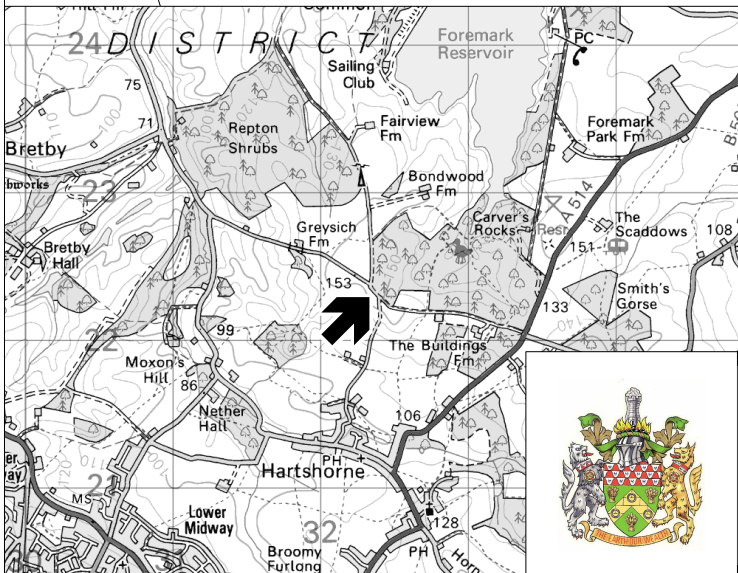
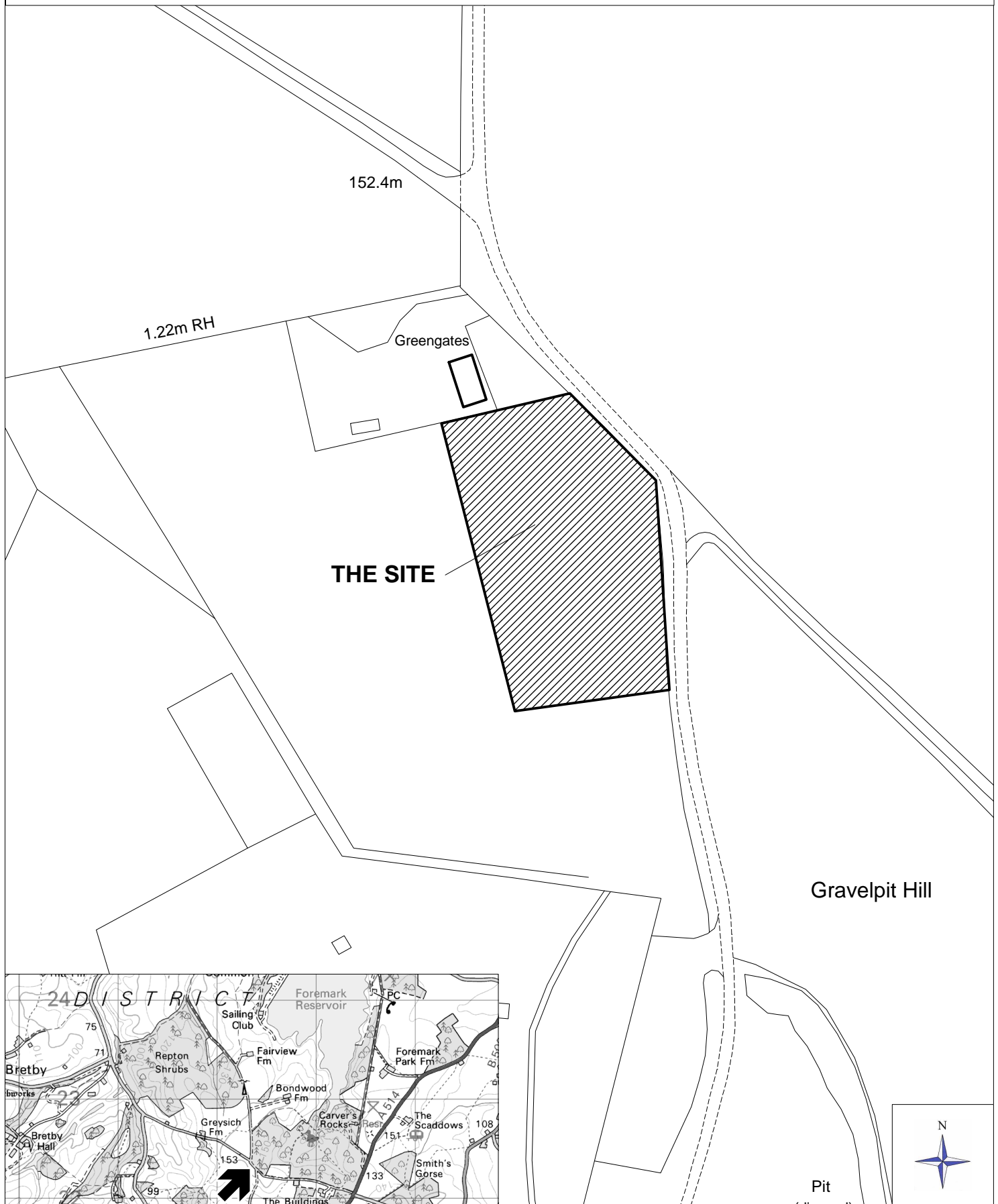
The application site is a field situated in open countryside and located to the north of Hartshorne village. The site is situated in an elevated position accessed by Gravelpit Hill, a narrow, non-classified lane with a steep gradient. The site is bordered to the north by Greengates, an existing gypsy site for four caravans allowed at appeal. A roadside hedge defines the eastern boundary beyond which there is an extensive area of both young and established tree planting and a picnic area and viewing point. The surrounding area is interjected by a series of bridleways and public footpaths, one being directly opposite the site. The site slopes away to the south-west.

A new access has been created onto the site which has been subdivided by post and rail fencing and is currently occupied by two unauthorised caravans.

Proposal

The proposal is for the change of use of the land to use as a residential caravan site to accommodate four gypsy families consisting of four pitches each containing a touring caravan, a mobile home and individual amenity block to be served by a new bio-sewage plant. The site would be accessed by a newly created vehicular access from Gravelpit Hill. The site would be used as a private gypsy site to be occupied by the applicant, Mr Price, and members of his family.

9/2009/0842 - Land at Gravelpit Hill Road, Hartshorne (DE11 7AW)



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South Derbyshire District Council. LA 100019461. 2009

The application has been amended to reduce the depth of the application site by some 30m reducing it from 0.53 hectares to an area approximately 0.3 hectares in size in order to be more commensurate with the proposed use.

Applicants' supporting information

A Design and Access Statement accompanies the application, which states that the site has been a field for grazing gypsy horses. The site is already next to a site used by travellers and approved by an Inspector. The site is to be used for a small family. The lane is not used by much traffic. There will be mains electric and water and sundry fences will be required and blackthorn and hawthorn hedges. The site will be screened from the lane.

The agent has stated that the site would be occupied by members of the Price family to include Mr Price, his wife and child; his brother and wife; his sister and husband; and his uncle, wife and two children. The family are currently living on separate sites and are in employment together. The family have lived in the Swadlincote area all their lives and have been on various sites but are beginning to find it difficult to find anywhere. The offer of a single pitch on a site owned by Mr Boulton has been taken. The family want their children to be educated.

Planning History

The application is part in retrospect, two caravans already occupying the site and a new access formed. A temporary stop notice was served on the landowner and those resident on the land on 9 October 2009. The notice related to the unauthorised material change of use of the land to use as a gypsy site and associated operational development. The notice was served to prevent further development on the site and to enable the landowner or occupiers to submit a formal planning application or promote the site through the Local Development Framework so that it could be properly assessed.

Approval for the change of use from agricultural land for the siting of four residential gypsy caravans on the adjacent site to the north, Greengates, was allowed at appeal (APP/F1040/C/99/1035692) in June 2000.

Responses to Consultations

The Highway Authority has commented that the road serving the site is very narrow and is subject only to the national 60mph speed limit but due to the width, gradient and alignment of the road, vehicle speeds are significantly below the limit. Whilst visibility at the access is limited, in view of the number of vehicles using the road and their actual speeds, it is not considered that an objection on highway grounds could be sustained.

Environmental Health has no objection subject to a condition restricting the use of the site for residential purposes only with no waste to be imported onto the site and no waste to be burnt on the site.

Severn Trent has no objection subject to the submission of drainage plans for the disposal of surface water and foul sewage and subsequent implementation.

Hartshorne Parish Council objects to the application commenting as follows:

- Existing gypsy sites in the District are unoccupied therefore they could be sited on other vacant plots.
- There is poor access into the site, the lane is a single track and several accidents have occurred along this lane.
- The entrance gate has recently been re-sited and is not using the original entrance.
- The area does not relate to the village.
- The development would have an adverse impact on the rural character due to the close proximity to Carvers Rock and Foremark Reservoir.
- There are insufficient mains services provided.

Responses to Publicity

151 letters of objection in the form of a standardised letter have been received and the concerns raised are summarised as follows:

- The site is located off a small lane which for many years has been deemed unsuitable for motor vehicles by the Council. Access for the proposed four families with eight cars and four light goods vehicles cannot be sustained by the single track lane.
- The site is adjacent to large areas of National Forest Conservation Land and within a few minutes walk of a SSSI.
- Four brick built, grey tiled structures, 8 caravans and 12 vehicles is not in keeping with the nature of the area.
- When planning approval was granted for the existing caravan site alongside the new proposal, specific mention was made that this would not set a precedence for further developments of this nature in the area.
- If this application is approved it will lead to the start of a mini township in the area with no social contacts with the rest of the village and will open the way for further development on the site.

A further 8 letters of objection have been received, two from the same objector, and additional comments to those above are summarised as follows:

- The site is outside of the main village and on a prominent hill and the development will be seen from approaches to the village.
- The applicant states his address at Botany Bay. This is a permanent caravan site already in South Derbyshire and has plenty of space for these families.
- Any burning of material and scrap dealing will be an additional eyesore and will be evident from miles around.
- The development is against the specific effort being made to maintain the rural character and there are adverse environmental impacts to be considered.
- There is not reasonable access to local amenities considering both distance and means of access.
- It is extremely unlikely that any assimilation into the local environment will be sympathetic due to the very high standard of countryside achieved by investment of various parties.
- Pedestrian access when accessing the village [*from the site*] is hazardous due to the lack of pavement, a single-track road, high banking and lack of continuous street lighting to any local amenity.

- Since 2000 the site opposite has been substantially turned into a public amenity area and forms part of the development of the National Forest. These areas have benefited from planting by both private individuals and the Forestry Commission. The areas are well maintained and have attracted significant use by many walkers and horse riders.
- The addition of a caravan site will detract from the natural beauty recently created.
- Water and sewage will be a concern as the site is on top of a former waste tip area and possible contamination is likely.
- Horse riders frequently use Gravel Pit Hill to access footpaths and bridleways. The development will create additional traffic accessing the site exacerbating an already dangerous situation with motor traffic and horse riders.
- Caravans at the original site have developed into bungalows and the same could happen in this instance.
- There is sufficient provision for Gypsies and travellers in South Derbyshire and therefore more sites are unnecessary.
- The site is “not sustainable” as it is not adjacent to a bus or train route and not within walking distance of a school, post office or shops.
- Consideration must be given to the scale and entirely car dependent nature of the site.
- A development on this exposed site will lead to increased light pollution.
- An assessment of the current level and a projection of the future level (of traffic) should be made, given the current level is very light any increase from such a number of vehicles could be considered significant.
- In commenting on the adjacent site the Inspector advised that a significantly more intensive use of the appeal site would make it incapable of being satisfactorily assimilated into the landscape.
- The appeal site also has an overly high level of lighting at night and this may cause a nuisance to other potential development.
- The conditional permission that was given for the appeal site and planting of hedgerows and screening should be confirmed as being entirely satisfied as part of the considerations.
- The exposed nature of the site may make it an unsuitable year round location.
- The access during winter is via a steep road prone to ice.
- The proposal to screen the site with hedging is not compatible with giving good visibility for egress/access as the main need for screening is along the road itself.
- Provisions specific to children should be considered, particularly related to appropriate schooling needs and enabling transport arrangements.
- Circular 01/2006 advises that ‘sites should not be considered for Gypsy and Traveller sites that are inappropriate for ordinary residential development’. This is an important point, given that it is within specific set of guidelines for Gypsies it is right to think that any special needs were considered.
- Consideration should be given to the ownership and access arrangements for the remaining portion of the field.
- The applicant appears to have a pitch at this current time and no representation of hardship appears to have been made. It is unclear if the applicant is on any waiting lists, has surveyed existing sites for sale within planning in place or, as is recommended in many documents, engaged with planners in advance of submitting a planning application.
- In a KGS report commissioned in 2004 and based on data from March 2004-2005, the areas in need were not near Hartshorne.

- It would appear from all available statistics in the DTGAA 2008 that South Derbyshire is more than meeting its obligations to provide adequate (gypsy and traveller) accommodation and some responsibility must be borne by neighbouring authorities to make their appropriate contribution to the overall Derbyshire provision.
- There is no building development in this rural area; it is against specific effort being made to maintain the rural character.
- Given the very nature of the travelling community, concentrating resource in one area limits site choice and may directly drive unauthorised camping where there is demand but no provision.
- There are many sites more suitable than those in open countryside in the Swadlincote general area, which has numerous brownfield sites in need of regeneration.
- The site is at the top of one of the highest hills in the area, is visible across a wide vista and is currently an obvious destination for people seeking a viewing position of the wider area.
- There has recently been a local holiday log cabin approved, no doubt with walking as a main offer. The Public footpath from this sympathetic and aligned proposal leads directly to the area of the application and no doubt this compromises the promise of a rural holiday environment.
- The intrusion of a developed site may well have the adverse effect of excluding this part of the area from planned (recreational) activities, as it is both conspicuous in appearance and clearly at odds with the core expectation.
- Potential for noise and light pollution.

Development Plan Policies

The relevant policies are:

East Midlands Regional Plan: Policy 16

Local Plan: Saved Environment Policy 1, Housing Policy 15 and Transport Policy 6

National Guidance

PPS7: Sustainable Development in Rural Areas

Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites

Other Advice

Derbyshire Gypsy and Traveller Accommodation Assessment 2008

Designing Gypsy and Traveller Site Good Practice Guide 2008

Planning Considerations

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

- Conformity with the Development Plan and Government advice
- Impact of the development
- Highway safety

Planning Assessment

Circular 01/2006 seeks to significantly increase the number of gypsy and traveller sites in appropriate locations advising that rural sites which are not subject to special planning constraints are acceptable in principle. The Circular advises that local authorities must allocate sufficient sites for gypsies and travellers, in terms of number of pitches required by the Regional Spatial Strategy, in site allocations Development Plan Documents.

Policy 16 of the East Midlands Regional Plan (EMRP) refers to Circular 01/2006 which requires pitch numbers to be allocated to each Local Authority in order to meet a serious shortfall in gypsy and traveller sites. Appendix 2 of the EMRP sets out the minimum additional pitch requirements for gypsies and travellers within the District between 2007-2012 identifying a requirement for 19 pitches. There currently remains an outstanding requirement of 7 pitches within the District. Following 2012, an ongoing increase of 3% per annum should be assumed unless a new Gypsy and Traveller Accommodation Assessment has been completed. Therefore, there is an identified need for the provision of gypsy and traveller sites within the District. The current proposal would count as four pitches and contribute towards meeting the District's needs as identified in the EMRP.

Saved Housing Policy 15 of the Local Plan allows for the provision of gypsy caravan sites provided that they are located in an area frequented by gypsies; satisfactorily located in relation to other development; acceptable in environmental terms; reasonably accessible to community services and facilities; capable of assimilation into its surroundings; and that adequate provision is made for vehicular and pedestrian access.

The main issue is whether the use of the site for gypsy and traveller accommodation would cause such significant intrusion into the countryside to the extent that the application should be refused.

PPS7 and Environment Policy 1 of the Local Plan seek to restrict development that would have an adverse impact on the character of the countryside. Circular 01/06 advises that gypsy and traveller sites in rural locations are acceptable in principle providing the site is not subject to special planning constraints. Where it can be demonstrated that the objectives of the designation of nationally recognised designations, such as Site of Special Scientific Interest (SSSI) or National Parks, planning for gypsy and traveller sites should only be granted where it can be demonstrated that the objectives of the designation will not be compromised by the development. Local landscape and local nature conservation designations should not be used in themselves to refuse planning permission.

The application site lies in an elevated position within open countryside and is situated approximately 1km to the south-west of Carver's Rock, a SSSI beyond an area of tree planting. The proposal is not considered to have any adverse physical impact on the SSSI. The adjacent land uses which includes an area of National Forest planting with a picnic area and viewing point served by a network of footpaths have recreational merits. However, the further establishment of the roadside hedge bordering the site and growth of the existing National Forest planting opposite the site would assist in screening the proposed caravans and associated amenity blocks from view of these recreational areas such that it would be difficult to demonstrate significant harm. In any event, no special statutory designation as listed in the Circular exists here.

The application site is well-screened to the north by the existing site at Greengates and adjacent planting. Due to its elevated position the site is readily visible from the south-west where the land drops away significantly and there are other long distance views from the surrounding area. However, these long distant views are seen in the context of other scattered development in the surrounding area and the existing caravans on site are not readily visible unless specifically looking to identify them within the landscape. Further comprehensive landscaping along the boundaries of the site would assist in sympathetically assimilating the development into its surroundings.

In considering the proposal for gypsy caravans on the adjacent site at Greengates, the Inspector considered that the requirement that gypsy sites be close to existing buildings would place a severe obstacle in the way of finding suitable sites. As the visual issues were considered in the context of the criterion relating to landscape impact, the Inspector preferred to interpret “satisfactory relationship” as meaning relationship which minimises the likelihood of conflict between the resident and gypsy populations without being too remote. In his opinion, the appeal site was satisfactorily related to other development.

The Inspector opined that whilst the caravans and vehicles were readily visible from various points around the site, the fact that the caravans could be seen did not necessarily indicate conflict with the Development Plan as the requirement was capability for the site to be sympathetically assimilated. Screening by some form of boundary hedge and internal tree planting would be sympathetic to the local landscape character. However, the Inspector acknowledged that a significantly more intensive use of the site would make it incapable of being satisfactorily assimilated into the landscape with a large mass of caravans, vehicles and equipment appearing more prominent and the greater difficulty in providing areas for undisturbed planting. The Inspector therefore limited the intensity of the use of the site by condition. In conclusion, the Inspector considered that the continued use of the site at its current level would not cause unacceptable harm to the character and appearance of the countryside.

Although the current proposal is for a greater number of caravans on site there has been extensive planting within the surrounding area since the time of the appeal decision in 2000 which has since become established. A further requirement for additional landscaping sympathetic to the surrounding area would assist in assimilating the proposed development into the landscape. Newer advice set out in Circular 01/2006 also confirms that a location in the rural landscape is acceptable in principle.

The application proposes a total of four pitches each consisting of one caravan, one mobile home and an individual amenity block. This level of accommodation is consistent with the government advice contained in the ‘Designing Gypsy and Traveller Sites Good Practice Guide 2008’ which recommends that as a guide an average family pitch must be capable of accommodating an amenity building, a larger trailer and touring caravan, parking space for two vehicles and a small garden area.

Although the application site lies outside of the village of Hartshorne and is relatively remote from public transport, in assessing the sustainability of gypsy and traveller sites, Circular 01/06 advocates a more comprehensive approach and advises that ‘... *a more settled existence can prove beneficial to some gypsies and travellers in terms of access to health and education services, and employment, and can contribute to greater integration and social inclusion with local communities*’. The families the subject of this

application have clearly indicated that they aim to utilise this location to afford them opportunities to make use of services which they find difficult to access due to their existing circumstances. The site would allow family members to live together reducing the need to travel between sites in order to visit family members making a more sustainable living unit which in turn would provide a more settled existence. It is considered that this is an example of what the Circular had in mind.

On the advice of the Highway Authority no undue adverse highway safety issues would ensue as a result of the development subject to conditions relating to access provision and parking and turning facilities being provided on site. The Highway Authority has confirmed that there are no recorded accidents on the Accident Injury Records for Gravelpit Hill or Greysich Lane.

Lighting of the site could 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. 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 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 protecting the amenity of the occupiers of nearby residences and the area in general.
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 occupiers of nearby residences and the area in general.

6. Notwithstanding the originally submitted details, this permission shall relate to the amended location and site plan received 1 December 2009.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
7. Prior to the site being taken into use, the access onto Gravelpit Hill shall be formed. The access shall be located in the position indicated on the application drawing, have a minimum width of 5.5m and be constructed as a splayed vehicular crossover in accordance with the Derbyshire County Council's specification. The access shall be provided with a 2.4m x maximum achievable visibility sightlines, 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.
8. Any gates shall be set back at least 5m into the site from the highway boundary and open inwards only.
Reason: In the interests of highway safety.
9. Prior to the site being taken into use, space shall be provided within the site curtilage for the parking and turning of two vehicles 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 from any impediment to its designated use.
Reason: In the interests of highway safety.
10. The site shall be used for residential purposes only and there shall be no waste imported onto the site and no waste burnt on the site.
Reason: In the interests of pollution control and the amenity of the area.
11. Notwithstanding the submitted details 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.
12. 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 amenity blocks have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.
Reason: To safeguard the appearance of the existing building and the locality generally.
13. 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.

14. 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.

16. 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.

Informatives:

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months prior notification should be given to the Director of Environmental Services at County Hall, Matlock (telephone 01629 580000 and ask for the District Highway Care Manager on extension 38595) 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 gully laid across the access immediately behind the back edge of the highway, discharging to a drain 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 (i.e. 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 occupants of the site.

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 (e.g.; street sweeping) are taken to maintain the roads, in the vicinity of the site to a satisfactory level of cleanliness.

With regard to Condition 13, the submitted landscaping scheme should include tree planting and be predominantly located along the southern and western boundaries of

Item **1.2**

Reg. No. **9/2009/0893/FX**

Applicant:

Mr Ed Dorris
Church Hill
Etwall
Derby

Agent:

Mr Paul Knifton
Matthew Montague Architects
70 Friar Gate
Derby

Proposal: **The demolition of Little Croft, the erection of five dwellings and the formation of a new vehicular access to Piers Riding at Little Croft Sutton Lane Etwall Derby**

Ward: **Etwall**

Valid Date: **23/10/2009**

Reason for committee determination

Councillor Lemmon has requested this application be brought to Committee as issues of local concern have been raised.

Site Description

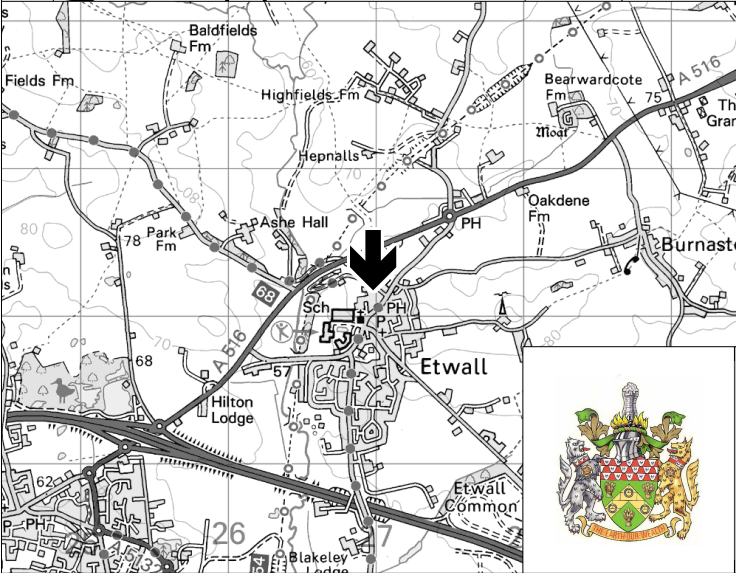
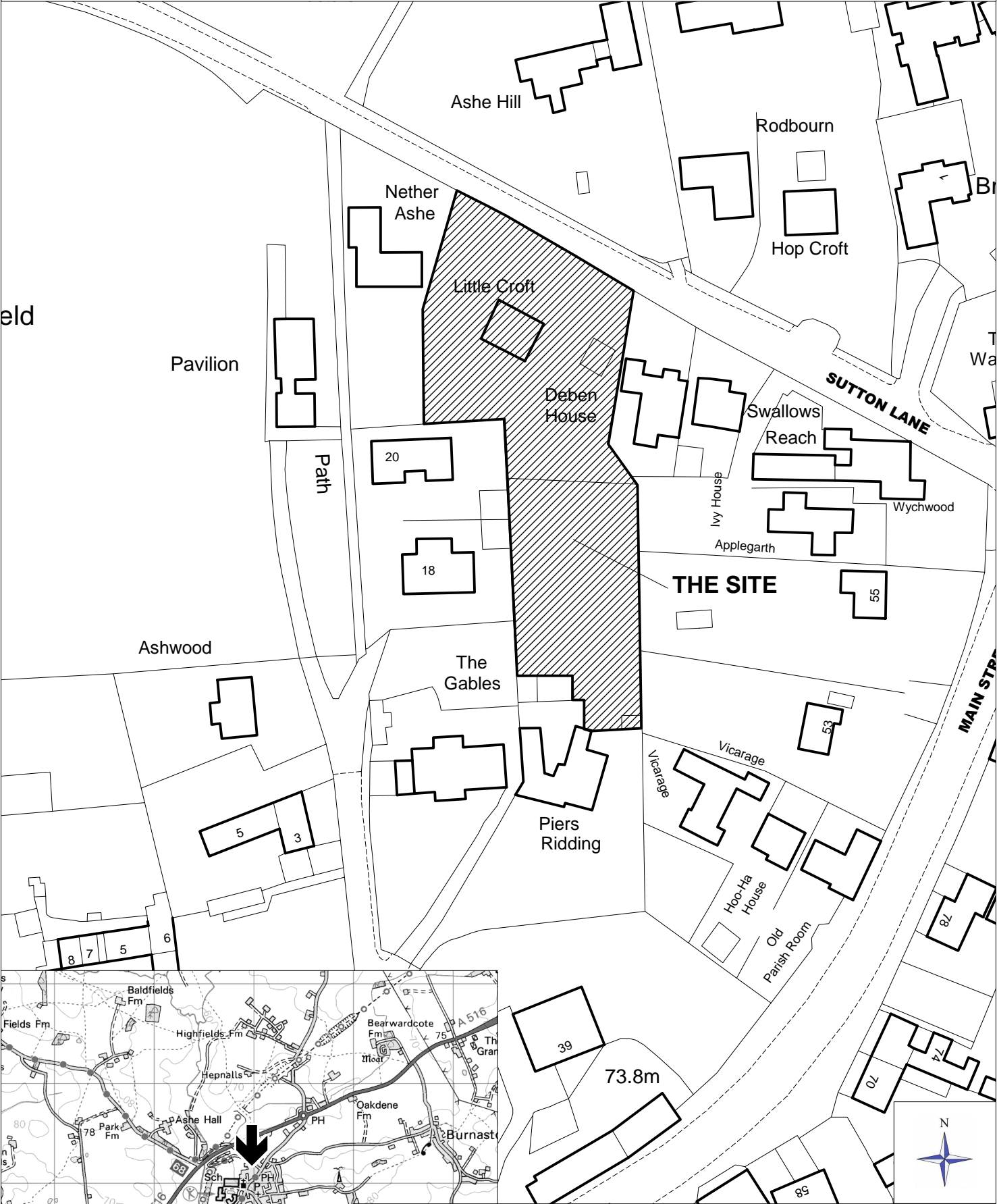
The proposal site can be broken down into two distinct parts. One is the site and curtilage of "Little Croft", which is a modern house of no special merit or interest; hedges and fences enclose its curtilage, the rear hedge having been partially removed to join the two parts of the site. This part of the site is outside the Etwall Conservation Area

The other, to the south, is the former rear garden of "Piers Ridding", an 18th and 19th century house. This part of the site is enclosed by substantial brick boundary walls to the east and south, together with lower brick walls to the west boundary both of which reflect the status of the house. This part of the site is inside the boundary of the Etwall Conservation Area as it forms part of the historic curtilage of a notable conservation area property.

The site slopes downwards from south to north towards Sutton Lane that forms the north boundary of the site, beyond which the ground slopes more steeply. Dwellings or their curtilage abut the rest of the site to all sides. The site contains numerous trees some of which are indicated as removed to facilitate the development.

Proposal

The proposal is to demolish the dwelling known as Little Croft and erect 5 detached dwellings within its curtilage and part of the adjacent dwelling Piers Ridding. The



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scheme has been amended since submission to remove a large side window from Plot 5 and move Plot 4 further away from the rear of Deben House (an adjoining property fronting Sutton Lane). The applicants have also been asked to review the probability of retaining the trees shown in the rear gardens of Plots 3 and 4 as both would be in close proximity to the proposed houses. They have since confirmed that these 2 additional trees are to be removed.

Applicants' supporting information

The application is accompanied by a tree survey/assessment, a Design and Access Statement as well as the usual application documents.

The Design and Access Statement makes reference to the advice in PPS 3 to make best use of brown field land within the confines of well-serviced settlements. Attention is drawn to the location of the site within the defined village confines, the presence of a range of shops and services in close proximity to the site, the bus route through the village on Main Street and the fact that there is a major secondary school in the village. The applicants draw attention to the Development Plan and its policies in favour of such development.

The design of the buildings is said to reflect the local vernacular and appropriate materials of construction would be sourced to carry out the development.

The existing access would be widened to facilitate the access to the site. The drawings indicated that non-mechanical excavation beneath the frontage trees would be employed to minimise impact. Access to the houses themselves has been designed to comply with Part M of the Building Regulations.

Sustainability Issues – the applicants state that the houses have been designed to ensure that they are 10% more energy efficient than a house built under the 2006 Building Regulations. Grey water recycling is proposed and all building materials would achieve an A/B rating in the Green Guide to Housing Specification.

Planning History

There is no relevant planning history on this application site.

Responses to Consultations

Etwall Parish Council has no real objections to the development but has concerns that the sewage system may not be adequate to deal with the development. They query whether there is a need for yet more 4-bedroom houses in Etwall and express concern about the loss of trees. They would wish to see a condition that requires all materials to be stored within the site to ensure that the problems that occurred when Broadlands and Pandora were developed should not be repeated should this permission be granted.

The County Highway Authority has no objection subject to conditions that include a requirement for on site storage of materials and vehicles. Other conditions require the site to be developed in accordance with the submitted drawings.

Severn Trent Water has no objection subject to details of foul and surface water disposal being submitted prior to the development commencing.

Responses to Publicity

10 letters have been received objecting/commenting on the development in the following terms. The comments on the application are in addition to those made by the Parish Council:

- a) The development would impinge on conservation land within the village and would set a dangerous precedent for the future that would prejudice the future of the village. Recent development on the other side of Sutton Lane has had a detrimental impact on the character of the village. Conservation means keeping from change, giving protection, and careful management, allowing this development does not substantiate these principles. The density is too great for this part of the village. The village should be extended out to the new boundaries formed by the roads around the village rather than developing sensitive sites within the village.
- b) It would change the character of the locality that was one of the reasons for people buying houses in the village – i.e. old buildings providing character. There would be a loss of privacy and overlooking would be the outcome affecting the amenity of occupiers of those properties.
- c) There would be a loss of trees removing some of the essence of the rural village. Any trees that are lost should be replaced for ecological and screening reasons. It is noted and welcomed that the hedge on the front of the property is retained as this is important to the character of the Lane – its retention should be secured.
- d) The development would result in an increase in traffic and pollution. The refuse vehicle already has to reverse down the lane because of parked cars. The lane provides access to the National Cycle Route and as a consequence many young people use it as well as horse riders accessing the bridleway. Parked cars frequently block the turning area at the bottom of Sutton Lane and make it difficult for service vehicle drivers to turn their vehicles.
- e) Sufficient parking space should be provided if this is not provided then the Council should be satisfied that cars associated with this development do not park on Sutton Lane.
- f) Sutton Lane should be widened to Main Street. There is poor visibility at the Sutton Lane/Main Street junction
- g) The fire service and South Staffordshire Water should be consulted, as it is understood that there is insufficient capacity in the water supply/hydrant. 17 dwellings will become 22.
- h) There are nesting birds that use the site and bats are also present in the vicinity.
- i) Electricity supply can be unreliable.
- j) Natural drainage will be compromised and flooding may result.
- k) Boards and flags to market the site should be carefully controlled.
- l) The majority if not all the letters support the view that construction activities should be limited to within the site and to a lesser extent the hours when construction hours should be controlled; this is given the experience residents had when the site at Broadlands was undertaken.
- m) One of the properties suggests that current foul drainage problems could be overcome if a connection through the site to Main Street could be achieved; the applicant has told this commentator that he would be willing to consider this. The trees to the rear of Deben House should be retained to act as a screen.

- n) Plot 5 has the potential to overlook on main room windows in the adjacent house where there are main room windows that fall within the minimum distances to be acceptable. It would also result in a loss of light. 4 dwellings would be more appropriate as it would remove development from the boundary.
- o) There is a recreation room and conservatory immediately adjacent to the boundary and the erection of a dwelling in the position shown would adversely affect these elements of the adjacent dwelling.
- p) There would be a loss of value in property albeit that is not a material consideration only the developers would gain. It is sad that quiet leafy lanes can be transformed with tightly packed modern architecture that only lines the pockets of the developers.

Development Plan Policies

The relevant policies are:

RSS8: Policies 1, 2, 3, 12 & 27

Local Plan: Housing Policy 5 & 11; Environment Policy 9 & 12

National Guidance

PPS 1, 3, & 9; PPG 13 & 15

Planning Considerations

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

- The Development Plan.
- Impact on the Etwall Conservation Area.
- Impact on trees, particularly the frontage trees and hedgerow and the effect on the street scene.
- Impact on adjoining dwellings.
- Access to the Site.
- Foul Drainage.
- Other issues.

Planning Assessment

The provisions of the development plan in terms of the acceptability of housing development within the Etwall confine favours development that makes full use of brown field land for housing development. The applicants are correct in stating that the village is well served by shops, community facilities and bus services. The issues relating to the loss of trees and the impact on the Etwall Conservation Area are also matters addressed in the Development Plan.

The part of the site that lies within the conservation area is entirely secluded from public vantage points, and a similar modern development in the former gardens of The Gables immediately to the west has been accepted (in the 1990s). Moreover, Piers Ridding does not overlook the application site and is severed from it by an outbuilding and attached wall. It is considered that the selling off of this garden space may make the grounds of Piers Ridding seem unbalanced and incomplete for a house of such high status and as such it might have been better to omit plot 4, leaving an area of garden for Piers Ridding bounded by the old brick wall to the east. However, it is acknowledged

that the effect on the character and appearance of the conservation area from public viewpoints would be neutral under the submitted scheme and therefore there are no grounds for requiring this.

The Design Excellence Officer has drawn attention to the need to retain the frontage hedgerow and trees as a means of maintaining the character of Sutton Lane. This is a view shared by the objectors and people who have commented about the development. Securing the retention and protection of the trees is a matter that is capable of being controlled through the imposition of an appropriate tree preservation order that will be in place before the Committee meets. Retaining the hedge is more difficult to achieve. There is no legislative procedure that requires consent before a hedge is removed. Hedges abutting residential curtilage are specifically excluded from control. However, the applicants have stated that they would retain the hedge and that it would form part of the formal landscaping scheme required to be submitted under the condition. The suggested landscaping condition contains a clause requiring that details of a management scheme for the hedge be submitted and approved for the frontage and other retained hedges.

The layout of the houses has been carefully assessed against the provisions of Housing Policy 11 and the advice in adopted Supplementary Planning Guidance – ‘Housing Layout and Design’ (SPG). At an early stage, the applicants were asked to amend the scheme to meet the requirements of the SPG in respect of Deben House and 18 Church Hill. The other dwellings directly affected by the development are Nether Ashe and 20 Church Hill. Piers Ridding and properties on Main Street and other dwellings on Church Hill and Sutton Lane are not directly affected by virtue of the minimum separation distances required in SPG being exceeded. The amended scheme meets the minimum separation distances required in the SPG. Although the residents at 18 Church Hill identified that the property lay some 6 or 7 metres from the side of their house that contains habitable room windows, the actual distance is 9 metres. This meets the minimum separation distance but a condition is recommended safeguarding this in the future. The minimum separation distances to Deben House are also satisfied. Nether Ashe abuts the site boundary and presents a blank gable to the site. Rear windows are either not overlooked or the minimum separation distance is far exceeded. In the light of this, the impact on neighbours complies with the requirements of the SPG.

The County Highway Authority recommends permission subject to conditions including one that requires on-site storage of materials and plant. Given the issues raised during the development of the site nearby, the conditions below have been drafted to give the local planning authority greater control and thus reduce the impact on the amenities of the occupiers during construction.

Severn Trent Water has not acknowledged that a serious sewerage problem would not ensue as a result of the development but requires that foul and surface water disposal be agreed prior to development commencing. It is understood that the applicant is investigating a new scheme that would assist neighbours who are currently on a pumped rising main system.

A neighbour has made reference to the possibility of bats being present on the site. A condition is recommended requiring the appropriate investigation and mitigation prior to development.

In conclusion the development is considered acceptable subject to the recommended 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. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 691/P - 01 Rev B' -05 Rev B
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 and 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. The work shall be carried out in accordance with the approved details.
Reason: To safeguard the appearance of the Etwall Conservation Area.
4. Before any other operations are commenced, space shall be provided within the site curtilage or other land within the control of the applicant, for storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives' and visitors' vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.
Reason: In the interests of highway safety.
5. Prior to any other works commencing the access shall be laid out in accordance with the application drawing, having a minimum width of 4.1m, be provided with 2m x 2m x 45° pedestrian intervisibility splays and the entire site frontage cleared and maintained in perpetuity clear of any obstruction exceeding 1m in height.
Reason: In the interests of highway safety.
6. Prior to the occupation of the first dwelling, the shared driveway and manoeuvring space shall be laid out in accordance with the application drawing and maintained thereafter free of any impediment to its designated use.
Reason: In the interests of highway safety.
7. No gates shall be erected within 5m. of the highway boundary and any gates shall open inwards only.
Reason: In the interests of highway safety.

8. Prior to the occupation of the first dwelling, the car parking and manoeuvring space shall be laid out in accordance with the application drawing and maintained thereafter free of any impediment to its designated use.
Reason: In the interests of highway safety.
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. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 the garage accommodation/parking space to be provided in connection with the development shall not be used other than for the above stated purpose except with the prior permission of the Local Planning Authority granted on an application made in that regard.
Reason: To ensure that adequate parking/garaging provision is retained available to service each dwelling and to minimise the risk of on street parking.
11. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping of the site the submitted scheme shall include indications of all existing trees and hedgerows on the land to be retained and the tree protection measure outline in the landscape report shall be implemented prior to any other works being undertaken on the site. These protection measures shall be retained in place pending the completion of the dwellings where trees are to be retained.
Reason: In the interests of the appearance of the area.
12. 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.
13. 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.
14. Prior to the development being commenced details of the no dig construction of the access to Sutton Lane shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the access shall be constructed in accordance with the approved details and the roadway into the site shall be surfaced in a solid bound material to base course level.

Reason: In the interests of highway safety and to minimise the risk of any transfer of mud and other debris onto the highway during the construction phase of the development.

15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, none of the dwellings hereby permitted shall 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 the street scene.

16. 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: To control the ability of occupiers to insert additional windows in blank elevations that may otherwise be permitted development. This is to allow the Local Authority to retain control over such alterations because of their potential impact on the occupiers of adjacent dwellings.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, no fence or other means of enclosure shall be erected where the site abuts Sutton Lane Etwall as illustrated on the attached plan 9/2009/0893/A without the prior grant of planning permission in response to an application made to the Local Planning Authority in that regard.

Reason: To maintain control over the erection of fences on this important road frontage to Sutton Lane in the interests of maintaining the rural character of the lane.

18. Gutters and downpipes shall have a black finish.

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

19. During the ground preparation and construction periods, the site shall not operate outside the following hours 0730 - 1900 Monday to Friday and 0730 - 1400 on Saturdays with no working on Sundays or bank or public holidays. Further to this condition any necessary piling operations shall be carried out only between 9am and 5pm Monday to Friday with no such operations on Saturdays, Sundays, Bank or Public Holidays.

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

20. 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.

21. Unless otherwise agreed in writing with the Local Planning Authority, before any development is commenced, a survey of the buildings to be demolished and trees to be removed shall be undertaken to ensure that no evidence of bats are present within the structures or trees. In the event that bats or bat roosts are located in any tree or structure no works shall be commenced until appropriate measures to secure the habitat has been submitted to and approved in writing by the Local Planning Authority in consultation with Natural England. The mitigation measures shall be undertaken in accordance with an approved scheme prior to any other development being commenced.

Reason: Bats are a protected species and as such disturbance of their habitat is a criminal offence. The Local Planning Authority seeks to ensure that if bats are present within the site measures are undertaken to protect their habitat in the interests of the bio diversity of the area.

Informatives:

The County Highway Authority advises that:

- a) 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 shall be given to the Environmental Services Department at County Hall, Matlock (telephone 01629 580000 extension 38595) before any works commence on the vehicular access within highway limits.
- b) 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.
- c) 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. The applicant should also ensure that all materials are delivered to an area within the site curtilage and are not stored on the public highway in accordance with the requirements of Condition 4 above.

Item **1.3**

Reg. No. **9/2009/0964/FM**

Applicant:

Miss Barbara Stillman
Nottingham Community Housing
Association
12-14 Pelham Road
Sherwood Rise
Nottingham

Agent:

Miss Barbara Stillman
Nottingham Community Housing
Association
12-14 Pelham Road
Sherwood Rise
Nottingham

Proposal: **The Erection Of A Dwelling On The Site Of Council
Garages (To Be Demolished) Between 3 & 5 Buxton
Close Newhall Swadlincote**

Ward: **Midway**

Valid Date: **23/11/2009**

Reason for committee determination

The application is brought before the Committee as the site is within the Council's ownership.

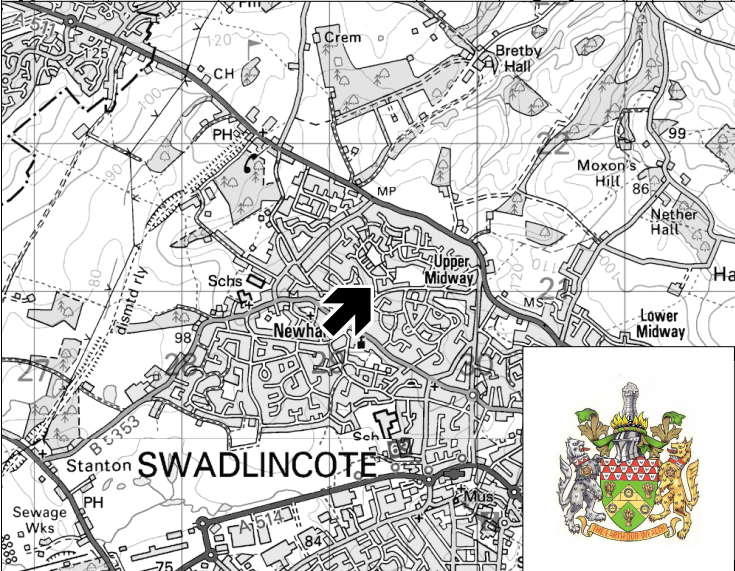
Site Description

This 730 square metre site is located between 3 and 5 Buxton Close, Newhall. There are ten single garages currently on the site. Of the 10 garage spaces on the site only 3 are currently occupied. The land slopes down to the west and is approximately 1 – 2 metres lower than the road level. There are semi-detached properties to the south (lower level) and modern detached properties to the north (higher level). Opposite are the garden areas of properties on Wellwood Road. The site currently has an open frontage with walls, fencing and hedging on the northern, western and southern boundaries with neighbouring properties.

Proposal

Planning permission is sought for a detached two bedroom bungalow and single carport. The proposed bungalow would be set back 5 metres from the front elevations of the adjacent dwellings and the proposed carport would be set back 2 metres from the front of No. 5 Buxton Close with its side elevation facing the road. A driveway is proposed 5 metres from the southern boundary of the site with a turning area to the front of the property. The proposal is designed to accommodate a disabled person with level access and wheelchair space within the bungalow. A 15 m in length rear garden is proposed. 0.9m high fencing is proposed on the frontage with 2m fencing further into

9/2009/0964 - Council Garages between 3 - 5 Buxton Close, Newhall DE11 0JG



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the site which would be screened by planting and the rear garden would be enclosed by 2.4m high fencing.

Nottingham Community Housing Association has submitted this planning application on behalf of a partnership comprising of South Derbyshire District Council, Derbyshire County Council, The Homes and Community Agency and Nottingham Community Housing Association. The proposed dwelling has been designed to meet a specification from the Lead Practitioner/Occupational Therapist in the County Council to meet the specific specialist needs of a particular family. The existing garage tenants and the neighbours have been notified of the Councils proposals to redevelopment the site.

Applicants' supporting information

A Design and Access Statement has been submitted which outlines the pre-application discussions which both informed the design and position of the property in the plot. Due to the land level differences in the street and the fact the site sits between two storey properties the land level of the proposed bungalow is raised to improve its appearance in the streetscene. The proposal has been assessed against Secure By Design, Code of Sustainable Homes (Level 3) and Building for Life guidance.

Planning History

None

Responses to Consultations

The County Highways Authority has yet to respond to consultation and their comments will be reported verbally at committee

Severn Trent Water has yet to respond to consultation and their comments will be reported verbally at committee

Responses to Publicity

No letters of objection have been received, however, the consultation period does not expire until the date of committee so any commentss will be reported verbally at committee.

Development Plan Policies

The relevant policies are:
East Midlands Regional Plan:
2 – Promoting Better Design
3 – Distribution of New Development
48 – Regional Car Parking Standards

Local Plan: Housing Policies 4 and 11 and Transport Policy 6.

National Guidance

PPS 1 and 3.

Planning Considerations

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

- Principle of development
- Impact on the streetscene
- Impact on residential amenity
- Highways Issues

Planning Assessment

The proposed site is within the main urban area surrounded by existing residential areas and thus residential development is acceptable in principle.

Extensive pre-application discussions were undertaken to ensure that the proposed bungalow would not have an adverse impact on the streetscene. Land level information informed the decision to increase the land level of the bungalow to ensure it related well to the increase in land levels to the north and the ridge lines of the existing two storey properties adjacent. The streetscene drawing indicates that this has been achieved. Setting the dwelling back 5 metres from the frontages of adjacent properties has also helped to blend the property into the streetscene. Details of the 2m fencing proposed to the front of the dwelling would be controlled by condition to ensure it does not appear dominant and a landscaping scheme condition would ensure suitable screen planting.

The impact on surrounding dwellings has been assessed against the Council's SPG and no breaches would occur. Therefore, the amenity of existing residential properties would not be adversely affected by this proposal.

The proposed dwelling would have a 3.2m wide driveway with a large turning head and single carport with gates set back 5 metres from the footway edge. Although the County Highways Authority's comments will be reported verbally at committee, the arrangement appears to be acceptable.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. 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. 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. The work shall be carried out in accordance with the approved details.

Reason: To safeguard the appearance of the existing building and the locality generally.

4. 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.

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 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.

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. The areas shown on the approved plan no 2002/P02 for the parking and manoeuvring of vehicles shall be laid out, hard surfaced in a solid bound material (i.e. not loose chippings) and marked out prior to the first use of the development hereby permitted. Thereafter those areas shall remain unobstructed for their designated use.

Reason: To ensure that all the activities associated with the development are contained within the curtilage of the site, so as to avoid parking and manoeuvring on the highway to the detriment of highway safety.

9. 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.

10. The gates hereby permitted shall be designed so as to open inwards only.

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 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.

Item 2.1

Reg. No. 9/2009/0822/U

Applicant:

Mr Scott Taylor
Evisa Fitness
5 Dane Hurst Drive
Gedling
Nottingham

Agent:

Mr Tom Edwards
Browne Jacobson
44 Castle Gate
Nottingham

Proposal: **The change of use from industrial to gym at Unit 5
Hearthcote Road Swadlincote**

Ward: **Swadlincote**

Valid Date: **21/10/2009**

Reason for committee determination

The application is brought before Committee at the request of Councillor Mrs Lane (ward member) because she considers that the committee should debate the issues in this case, which are very finely balanced and unusual site circumstances should be considered.

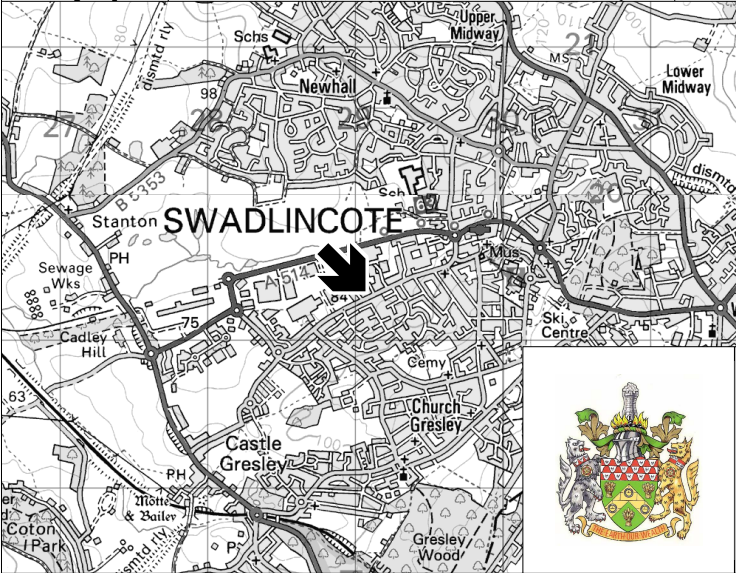
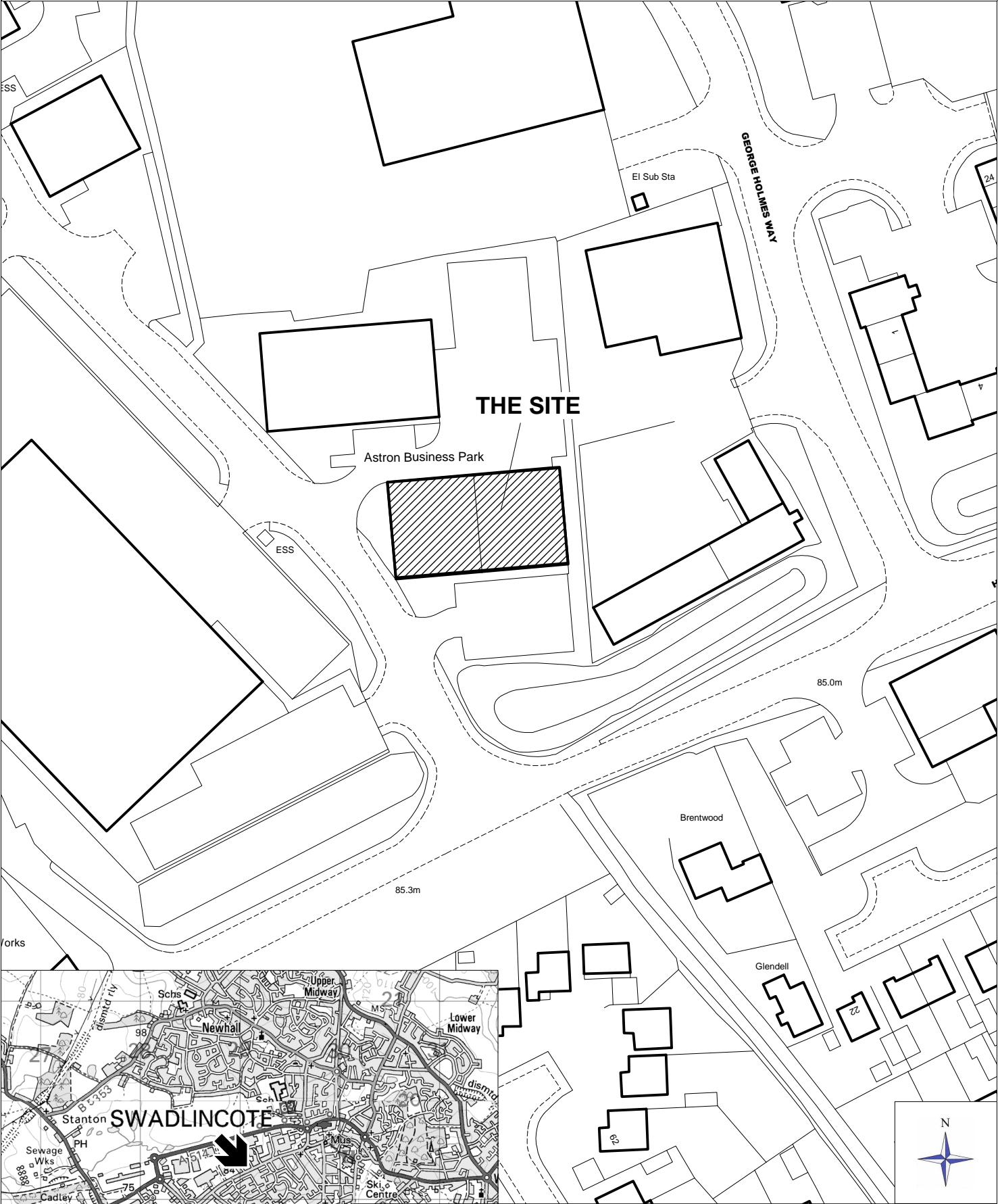
Site Description

The 6750 square metre industrial unit is located at the entrance to Astron Business Park on Hearthcote Road. The unit was constructed approximately 4 years ago and is a flat roof building which is steel clad with two glazed sections on the front elevation with brick surrounds. It is approximately 6 m in height and thus has the potential for a mezzanine floor within it. 2m high weld mesh fencing and gates enclose the car parking area to the front. The Business Park also includes an identical unit and two large B1, B2, B8 units and one small unit. The access road therefore serves 5 units in total.

Industrial uses dominate this side of Hearthcote Road with residential areas opposite to the south east. The proposed unit is vacant at present but has been use for storage and distribution (B8) previously. All the other units within the business park appear to be occupied by industrial uses.

Proposal

Planning permission is sought for a change of use from industrial (B1, B2 and B8) to gymnasium (D2). The proposed gymnasium would include a gymnasium floor, toilets and shower facilities, vending machines for drinks and snacks including reception and seating areas, one exercise studio for group classes or for rent for dance or martial arts classes and a sun bed. 18 car parking spaces with one disabled space is proposed. The



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applicant's have stated within their Travel Plan that an additional 10 car parking spaces to the rear of the unit within the car parking area of another unit can be secured to bring the total to 28. A cycle shelter for 6 bikes is proposed at the entrance of the building. Two full time staff and 4 part time staff are proposed. Proposed hours of use are- 6.30 – 21.00 Monday to Friday, 7.30 – 18.00 on Saturdays and 7.30 – 18.00 on Sundays and Bank Holidays.

At the request of the Highways Authority a Travel Plan has been submitted which includes details of the potential numbers of members of the gymnasium. As the gym would be a wholly new facility members numbers are estimated on the basis of 25 gym users per exercise station (equipment). It is envisaged that 'Evisa Fitness' would start with a total of 35 exercise stations, giving the potential for the capacity to reach 875 gym users. This figure does not include the extra users of the exercise studio which would hold 25 individuals per class and the sun bed.

The applicants expect that a maximum number of 40 individuals would be within the building at any one time and this would be expected at peak times between 6 – 8pm on a week night. The maximum time spent in the gym per individual is 1 hour and 10 minutes. The expected number of individuals travelling to the gym by car would be a maximum of 28 cars per hour. The anticipated total membership in 12 months time would be a total of 470.

Applicants' supporting information

The Alternative Premises Sites Report outlines the building and locational requirements of the proposed gymnasium which include:

Internal building requirements

- 1) between 6,000 -7000 square feet of internal floorspace,
- 2) 4000sq. ft to hold 60 pieces of gym equipment,
- 3) space of reception and office,
- 4) ground floor toilets and shower facilities close to the entrance door,
- 5) space for a ground floor exercise studio,
- 6) suitable eaves height to hold a mezzanine floor for air conditioning and potential future developments,
- 7) sufficient fire escapes,
- 8) suitable standard of building with no need of repair
- 9) internal flooring suitable for heavy equipment

External requirements:-

- 1) 18 car parking spaces with 1 disabled space
- 2) Visibility from roadside
- 3) Building must look presentable
- 4) Available roadside land for advertisement board

A table of 23 industrial or office units with Swadlincote, Burton, Hilton and Derby were assessed against the above requirements and only the proposed unit at Astron Business Park was found to be suitable and would meet all of the above needs. Reasons that the listed units were unsuitable ranged from not sufficient car parking to design / age of building unsuitable for the use. Other reasons included rent costs too high and too close to existing industrial uses. Only 3 out of the 23 units were offices and the remainder were units within established industrial areas. 15 of the units listed were within the Swadlincote area.

The Planning Statement makes the case for the use in relation to Local Plan Policies, the SDDC Employment Land Review and National Planning Policies within PPS6 and PPS4 – Consultation Document. The document states that the proposed use would not cause any greater level of noise and disruption than the current industrial use and is in a sustainable location where car use can be reduced. The unit is classified as a good quality unit within the Employment Land Review, however, this should be seen within the context of Swadlincote that traditionally has a poor level of demand for industrial uses. The proposal should not be seen as a loss of employment land as it would remain in economic use and would employ 6 people. The proposal is on the edge of Swadlincote town centre within walking distance and on a main bus route. A local need for the facility has been established as there is only one gym within the area, located at Green Bank Leisure Centre.

The Travel Plan outlines that the site is easily accessible by a choice means of transport. It is within walking distance of the town centre and residential areas and is on a main bus route. A notice board within the building would highlight and promote walking and cycling routes. There are 8 bus stops within half a mile of the site with some services running late into the evening. A total of 28 car parking spaces are available. Membership numbers are estimated as detailed in the proposal section above. Surveys of staff and members would be undertaken annually and reported back to SDDC.

Planning History

Relevant history includes: 9/2004/1405 - The approval of reserved matters of planning application 9/2001/0762/O for the erection two buildings to form B1, B2 & B8 accommodation, approved 15/12/04

9/2001/0762 - Refurbishment, alterations and extension of buildings, plus new buildings to form B1, B2 and B8 accommodation together with ancillary loading, car parks, access and landscaping, approved 6/3/02.

Responses to Consultations

Planning Policy comment that the application should be considered with regard to the East Midlands Regional Plan Policy 1 “Regional Core Objectives” which states that economic prosperity, employment opportunities and regional competitiveness should be improved through “*ensuring that sufficient good quality land and premises are available to support economic activity...*” It is considered that the loss of such a premises to non B1, B2 and B8 development would result in a need to identify further new employment land in other locations which are likely to be less well related to the urban area, leading to longer journeys to work by less sustainable transport modes. The Derby Housing Market Area Employment Land Review (March 2008) identifies a shortfall of land for B1, B2 and B8 purposes throughout the district to 2026 of some 80 ha (para 9.20). In assessing the quality of established employment sites, it concludes that the area of which this site forms is “good” quality and the associated action should be to “protect strongly”. In seeking to determine whether established employment sites can be lost to other uses, the Council has asked that premises be marketed for industrial and business purposes to determine the extent of market demand. No marketing evidence has been submitted with the application. PPS4 Consultation Paper and PPS6 identify leisure uses as “town centre” uses. The site is thus considered to be located “out of

centre". A sequential assessment has been submitted with the application in accordance with national guidance.

The County Highways Authority initially requested information on the number of members, maximum number of users of the gym at any one time and a Travel Plan. A Travel Plan has since been submitted together with a plan indicating the further 10 car parking spaces. The Highways Authority requires confirmation that the additional parking which is currently used by the adjacent unit for storage and parking is within their control. They also request that the applicant submit staff numbers and their proposed shift patterns and the maximum number of members using the facilities at any one time. The Travel Plan submitted is not sufficient and if permission is granted a condition requiring a revised Travel Plan be submitted and monitored is recommended.

Severn Trent Water has not responded to the consultation.

Environmental Health has no comment to make.

Responses to Publicity

Two letters of objection were received and the reasons are summarised below:

- 1) It is not felt that Swadlincote can support another gym as there are already four;
- 2) Customers already have choice and competition is already hard between the existing facilities, this may cause hardship for one or more;
- 3) The applicant's research is insufficient as there is not only a gym within the Green Bank Leisure Centre there are three within the town centre area and one in Newhall;
- 4) Existing gym membership within the current economic climate is difficult and another facility would adversely affect the existing businesses.

Development Plan Policies

The relevant policies are:

East Midlands Regional Plan:

1 – Regional Core Objectives

46 – A Regional Approach to Behavioural Change

48 – Regional Car Parking Standards

Local Plan: Recreation and Tourism Policy 1, Transport Policy 6.

National Guidance

PPS1, PPS4, and PPS6.

Planning Considerations

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

- The compatibility of the proposed use with the existing B1/B2/B8 uses on site
- The loss of existing industrial/business space within the Swadlincote Sub-Area
- The appropriateness of location

- Highways Issues
- Other issues raised by objectors

Planning Assessment

The compatibility of the proposed use with the existing B1/B2/B8 uses on site

The unit is located at the entrance to the small business park whereby the largest units are located to the west and north west and are in industrial use. Due to the distance between units it is considered that the proposed use would not be adversely affected by noise from the existing industrial units and Environmental Health has no comments to make in relation to noise. Due to the peak times of a gymnasium being outside the normal working hours of an industrial use, a conflict between the users is not considered to be significant.

The loss of existing industrial/business space within the Swadlincote Sub-Area

The proposed unit is classified as “good” quality in the Derby Housing Market Area Employment Land Review (March 2008) and recommends the associated action should be to “protect strongly”. A recent appeal decision (July 2009) at Unit 6, Woodhouse Business Centre in Woodville has concurred with this advice. A creative arts children’s nursery with dance classes in the evening was proposed at the unit which was also classified as “good” quality. The Inspector stated that based on the above document: *“...the use of Unit 6 for non B1, B2 or B8 would lead to the loss of good quality, established employment premises, which would reduce the availability of industrial / business space within the local area. Given the identified shortfall, the proposal would therefore be detrimental to the supply of employment land”*.

The Review identifies a shortfall of land for B1, B2 and B8 purposes throughout the district to 2026 of some 80 ha and notes that *“certainly more land is needed to service Swadlincote”*. Therefore, given that this type of proposal which results in the loss of employment land has already been tested at appeal, it is considered a material consideration in determination of this application. The applicant has not provided any evidence of marketing information for industrial and business purposes to determine the extent of market demand but has simply stated that *“Swadlincote traditionally has a poor take up of employment sites”*. This is not sufficient, as it is not backed up by evidence. It is also not sufficient justification to state that the unit will be in economic use and would employ six people in order to warrant approval of the application. In the short term it is obvious that current lack of demand is a factor of the economic recession, however, this does not override the fact that the area has a shortfall of employment land for the long term and thus existing “good” quality premises should be safeguarded.

The South Derbyshire Economic Development Strategy identifies a number of weaknesses relating to employment sites and accommodation as follows:

1) *Limited supply of small and “grow on” workspace.*

Economic Development Officers have confirmed that at 627 sq.m, the application premises would represent a “grow-on” unit. There is little alternative accommodation in the Swadlincote area in this size range.

2) *“Little speculative development; design and build and freehold ownership constraints on some available employment land”.*

The application premises were built on a speculative basis and are being marketed on a freehold basis.

3) *“Little employment land available in the Swadlincote urban area”.*

This underlines the need to protect established good quality employment premises to avoid exacerbating this situation. This unit has planning consent for uses within B1, B2 and B8 categories and therefore provides for flexibility.

PPS4 (consultation draft) advises that Local Planning Authorities should *“adopt an evidence-based approach to proposals which do not have the specific support of plan policies, for example, using relevant market and other economic information”* and advocates taking a longer term view on the benefits or costs. Therefore, the identified need has been established by a recent review of employment land which recommended that the premises should be *“protected strongly, supported and expanded”* in order to protect the long term need for employment sites within the area.

The appropriateness of location

National Policy within PPS 6 and PPS4 (consultation draft) define leisure uses as “town centre” uses. This site is located approximately 800m from the edge of Swadlincote town centre and PPS6 defines edge of centre sites as *“... likely to be within 300m of a town centre boundary”*.

‘PPS6: Planning for Town Centres’ sets out a hierarchical approach for the identification of site for D2 (Leisure) uses beginning with the town centre, followed by edge of centre. An Alternative Premises Sites report was submitted with the application, however, the sites listed did not include any town centre sites and the majority of the premises are within existing industrial areas that are also out-of-centre locations.

PPS6 states that *“in applying the sequential approach, and considering alternative sites, developers and operators should be able to demonstrate that in seeking to find a site in or on the edge of existing centres they have been flexible about their proposed business model in terms of the following planning considerations:*

- the scale of their development;*
- the format of their development;*
- car parking provision; and*
- the scope for disaggregation*

It is not considered that the 9 internal requirements and 4 external requirements listed above in the applicant’s supporting information section could be construed as “flexible”. On this basis the sequential approach is not considered to accord with guidance within PPS6 and PPS4 Consultation Draft which recommends the use of the PPS6 sequential approach.

Highway Issues

The applicant has confirmed that the additional 10 spaces within an adjacent unit can be used for the proposed use, therefore increasing the total spaces to 28. However, given the fact that the projected numbers of members could reach 470 in 12 months time and that it is envisaged that 40 individuals could be within the building at any one time there are serious concerns with regard the level of car parking provision. It is acknowledged that the site can be accessed by walking and cycling and is on a main bus route, however, it would be difficult to control the use of cars by members and the submitted Travel Plan does little to allay these concerns.

The information submitted with the application is also contradictory as the Travel Plan states that a total of 35 exercise stations would be proposed at the start and the Alternative Premises Sites Report has an internal requirement for the premises to hold 60 pieces of gymnasium equipment. Based on the calculation of gym capacity at 25 gym users per exercise station within the Travel Plan it equates to a potential of 875 gym users and in the later report it equates to 1,500. These figures do not include the staff which would be 2 full time posts, 1 part time receptionist, 1 gym instructor for 20 hours per week and 2 fitness instructors for gym classes. Neither do the figures include use of the sun bed facility or exercise classes. In terms of shift patterns, the two full time staff would be at the gym throughout the day, from 6.30am-9.00pm. There would also be two part time staff which would work 25 hours each. One would work a morning shift 5 days a week from 6.30am-11.30am and the other would work from 4.30pm-9.30pm 5 days a week. The County Highways Authority's comments in regard to this issue were not available at the time of writing but will be reported verbally at the meeting.

Other issues raised by objectors

The only reason given for objection was based on the need for the facility and the impact of competition on existing gymnasiums in the town centre and Newhall. This is not a material planning consideration and thus cannot be considered in this case.

Conclusion

The proposal would result in the loss of the site to non B1, B2 and B8 uses which would exacerbate both a quantitative and qualitative shortfall in employment land and premises. The loss would need to be redressed through alternative provision, which would be likely to be less sustainably located, contrary to Regional Planning Policy 1 and the Derby Housing Market Area Employment Land Review. The sequential assessment submitted does not accord with guidance within PPS6 and PPS4 Consultation Draft. Insufficient car parking provision is proposed based on estimated members and staff of the facility.

Recommendation

REFUSE permission for the following reasons:

1. Astron Business Centre has an established industrial use found to be of good quality in the 'South Derbyshire Housing Market Area Employment Land Review'. The proposed change of use to D2 (Leisure) would mean the loss of industrial/business space leading to both a qualitative and quantitative deficiency of land for such uses within the Swadlincote Sub-Area contrary to East Midlands Regional Planning Policy 1 "Regional Core Objectives".
2. The sequential assessment submitted with the application does not accord with the criteria within Planning Policy Statement 6 : Planning for Town Centres as it does not include sequential preferable sites within town centres and edge of centre locations and the criteria used for site selection was not a flexible business model.
3. The proposed use would be detrimental to highway safety as sufficient car parking provision has not been provided based on the potential users of the facility, contrary to Local Plan Policy Transport 6.

Item **2.2**

Reg. No. **9/2009/0847/BSM**

Applicant:

Mr David Stone
22 Coppice Side
Swadlincote

Agent:

Mr Nigel Dutton
Nigel Dutton Design
49 Falcon Road
Anstey
Leicester

Proposal: **To extend the time allowed under condition one of previously approved outline application 9/2006/0780 for the erection of twenty dwellings at 22 Coppice Side Swadlincote**

Ward: **Swadlincote**

Valid Date: **09/10/2009**

Reason for committee determination

Outline permission was granted at Committee on the 13 February 2006 against the advice of the County Highways Authority who had recommended the application for refusal. This application for an extension of permission has a highways objection and therefore requires to be determined by the Committee.

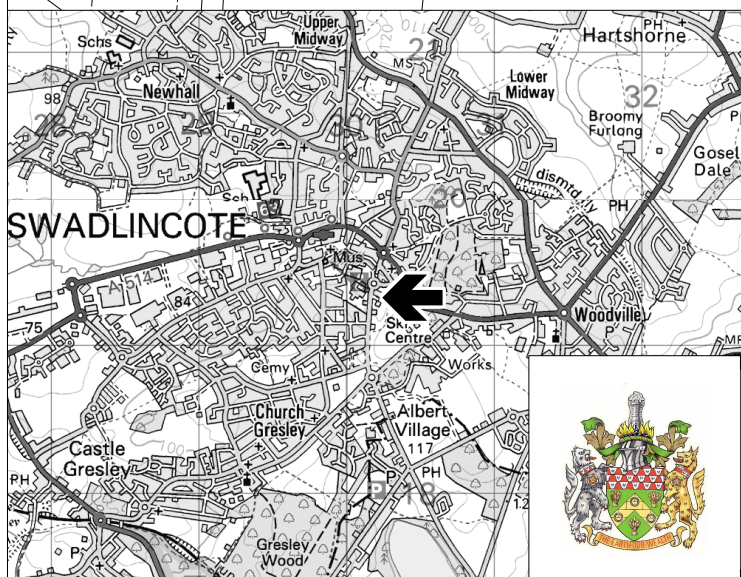
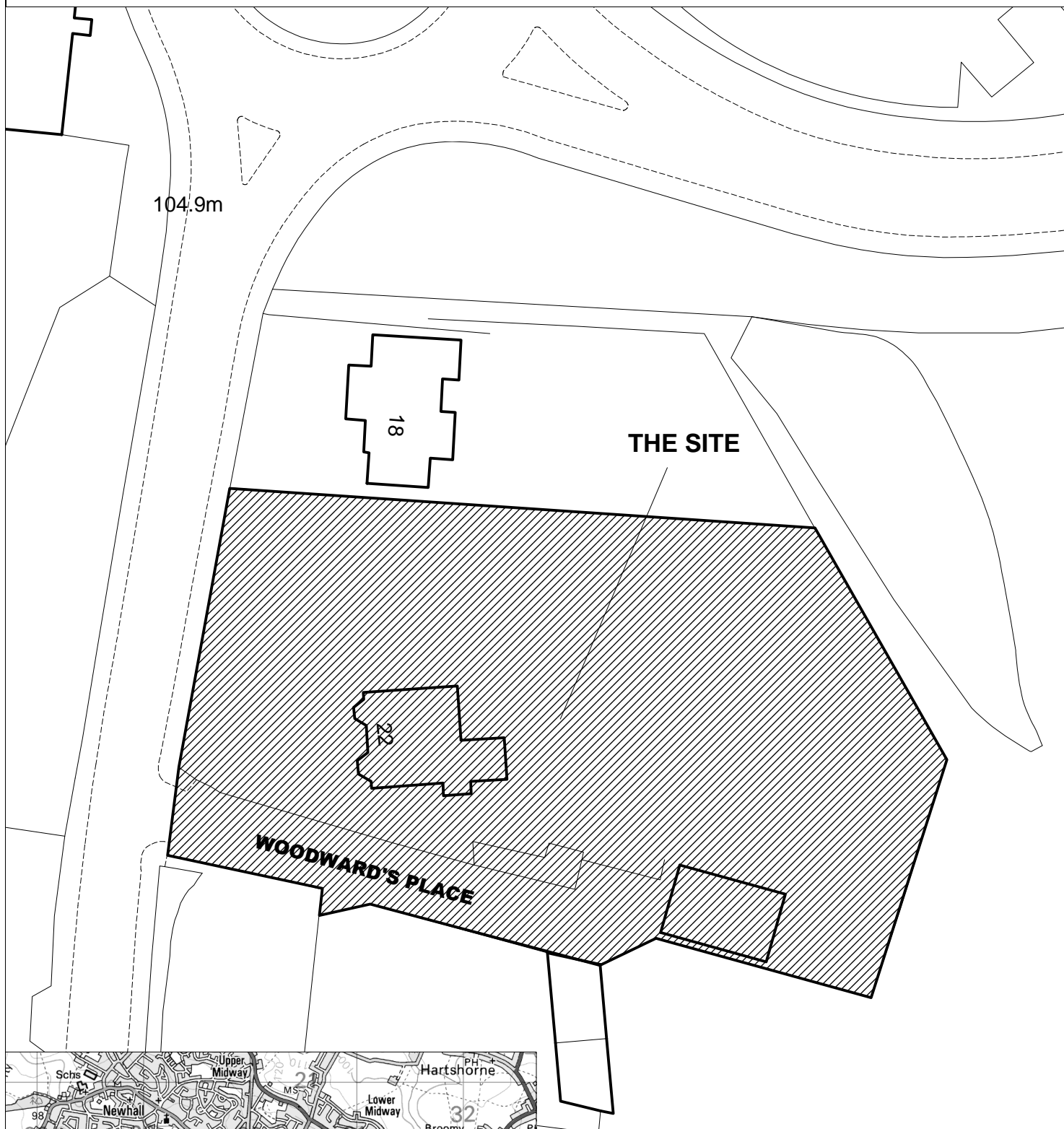
Site Description

The site is currently occupied by a large detached house and garden adjacent to Woodward's Place and Gresley Common. It falls away from Coppice side fairly sharply into a hollow and then rises again toward Swadlincote Ski Centre at the rear.

Proposal

This is an application to extend the time allowed for the submission of reserved matters. The outline application with all matters reserved (9/2006/0780) was granted at Development Control Committee on the 13 February 2007. Therefore, the timescale detailed in condition 1 of permission 9/2006/0780 expires on 13 February 2010. The details of the application are identical to those submitted for 9/2006/0847 which were as follows:

An indicative layout shows three blocks with a part three-storey block of houses fronting Coppice Side (with a lower ground floor set into the slope at the rear) and two three storey blocks of flats/houses lower down the site to the rear (i.e. a total of 20 units).



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South Derbyshire District Council. LA 100019461. 2009

The intention was to take access from Woodward's Place, which would be improved. Although the application was amended to show improvements to visibility on Coppice Side over common land, it was amended back to its original arrangement with no increase to visibility.

Applicants Supporting Information

In a statement submitted with the application, the agent states that the development has been planned to provide:

- a. A mix of affordable housing ranging from 1 bed to 3 bed accommodation within a layout which is functional, safe and provides a pleasant environment;
- b. The use of the falls on the site provide one to two storey fenestration particularly along the street frontage to reflect the character of the adjoining dwelling;
- c. A design to reflect the local character and vernacular with the use of good quality materials (illustrated by attached photographs). These include typical local materials such as red brick, stone cills, slate roofs and pavers for parking areas.
- d. Safe parking areas and cycle storage. Given the close proximity of the town and Morrison's store, parking levels of 1.5 per dwelling for 2/3 bed units and 1 space for the 1 bed units are considered adequate.
- e. Use of good quality landscaping to improve the general environment for the proposed residents.

The agent states that the application meets the government's criteria that new housing development should be directed towards existing settlements and the proposal is similar to others approved and in progress around the town.

Planning History

9/2006/0780 - Outline application (all matters reserved) for the erection of twenty dwellings, Granted 13/2/07

9/2005/1196 - Outline application (all matters to be reserved) for the erection of twenty apartments, Refused 23/12/05

9/1996/0680 - The renewal of planning permission 9/0291/1078/F for the extension and conversion into a hotel of the detached house, Granted 4/4/96

9/1992/0925 - The extension and conversion into a hotel in accordance with Condition 2 of permission 9/0291/1078/F of the detached house, Granted 14/4/92

9/1992/1078 - The extension and conversion into a hotel of the detached house, Granted 23/7/91

9/1986/0077 - The erection of a shed and pens to provide a boarding cattery in the rear garden, Granted 4/8/86

Responses to Consultations

The County Highway Authority has the same comments as on the previous application 9/2006/0780 dated 31/1/07, recommending refusal. However, they note that the Committee sequentially granted consent. In February 2007 the County Highway Authority had confirmed that improvements to the access showing a visibility splay over the adjoining common land was acceptable. However, this element was withdrawn and therefore it recommends refusal on the grounds that without the inclusion of the common land, visibility for emerging drivers would be substandard and therefore contrary to the best interests of highway safety.

The Contaminated Land Officer recommends a phased condition due to historical mining and infilled ground within influencing distance of the site.

The County Education Authority has no comment on the current application, but requested a S106 education contribution in March 2007 and confirm this remains the position of DCC.

Responses to Publicity

None

Development Plan Policies

The relevant policies are:

East Midlands Regional Plan:

2 – Promoting Better Design

3 – Distribution of New Development

48 – Regional Car Parking Standards

Local Plan: Housing Policies 4 and 11 and Transport 6

National Guidance

PPS1

PPS3

Planning Considerations

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

- Conformity with the Development Plan
- Highway safety
- Impact on residential amenity

Planning Assessment

In its most recent guidance on extending the life of planning permissions, the Government advises that *'...LPAs should take a positive and constructive approach towards applications which improve the prospect of sustainable development being taken forward quickly. The development proposed in an application for extension will by definition have been judged to be acceptable in principle at an earlier date. While these applications should, of course, be determined in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004, LPAs should, in making their decisions, focus their attention on development plan policies and other material considerations (including national policies on matters such as climate change) which may have changed significantly since the original grant of permission.'*

The details of the application are identical to those submitted for 9/2006/0847 and Local Plan Policies have not changed since this permission was granted. The site is within the existing urban area of Swadlincote whereby residential development is in principle acceptable and as such the proposal both complies with regional and national policies.

The 2006 application was assessed as follows:-

Residential redevelopment of this 'previously developed land' would be fully in accord with the policies of the Development Plan, as would achieving higher densities and thus greater affordability of the dwellings.

Although the applicant amended the scheme to show the necessary visibility splay across common land on Coppice Side, this was withdrawn as on the 2006 application and as such the County Highway Authority recommended that the application be refused.

Details of the design and layout of the dwellings are reserved but the site is large enough to accommodate the smaller size of dwellings now proposed. Fairly extensive architectural details and a layout and levels/sections of the dwellings of the size and type indicated have been supplied and there is no longer reasonable doubt about their likely acceptability. The suggested scheme demonstrates more than adequate separation between proposed and existing dwellings in accordance with Supplementary Planning Guidance (May 2004). Any difficulty with the need to divert the sewer crossing the site is a matter for any eventual developer to negotiate with the water company.

It would not be possible to provide the normal incidental/ play space on the site but an in lieu contribution toward improving existing facilities on the adjoining extensive area of common would be justified. The applicant has agreed in principal to the payment of the necessary contributions for health, education and recreation facilities.

A signed Unilateral Undertaking identical to that received for the 2006 application has been submitted with this application which includes a £28,786 recreation contribution, a £8,800 medical contribution and a £36,924 education contribution.

It is true that the current permission will not expire until February next year and can still be implemented. However, as the guidance makes clear, it is incumbent upon the local planning authority to determine applications for extensions of time in the light of current advice and policy. As such the County Highway Authority restates their advice that the access would not be safe. However, members should also consider the fact that the site has an extant permission, which is a material consideration, and the access has not altered since the last permission.

Recommendation

REFUSE permission for the following reason:

The development would result in an increase in vehicle movements onto Coppice Side in conditions of substandard visibility for emerging drivers. Such movements would therefore be contrary to the best interests of highway safety on the classified road contrary to Transport Policy 6 of the adopted Local Plan.

2. PLANNING AND OTHER APPEALS

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

Reference	Place	Ward	Result	Cttee/delegated
9/2009/0523	Hilton	Hilton	Dismissed	Delegated
9/2009/0629	Overseal	Seales	Allowed	Delegated
9/2009/0899	Swadlincote	Swadlincote	Dismissed	Delegated
E/2005/00352	Coton Park	Linton	Dismissed/part altered	Delegated



Appeal Decision

Site visit made on 1 December 2009

by David Stephenson OBE
BSc(Eng) CEng MICE

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

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Decision date:
3 December 2009

Appeal Ref: APP/F1040/D/09/2115349 **20 Willowfields, Hilton, Derby DE65 5GU**

- 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 P Bourke against the decision of South Derbyshire District Council.
- The application Ref: 9/2009/0523/FH, dated 26 June 2009, was refused by notice dated 11 September 2009.
- The development proposed is alterations and extensions to 18 and 20 Willowfields incorporating ground floor extensions to kitchen area and 1st floor extensions to create additional bedroom and inclusion of pitched dormer roofs.

Decision

1. **I dismiss the appeal.**

Main Issue

2. I consider that the main issue in this case is the effect of the proposal on the living conditions of occupiers of 22 Willowfields in terms of outlook.

Reasons

3. 18 and 20 Willowfields are a pair of 2-storey, semi-detached houses with 1st floor dormers to front and rear in a steeply pitched roof. This is typical of other nearby dwellings in Willowfields. No 22 is set at an angle such that the end gable wall of No 20 falls within at least half of the field of view from the ground floor front living room window and only some 9m away. The aspect from this window is therefore already compromised to some extent, even if the remaining view extends across the road for some distance.
4. The proposed rear extension would have an eaves height approximately in line with the roof of the existing rear dormer and a pitched roof with a ridge just below the ridgeline of the existing roof. The flank wall of the extension would be within 12m of the living room window of No 22, which would be inconsistent with the separation guidance in the Council's Supplementary Planning Guidance (SPG) – *Extending Your Home*, adopted 2004.
5. No 22 is to the north of the appeal site such that the proposed extension would be to the south east, and at least part of the extension would fall within a 45° line drawn from the centre of the living room window and at some 10m away, which the SPG advises should be avoided to prevent overshadowing. I consider that the proposed extension would result in loss of light to the living room window of 22 Willowfields, and would further reduce the outlook from this window.

6. No 22 in addition has a 2-storey side extension with 2 first-floor windows that face towards the appeal site. While this may be a later addition to the dwelling, the windows appeared to be to habitable rooms which would be within some 10m of the proposed extension and would lose some outlook, even if not sunlight, and this adds to my concern.
7. Saved Housing Policy 13 of the South Derbyshire Local Plan, adopted in 1998 (LP), seeks to ensure that extensions to dwellings are not detrimental to the amenities of adjoining properties. In this case I conclude that the proposed rear extension would adversely affect the living conditions of occupiers of 22 Willowfields by reason of unacceptable loss of outlook, in conflict with LP Housing Policy 13.
8. The Appellant asserts that the extension could be built as development permitted by The Town and Country Planning (General Permitted Development) Order 1995 (as amended) (GPDO). I consider, however, that the proposed extension would be excluded by para (c) and para (i) (iv) of the revised A.1 of Schedule 2 to Part 1 (Class A) of the GPDO, in that the eaves of the extension would be higher than the eaves of the existing dwellinghouse and that the extension would involve the alteration of part of the roof of the dwellinghouse. In any case there is no evidence that the Appellant has applied for or been granted a Certificate of Lawful Development for such alterations, or that the Council would consider such alterations as permitted development, and I give the possibility little weight as a fallback option.
9. For the reasons given above I conclude that the appeal should not succeed.

David Stephenson

INSPECTOR



Appeal Decision

Site visit made on 1 December 2009

by David Stephenson OBE
BSc(Eng) CEng MICE

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

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Decision date:
3 December 2009

Appeal Ref: APP/F1040/D/09/2115413

9 Acresford Road, Overseal, Swadlincote, South Derbyshire DE12 6HX

- 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 Adrian McIntyre against the decision of South Derbyshire District Council.
- The application Ref: 9/2009/0629/FH, dated 18 July 2009, was refused by notice dated 24 September 2009.
- The development proposed is the erection of a 3-bay garage/carriage barn.

Decision

1. **I allow the appeal**, and grant planning permission for the erection of a 3-bay garage/carriage barn at 9 Acresford Road, Overseal, Swadlincote, South Derbyshire DE12 6HX in accordance with the terms of the application, Ref: 9/2009/0629/FH, dated 18 July 2009, and the plans submitted with it, subject to the condition that the development hereby permitted shall begin not later than three years from the date of this decision.

Main Issue

2. I consider that the main issue in this case is the effect of the proposal on the street scene in Acresford Road and on the character and appearance of the area.

Reasons

3. The Council has not relied on any development plan policies in its refusal of this proposal, referring instead to Planning Policy Statement (PPS) 1 - Delivering Sustainable Development, particularly Key Principles (iv) and paragraphs 33-39, but without expanding on what particular aspects of those paragraphs are relevant. The Council's Supplementary Planning Guidance (SPG) – *Extending Your Home*, adopted in 2004, has been supplied to me, but again without any indication of what aspects are relevant. I note, however, that Section 3 of this SPG briefly suggests that extensions to the front of a dwelling may not be acceptable, particularly where there is an obvious 'building line'.
 4. Acresford Road in the vicinity of the appeal site has a variety of building character. To the north of the Valley Road/Moira Road junction, buildings front the road on the west side. To the south of this junction on the west side the road boundary is the rear fencing of dwellings in Squirrel Walk, with at least one single storey garage building visible close to the road. Further south on the west side, and opposite the appeal site, is a 3-storey, mansion-style house with an adjacent coach house, both on the road frontage, and the coach house presenting a blank wall to the street.
-

5. On the east side, 1 Moira Road has ancillary buildings adjacent to Acresford Road. 3 and 5 Acresford Road are semi-detached dwellings in a 2-storey building set just back from the road edge. Separated from these by a lane, and accessed off the lane rather than Acresford Road, No 9, the appeal site, is the first of a row of 5 detached dwellings of varying designs, set back from Acresford Road, though one bungalow has a garage to the front. Beyond this short row to the south there is open land. I consider that there is no obvious 'building line', or consistency of building styles, in Acresford Road.
6. The proposed garage would be some 8.3m long by some 5.5m deep and some 3.4m high, constructed largely of timber, with 2 open bays and one enclosed garage bay. It would be located just inside the front boundary, and aligned with the road. In orientation and location it would relate to the buildings immediately to the north in the street scene, and I see no reason why it would look incongruous. I consider that the proposal would not be inappropriate in its context and I see no inconsistency with the advice in paragraphs 33-39 of PPS1. I conclude that the proposal would not be detrimental to the street scene in Acresford Road or adversely affect the character and appearance of the area.
7. The Council has suggested that the materials used in the construction of the external surfaces should match those of the existing dwelling, but the application is for a timber building and the materials are clearly listed on the plans. I consider it would be unreasonable to impose that condition as it would materially alter the design intention, for which I see no necessity.
8. For the reasons given above I conclude that the appeal should succeed.

David Stephenson

INSPECTOR



Appeal Decision

Site visit made on 13 October 2009

by **F M Ellwood BA(Hons) BTP MRTPI**

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

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Decision date:
26 November 2009

Appeal Ref: APP/F1040/A/09/2108969

10 Darklands Road, Swadlincote, Derbyshire, DE11 0PG

- 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 Ian Garland against the decision of South Derbyshire District Council.
 - The application Ref: 9/2008/0899/FM dated 27 August 2008, was refused by notice dated 9 March 2009.
 - The development proposed is to demolish the existing bungalow and erect two four bedroom houses and a new vehicular access.
-

Decision

1. I dismiss the appeal.

Main issues

2. These are the effect of the proposal on;
 - The living conditions for the occupants of adjacent single storey dwellings.
 - Highway safety conditions in relation to the proposed access, parking and turning facilities.
 - The life expectancy of a London Plane Tree protected by Tree Preservation Order 254.

Reasons

Living conditions

3. The development plan consists of the East Midlands Regional Plan 2009 and the saved policies of the South Derbyshire Local Plan 1998 (LP). Policy H11 of the LP allows new housing developments subject to a number of criteria which include the need to provide reasonable amenities in terms of light, air and privacy for existing and new dwellings. The Council have also produced a 'Supplementary Planning Guidance on Housing, Design and Layout' 2004 (SPG) to which the appellants refer. Since this has been adopted by the Council following a public consultation exercise I accord it some weight.
 4. In relation to the bungalow to the south, 12 Darklands Road, the proposed building would project further forward towards the street and would be taller. The appellants point out the nearest window affected would be the bungalows front lounge window. In accordance with the advice contained within the Council's SPG this would be outside the sector of view of any
-

primary window from the proposed development. I agree in this respect there would be no loss of privacy. In relation to outlook, the development would sit adjacent to its driveway flanking the north side elevation of the bungalow which does not contain windows. The main outlook from this bungalow is to the front and back. As such there would be no loss of direct sunlight and its outlook would remain unaltered. For these reasons I do not consider the development would feel prominent or intrusive and would not have an overbearing impact on the living conditions for the occupants.

5. In relation to the new bungalows to the rear, I saw on my visit that these are situated on land at a lower level directly east of the appeal site. The appellant considers the scheme meets the advisory separation distances set out in the Council's SPG for situations where new development abuts existing. I note these distances are stated within the SPG to be acceptable to maintain the living conditions of existing occupants in relation to both privacy and the overbearing impact of developments.
6. I accept that the ground floor windows of the proposed development would not overlook the rear bungalows provided adequate screen fencing were provided. However, the first floor windows would afford views over the front west elevation. The appellant says the windows on the west elevation are bedroom and obscure glazed bathroom windows. In these circumstances the Council's SPG advises a separation distance of 18 metres. However, it advises increasing the distance by 20% for three storey developments. Given the difference in levels between the sites I agree that a greater distance between windows would be required to minimise the loss of privacy and the potential overbearing impact.
7. On the basis of the Council's SPG the separation distance required would be 21.6 metres. The appellant points out that most of the rear first floor windows on the proposed building would be 22.4 metres from the bungalow windows which would be in excess of the SPG advice. Only bedroom 2 to plot 2 would be less with a distance of 20 metres. However, the appellant points out that plot two is only half a storey higher in level than the bungalows. As such a 10% increase in distance would be sufficient amounting to a separation distance requirement of 19.8 metres which would be met.
8. I accept the separation distances between the windows of the proposed development and the rear bungalows are sufficient to prevent loss of privacy. In this respect I find the development would not have an intrusive impact on the living conditions for the existing occupants. However, to my mind the distance between windows is not the only factor which could contribute to a development having an overbearing impact. The existing building on the appeal site is a single storey dwelling with a shallow hipped roof. There is a driveway width gap on the north side of the plot. As such there is at present a degree of light and openness to the western outlook for the bungalows.
9. The proposed two storey development would occupy almost the full width of the plot. Although the roof would be hipped at the ends there would be no break to the bulk of the building with bedrooms and pitched roofs above

the central joint garages. As such the occupants of the bungalows would be faced with a much larger solid higher building across the site. It would reduce the light received at the front these properties towards the end of the day. Moreover, it would create a sense of enclosure which I consider would be overbearing and oppressive. It would reduce the occupant's enjoyment of their property considerably. For these reasons I conclude on this first issue that the proposed development would have a harmfully overbearing effect on the living conditions for the occupants of the bungalows to the rear. It would conflict with Policy H11 of the LP.

Highway Safety

10. Darklands Road is a busy local road which the Council point out links two classified roads. I note that it is subject to a 30mph speed limit and has traffic calming measures with three speed cushions spanning the carriageway in front of the site. It carries a number of bus routes and is subject to heavy pedestrian traffic. At the time of my visit there were many school children walking along its pavements and crossing the road at various points. I note that three accidents have been recorded near the appeal site being incidences of personal injury. The appellant points out that without more information on the nature of the accidents it is not possible to tell whether these are relevant or related to the adjacent housing. However, to my mind the road is clearly busy and congested and these give an indication that it is prone to accidents.
11. Both parties refer to the Manual for Streets 2007 (MfS) produced by the Department for Transport which is a material consideration. In relation to visibility, the proposed access requires sightlines of 2.4 x 43 metres to accord with the MfS. There is no dispute between the parties that acceptable visibility to the south can be achieved. To the north the achievable distance is stated by the appellants to be 2.0 x 67.1 metres. I note the appellant considers traffic speeds to be below 30mph, however no survey or records to support this contention has been provided on this appeal. There is nothing in the Council's statement to suggest they consider the reduced 'X' distance of 2.0 metres to be acceptable. Whilst this is often accepted in lightly trafficked situations or slow speed situations I do not consider it to be appropriate in this location.
12. The Council point out that the required visibility of 2.4 x 43 metres visibility to the north for vehicles emerging would be obstructed by trees in the footway. At a distance of 2.4 metres the driver could see behind the closest tree but the view of oncoming vehicles would be obscured by the two trees to the north. This would deteriorate as the drive pulled forward because at 1.8 metres the trees merge to completely obstruct the view of the highway more than 36 metres to the north. The appellant does not agree with the Council's assessment and considers visibility exceeds 47 metres at points 2.4, 2.0, 1.5 and 1 metre back from the highway. At 600mm the view would be obscured but re-instated at 300mm back from the highway. As such the appellant considers there is only a slight restriction to the open sightline which would not affect overall visibility.

13. From my own observations in the access position it is clear that the visibility would be intermittent depending on the distance back from the highway. I consider emerging vehicles would have some difficulty assessing whether it was safe to pull out. However, I do accept that pedestrians on the footpath would not be compromised by vehicles emerging in a forward gear since the trees are near the edge of the road. Whilst clear views would be possible at some points, the trees do form significantly large obstructions and it would be difficult to emerge from the access with complete certainty on whether the road was clear of oncoming vehicles.
14. In relation to parking and turning, the scheme would provide one garage and one parking space per dwelling with a turning area for each dwelling within the site. The Council are concerned that the occupants would utilise the turning areas for parking which would necessitate reversing movements out of the access. The appellant considers the scheme would provide adequate parking in accordance with Planning Policy Guidance Note 13: Transport 2001 (PG13). Moreover, the appellant considers it unreasonable for the Council to suggest that the scheme would need to utilise the turning areas when no shortfall in parking provision has been identified.
15. Whilst PPG13 advises that developers should not be required to provide more parking space than they themselves wish, this would not be appropriate where there are significant implications for road safety. Due to the characteristics of Darklands Road I concur with the Council that adequate off street parking and turning should be provided. No information on the Council's parking standards has been provided on this appeal. However, I note that neither party suggests that the one garage space and one parking space for each of the three bedroom dwellings would be insufficient in terms of numerical provision. The proposal would be for two four bedroom dwellings. At best there could be only one car owner per dwelling but at worst there could be several. As such I agree that at least two spaces per dwelling should be provided.
16. However, the garage and parking space for the proposed dwellings would be in a tandem arrangement and it would not be possible to independently access each space. I saw on my visit that most of the dwellings on the road had off street parking and few cars parked on the street. Those that did were half mounted on the kerb to avoid blocking the traffic. As such I consider that future occupants would be highly likely to use the turning area for parking rather than move cars around to gain access to the garage on every occasion or park on the street. In these circumstances cars would often need to reverse out of the driveway.
17. I accept the existing access is substandard with no turning facilities and poor visibility. The proposed access would bring about improved visibility for one household but would increase the vehicle movements due to the additional dwelling. I note that the Council do not normally require turning facilities on unclassified roads and the development would be consistent with the majority of existing accesses on this road which have no turning facilities. However, the busy nature of the road justifies the need for

turning facilities in this case. Moreover, the existing accesses are not recent developments and their presence does not justify allowing further similar developments which would increase the harm to road safety. I note the appellant is willing to accept a condition requiring the turning areas to be kept clear. However, this would not overcome the difficulties of the tandem parking arrangement and an access with substandard visibility.

18. The proposed development would result in increased vehicle movements onto the road from an access where visibility is impaired. Given the characteristics of the road I have described above and the likelihood of vehicles reversing out of the access this would increase the likelihood of accidents. I conclude on this second issue that the proposal would reduce highway safety conditions unacceptably. It would conflict with Policy T6 of the LP which sets out the Council's transport policy requiring new development to make adequate provision for access, parking and manoeuvring amongst other things.

Trees

19. The access would be positioned close to a London Plane tree which is protected by Tree Preservation Order No. 254. I saw on my visit this was a large tree which appeared vigorous and in good health. Moreover, it made an important contribution visually to the street scene. The need for a radius of 4.2 metres as a root protection area to ensure the trees continued health is not disputed. The crossover for the proposed access would be positioned 1.8 metres south of the tree. The appellant accepts the proposals will have some impact on the uppermost roots due to the need to slightly lower the footpath across the driveway. However, they consider this would not adversely effect the tree which they say is mature, well established and has already survived resurfacing of the footpath on many occasions.
20. However, the minimum root protection area required for this tree would be considerably breached. No details are provided of the construction method or the extent and depth to which the area around the tree would need to be excavated and re-surfaced. I note the appellant's willingness to accept conditions to show the constructional arrangements and requiring the use of porous material to avoid the adverse effect of restricting water and oxygen to the roots. Whilst the use of porous finished surface materials may be more beneficial to the tree than the existing tarmac, the excavation works necessary to create the access would come much closer to the tree and could be of greater depth. As such I consider there could be considerable damage to the trees roots and no evidence has been provided on this appeal to demonstrate the tree could withstand such disruption.
21. I conclude on this third issue that the proposed development could have a materially harmful impact on the life expectancy of the Tree. It would conflict with Policy E9 of the LP which does not permit development which would lead to the loss of trees.

Other Matters

22. Although this does not form reason for refusal, the appellant refers to the Council's lack of response to the effect on the character and appearance of the area. I saw on my visit that the appeal site is one of only a small cluster of single storey buildings. These include the adjacent dwelling to the south, No 12 Darklands Road and a new development of four semi detached bungalows to the rear. These are tucked away behind the frontage dwellings on land that is lower than the main road. As such they are not generally visible from the street scene. Immediately to the north there is a large two storey detached dwelling with a single storey side extension in use as a fish and chip shop. Darklands Road is flanked by long lines of two storey semi detached dwellings. To my mind these form the dominant development characteristic of the area which the development would reflect.
23. The Council refer to the proximity of the proposed development to the side boundaries in relation to nearby developments. However, although larger gaps exist, others, including the property to the north, others come close to the edges of the plots and have garaging to the side. For these reasons I consider the proposed development would not be an over intensive development as suggested by the Council in their statement but would reflect the existing character of the area.
24. I acknowledge the existing bungalow is in poor condition and the development would provide a more sustainable energy efficient development. However, these benefits do not outweigh the harm I have already identified.

Conclusions

25. I have considered all other matters which have been raised but conclude the appeal should be dismissed.

Fiona Ellwood

INSPECTOR



Appeal Decision

Inquiry held on 29-30 September 2009
Site visit made on the last day

**by Ahsan U Ghafoor BSc (Hons) MA
MRTPI**

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

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**Decision date:
24 November 2009**

Appeal Ref: APP/F1040/C/09/2102374

**The land known as New Barn Farm, Coton Park, Linton, Swadlincote
DE12 6RG**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Ms Joy S J Liggins against an enforcement notice issued by South Derbyshire District Council.
- The Council's reference is E/2005/00352.
- The notice was issued on 19 March 2009.
- The breach of planning control as alleged in the notice is described as change of use of the land from a mixed use for agricultural and residential purposes to a mixed use for C3 (residential), B1 (light industrial) and B8 (storage and distribution) without planning permission.
- The requirements of the notice are (1) stop using any part of the land for B1 (light industrial) and/or B8 (storage and distribution) (2) permanently remove all goods related to the B1 and B8 use, including the sewing machines, related articles, quad bikes, pneumatic heat presses and laminators from the land (3) permanently remove the storage containers from the land.
- The period for compliance with the requirements is 90 days.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (d) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.

Summary of Decision: The appeal succeeds in part and the enforcement notice is upheld as corrected and varied in the terms set out below in the Formal Decision.

Preliminary Matters

1. The evidence was taken under oath or affirmation.

The Notice

2. At the inquiry, I queried the allegation because a building on the site has a valid planning permission, granted in 1984, for a light industrial use. The wording in the allegation refers to classes B1, B8 and C3 of the Order¹. However, both parties agreed that the notice concerns the light industrial and storage/distribution use of the red-edged area. If I were to amend the allegation, the Council agreed that the requirements should permit the lawful use of the site insofar as it relates to the 1984 planning permission. The appellant accepted that no injustice would be caused if I were to amend the allegation and the requirements. I have dealt with the appeal on that basis.

¹ Town and Country Planning (Use Classes) Order 1987 as amended.

Ground (d)

3. The onus of proof in this ground (d) appeal is firmly on the appellant to show that, on the balance of probabilities, the users alleged in the Notice have continuously existed for 10 years. The relevant date is 19 March 1999. The appellant's own testimony related only to the use following her purchase of the site in May 2000. The case was supported by the sworn statement of the previous owner Mr Harris, who purchased the property in 1982.
4. The appeal site is about 0.5ha in size and there was no dispute that the whole red-edged area comprises one planning unit. On 7 June 1984, the Council granted planning permission for the change of use of a building for light industrial². At some point in time, that use expanded into a larger building which was used for painting; welding; covering of snooker tables and the storage of spare parts. However, there was no clarification as to when that expansion occurred. Mr Harris' statement said that the building was also used to restore motor vehicles, but his evidence is not precise as to the number of vehicles that were restored, where the work took place and to what extent or level.
5. Mr Harris states that he was about to retire in 1994, but continued to work until May 2000. In contrast, the Council stated they were told by Mr Harris that all business activities ceased around 1995/1996. In my view, there is significant doubt as to whether these activities were carried out as a hobby or as a business/trade as stated by local residents. Additionally, there is substantial ambiguity as to the scale of activities between 1984 and 2000. There is confusion as to what type and nature of operations actually occurred.
6. I note from Mr Harris' statement that five members of staff were employed, but after the sale of a property in Birmingham in 1984, casual labour was used. Furthermore, the statement referred to equipment being finished on-site, but paragraph 8 stated that horse equipment was made by other companies. I consider that there is imprecision as to what followed from the closure of the business in Birmingham, including to what extent any activity was relocated to the site. It is also contended that an area and a building was used for storage and distribution, but there is a lack of clarity as to what degree and in any event, the evidence indicates that use was only ancillary to the light industrial use of part of New Barn Farm. In addition, copy of a telephone directory was submitted, but there are no details of business customers, type or level of orders received or sale invoices.
7. The appellant's evidence demonstrates to me that any light industrial use was low-key in comparison to what now exists. The Council pointed out that no sales particulars were submitted in spite of the contention that the property was marketed as a commercial site. Whilst I note that the large building was taken in by the light industrial use, there is no substantial indication that the site was used as a storage and distribution centre to any significant degree. In effect, this means that the ground (d) appeal must fail because it seems to me that, on the balance of probabilities, the storage and distribution element of the mixed use had not occurred by 19 March 1999.
8. However, to avoid doubt I have also reviewed the appellant's evidence which relates to the period since 2000. My initial finding is that the use of the site for storage and

² Ref: 9/484/285 granted 7 June 1984 for the use for restoration of horse drawn vehicles and the assembly of snooker tables of a building at New Barn Farm Coton Park Linton.

distribution in its present form, which the Council have alleged, did not commence until around 2005. This is because on the appellant's own admission, New Barn Farm was initially used for the repair of sewing machines. In 2005, after the business was restructured, a joint sales venture with a partner from China increased machine sales to the wider public. I was told that new machines were purchased by schools/colleges instead of repairing old ones and Internet sales also improved. For security reasons, the merchandise was stored in shipping-style containers, which were brought onto the site for storage purposes.

9. At the time of my inspection, most of the containers had been removed but some were present. The large building was mainly used for the storage of boxed machines stacked in rows. The garage attached to the dwelling was also used for storage. In my view, the storage and distribution use became a dominant element of the use overall from about 2005, which had a significant effect on the character of the land. Local residents testified that around the same time, they noticed an increase in comings and goings of vans and heavy goods vehicles (HGVs).
10. On the basis of all of the evidence, I find that the mixed use of the land for part agricultural, residential, light industrial, storage and distribution was a material change of use which took place within the 10 year period. For the reasons set out above, the appellant's case does not, on the balance of probabilities, demonstrate that the site was continuously used for agriculture, residential, light industrial, storage and distribution. The onus of proof has not been discharged and the appeal on ground (d) therefore fails. The breach of planning control is not immune from enforcement action.

Ground (a) and the deemed planning application (DPA)

11. There are two main issues. Firstly, the impact of the change of use on the character and appearance of the countryside, with particular regard to the location of the development. Secondly, the effect of the development on highway safety.
12. The site is located within the National Forest. It comprises of a residential property, and agricultural style buildings. Part of a field is used for livestock grazing. New Barn Farm adjoins an existing light industrial unit (the Lionel Engineering building), but the area's rural setting is reinforced by the spaciousness of residential plots.
13. Saved Environment Policy 1 of the South Derbyshire District Local Plan 1998 (LP) states that outside settlements new development will not be permitted unless it is essential to a rural based activity or unavoidable in the countryside and the character of the countryside is protected. Employment Policy 4(b) relates to promoting the rural economy and encourages the reuse/adaptation of rural buildings for new commercial uses provided that the proposal is acceptable on environmental and traffic grounds. Employment Policy 5(a) relates to industrial and business development in rural areas and Transport Policy 6 to highway safety considerations. Also of relevance is Planning Policy Statement (PPS) 7: *Sustainable Development in Rural Areas*. My attention was also drawn to Planning Policy Guidance (PPG) Note 4: *Industrial and Commercial Development and Small Firms* and PPG18: *Enforcing Planning Control*.

Character and appearance

14. The appellant argues that the appeal site has previously been used for a light industrial use, and that there is a reasonable expectation for the current use to be granted. The former use, however, was restricted to a building that is about 45

square metres in floor area. In spite of the use of the larger building, the evidence indicates that the previous light industrial use and any storage was low-scale. I find that a large-scale distribution centre was not operating from the site. In comparison, the current mixed uses of the site are materially different because of the dominant storage and distribution element.

15. I agree with the Council that the development harms the visual amenities of the area because of its rural location. There are public footpaths nearby and the site is prominent from nearby properties because of the area's topography. In addition, the increased frequency of comings and goings associated with the site's expanded light industrial use, and open air commercial storage, has altered the character of the area. I acknowledge that the Lionel Engineering building is used for B1 purposes and that there are kennels nearby. However, I find that the use of the land for open air storage and distribution harms the intrinsic scenic beauty of this part of the countryside due to the siting, positioning and location of the containers. The appellant suggested that landscaping could mitigate the impact of the containers, but I find that improved planting would not sufficiently overcome these objections because of the design and size of the containers.
16. I have taken into consideration all of the arguments made by the appellant regarding the contribution of the business to the rural economy. I have also considered the possibility of imposing a condition restricting outdoor storage. However, the quantum of all of the evidence does not persuade me that this particular location is essential to a rural based activity or unavoidable in the countryside. Therefore, the development conflicts with Environment Policy 1 of the LP.
17. By the time of the inquiry, the appellant acquired the former Lionel Engineering building. It was argued that the continuation of operations on a single-site would enable flexibility. And if the repair and distribution element was severed, the viability of the venture would be harmed. I recognise that the business generates employment and economic conditions are difficult, but these reasons alone are not sufficiently strong enough to permit a permanent mixed use of the site, which would be detrimental to the quality of the countryside. Therefore, I consider that the development is at odds with Employment Policy 4(b) of the LP.
18. In my view, the scheme does not satisfy Employment Policy 5(a). This is because the site is not situated within or on the edge of an existing village. In any event, the scale and character of the storage and distribution element of the enterprise has a harmful effect on the area's setting. Contrary to the appellant's arguments, I find that the proposal does not satisfy the main thrust of PPS7, which seeks to protect the countryside for its own sake from unwarranted development.
19. On this main issue, I conclude that the material change of use has a detrimental impact on the character and appearance of the countryside because of the development's location.

Highway safety

20. Transport Policy 6 states that major new development should be sited close to the principal road network, linked and served by the appropriate standard of highway. Planning permission will not be granted for proposals that interfere with the free and safe flow of traffic. I have carefully taken into account the results of the appellant's

traffic survey³. I have also considered the former commercial uses which the track served. However, I agree with the local Highway Authority's arguments that the use of the access by HGVs and commercial vehicles has significantly and materially increased, due to the location of the business and its storage and distribution component.

21. Local residents told me that they are concerned about increased comings and goings associated with the current uses. The access road is very tight and narrow and in places the hedgerows are overgrown. I note that the un-adopted track serves an existing light industrial unit and kennels. However, in spite of the speed limit and traffic calming measures, vehicles meeting head-on have to reverse back onto the adopted highway or into the site to allow access. In my view, these arrangements are unsatisfactory because the track is too long and narrow for two vehicles to pass-by at the same time.
22. Exiting in forward gear would be appropriate, but that does not improve the free-flow of traffic along this substandard lane because of its limited geometry and layout. Additionally, the access links onto a public footpath and the increase in the number and size of vehicles interferes with other users, due to the road's inadequate width. Although no data for recorded accidents or incidents were submitted, I consider that the development is not linked and served by the appropriate standard of highway.
23. The appellant argues that if the notice is upheld, some activities and storage would be relocated off-site. It was contended that traffic volumes would not decrease. However, I am not persuaded by these arguments. This is because while goods may need to be delivered and collected by customers from the existing B1 unit, any large-scale storage and distribution would not take place from the appeal site. The removal of that component is likely to reduce commercial vehicular movements to and from the site.
24. Taking all of the above points together, I consider that the development conflicts with Transport Policy 6 and Employment Policy 4(b) because increased use of the substandard track by HGVs and vans is unacceptable and harmful to other highway users. I conclude that the development has a materially harmful effect on highway safety because the scale of the mixed use interferes with the free and safe flow of traffic.

Other considerations and conclusions

25. I have taken into consideration all of the points made by the appellant regarding the 'fallback' position. That is, the B1 use of the former Lionel Engineering property and the use of a different site for storage and distribution. I also note that the 1984 planning permission permits the use of a building for light industrial purposes. However, I agree with the Council that the scale and form of the storage and distribution use is unacceptable in this location. I attach little weight to this fallback argument because the harm by reason of traffic generation would be significantly greater if the ground (a) and DPA were allowed.
26. For the reasons set out above and having considered all other matters raised including the discussion on conditions, I conclude that the ground (a) appeal and the DPA should not succeed.

³ KaptureIT Limited from 6/07/2009 to 23/08/2009.

Ground (g)

27. The appellant argued that the time for compliance is too short because alternative premises would need to be found and fitted out. The Council stated that the appellant was fully aware of pending enforcement action, but I consider that 90 days is not sufficient for the business to operate at the same time and look for suitable alternative premises.
28. I am mindful of the impact of the development on its surroundings and residents' concerns about highway safety. The breach of planning control should not be allowed to continue more than what is absolutely necessary and so I find the appellant's suggestion of 12 months far too excessive. However, taking into consideration guidance contained in PPG4 and PPG18, I agree with the Council that 6 months from the date of this decision is a reasonable period of time to comply with the notice. The appeal under ground (g) succeeds to that extent.

FORMAL DECISION

29. I direct that the notice be corrected by deleting all of the words in section 3 and replacing them with the following words:
- “without planning permission, the change of use of the land from a mixed use for agriculture, residential and light industrial to a mixed use for agriculture, residential light industrial and storage and distribution”.
30. I direct that the Notice be varied by deleting all the words in section 5 and replace them with the following:
- (1) stop using any part of the land for B1 (light industrial) other than in accordance with planning permission reference 9/484/285 granted 7 June 1984
 - (2) stop using any part of the land for B8 (storage and distribution)
 - (3) permanently remove all goods related to the B8 use (storage and distribution) including the sewing machines, related articles, quad bikes, pneumatic heat presses and laminators from the land
 - (4) permanently remove the storage containers from the land.
31. I direct that the time for compliance in the Notice be varied by deleting the words “90 days” replacing them with the words “6 months”.
32. Subject to these corrections and variations, I dismiss the appeal and uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Ahsan U Ghafoor

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

John Steedman	Steedman Planning
He called	
Joy Liggins	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Chris May	Marrons Solicitors
He called	
Gaynor Richards	Senior Enforcement Officer, South Derbyshire District Council
Michelle Mansfield	Area Planning Officer, South Derbyshire District Council
John Waite	Area Manager, Environmental Services Department, Derbyshire County Council
Carol Charles	Local resident
William Harvey Benn	Local resident
Dennis Snell	Local resident
Graham Atkins	Local resident

DOCUMENTS HANDED IN AT THE INQUIRY

1. Aerial photos submitted by Joy Liggins and list of containers removed
2. Embroidery at Joy's - diary
3. Planning permission ref: 9/283/93 for Lionel Engineering building
4. Application details for 9/2006/0394/U for change of use/retention of containers at New Barn Farm
5. Planning application and details for ref: 9/484/285 dated 7 June 1984
6. Email communication dated 09/06/2009 – Gaynor Richards
7. Derbyshire County Council's standards for industrial development roads
8. Aerial photo – William Harvey Benn
9. Statement of Common Ground