

REPORT OF THE HEAD OF PLANNING SERVICES

SECTION 1: Planning Applications

SECTION 2: Appeals (None)

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

1. PLANNING APPLICATIONS

This section includes reports on applications for: approvals of reserved matters, listed building consent, work to trees in tree preservation orders and conservation areas, conservation area consent, hedgerows work, advertisement consent, notices for permitted development under the General Permitted Development Order 1995 (as amended) and responses to County Matters.

Reference	Item	Place	Ward	Page
9/2009/0180	1.1	Swadlincote	Swadlincote	1
9/2009/0240	1.2	Castle Gresley	Gresley	22
9/2009/0287	1.3	Midway	Newhall	34
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9/2009/0356	1.5	Mickleover	Etwall	41
9/2009/0388	1.6	Melbourne	Melbourne	44
9/2009/0399	1.7	Melbourne	Melbourne	49
9/2009/0390	1.8	Melbourne	Melbourne	50
9/2008/0707	2.1	Foston	North West	52

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. **9/2009/0180/MA**

Applicant:

Mr Anthony McCool
Trident Housing Association
239 Holiday Street
Birmingham

Agent:

Mr Paul Hutt
Glancy Nicholls Architects Ltd
3 Greenfield Crescent
Edgbaston
Birmingham
Birmingham

Proposal: **The demolition of two existing two storey sheltered housing apartment blocks (Granville Court & Willoughby House) and four bungalows to allow the development of a 32 bedroom residential care centre and 88 extra care apartments with communal/community facilities. The proposal includes alterations to highways & footpaths, parking and hard/soft landscape works On The Site Of Granville Court Oaklands & Willoughby House Hall Farm Road Swadlincote**

Ward: **Swadlincote**

Valid Date: **19/03/2009**

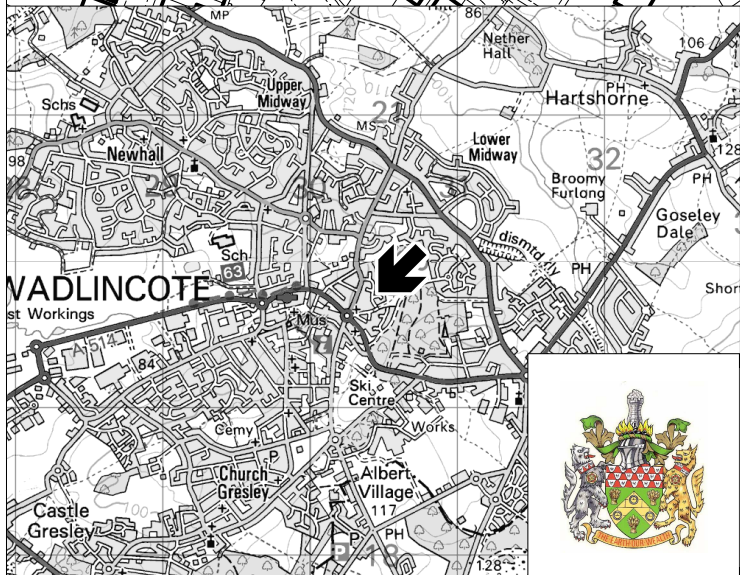
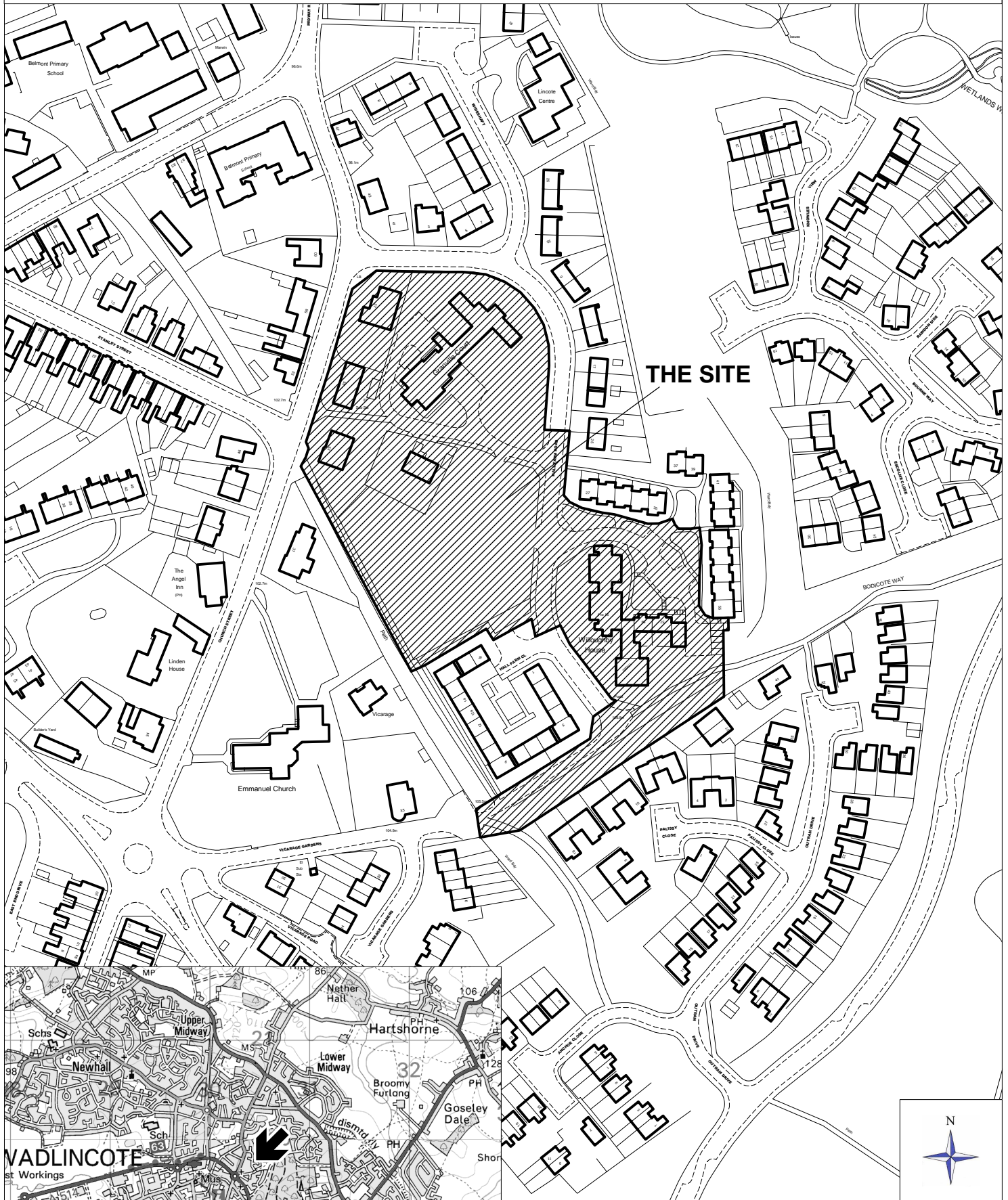
Reason for committee determination

The application is a controversial major application and the Council owns most of the site.

Site Description

The 1.89 hectare site is located 250 metres to the north east of Swadlincote town centre. The main frontage of the site is on Church Street and there are three existing bungalows on this part of the site. There are a mixture of semi-detached and detached two storey properties opposite the site on Church Street and a bungalow to the south adjacent to the footpath. The remainder of the site is visible from Hall Farm Road. On the left hand side of Hall Farm Road there are small bungalows and two storey semis, which curve around the road. On the right hand side immediately to the rear of the existing bungalow on the corner of Church Street and Hall Farm Road there is two storey flat accommodation with warden facilities at Granville Court. In the south eastern corner of the site there is a cull de sac of 15 small bungalows and Willoughby House, which is a two storey building of flats with communal facilities. In the south western corner at the end of Hall Farm Road there is Hall Farm Close which is 18 bungalows curved around a central courtyard. In the central part of the site, south of Granville Court

**9/2009/0180 - Site of Granville Court, Oaklands & Willoughby House,
Hall Farm Road, Swadlincote DE11 8LH**



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South Derbyshire District Council. LA 100019461. 2009

there is a two storey dwelling and a grassed area on the site of the former Oakland's nursing home.

Adjacent to bungalows on Hall Farm Close, Hall Farm Road is blocked to vehicles. A road runs along the south eastern boundary adjacent to the bungalows and can be accessed from Vicarage Road. Public Footpath No. 133 runs parallel with the south western boundary of the site. There is an area of modern two storey semi-detached properties to the south east on Palissy Close and Outram Drive and terraced properties to the south west on Vicarage Gardens. Grade II listed Emmanuel Church is located to the south west, approximately 100 metres from the site boundary.

There are significant land level changes within the site, the lowest area is adjacent to Church Street and the area where Granville Court is located and the higher parts are to the south east of the site near to Willoughby House. There is an 11m land level difference across the site from the north west at the junction with Church Street and the south east corner. There are trees in clusters surrounding the existing buildings on site with the most significant mature trees located adjacent to Hall Farm Road in the centre of the site, the majority of which are House Chestnuts.

Proposal

Site Ownership

The site is predominately owned by South Derbyshire District Council (SDDC). The three bungalows and one dwelling adjacent to Church Street are privately owned and the site of the former Oakland's nursing home is owned by Derbyshire County Council (DCC). All existing bungalows and houses on Hall Farm Road and Hall Farm Close are owned by SDDC. The proposal involves the demolition of the four properties adjacent to Church Street, Granville Court and Willoughby House.

A report on the refurbishment costs of both Willoughby House and Granville Court has been before the Housing and Community Services Committee and it was concluded that sufficient resources were not available and the accommodation was criticised in an Audit Commission report as people did not want to live there and it was considered outdated.

Concept of proposal

The proposal is required to cater for future provisional services for the older adult community within Swadlincote.

"The aim is to provide a setting for the inclusion of community services incorporating the rehabilitation and assessment, that maximise and enables the potential for every elderly person to live independently"

Derbyshire County Council's concept is: -

"The scheme will be designed to provide flexible use of both communal and individual accommodation, to allow services to meet the changing needs of the community in which they are located. The design must be dementia friendly in order to aid orientation".

Trident's concept states: -

"Extra care will be part of a new generation of housing support and care for older people that will offer safety of care and support available on site where they live, 24 hours a day, according to people's assessed needs. Individuals will have the added security of either renting, owning or part owning their own apartment within a scheme of similar

units. In addition there will be communal facilities where people can participate in a range of activities”.

Facilities

The proposed accommodation comprises of:

Care Home

- 16 long term residential / dementia care beds – ground floor
- 8 short term respite care beds – first floor
- 8 short term intermediate / rehabilitation care beds – first floor
- 2 visitor bedrooms

Extra Care Apartments – All floors

- 62 double / 26 single bedroom apartments – 88 in total – with support / care and ownership options

The proposed communal facilities would be for the residents and the general wider local community and comprise of: -

- Day Centre – with access to the central garden
- Clinic / Consultancy rooms
- Physiotherapy / Gym with changing rooms
- Laundry facilities
- Prayer room
- Training room
- Secure gardens for residents and day centre visitors
- Bar / restaurant / Bristro / café and lounge areas – ground floor
- Multi-purpose hall – ground floor
- Small shop – ground floor
- Craft room – first floor
- IT suite – first floor
- Hairdressers – first floor
- Jacuzzi – first floor
- Careline Control Centre – First emergency response team under ownership of SDDC – monitors and provides extended care and support for older adult community within whole of SDDC area.

Evolution of layout

The evolution of the layout is depicted in images within the Design and Access Statement. The main determining factors stipulated by the Clients: SDDC, DCC and Trident were that the care home and the communal facilities should be at the centre of the site. Other determining factors were the topography of the site, having the extra care units adjacent to the existing bungalows and a large area of landscaping which incorporated the majority of the existing trees. The OPUN panel also informed the design at an early stage and their comments and how the design changed to incorporate their comments is detailed in Appendix 3 of the Design and Access Statement.

Proposal's Description

This description is from the north west of the site adjacent to Church Street to the south eastern part adjacent to Hall Farm Close. 61 extra care apartments would run along the frontage of Church Street and curve around the corner of Hall Farm Road until just after the junction with Wideshaft where the apartments cut into the site and at this point

adjacent to the road it opens out into a landscaped area with the retention of the existing mature trees. The apartments form a square with an internal courtyard where allotments are proposed. The communal facilities link with the apartments and form a central focal entrance adjacent to the trees. The care home is located to the rear of the communal area and main entrance and this would also form an internal courtyard area for a resident's garden and patio areas. A secure garden is proposed to the rear of the care home adjacent to the footpath on the south western boundary. The rear of the care home is curved and is at an angle with existing properties on Hall Farm Close.

In the area where Willoughby House is located a curved section extends to form communal areas and 27 extra care apartments in between the existing bungalows on Hall Farm Road and Hall Farm Close. The site would have two vehicular accesses from Church Street onto Hall Farm Road and from Vicarage Road onto both Hall Farm Close and Hall Farm Road. The proposal involves the creation of a through route from Hall Farm Road to Vicarage Road which is currently blocked by bollards. The service entrance would be from Hall Farm Close via Vicarage Road.

The majority of the car parking is located in the south eastern corner of the site and adjacent to the entrance on Hall Farm Road. However, a small area of 6 spaces is proposed off Church Street and 12 undercroft parking spaces are proposed half way up Hall Farm Road underneath the apartments.

Applicants' supporting information

Design and Access Statement – This comprehensive document includes the following information:- accommodation proposed, site context and analysis including photographs, concept drawings, shadow analysis. The sections on use, scale, amount leads to the design evolution. The section on scale includes sections in relation to existing dwellings and 3D modelling. Sections on appearance, landscaping and highways detail the formulation of the proposed layout. Appendixes include the Arboricultural Survey Report, Draft Travel Plan, Analysis of OPUN's Panel Review and meeting notes from residents meetings and with the Local Planning Authority. This document details the thinking behind the scheme and its concept and includes analysis of the factors that have informed the proposed layout and design.

Flood Risk Assessment – The site is in Flood Zone 1 defined by the Environment Agency and thus has a low risk of flooding. An assessment into the surface water generation is required to ensure the development will not increase flood risk to surrounding developments. Sustainable surface water drainage principles will be utilised at the site by the use of permeable pavements and the channelling of roof waters to storage areas created below the paving and below the areas of landscaping. All surface waters will be discharged to public sewers at an agreed maximum discharge rate and the attenuation of flows and the use of bio-retention will prevent sewers from becoming overwhelmed during extreme storm events. A Drainage Statement from Severn Trent has also been submitted which concurs with the statements made in the Flood Risk Assessment in relation to discharge into the public sewers and any attenuation.

Arboricultural Survey Report

This report is read in conjunction with the landscaping plan and Arboricultural Constraints and Protection Plan. All trees on site are categorised into four categories: - R – trees to be removed, A – trees of high quality and value, B – trees of moderate

quality and value and C – trees of low quality and value. Trees to be removed include G03, 04, G09, 10, G10 & 27. Tree 32 is to be retained.

Travel Statement - This report outlines with plans the proposed stopping up of the direct link between Hall Farm Road and Hall Farm Close and proposed new highway linking Hall Farm Close with Vicarage Gardens. Footpath 114 will be diverted by the development. The service and delivery access would be from Hall Farm Close. In terms of parking provision the document states that the proposal is aimed at residents aged 55 and over and it is anticipated that car ownership would be lower to that of a similar development aimed at a lower age group.

The document states that under the SDDC Appendix A Parking Standards document and PPG13 and the Regional Transport Strategy for the East Midlands, the requirements would be: - 1 space per four bedrooms (plus 2) and for sheltered accommodation at 1 space per 3 bedrooms (plus 2). This would be 10 spaces for the Care Centre, 31 spaces for the extra care development with 2 extra spaces for guests. A total of 43.98 spaces are proposed and would be broken down as follows: -

Extra care Apartments

- 8 units for outright sale (1:1 parking = 8 spaces)
- 15 units for shared ownership (1:1 parking = 15 spaces)
- 64 units for rent (1:3 parking = 22 spaces)

Care Centre -30 spaces

Careline Control Centre -12 spaces required for staff and visiting wardens

Contamination – Desktop survey

This brief report outlines the site history, ground conditions, contamination testing and assessment and ground gas. Open cast mining pits are to the east and south east of the site and at least part of the site to the south east has been used for landfill. Made Ground underlies the site and below this are coal seams, mudstones and sandstones. Soil samples of these areas were taken and levels of nickel and arsenic were found, however, end users are considered to be at low risk. Initial ground gas testing has been carried out and more monitoring is necessary.

Planning History

9/2000/0059 - Willoughby House, Hall Farm Road -The installation of a pitched roof to replace the flat roof and external alterations, approved March 2000

Responses to Consultations

County Highways Authority whilst having initial concerns with regard the amount and location of the parking have no objection to the application as amended. The survey information demonstrates that the parking requirement for the existing bungalows No's 27 –55 Hall Farm Road is 20% per dwelling plus short stay care worker visits. The provision of parking can be sufficiently controlled by suitably worded conditions restricting the category of residents in the independent living units to be similar to those in the existing bungalows. The concern with regard the potential for people to park on Church Street has been removed by the omission of the paths and there would be no access for residents along this Street as it is intended that pedestrian access will mainly be via the reception area off Hall Farm Road. Whilst the Highway Authority is still of the

view that parking is not located particularly conveniently in relation to the main entrance and some parking could therefore take place on Hall Farm Road any reasons for refusal of planning permission on highway grounds have been removed.

Design and Heritage Officer states that the proposal is about 50 metres from Swadlincote Conservation Area and about 100 metres from Emmanuel Church which is Grade II Listed. The design has been carefully considered and it could be a good scheme if it is a quality specification. The Church Street frontage of the development would figure prominently in the approach to the Church and conservation area and there will be an impact on both heritage assets but it is not considered to be harmful in either case provided the materials and detailing are well handled. The ranges deeper into the site won't impact on the heritage assets.

Design Excellence Officer states that the density, scale, height and massing of the scheme is considered suitable for a location that is adjacent to a large town centre. The massing on Church Street would create a strong streetscape with a good sense of enclosure and a street with considerably more character than at present. The scheme will enhance the area considerably, and although it will be a dramatic change, it will be a positive one. The overall design of the scheme appears to be very well thought out and of a high quality.

Contaminated Land Officer considers the main issues likely to pose a risk to the development are the following land uses, all within a 250m radius of the site; the landfill to the northwest, quarrying of sand and clay and the operation of sand and gravel pits to the northeast, east, southwest and south, an area of unknown filled ground to the south and the industrial uses in the area/gas manufacture to the southwest. In addition there are also two sub stations located on site, adjacent and to the west of Granville Court. Phased Contamination condition is recommended. Conditions in relation to control of construction noise and dust are recommended.

Tree and Landscape Consultant considers the landscape design masterplan to be a good design. A detailed landscaping plan is required. There are no objections in relation to tree removal.

Severn Trent Water has no objection subject to drainage condition.

The Environment Agency has not yet responded.

The Derbyshire Police Crime Reduction Design Advisor's comments on the original application are summarised as follows: -

- The proposal requires conformity with Secure by Design
- The Church Street frontage needs enclosure with a low divider such as railings or walls with individual gates to provide privacy and ensure there is demarcation of what is public and what is semi private along the whole of Church Street.
- The plans do not show any form of protection for the Church Street car park and entrance or restrictions on pedestrian access. Locking gates with anti lift hinges are evidently required for the vehicle entrance and the pedestrian route.
- The plans show a close boarded 1.8m fence to enclose the garden areas adjacent to the footpath on the south western boundary. Solid lines of fencing can shield users from useful views and will reduce the safety of this footpath. See through boundary treatment is recommended.

- The plans indicate footpath 114's termination into the development and it has not been routed around the site. A footpath leading in to the development without demarcation and control is not acceptable in this type of development and should have been clearly routed along the boundaries to exit within the public domain.
- Bollard lighting is a poor single solution, even more so for partially sighted and elderly persons to navigate by. The low level illumination does not illuminate the faces of people removing facial identification of recognition. Modern luminaires are well designed to reduce light glare and sky pollution and should be considered.

Responses to Publicity

Eighteen letters of objection have been received. Three petitions with 183, 112 and 101 signatures have also been received in response to consultation. The reasons for objection are summarised as follows: -

Highways

- There would be an increase in traffic on Vicarage Road, causing congestion at the roundabout
- There would be an increase in congestion due to insufficient parking
- 92 parking spaces is unacceptable as there are 50 staff, where would visitors park
- The majority of car parking is accessed at the rear, a distance from the flats, which is dangerous as parking on the Church Street would occur
- Insufficient parking is proposed
- The ratio of car parking spaces to residents is only 1 per 3.
- Visibility is poor adjacent to the school
- Planning applications for the new dwelling adjacent to 32 and between 35 and 37 Church Street was not allowed due to insufficient access
- 1.5 spaces per house are required but only 1 per 3 flats is provided. The majority of residents will drive and may have 2 cars
- Where is the restaurant and shop parking?
- No.33 Church Street has difficulty in accessing their driveway at busy times due to school traffic
- There are no traffic calming / crossing facilities on Church Street

Appearance / Character

- The Church Street frontage is not in keeping with the area
- The height at 13.15m is too large for Church Street frontage
- The proposed block of flats would not fit into urban fabric of Church Street
- The development is too intense for the limited space and it would resemble the 1960's block of flats it replaces
- It would be viewed as one long frontage on Church Street with no separation for 50m
- It is too high density with too many apartments and is three storeys high
- The design is ridiculous and when permission was granted for their dwelling the Local Planning Authority were very strict on materials as they had to be in keeping with Church Street. The proposal would be an eyesore due to its futuristic design.
- It would be overbearing due to its height in relation to existing properties which are 8m

- There is an important view from the Belmont School corner

Consultation

- There was insufficient consultation with adjoining residents, it was too late in process being in April 2009 – Stating that there were 3 meetings is misleading as 1 meeting was repeated on the same day.
- Belmont School were not consulted – there is a concern in relation to safety of children.
- The three meetings were all held on the 15th Jan 09 – one for bungalows to be demolished, one for bungalows to be retained and one evening meeting for adjoining residents.
- No presentation was given and only vague models and vague answers were given to questions such as the number of storeys proposed
- Outline planning permission was not discussed with residents
- Neighbour notification letters were sent out over Easter and received after date of letter, which meant a loss of 21 days.
- No.43 Church Street was not invited to 15th Jan 09 meeting
- The height of buildings has changed since 15th Jan meeting
- Trident has approached the local pub for extra parking

Residential Amenity

- There would be overlooking of adjoining houses due to the elevated ground
- There would be a loss of privacy of No. 52 Church Street as the main room windows would overlook their first floor bedrooms and occupants are likely to be in the majority of the time
- The height and land level of the buildings would cause overshadowing of properties on Church Street
- Overlooking of No.33 Church Street due to the location of the viewing area, which would mean a loss of privacy and overlooking of their garden and rear bedroom windows.
- Stanley Street properties face the site

Other

- Church Street is very busy and 88 flats and 32 dementia units would cause serious safety issue
- The corridors have no natural light and would be like prison dormitories
- They would prefer the original buildings on site to be renovated and extended
- The demolition of the bungalows on Church Street is an infringement of rights of the owner / occupiers
- Older people deserve a Council built bungalow
- What is the need for care village, has any research been undertaken
- What is the tenure of properties – they were told at 15th Jan meeting that 1/3 would be for rent, 1/3 would be for part rent and 1/3 would be for sale – 8 out of 88 would be for sale for market housing.
- Renting to people under 55 may occur if they are difficult to rent
- Where are the gym and hairdressers proposed?
- How would age of people be controlled
- It is not in accordance with the East Midlands Regional Plan as the central corridor has not natural light and reuse rather than demolish is advocated.

- The overshadowing views in appendixes of Design and Access Statement are missing.
- It would cause an increase in crime within the parking areas
- The LDF requires a Statement of Community Involvement
- Could families rent the flats?
- Are levels of Arsenic and Nickel on site safe?
- Have other suitable sites been investigated?
- Appendix 4 of DAS missing
- There is a shortage of bungalows
- A similar scheme in Beacon Hill in Lichfield is a concrete jungle with people clumped together

Four letters were received on the amended plans and additional concerns are summarised as follows:-

- Consultation with Highways was at a late stage and required amendments to the scheme.
- The removal of paths on Church Street means the development turns its back on Church Street and would no longer appear as individual properties.
- The removal of the paths compromises the scheme and creates a bland and featureless façade.
- The removal of the barrier on Hall Farm Road creates a through road.
- Double yellow lines on Church Street should be considered by Highways.
- Accidents on Church Street have occurred with cars hitting the school barrier and the tree on the corner of Hall Farm Road and Church Street.
- The one remaining access on Church Street would still cause parking on Church Street.
- We were told that Swadlincote residents could use the facilities but have now found that it only applies to over 55s.
- The removal of the paths moves the parking problem to Hall Farm Road which is already full of residents' cars.
- The height of the building on Church Street is constant and does not rise with the land level therefore it must be higher than stated on the plans at the lowest part of Church Street.

Development Plan Policies

The relevant policies are:

East Midlands Regional Plan Policies: 1, 2, 3, 14, 26, 27, 35, 45 and 48.

Saved Local Plan Policies:

Housing Policy 4, Environment Policies 9, 10, 12 and 13, Transport Policies 6 and 7 and Community Policy 1.

National Guidance

Planning Policy Statement 1 : Delivering Sustainable Development

Planning Policy Statement 3 : Housing

Planning Policy Statement 25 : Planning and Flood Risk

Planning Policy Guidance 13 : Transport

Planning Policy Guidance 15 : Planning and the Historic Environment

Planning Policy Guidance 24 : Planning and Noise

Planning Considerations

- Principle of development
- Residential Amenity
- Pre-application consultation
- Design / character
- Trees and Landscaping
- Highways

Planning Assessment

Principle of development

The site currently provides sheltered housing for the Swadlincote community at both Willoughby House and Granville Court and there was the former Oakland's Care Home also on the site. Old persons bungalows owned by the Council bound the site and the proposed communal facilities would be utilised by these residents. The proposal is residential development that can be classified as a C2 – residential institutions use within 250 metres of Swadlincote town centre and its frontage on Church Street is on a main bus route. The proposal is therefore classed as sustainable development whereby the majority of residents and staff could use a choice means of transport. The proposal is thus compatible with the Government's aims in relation to reduction of travel by the private car by locating development close to main centres. The principle of the proposal is therefore acceptable and accords with National and Local Plan Policies in this respect.

Pre-Application Consultation

Prior to submission of the planning application and the formal requirements of that process, initial consultation was by letter in July, August and November 2007 to the privately owned bungalows adjacent to the site and residents of Willoughby House, Granville Court, Hall Farm Road, Hall Farm Close and Wideshaft. The letters outlined the concept of new residential accommodation to replace Willoughby House and Granville Court together with a village centre with a shop, lounge and restaurant. The privately owned properties were visited individually in August 2007 and Council residents were invited to look at draft plans in the communal lounge at Willoughby House on the 19th December 2007.

Further letters were sent in July and October 2008 to the owner occupied bungalows informing them of progress and the confirmation that additional land would be required for the scheme, which may involve the purchase of their properties should they wish to sell. In the October letter they were invited to a meeting to discuss the scheme and view plans on the 23rd November at Granville Court. Letters to Council residents were sent on the 28th October 2008 to inform them of progress. On the 6th January 2009 invitation letters were sent to all properties likely to be affected by the scheme. Granville Court and Willoughby House residents were invited to a meeting to discuss and view the plans for the scheme on the 15th January 2009 at Granville Court at 1pm. Hall Farm Road, Hall Farm Close and Wideshaft Council residents were invited to a meeting at 3pm on the same day. Approximately 200 other letters were sent to other surrounding residential properties inviting them to a meeting between 6 – 8 pm also on the 15th January 2009.

The decision about the amount of additional land that was required, which involved the purchase of the privately owned properties, was only made in September 2008. The meetings on the 15th January 2009 involved detailed question and answer sessions with the architects and representatives of Trident, Derbyshire County Council and South Derbyshire District Council. A powerpoint presentation was running for residents to view plans and images and detailed plans were pinned up. The notes of this meeting can be found in Appendix 4 of the Design and Access Statement. In summary the questions from residents related to the future occupants in terms of their disability, age and if they would be local people and also the impact on the surrounding area in relation to increased security, Church Street traffic, visual impact on Church Street, overlooking of their properties and questions regarding the proposed communal facilities.

Residential Amenity

Church Street

The nearest properties opposite the site on Church Street are No's 52, 54, 56 and 58. A sectional drawing indicating the existing and proposed relationships for each of these dwellings have been submitted. No's 52, 54 and 58 would be 21 - 22m metres from the proposed apartments and No.56 would be 19.6m away. Whilst this relationship with the lounge window of No.56 and the first floor bedroom window of the proposed apartment is slightly below the space standard for overlooking; the proposed hedge and line of trees along the boundary would provide sufficient screening to mitigate this impact. The existing bungalows on the site are between 17-19m away from these dwellings and are at a higher land level. In relation to No. 52, the land levels of the proposed apartments would be the same, however, the building is 2 and a half storeys and the section indicates that the second floor would be 1.5m higher than the eaves level of this property, therefore overlooking from the additional floor would not be significant. At this point the proposed apartments would have a ridge height above the pavement level of 12.5m. In relation to No's 54 and 56, the apartments would have a 2m higher eaves height than these properties and thus first floor windows would overlook their roofs. The ridge height adjacent to these properties is also 12.5m.

The proposed apartments would have an eaves height 2m higher than that of No. 58 Church Street. There would be a 4.7m difference in ridge heights between this property and the apartments opposite. The difference between the pavement level and the ground floor of the proposed apartments would be 1.67m and the total ridge height adjacent to No. 58 would be 12.8m. The floor to eaves height would be 6.6m.

The submitted shadow survey for the properties opposite the site on Church Street indicates from the north direction there would be some shadow over part of the properties at 8am which has reduced by 9am and has disappeared by 12am. From the southern direction the study indicates that only front gardens would be in shadow and this has reduced by 9am. On the basis of this study, overshadowing of these properties is not considered significant.

No.41 Church Street is a small bungalow with its double garage facing onto to Hall Farm Road. The proposed building would be 14m in height above ground level on the corner of Church Street and Hall Farm Road. This relationship is considered acceptable as the existing property does not have any windows facing the proposed building.

In relation to the existing bungalow No. 31 Church Street, which is to the south of the site adjacent to the footpath on the same side of the road, the communal rooms would

be 14.8m from the footpath boundary and 18 m from the boundary of the rear garden of this property. There is 2 m high fencing enclosing this rear garden. The proposed building would be two storey but would have a higher land level. Existing trees in this area would be retained and a secure garden area is proposed adjacent to the footpath which would have a see through boundary treatment. Boundary treatments shall be controlled by condition. Due to the angle of the apartments in relation to this property no bedrooms would overlook this property. It is considered that due to the distance and the retention of existing mature trees overlooking of this property would not be significant. A generator is proposed 9m from the boundary of this property and the potential noise impact shall be considered in a noise assessment required by condition. Overshadowing would not be significant due to the position of the bungalow in relation to the site.

Hall Farm Road

The majority of properties on Hall Farm Road are bungalows, apart from No's 9-25 which are two storey semis. The distances from the proposed apartments range from 20.5m -23m, of which only one is below the guidance figure of 21m. The proposed apartments would be built into the existing slope with some dwellings having a lower ground floor or undercroft parking and higher up the slope only two storey apartments. The part of the building on the corner of Hall Farm Road and Church Street would be 14 m in height above ground level and at the top of the slope adjacent to No's 5 & 7 it would be 9m in height. Therefore opposite these bungalows would be only two floors of apartments and trees are proposed on the frontage to provide screening. Due to the distance and potential screening this relationship is considered acceptable. From No. 13 upwards the distances between existing dwellings and the proposed apartments increase to 25m+ due to the retention of the existing trees and the building curving away from the road.

No's 27-35 are a row of bungalows which would be 21 – 32 metres from the communal restaurant and outdoor seating areas. This is not a direct relationship as the bungalows are at an angle and some landscaped screening is proposed. No's 41 - 55 would be 25 - 55 m from the proposed building and this is also not a direct relationship. These existing bungalows would overlook landscaped seating, barbeque areas and parking which they could use. On the basis that there is sufficient distance between the buildings and the fact that all the tenants of these Council owned bungalows would be able to use these communal facilities these relationships accord with the Council's space standards.

Hall Farm Close

These properties are a courtyard of bungalows in the southern highest part of the site. The ground floor level of the proposed apartments in this area would be 10.4m higher than the Church Street road level. Row 1-5 of these existing bungalows would be 23.5 – 30m from the proposed two storey section of apartments. Some tree screening would be retained in this area. No. 18 would be 10m from the bin storage area and service entrance. A condition requiring the bin area to be enclosed shall be attached to any permission. The proposed apartments adjacent to No's 16 -18 would be at an angle with their nearest point 16m away. Screening on this boundary shall be controlled by condition to retain the privacy of these properties. Existing trees in this area would provide screening from the building. Due to the angle and potential for sufficient screening this relationship is considered acceptable.

Land level information in relation to existing properties on Hall Farm Road and Hall Farm Close has not been provided, however, this can be controlled by condition.

Design / Character

The density, scale, height and massing of the scheme is considered suitable in this location in close proximity to Swadlincote town centre. The massing on Church Street is broken up by breaks in the building and different set backs from the road. It is acknowledged that it would be a dramatic change from the low density bungalows, however, it is considered to create a strong streetscape with a good sense of enclosure with tree planting along the frontage. The proposed development would enhance the area considerably and would be an exemplar scheme for Swadlincote.

The removal of the paths on Church Street is not considered to significantly impact upon the appearance of the apartments in the street as the design and position of the building has not changed. The breaks between the sections of building with glazing and different set backs from the road continue to make the building appear as separate dwellings. Grassed areas with a line of trees adjacent to Church Street are proposed which are compatible with a residential street.

The materials proposed are of a high quality with a mixture of render, brickwork, copper and timber cladding, exposed hardwood truss rafters on side elevations and glazing. The square dormers of differing sizes and projecting windows serve to add interest in the streetscene and the low pitch of the roofs reduce the vertical mass of the building.

The communal areas follow the same design theme however, more glazing is used together with design features such as dry stone wall feature walls, an overhanging roof with visible beams and a wooden canopy and wooden blades on the roof above the entrance.

Trees and Landscaping

The majority of the existing trees on the site are to be retained and the trees to be removed fall within the categories of moderate or poor quality and are generally in the centre of the site. The cluster of horse chestnuts on Hall Farm Road would be retained as the building curves around them and they would enhance the communal facilities and entrance to the building. The secure garden to the rear of the care home part of the building would be enhanced by the existing mature trees on the south western boundary. Existing trees would help to frame the building and soften the boundaries with existing properties.

The landscaping masterplan is of high quality and is an essential part of the scheme where communal outdoors facilities are paramount to the quality of life of future residents and have been designed specifically for the age and mobility range of these residents. The secure garden would be grassed with curved pathways leading to seating areas and landscape features. Curved pathways feature in all of the landscaped areas surrounding the building. A water feature is proposed to frame the main entrance and they are proposed in the residents' gardens also. Three garden areas and an enclosed area of allotments for residents and visitors to the communal facilities are proposed. The main car parking area is designed to be pedestrian friendly with different paving sections and communal areas adjacent.

Highways

Further information in terms of the parking requirements of the development and amended plans have been provided to remove the concerns raised by the Highway Authority in relation to the amount and location of the car parking.

Questionnaires were submitted of interviews with the residents of the bungalows No.'s 27 – 55 Hall Farm Road, which establish their car ownership and numbers of visitors they have per week. The majority of these residents do not own a car and have regular (3-4 times of week) visits from health visitors, cleaners and their families, which equates to a 20% car parking requirement. On the basis of this information and consideration that the future residents of the apartments and care home would have similar requirements, highways consider the level of parking to be adequate. The types of mobility of the residents of the extra care apartments can be controlled by condition linked to the percentages of occupants defined under the three levels of care provided by Trident detailed in informative 1.

The parking provision breakdown is as follows:

Extra Care Housing

The 88 apartments are to be a balanced mix of the three levels of care services provided (29.3 units per level) requiring the following parking provision;

- Level 1 care – Largely independent with minimal support – *1 space per residential unit plus 1 space per 2 units for visitors*. Total = 44 spaces
- Level 2 & 3 care – Moderate to substantial support required - *Residents, visitors and staff -2 spaces plus 1 space per 3 residential units*. Total = 24 spaces

This provides a total of 68 spaces for the Extra Care Housing (77%)

Care Centre

The 32 bedroom care centre will be provided with the following;

- *Aged persons care home, provision for visitors and staff - 2 spaces plus 1 space per 4 bedrooms*. Total = 10 spaces

Care Line Facility

6 Full time office staff. Total = 6 spaces

Additional Staff

12 Management/Catering staff plus provision for 3 visiting professionals. Total = 15 spaces

A condition would also specify which parts of the building fall within the extra care category and the care home category. This is considered sufficient to control the levels of parking on the site and prevent on-street parking. A further condition requiring a Travel Plan for staff to be submitted prior to occupation shall ensure that sustainable means of transport are encouraged.

In relation to the location of the car parking and the potential for on-street parking on Church Street amended plans have removed the pedestrian paths along Church Street and only one pedestrian access is proposed for residents on the corner of Church Street and Hall Farm Road. Highways consider the removal of the paths and proposed line of trees would prevent parking on Church Street and thus removes their objection. The provision of double yellow lines on Church Street is therefore not considered necessary by the Highways Authority. The operation of the proposed building would be such that for security reasons the majority of residents would access the site through the main entrance on Hall Farm Road in the centre of the site and as such this is where

the majority of the parking is located. Residents that wish to walk to the town centre could use the one access on the corner of Church Street and Hall Farm Road.

The County Highways Authority has not raised any concerns with regard the reinstatement of a through route from Hall Farm Road to Vicarage Gardens and has suggested conditions to control its implementation.

The comments of the Derbyshire Police Crime Reduction Design Advisor will be incorporated when the boundary treatment and crime reduction measures conditions are assessed for discharge. The comments in relation to Footpath 114 shall be considered prior to a diversion application being made and an informative to this effect shall be placed on any permission.

Conclusion

The proposal is considered to be an exemplar scheme for Swadlincote and the District. It is accepted that the scheme would have an impact on the appearance of Church Street; however, the design is considered to be such that it would improve this area which is on a main route to the town. Highways issues have been addressed by the amended plans and conditions. The proposed landscaping and retention of existing trees is considered to significantly soften the appearance of the building. The proposed building would be a significant community facility to the benefit of the residents of Swadlincote.

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's A010A, A100 A, A101 F, A104 F, A105 E, A106 H, A107 F, A108, A203 C, A204 B, A205 A, A206 B, A207 A, A208 A, A209 A, A210 A, A301 A, A302 A, A303 B, A500 A, Landscape Masterplan Rev E, 12743_Rev3 3 and 01.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the buildings have been submitted to and approved in writing by the Local Planning Authority.
Reason: To safeguard the appearance of the existing building and the locality generally.
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. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.
- B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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

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

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

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

Reason: In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions; to promote the well-being of the area pursuant to the

Council's powers under Section 2 of the Local Government Act 2000 and to reflect government guidance set out in PPS1.

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

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

9. Prior to the commencement of the development a scheme highlighting details of the likely resultant noise levels from activities during the construction phase at the nearest noise sensitive premises shall be submitted and approved in writing by the Local Planning Authority. The investigation shall address the impact that the activities will have, in terms of noise, on nearby residential properties. The development shall be implemented in accordance with all identified noise control measures and retained thereafter.

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

10. Prior to the commencement of any site works for the development hereby approved details of all slab levels and any regrading proposed to the site shall be submitted to and approved in writing by the Local Planning Authority and the development shall only be carried out in accordance with those details so approved.

Reason: To ensure that the development does not adversely affect the amenities of adjoining properties and the character or appearance of the area.

11. Prior to the commencement of development a Travel Plan for all the staff shall be submitted and approved in writing by the Local Planning Authority and the development shall be occupied in accordance with the approved Travel Plan.

Reason: To ensure that adequate parking provision is available.

12. Prior to commencement of development a surface and foul water drainage scheme for the site shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

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

13. Prior to commencement of development a lighting scheme for the car parking and communal areas shall be submitted and approved in writing by the Local Planning Authority and the scheme shall be carried out in accordance with the approved details unless otherwise agreed in writing.

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

14. Prior to commencement of the development a scheme for the control of dust arising from the site during the construction phase shall be submitted and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved scheme.

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

15. All hard and soft landscape works shall be carried out in accordance with the approved details that shall include methods of construction and surface materials for those car parking spaces in close proximity to existing trees. 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.

16. Prior the occupation of the any of the extra care apartments a detailed breakdown of the numbers of residents categorised as Level 1, 2 and 3 care (defined in informative 1) shall be submitted and approved in writing by the Local Planning Authority and the occupancy of apartments shall be in accordance with these approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

17. The locations of the residential care home and extra care apartments shall be maintained in accordance with the attached plan unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the parking provision meets the requirements of the development.

18. The development hereby permitted shall only be occupied by persons where at least one member of the household is aged 55 years or over (the qualifying age) save that such restriction shall not apply to the continued occupation of any of the extra care apartments by a surviving spouse, partner or member of the household under the qualifying age after the death of the member of the household who was of the qualifying age.

Reason :To ensure the parking provision meets the requirements of the development.

19. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated February 2009 Ref:JS616-xx/AES/HB, undertaken by Johnson Poole and Bloomer Ltd (JPB) and the following mitigation measures detailed within the FRA:

Section 4.3.6 and 5.4.5 limiting the surface water run-off generated by the 100 year plus 30% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.

Section 6.3.2 and 6.3.9 Provision of a minimum of 40m² of bio-retention areas and 425m³ of surface water rainfall run-off attenuation storage on site to accommodate the difference between the allowable discharge to STW public surface water sewers and the 100 year plus 30% (for climate change) critical rainfall event.

Section 4.3.6 and 6.0 at the detailed design stage, undertake an investigation into the most suitable SUDs method/s to provide the required volume of surface water run-off attenuation storage.

Section 6.8 Surface gradients of the site to be taken into account in the detailed design, including some terracing/re-grading of the site's surface where necessary.

Section 7.1 Provision of a SUDs maintenance manual to facilitate the future operation of the as built on site SUDs systems.

Reason: To prevent flooding by ensuring the satisfactory storage of / disposal of surface water from the site and to reduce the risk of flooding to the proposed development and future occupants.

20. Construction hours shall be restricted to 8am to 6pm Monday to Saturday with no working on Sundays or Bank Holidays.

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

21. Prior to the commencement of building operations the proposed extension of Vicarage Gardens to provide the alternative access onto Hall Farm Close and the provision of the turning head on Hall Farm Road must be carried out and completed at least to base course level including footways, drainage and lighting in accordance with a detailed scheme (based on submitted CTM drawing 08787-502) first submitted to and approved in writing by the Local Planning Authority, before the required stopping- up of Hall Farm Road can be implemented.

Reason: In the interests of highway safety.

22. Prior to commencement of any building operations replacement parking for the existing bungalows on Hall Farm Road and Hall Farm Close must be provided in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority, also before the stopping-up of Hall Farm Road can be implemented.

Reason: In the interests of highway safety.

23. Prior to commencement of building operations, space shall be provided within the site curtilage for storage of plant and materials, site accommodation, loading and unloading for goods vehicles and parking and manoeuvring for site operatives and visitors vehicles, all 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 construction period in accordance with the approved designs.

Reason: In the interests of highway safety.

24. Before the commencement of engineering operations in connection with the development, facilities must be agreed in writing with the Local Planning Authority to prevent the deposition on the public highway of extraneous material from the site, and such facilities must be maintained throughout the construction period.

Reason: In the interests of highway safety.

25. The development shall not be taken into use until all parking spaces and proposed access thereto have been laid out and surfaced in accordance with details first submitted to and approved in writing by the Local Planning Authority and shall be maintained available throughout the life of the development free from any impediment to their designated use.

Reason: In the interests of highway safety.

Informatives:

The levels of care in condition 15 are defined as:

Level 1 - Residents are largely independent and can manage daily living on their own with minimal support. Customer would not normally require help from social services but might need occasional support, perhaps due to illness. Customers would benefit from living in a secure environment where staff could provide occasional practical help.

Customers would need less than 7 hours of care per week.

Level 2 - Customers meet Social Services definition as needing moderate care. Care needs might include bathing, monitoring of medication, monitoring of diet or orientation. Customers need a maximum of 15 hours of care per week.

Level 3 - Customers meet Social Services definition as needing substantial or greater levels of care. Some customers might need intensive 'round the clock' care. Customers would be eligible for residential accommodation and require more than 15 hours of care per week.

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

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

The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in

order to make an assessment of the risks. This can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com. The drainage scheme required by condition 11 shall include:

- 1, Limiting the surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) event into the public sewerage system to a rate agreed with Severn Trent Water (STW) (The currently proposed allowable surface water discharge rate is 25l/s).
- 2, Provision of a minimum of 40m² of bio-retention areas and 425m³ of surface water rainfall run-off attenuation storage on site to accommodate the difference between the allowable discharge to STW public surface water sewers and the 100 year plus 30% (for climate change) critical rainfall event.
- 3, Details of how the SUDs scheme/s shall be maintained and managed after completion.

The Environment Agency advise that finished floor levels should be set no lower than 150mm above adjacent proposed finished external ground levels, or adjacent highway levels, whichever is the greater to Ordnance Datum (AOD).

The Environment Agency advise that having reviewed the letter from Applied Geology to Cox Turner Morse re: Hall Farm Road, Swadlincote (dated 26th February 2009) submitted in relation to this Planning Application (9 2009 0180 MA). The information submitted indicates that the only previous development on the site was a care home. This activity is not highlighted in Planning Policy Statement 23 as one which 'may historically have contaminated, or have the potential to contaminate the land they are sited upon' (Annex 2, Table 2.1). In light of this, and the relatively low sensitivity of the site setting to 'Controlled Waters' receptors we do not require a Preliminary Risk Assessment for this development.

However the site owner should be made that they are responsible for any contamination on, in or under land that may be causing unacceptable risks to human health or the wider environment. Consequently if during site development any areas of significant contamination are suspected, then the materials should be sampled, tested and suitable remediation carried out in consultation with the Local Planning Authority.

The proposed development affects Public Rights of Way Footpaths Nos 114 and 133 as described on the Derbyshire Definitive Map. These routes must remain unobstructed at all times during and after construction works, and the safety of the public using these paths must not be prejudiced at any time. The comments of the Derbyshire Police Crime Reduction Design Advisor should be considered prior to any diversion application being made. Advice regarding the temporary and permanent diversion of such routes may be obtained from the Director of Environmental Services Department at County Hall, Matlock.

The Highways Authority advise that prior to the commencement of building operations for the construction of the Care Home the highway closure of the section of Hall Farm Road must be carried out and legally completed by means of legislation under Section 247 of the Town and Country Planning Act, unless otherwise agreed in writing by the Local Planning Authority.

Prior to the submission of details relating to boundary treatment (condition 4) and crime reduction measures (condition 6) the comments of the Derbyshire Police Crime Reduction Design Advisor should be taken into account.

Item **1.2**

Reg. No. **9/2009/0240/RM**

Applicant:

David Wilson Homes East Midlands
Cartwright Way
Bardon Hill

Agent:

Mr Jim Toothill
David Wilson Homes East Midlands
Forest Business Park
Cartwright Way
Bardon Hill

Proposal: **Approval of reserved matters of application 9/0890/0515
for the erection of 309 dwellings and associated works
at Phase 5 Land To The South East Of Swadlincote
Lane Castle Gresley Swadlincote**

Ward: **Gresley**

Valid Date: **25/03/2009**

Reason for committee determination

The application is brought before the Committee as it is a major application with more than two objections. *The application was deferred at the last Committee to enable a site visit to be held. Changes to the report made since that time are shown in italics.*

Site Description

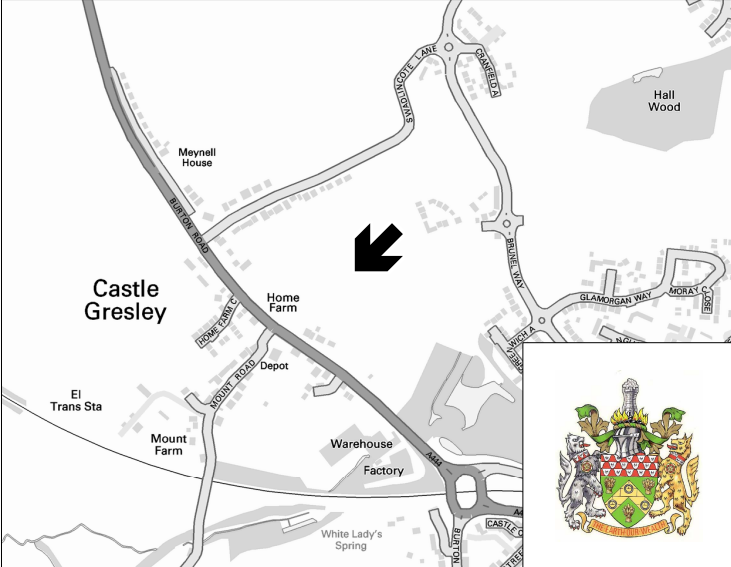
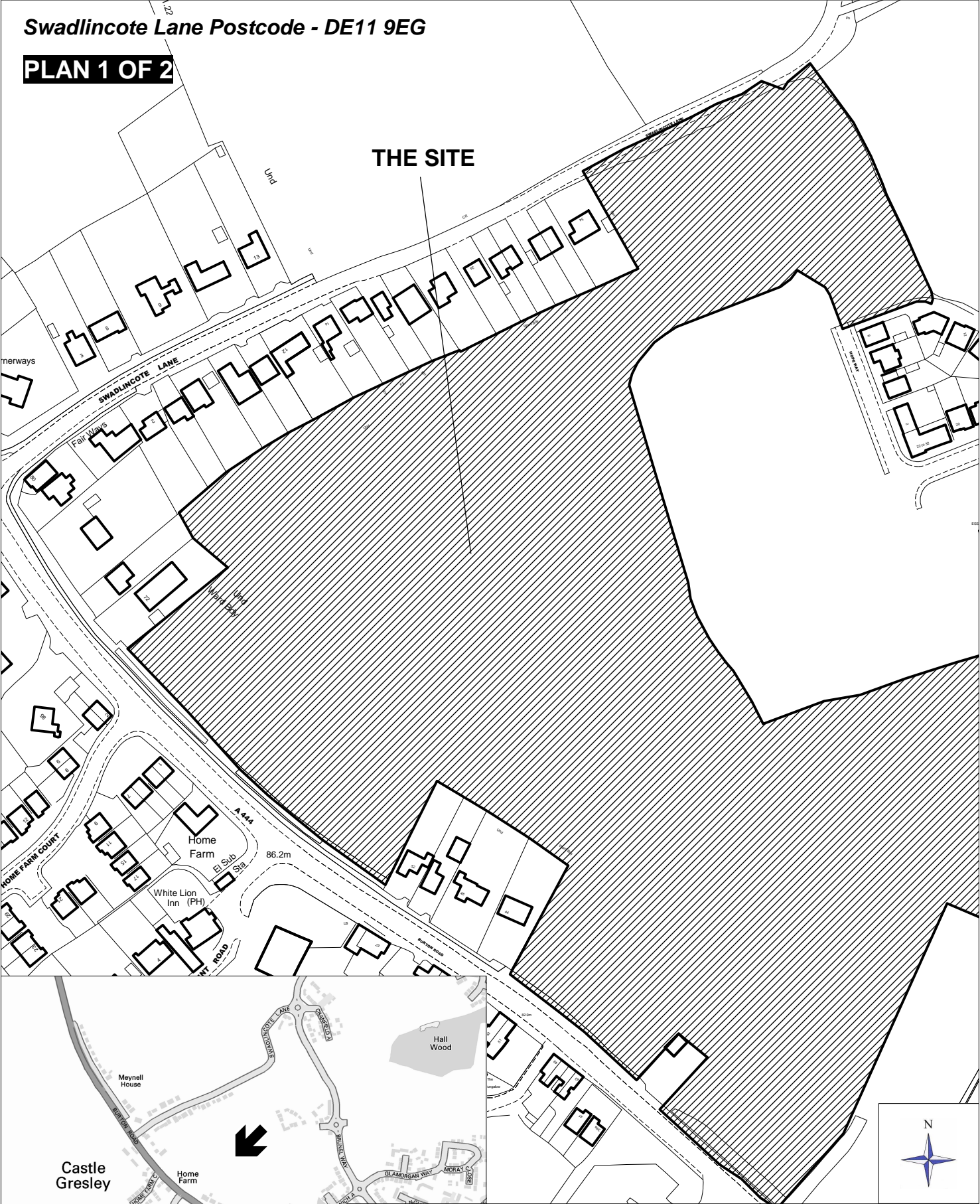
This 8.08 hectare site is to the south of Swadlincote Lane, Castle Gresley. The main distributor road through Castleton Park is to the east and Burton Road runs along its south western boundary. The site is undulating with its highest point at the centre of the site. The land level adjacent to Burton Road is approximately 2m higher than the road level. The existing residential properties adjacent to the north western and south western boundaries on Swadlincote Lane and Burton Road are a mix of large detached dwellings to bungalows. The majority of the site boundary is immediately adjacent to Burton Road; however, there are four detached properties in the centre of the site frontage. There is also a builder's yard further along this road to the south east. This site has outline permission for a dwelling granted in May 2008.

The previous phases of the Castleton Park development are continuing to be constructed from the Brunel Way roundabout along Westminster Drive. Approximately 50 dwellings are still to be constructed in the central section of the site under a previous permission for 119 dwellings approved in February 2007 (9/2006/1280). Swadlincote Lane is in the process of being stopped up and a turning head constructed which would provide access for three additional dwellings from the Lane. The north eastern part of Swadlincote Lane would serve as an access for this development from the main roundabout on Brunel Way.

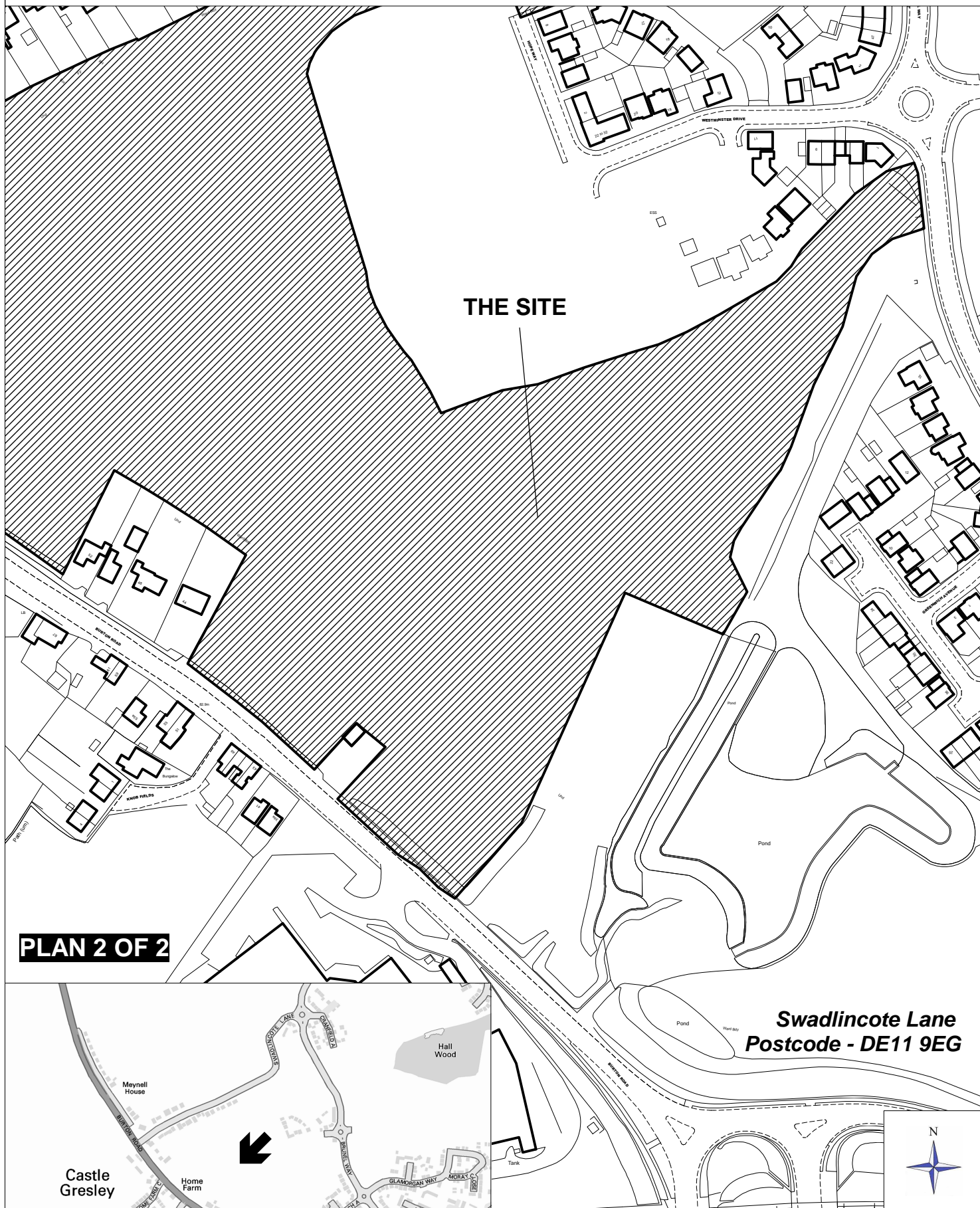
Swadlincote Lane Postcode - DE11 9EG

PLAN 1 OF 2

THE SITE



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South Derbyshire District Council. LA 100019461. 2009

Proposal

This reserved matters application proposes the erection of 309 dwellings on the remainder of the Phase 5 part of the Castleton Park development. The reserved matters are appearance, layout and scale.

The proposed footpath/cycleway runs through the centre of the site and would create a link from the main development on Brunel Way through to Burton Road to the west. All along its length dwellings front onto it. This would provide for the main diversion of the current route of footpath 40. In the centre of the site the footpath/cycleway link opens up into an area of public open space framed by dwellings. Public open space is also proposed in the southern corner of the site adjacent to the balancing lagoon and landscape buffer zone adjacent to phase 1 of the development.

The majority of the parking is to the side of dwellings or in rear parking courtyards which is a design feature of the overall development to reduce the visual impact and dominance of cars in the streetscape. The main estate roads link with the western part of Swadlincote Lane and Westminster Drive which both link directly onto main roundabouts on Brunel Way. These estate roads are curved to reduce vehicle speeds and also allow for a more interesting development where dwellings curve around the corners creating landmarks to aid navigation around the site. Along Burton Road the majority of dwellings face the road but the development would not have a direct relationship with the road as no vehicle access is proposed and the existing hedging along the frontage would be retained.

The majority of dwellings are two storey, however three storey town houses have been used to frame the footpath / cycleway link, surround the public open space and add interest on the main corners of the estate roads. Two and a half storey properties are dotted around the site often adjacent to the three storey dwellings. There are no three storey dwellings proposed adjacent to boundaries with existing residential properties on Swadlincote Lane and Burton Road. Plots 650 – 654 are two and a half storey properties adjacent to the Swadlincote Lane boundary; however, there is a distance of 35m from the rear elevation of the existing property to the north.

The range of property sizes are as follows:-

- 9 No. - 1 -2 Bed apartments
- 21 No. - 2-3 Bed affordable houses
- 21 No. - 1 bed life / coach houses
- 37 No. - 2 bed houses
- 138 No. - two storey 3 bed houses
- 41 No. - two and half storey 3 bed houses
- 42 No. - three storey 3 bed houses

Twenty five dwellings would be classed under the PPS 3 definition of affordable housing. The outline application included a definition for affordable housing based on floorspace and the total of affordable houses on the overall development exceeds the specified land area in the outline Section 106. Therefore these properties are additional affordable housing.

The majority of properties would have 2 car parking spaces which includes a garage. The smaller properties and apartments would have one space with some visitor parking.

Planning History

9/0890/515 – Outline - Residential Development of approximately 58.3 hectares of land to the south east of Swadlincote Lane, Approved March 2000

Phase 5

9/2006/1280 – Approval of reserved matters of application 9/0890/0515 for the construction of 119 dwellings and associated works, Approved February 2007

9/2007/0415 – Amendment to Phase 5 of scheme approved under 9/2006/1280, Approved June 2007

Responses to Consultations

The County Highway Authority had concerns about some of the detail set out in the original submission and amended plans have now been received primarily to address these concerns. The Authority is now broadly satisfied with the scheme although it considers that access to a few remaining plots via 'drive-unders' are not ideal. However, it considers that these concerns are not sufficient to recommend refusal.

The Derbyshire Police Crime Prevention Design Advisor states that the layout plan in general is acceptable apart from a few hard barriers such as gates and fencing to all communal parking areas with open access. There is a landscaped area that runs to the rear of communal open parking area, which is a concern for security. There is no detail of enclosure or purpose/ function of this green corridor. Natural surveillance of these areas is required. It is recommended that the land be divided to provide amenity for the apartment blocks and /or incorporated into garden space where possible. As in line with the rest of this phased development, the physical security measures should comply with the "Secure by Design" scheme.

The Leisure Services Manager has no objection subject to a landscaping plan setting out which areas are to be offered for adoption.

The Environmental Protection Manager has no comment.

The Contaminated land Officer has no objection subject to a phased contamination survey condition.

Severn Trent Water has no objection subject to conditions relating to drainage.

Derbyshire Wildlife Trust has no objection but comments that there are protected species on adjoining land.

The Environment Agency has no objection subject to there being no increase in surface-water run-off from this section when compared with the original outline layout. Conditions in relation to surface water drainage are recommended.

Responses to Publicity

Thirteen letters of objection were received and are summarised as follows:

- Westminster Drive is too small and narrow for the main access
- Green spaces not sufficient; there would be a lack of green children's areas

- The site is popular with dog walkers and wildlife
- Westminster Drive is the main point of entry
- Developers should supply a school or shops for this size of development
- The hedge opposite No.41 Burton Road should be retained
- There would be a loss of privacy to No.72 Burton Road due to five south eastern facing windows facing the rear of proposed properties
- There would be an overshadowing of No.72
- Plots 383 & 341 are only 1m from the boundary with No.72 Burton Road and would be overbearing
- When a garage was proposed for No.72 Burton Road it could not be set far forward but plots 383 and 341 are
- Properties on Wyedale had a 10m privacy zone and at a meeting at Gresley Old Hall, residents were told they would have a similar area
- There is a concern over maintenance of fencing due to 12 properties being on their boundary
- Parking would be insufficient
- 309 dwelling plus what has already been constructed requires a local distributor road of 6.75m in width with 2m footpaths and 2 points of access
- Future residents would use Westminster Drive as a main route to the A444 thus increasing traffic
- Plots 691 and 694 require access across a private road and 694 has paths that access onto this road
- Developers have not consulted existing residents
- Developers stated that there would be no additional traffic on the private road
- Public rights of way have been ignored
- Hope Way cannot take extra traffic as it is too narrow
- Speed bumps should be installed on Westminster Drive
- There would be a devaluation of properties on Westminster Drive
- Alternative accesses should be considered
- Residents were told that plots 502-521 were owned by the National Forest and no dwellings could be built and it would be maintained as a woodland walkway to the balancing lagoon
- Westminster Drive has an on-street parking problem
- It is unclear what is proposed as boundary treatment to the rear of 34 Swadlincote Lane
- Proposed properties are not in keeping with Swadlincote Lane
- *The proposed properties to the rear of 17 Westminster Drive would be 5 metres away from the boundary and a balcony is proposed that would overlook their garden.*
- *The 15 metre window to window distance between the proposed properties and that of 17 Westminster Drive is below the 21 m standard and existing shrubs on the boundary which provide screening would have to be removed.*
- *An alternative access for construction traffic should be used as Westminster Drive is too narrow.*

Development Plan Policies

The relevant policies are:

East Midlands Regional Plan: Policies 2, 3, 12, 14, 26 and 48.

Local Plan: Housing Policy 2, Housing Policy 11, Environment Policy 10,

Transport Policy 6, Transport Policy 8, Recreation and Tourism Policies 4 and 8.

National Guidance

PPS 1, PPS3, PPG13, PPG17.

Planning Considerations

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

- The principle of the development
- Residential amenity
- Appearance and Burton Road streetscene
- Landscaping and Public Open Space
- Highways issues
- Other issues mentioned by objectors

Planning Assessment

Principle of Development

The principle of residential development on this land was established in the granting of outline consent in 2000 (9/0890/515). This is the final phase of the overall development and only details in terms of the appearance, layout and scale can be considered at this stage. The access and landscaping were agreed as part of the outline permission.

Residential Amenity

Firstly, in relation to the relationships between dwellings within the development a detailed assessment has been carried out to ensure that the Council's space standards and relationships which have been agreed on other phases have been met. The amended plans include some changes to distances that were considered substandard and the amended layout is considered acceptable in this regard. The orientation of properties and distances between them has ensured that private rear garden areas are not substantially overlooked.

A section of the relationship between the proposed properties and 17 Westminster Drive has been produced. This indicates that the proposed property would have a 2.1 metre lower land level than that of the existing property and thus only the first floor windows would be visible above the 1.8m boundary treatment. The proposed juliet balcony on plot 504 would be 18 metres from this property and is only a feature and not a useable balcony. Overlooking of this property is not considered significant due to the land level difference and the fact that the proposed properties are at an angle. A window to window distance of 15 metres is therefore considered acceptable in this case.

Secondly, in relation to the impact on the amenity of existing properties on Swadlincote Lane, amendments have been sought to improve the relationships and increase the distances between the properties. Land levels of the existing properties and the adjacent proposed properties were requested due to the sloping nature of the site.

A distance of 30m from the rear of the proposed properties and the rear elevations of properties on Swadlincote Lane has been maintained to protect privacy. The window to window distances would vary to between 30 – 40 metres which is well in excess of the 21m standard. No.72 Burton Road is a bungalow that has five windows on its side

elevation adjacent to the site. The majority of these windows are secondary; however, there is a bedroom window on this side. A distance of 18m has been achieved between the nearest proposed dwelling in order to meet the Council's space standards. Plots 383 and 341 have been moved further away from Burton Road and the boundary with No.72 Burton Road to reduce their impact on this property and to improve their appearance in the streetscene. The position of these dwellings is now considered acceptable.

In relation to land levels of the proposed properties along the boundary with existing properties on Swadlincote Lane, the majority are slightly higher (between 500mm – 700mm) which is not considered significant and would not reduce the privacy of these properties when taking into account the distance of around 30 m between the properties. Proposed properties to the rear of 72 Burton Road would be 2.4 -1.8m higher than the land level of the property. However, this follows the existing slope from Burton Road and would be at a distance of 25m and is therefore considered acceptable as it meets the SPG standard. Plots 619 – 626 proposed along the southern boundary of this property reduce in height towards Burton Road and therefore towards the rear of the property are 540mm higher and reduce to 1.6m lower than 72 Burton Road, adjacent to Burton Road. This is considered an acceptable relationship.

No's 44, 50, 48, 44 Burton Road are in the centre of the sites frontage onto Burton Road and thus would be surrounded by the proposed properties. A distance of 10 -11 metres is maintained adjacent to the boundaries with these properties and main aspect distances are between 38 - 40m. Plots 601 and 577 are nearest to these existing dwellings and each has a side elevation adjacent to the boundaries which have small bathroom windows on the first floors. The relationship with these existing properties is considered acceptable.

Adjacent to 52 Burton Road the proposed properties slab levels increase to the north east along the side boundary of the property from 200mm – 2.2m higher than the property. This follows the existing slope of the site and that of the existing property's 30 m rear garden. Proposed properties to the rear of these existing dwellings on Burton Road vary in slab level from 1.2 – 1.7m higher at a distance of 38 – 40 m. The nearest proposed property to the side of 44 Burton Road would be 1.26m lower than this dwelling.

In order to protect the amenities of these existing properties in the future permitted development rights for extensions on some plots should be removed by condition.

Appearance and Burton Road Streetscene

Seventeen of the thirty one proposed house types have been previously been approved on other phases of the development. A good mix of dwellings is proposed and the size and design is considered compatible and in keeping with that of the previous phases. A mixture of brick detailing, arched lintels, door frames and canopies, balconies and bay windows serve to add variety. The use of the three storey properties to frame the focal open space and main estate roads together with two and half storey properties with dormers serves to add interest to the internal streetscenes. Overall the design of the dwellings is considered to be high quality in accordance with national and regional guidance and the standard that has already been set on the wider site.

Along the Burton Road frontage the proposed properties maintain slab levels similar to the existing properties 44 - 52 Burton Road. The distance from the road is also similar and the majority of the proposed properties have their main elevations facing the road.

The mass is broken up in sections by an internal road and the footpath/cycleway link. The site is approximately 2m higher than the road level and there is an existing 1m high hedge along the boundary which shall be retained by condition. It is acknowledged that the streetscene in this area of Burton Road would change significantly, however, considering the land levels and proposed properties only being two storey detached properties similar to existing properties they would not appear overly dominant or unexpected. Their impact could also be reduced further by careful consideration of the external materials, which shall be dealt with by condition.

Landscaping and public open space

The principle of the landscaping layout was agreed at outline stage and the size and location of the areas of public open space is compatible with this layout and that of the development masterplan. Tree lined footpaths/ cycleways have been incorporated and provide sufficiently overlooked focal points. The boundary treatments for the areas of public open space and footpath/cycleways are open railings which ensure their security. The landscape strip, referred to by the Crime Design Advisor, forms a ditch and is thus not able to be sectioned off into amenity spaces. However, the area and the communal parking is considered to be significantly overlooked by the proposed properties and previously approved properties to provide natural surveillance and a condition relating to crime prevention measures should also help.

The amount of woodland planting and public open space was stipulated in the outline application's Section 106 together with their locations in relation to the Masterplan. A detailed soft landscaping plan can be required by condition. The hedge along the Burton Road boundary would be retained as part of this scheme.

Highways issues

An amended layout has been received which incorporates most of the changes requested by the Highways Authority and is very similar to details previously approved on recent phases. The proposed development is to be accessed from both Swadlincote Lane and Westminster Drive. The principle of obtaining access from Westminster Drive was granted in 2000 in the outline permission. Westminster Drive has thus been designed to provide access to the development and on the advice of the County Highway Authority is of sufficient width to do so. Under the latest amendment Public Footpath 39 would not require diverting but Footpath 40 would be mainly diverted via special new footpath/cycleways prior to the commencement of development (although this requires a separate authorisation).

Other issues raised by objectors

The majority of objections were received from properties within the Castleton Park development and only two letters were received from existing established properties on Burton Road and Swadlincote Lane. The provision of shops, medical centre and school for the overall development was considered at outline stage and as such is detailed within the Section 106 agreement. The access for plots 691 and 694 has been amended and would no longer be accessed by a private drive. The area where plots 502 – 521 are proposed was included in the development principle plan for the outline permission and thus was not proposed as part of the woodland walkway. However, a footpath/cycleway runs along the south eastern boundary alongside the woodland buffer zone as originally envisaged and links to the balancing lagoon to the south.

All boundary treatments and retention of hedging would be controlled by conditions. The applicants are aware of the existence of protected species on adjacent land to the south of the site and the need for any appropriate licences.

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 approval of details subject to the following conditions:

1. Notwithstanding the originally submitted details, this approval shall relate to the amended layout drawing no. S0000_100_01 Rev F.

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

2. Before any other operations are commenced (excluding site clearance), space shall be provided within the site curtilage 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: To ensure the free flow of traffic on the adjoining highway.

3. Before any of the operations hereby approved are commenced, facilities shall be provided as agreed in writing with the Local Planning Authority to prevent the deposition of extraneous material on the public highway and shall be maintained throughout the construction period of the development.

Reason: In the interests of highway safety.

4. No dwelling shall be occupied until the estate road serving the dwelling has been constructed to base level in accordance with the County Council's specification for new housing development roads.

Reason: To ensure that each dwelling is afforded access.

5. The proposed private vehicular access driveways shall be surfaced with a solid, bound material (i.e. not loose chippings) prior to the occupation of the dwelling to which they relate.

Reason: To prevent the deposition of extraneous material on the public highway in the interests of highway safety.

6. Dwellings shall not be occupied until space has been provided in accordance with the approved application drawings for the parking for residents and visitors, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use. Garages & parking spaces shall be kept available for the parking of motor vehicles at all times, and shall be used solely for the benefit of the occupants of the dwelling of which it forms part and their visitors and for no other purpose and permanently retained as such thereafter, unless otherwise agreed in writing.

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

7. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority.

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

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

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

9. 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.

10. 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.

11. Prior to the commencement of the development hereby approved full details of the proposed bin stores and the materials for surfacing the bin collection areas shall be submitted to and approved in writing by the local planning authority. The bin stores and collection areas shall be provided in accordance with the agreed details prior to occupation of the relevant dwellings.

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

12. 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.

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

Reason: In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions; to promote the well-being of the area pursuant to the

Council's powers under Section 2 of the Local Government Act 2000 and to reflect government guidance set out in PPS1.

14. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.
- B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.
15. The Footpath/Cycleway/Greenway/public open space shall be landscaped, hard surfaced and opened for public access prior to the occupation of the 50th dwelling on this phase unless otherwise agreed in writing by the Local Planning Authority.
- Reason: In the interests of permeable public access across the site.
16. Prior to the commencement of development, a landscaping scheme (including an implementation plan) for the affected length of Swadlincote Lane so as to ensure that the route is not physically accessible by vehicular traffic, shall be submitted to and approved in writing by the Planning Authority.
- Reason: In the interests of highway safety.
17. The footpath/cycleway link where it meets Burton Road shall have a gradient of 1:20.
- Reason : In the interest of cycling and highway safety.
18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, the dwellings on plots 577, 587, 600, 601, 619, 621, 623, 632, 633, 642, 643, 644, and 645 hereby permitted shall be not be enlarged or extended without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.

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

Informatives:

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

Further to the comments above relating to rights of way the County Highways Authority advise that the layout affects the route of definitive public right of way footpath no. 40, as shown on the definitive plan. The Footpath will need to be diverted prior to works commencing.

Any security measures implemented in compliance with the approved scheme should seek to achieve the 'Secured By Design' accreditation awarded by Derbyshire Constabulary. Written confirmation of those measures should then be provided to the Local Planning Authority.

For the discharge of the site investigation, as a minimum, the report should include:

- a) Details of an overview of the initial walkover survey to including the identification of contaminants from other sources e.g. gases emitted from natural organic deposits such as coal, or structures such as disused drains.
- b) Detailed on site sampling to identify any contamination.
- c) The locations of any contaminated zones within the site including details of more extensive and geographically wider investigation of these zones. This will provide a more reliable picture of the distribution of contamination on the site and reduce the risk of failing to discover a hot spot of contamination.
- d) An assessment of any off site impacts such as the effect on watercourses etc.
- e) A thorough explanation of the chosen remedial measures including depth, breadth of excavation and details of soil replacement.
- f) Plan of action if further contamination is identified during remediation.
- g) Details of the measures to verify that the contaminant has been removed to an acceptable level.
- h) The identification as to whether a long-term monitoring and maintenance programme is required, if so, details of the plans.
- i) Details of the long and short term risk to human health including the construction phase and post-development.
- j) Details of the British Standards or other guidelines used in both the assessment and remediation measures proposed.

Further guidance can be obtained from the following:

- I. Model Procedures for the Management of Land Contamination CLR 11
- II. CLR Guidance notes on Soil Guideline Values, DEFRA and EA
- III. Sampling Strategies for Contaminated Land, CLR4 1994, DoE.
- IV. Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
- V. Secondary Model Procedure for the Development of Appropriate Soil Sampling

Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.

VI. Guidance for the Safe Development of Housing on Land Affected by Contamination' Environment Agency. ISBN 0113101775.

C:\Scp\Planning\Gis\DNPD66.DOC Soil contamination or the potential for it is a material planning consideration and must be taken into account by a local planning authority in the determination of a planning application. This site is suspected to be contaminated with chemicals associated with farming. The responsibilities for providing information on whether and how a site is contaminated rests with the developer, as does the subsequent safe development and secure occupancy of the site. Under these circumstances, you should undertake a site investigation and submit the results and remediation proposals as part of the planning application.

If a reclamation strategy is submitted and agreed by the planning authority compliance with it will be condition of any subsequent approval.

The developer will also be required to sign a completion certificate confirming that the works of reclamation have been carried out in accordance with the agreed strategy.

This permission is subject to conditions on the outline planning permission approved under the Council's reference 9/0890/0515/O and to the agreement under Section 106 of the Town and Country Planning Act 1990 that accompanied that permission.

The Water Industry Act requires that there shall be no building over any public sewer crossing the site without the express consent of the Regional Water Company. You are asked to contact Severn Trent Water with regard to ensuring adequate protection/room for maintenance of the sewer.

The proposed layout requires the permanent closure to vehicular traffic of Swadlincote Lane adjacent plot 677. A Prohibition of Driving Order under the Town and Country Planning Act must be carried out and completed prior to the commencement of development in the vicinity.

Item **1.3**

Reg. No. **9/2009/0287/NO**

Applicant:

Mr Naushad Chaudhary
Parkgate Service Station
Burton Road
Midway
Swadlincote

Agent:

Mr David Raybould
Newton Fallowell
Bretby Villa
Midland Road
Swadlincote

Proposal: **The raising of the forecourt canopy at Parkgate Service Station Burton Road Midway Swadlincote**

Ward: **Newhall**

Valid Date: **22/04/2009**

Reason for committee determination

The application is brought before Committee at the request of Councillor Dunn and Councillor Wilkins because local concern has been expressed about a particular issue and there are unusual site circumstances, which should be considered by the Committee. The application was deferred at the last Committee so that a site visit could be held.

Site Description

The application site is on the corner of Wood Lane and Ashby Road East in Midway. The service station that occupies the site comprises of a flat roof kiosk building, car wash and the canopy over the fuel pumps. The Grade II Listed Parkgate Farm is to the south west and this property has an outbuilding along the boundary with the service station. The Chesterfield Arms public house is opposite over Wood Lane to the north west. To the north east over the road are open fields and to the south and south east are detached residential properties.

Proposal

Retrospective planning permission is sought for the raising of the existing forecourt canopy by approximately 850mm.

Applicants' supporting information

The Design and Access Statement explains that as the site is located on a major trunk road, a number of commercial vehicles call at the site and the higher vehicles have been damaging the canopy on a regular basis. The increase in height of the canopy allows these higher vehicles to access the site without causing damage or disruption of

9/2009/0287 - Parkgate Service Station, Burton Road, Midway, DE11 0DN



the property and traffic on the main road, reduce the chance of injury to drivers of these vehicles, other drivers and service station staff.

Planning History

No recent cases are relevant to the current application.

Responses to Consultations

The Design and Conservation Officer considers that although the canopy has been raised by 850 mm there are only a few places where it can be seen in context with the setting of Grade II listed Parkgate Farm House and its outbuildings. The canopy can be seen from the main Wood Lane entrance to the farm, above the single storey element of the outbuildings, which lie to the northeast of the main listed farmhouse. The canopy's shabby appearance and bright colour draws attention to it but its visibility could be reduced by painting the two sides that are visible from the listed building side a recessive colour (e.g. grey, or a colour that would blend in with the roofs of the ancillary barns).

The proposal would not adversely affect the setting of the Grade II listed Parkgate Farm House provided the canopy is painted a recessive colour. A condition to that effect is recommended.

Responses to Publicity

One letter of objection has been received from a neighbour stating the following:

- The canopy is now much more visible from their home and garden
- The lighting under the canopy illuminates their garden
- Canopy is in a poor decorative state – half red/ half yellow
- There are notices on the pumps stating it is a cash only station which would not be suitable for HGV's
- The station is open everyday including Sundays and Bank Holidays which is not what it stated on the application form
- The car wash is not in use and now used for cleaning cars
- The jet wash poles have been extended and spray comes over their fence
- Red signage has been erected which is visible above their fence
- The applicant sells cars from the premises
- Overshadows property
- Loss of view

Development Plan Policies

The relevant policies are:
East Midland Regional Plan: 27
Local Plan: EV10, EV13

National Guidance

PPS1; PPS15.

Planning Considerations

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

- The impact on the character of the Grade II Listed Park Gate Farm
- Visual impact
- Residential amenity

Planning Assessment

The service station is an established use on the site with a planning history since the 1980's and the canopy is likely to have been erected from this time. On the advice of the Design and Conservation Officer, the raising of the canopy by 850mm is not considered to have a significant impact on Parkgate Farm as it is only visible in places on Wood Lane within the context of this Listed Building and associated outbuildings. The canopy's colour accentuates its appearance adjacent to the Parkgate buildings and painting the canopy a recessive colour can reduce this significantly. This can be controlled by condition.

The applicant has confirmed that the service station is soon to become a Jet garage where the corporate colours are yellow. It is considered that as this application solely relates to the increase in height of the canopy and not the structure itself and it is already yellow in parts it would not be reasonable to require the whole structure to be painted grey. A condition which requires the sides of the canopy adjacent to the southern and south western boundaries be painted grey is considered reasonable due to these elevations of the canopy being viewed in context of the Listed Building when approaching the site travelling up Wood Lane.

The canopy is 14.5m from the neighbour to the rear therefore overshadowing of this property is not considered significant. In relation to light pollution, the canopy is 4.5m from the rear boundary of this property and the lights on the canopy have not been changed. The increase in height by 850mm is not considered to increase the light pollution significantly due to the distance from the property and its boundary.

The selling of cars was in evidence when carrying out site visits and this has been passed to the enforcement section, as it is a sui-generis use which requires planning permission. The original permission for the service station appears to be pre-1974 and thus no planning history exists. Hours of opening are therefore not controlled.

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. Within 1 month of this permission the southern and south western sides of the canopy shall be painted grey in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the character and setting of the adjacent Listed Building.

Informatives:

The selling of motor vehicles from the premises requires planning permission and either the sale should cease or a planning application be made.

Item **1.4**

Reg. No. **9/2009/0339/FH**

Applicant:

Mr & Mrs R Lewis
92 Weston Road
Aston-on-Trent
Derby

Agent:

Mr Philip Billham
Planning And Design
Old School Lodge
Aston on Trent

Proposal: **The erection of an extension (revised scheme of
9/2009/0171) at 92 Weston Road Aston-on-Trent Derby**

Ward: **Aston**

Valid Date: **01/05/2009**

Reason for committee determination

The application is brought to Committee at the request of Councillor Coyle as she has received a large number of objections from local residents.

Site Description

The property is situated on Weston Road, Aston on Trent. It is set back from this main road through the village and it, along with neighbouring properties, features an open frontage.

Proposal

The proposal is a single storey extension to the front elevation, which in part includes a covered porch area.

Applicants' supporting information

None

Planning History

An application (9/2009/171) for a single storey extension to the front elevation was withdrawn in May 2009.

Responses to Consultations

None



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South Derbyshire District Council. LA 100019461. 2009

Responses to Publicity

Aston upon Trent Parish Council does not object, but wishes for the views of the local residents to be taken in account before the Local Planning Authority reaches a decision.

Over 20 objections have been received from neighbouring properties and concerned members of the public. In summary:

- The extension is too big and should be reduced in size
- The extension causes overbearance on a neighbouring bay (primary) window, ultimately impacting on light levels into their lounge area.
- The scheme is over fussy – the pier and roof detailing should be redesigned/removed
- Loss of privacy
- The side windows should be obscurely glazed and non-opening

Development Plan Policies

The relevant policies are:

Local Plan: Housing Policy H13

Planning Considerations

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

- Design, scale and character
- Residential amenity

Planning Assessment

Development Plan policy allows for the extension of dwellings provided they are of a scale and character in keeping with the property and are not detrimental to the amenities of adjoining properties or the general character of the area.

The scheme to extend to the front by 2.4m is a resubmission, the previous application having been withdrawn due to issues with its size and design. The architect has since met with the Council's Design Excellence Officer and resubmitted a revised scheme considered to be more sympathetic in terms of scale and design to the host dwelling. It has a smaller footprint and now features a monopitch roof slope. It also mirrors the design of a front extension at No 88 Weston Road.

There is no overbearance or loss of privacy as assessed against the requirements of Policy H13 and the adopted supplementary planning guidance 'Extending your Home'. Private amenity levels are maintained at existing levels. The side windows adjacent to No 90 are to be obscurely glazed due to the lack of fencing/screening etc between these two properties.

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. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless otherwise agreed in writing by the Local Planning Authority.
Reason: To safeguard the appearance of the existing building and the locality generally.
3. The new bathroom window in the south western elevation and the new windows in the north eastern wall of the building shall be fitted with obscured glazing and shall be permanently retained in that condition thereafter.
Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.

Item **1.5**

Reg. No. **9/2009/0356/FH**

Applicant:

Mr Colin Coxon
11 Brambling Crescent
Mickleover
Derby

Agent:

Mr Colin Coxon
11 Brambling Crescent
Mickleover
Derby

Proposal: **The erection of an extension at 11 Brambling Crescent
Mickleover Derby**

Ward: **Etwall**

Valid Date: **08/05/2009**

Reason for committee determination

The application is brought to Committee at the request of Councillor Lemmon as local concern has been expressed about a particular issue. Councillor Brown has also asked for a site visit.

Site Description

The property is located in Brambling Crescent, a small cul-de-sac on the former Pastures Hospital site – now redeveloped as a residential estate.

Proposal

The proposal is to extend to the rear of this detached property to create a single storey sun lounge.

Applicants' supporting information

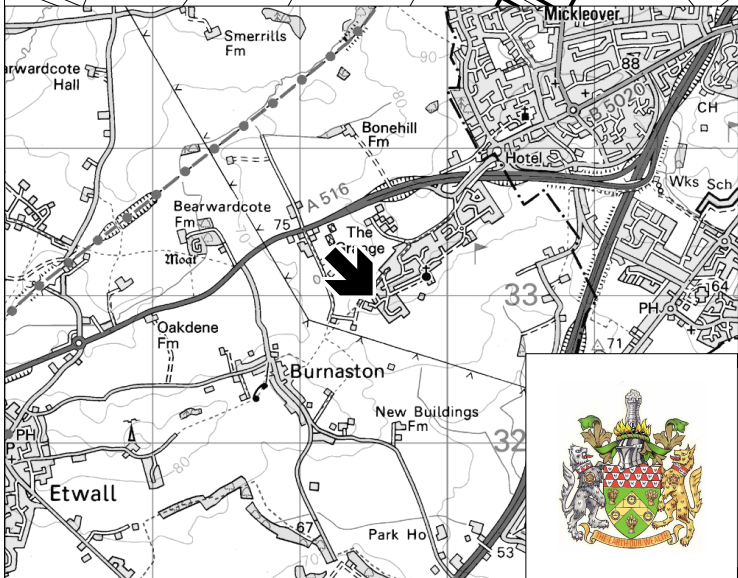
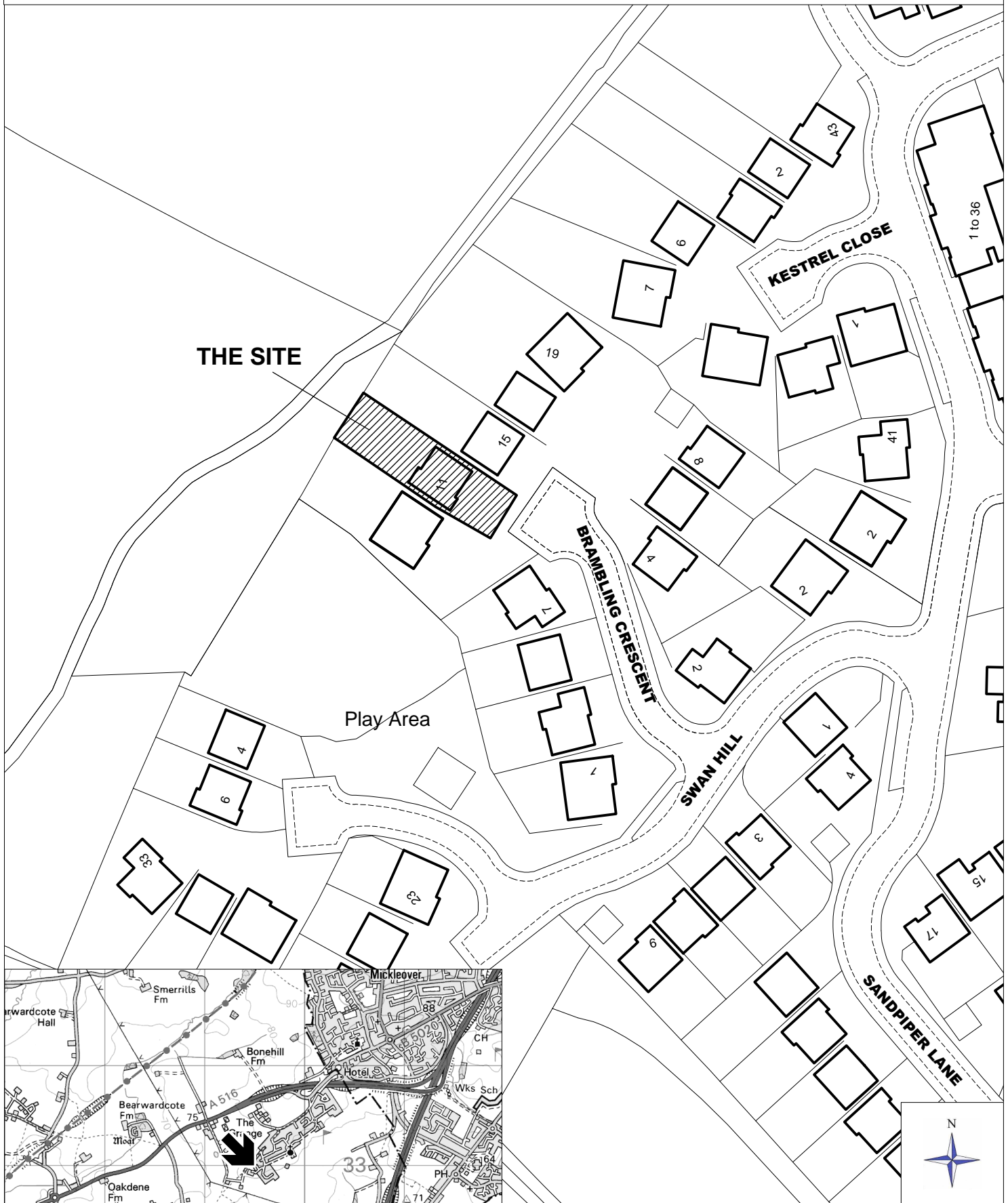
None

Planning History

None

Responses to Consultations

The Council's Arboriculturist considers that the development is an acceptable distance away from the two large Horse Chestnuts in the adjacent garden, thus limiting possible harm to the tree roots. These Horse Chestnuts are protected by South Derbyshire District Council - Tree Preservation Order 132



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South Derbyshire District Council. LA 100019461. 2009

Responses to Publicity

Parish Council: No objections

Neighbour at No.15 Brambling Crescent, has raised concerns in regards to loss of light and the feeling of existing enclosure due to the existence of the TPO'd trees in their garden and the cumulative impact that would have with the proposed extension. They consider through poor design their property is already overborne upon by No. 11 Brambling Crescent.

Development Plan Policies

The relevant policies are:

EMRP: Policy 8

Local Plan: Housing Policy H13

Planning Considerations

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

- Design and scale
- Residential amenity

Planning Assessment

Development Plan policy allows for the extension of dwellings provided they are of a scale and character in keeping with the property and are not detrimental to the amenities of adjoining properties.

The proposed sunroom is of a good design and the scale is subordinate to the host building.

There is no overbearance or loss of privacy as assessed against the requirements of Policy H13 and the adopted supplementary guidance.

Private amenity levels are therefore maintained at existing levels.

If the sun room had been 4 metres in length rather than 5 metres it would have been acceptable as assessed against Part 1, Class A of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 and would not have needed planning permission.

Due to the 1.8 metre high fencing in place and the upward slope of the garden, the impact of the sun lounge diminishes to a point where this 'fifth' metre would be mostly hidden by the existing fencing. The shallow pitch and the favourable direction of the roof slope reduce its possible impact on the neighbour further still.

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. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless otherwise agreed in writing by the Local Planning Authority.
Reason: To safeguard the appearance of the existing building and the locality generally.
3. This permission shall relate to the amended drawings, received 1st June 2009 showing in particular: the addition of a second rooflight on the north-eastern roof slope.
Reason: For the avoidance of doubt.

Item **1.6**

Reg. No. **9/2009/0388/NO**

Applicant:

Mrs Sally Warrener
Melbourne View Hotel

Agent:

Mr John Steedman
Steedman Planning Ltd
Tournament Way
Ashby De La Zouch

Proposal: **The erection of structure to form 3 hotel rooms and
garaging at Melbourne View Hotel Ramsley Fields
Station Road Melbourne**

Ward: **Melbourne**

Valid Date: **18/05/2009**

Reason for committee determination

The applications are reported to Committee because they relate to new development in the countryside.

This is a joint report for three applications affecting Melbourne View Hotel. The other applications numbers are 9/2009/0389 and 0390.

Site Description

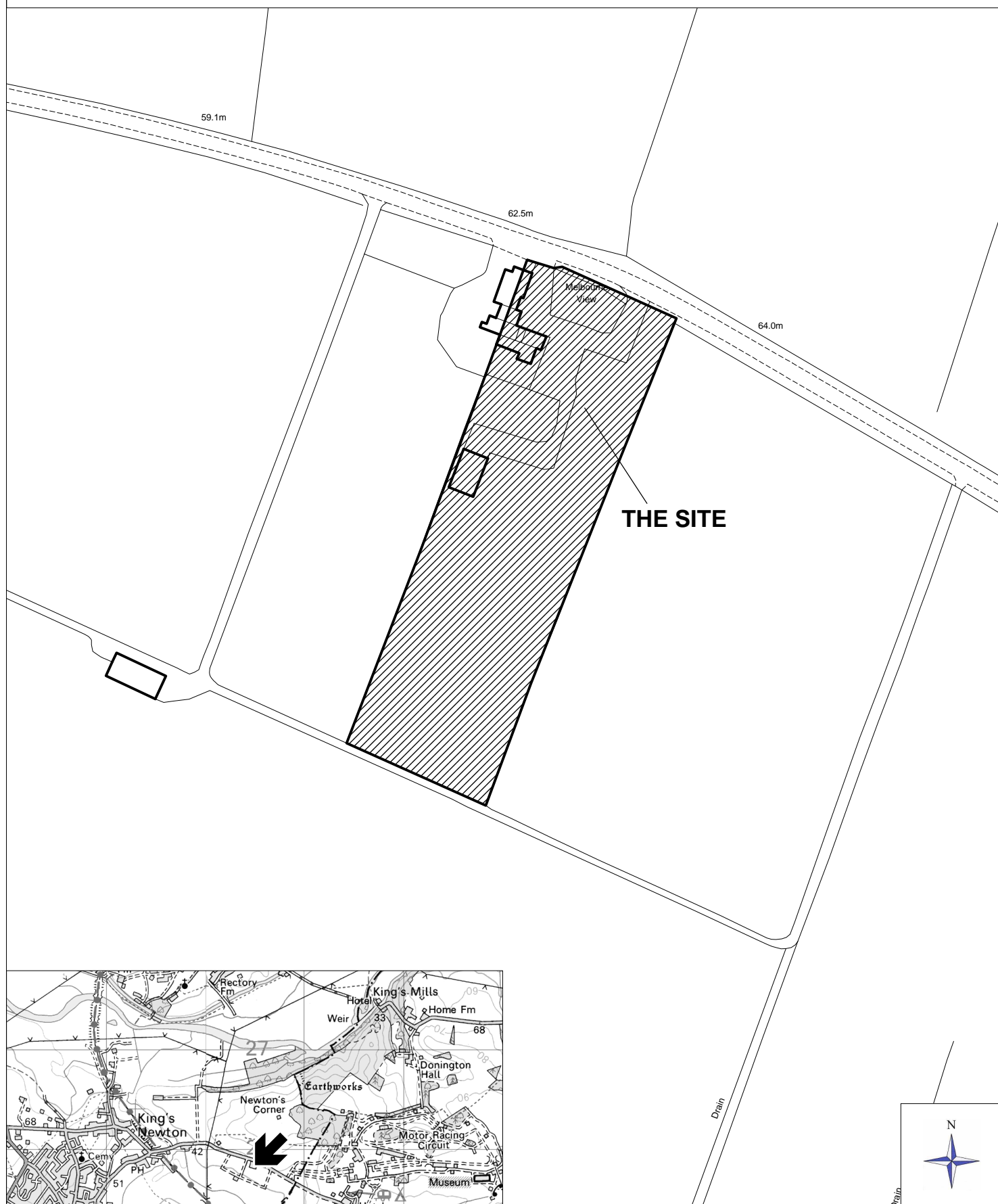
The site is one of a pair of former market garden premises, situated in the countryside between Melbourne and Donington Park. It has been used for some years as an hotel. The property is situated in a plot amounting to some 0.3 hectare. From the road the site slopes down towards the valley containing Ramsley Brook. Hedges define the front and eastern side boundaries.

Proposal

The applications relate to three separate elements, involving the expansion or enhancement of the existing enterprise:

9/2009/0388/NO – The proposal would involve a building measuring 18 m x 5.625 m in plan, with a maximum height of 6.35 m. It would be close to the site frontage, parallel to the road and set into the ground so that the eaves line would be roughly equivalent to the roadside hedge. Traditional design and materials are proposed. The building would provide four garages for use by the owners and guests. Three additional letting rooms would be provided in the roofspace, lit by dormer windows and rooflights facing the valley. From the road the roof would be uninterrupted by openings.

9/2009/0388, 0389 & 0390 - Melbourne View Hotel, Ramsley Fields, Station Road, Melbourne DE73 8BR



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South Derbyshire District Council. LA 100019461. 2009

9/2009/0389/NO – A flat roofed extension would be added to the front of the existing hotel lobby to provide a new reception area and toilets. It would be largely concealed from public view by the existing site landscaping and topography.

9/2009/0390/OX – The application is in outline but details of layout and scale are to be considered. A single storey building in an L shape, measuring 19.2 m and 17.2m along the southern and eastern flank walls, would be located in the garden area to the east of the site access. The width of the building would be 5.85 m, with a ridge height of 5.5 m. This would provide a further 5 letting bedrooms.

Applicants' supporting information

The applicants Design and Access Statement includes the following:

- The business is responding to potential increased demand generated by surrounding attractions, including the upgrading of the racetrack.
- The proposal would increase capacity from 10 to 18 bedrooms along with the commensurate increase in parking, storage and toilet facilities.
- The development would encourage economic growth, benefiting from the multiplier effect of expenditure generated by overnight stays.
- The proposals would accord with the relevant planning policies.
- The traditional design and scale of the buildings is chosen to reduce the impact on the countryside.
- The access has the requisite visibility splays and the parking provision would be commensurate with the use of the premises as a private hotel, which does not attract public use of dining or drinking facilities.

Planning History

9/0891/0525 – Extension and conversion to form hotel (as existing).

9/0797/0361 – Hotel annex to south of existing hotel – refused on grounds of impact, in particular, when viewed across the valley from the Sustrans cycle path and the Melbourne to Wilson Road.

9/1298/0753 – Garages and store. – granted but not implemented, the building would have been on the site of the current proposed L shaped block and its measurements were 18.2 m x 6.5 m in plan with a ridge height of 6.25 m.

Responses to Consultations

Melbourne Parish Council has no objection.

Melbourne Civic Society has no objection but considers a design could have been produced that would have increased the attractiveness of the site.

The Highway Authority has no objection in principle, in view of the recent imposition of a 40 mph speed limit past the site.

Severn Trent Water Ltd has no objection subject to a condition requiring further drainage details.

Responses to Publicity

None received.

Development Plan Policies

The relevant policies are:

East Midlands Regional Plan Policies 2, 3, 24 & 42

South Derbyshire Local Plan Saved Environment Policy 1, Employment Policy 4, Transport Policy 6 and Recreation and Tourism Policy 1

National Guidance

PPS7

Good Practice Guide on Planning for Tourism

Planning Considerations

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

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

Planning Assessment

The principle

Policy 3 of the East Midlands Regional Plan, while seeking to steer most new development towards urban areas, makes provision for the development needs of rural areas, with emphasis on maintaining the character of such areas and reducing the need to travel. Policy 24 seeks to promote continued diversification of the rural economy in a sustainable manner and subject to environmentally sound management of the countryside. The justification for Policy 42 acknowledges the attractiveness of the forthcoming British Formula 1 Grand Prix (at nearby Donington Park) and the importance of increasing the proportion of visitors who stay overnight as a regional priority.

The site lies in the countryside wherein Environment Policy 1 of the Local Plan usually seeks to constrain development to that which is essential to a rural based activity or unavoidable in the countryside. Recreation and Tourism Policy 1 is generally permissive subject to various environmental safeguards. Employment Policy 4 promotes the diversification of the rural economy subject to no conflict with other policies of the Local Plan.

PPS7 expects most new tourist accommodation to be located in established towns and villages but also favours conversion of buildings in rural areas. Bearing PPS7 in mind the Government's Good Practice Guide acknowledges the acceptability of moderate

extensions to existing hotels provided that the extension is not disproportionate for the location concerned.

Whilst there is some tension between the general policies that restrict development in the countryside and encourage it in built up areas, regional and central government policies acknowledge that there can also be a case for extending tourism facilities in rural areas. In this case the site is very well placed to provide accommodation associated with visitors to Donington Park and the airport. Accommodation in Melbourne village would not necessarily be more sustainable in catering for such visitors (as it is slightly further away from those attractions). Furthermore the site is already established as an hotel. Therefore, on balance, and having regard to its particular circumstances, the proposals are acceptable in principle.

Impact on the character of the countryside

9/2009/0388/NO – The building would have the appearance of a traditional farm outbuilding when viewed from the road. Furthermore its floor would be lower than the level of the road, and would be screened to eaves level by the existing hedge. Therefore its impact on the countryside would not be substantial or harmful.

9/2009/0389/NO – The extended lobby and toilet facility would be well concealed from public view and its impact would thus be negligible.

9/2009/0390/OX – The building would be of traditional form, design and materials. Whilst some ornamental trees would be removed the substantial boundary screen planting would be unaffected. Whilst the building would be visible from the road it would be set at a lower level, and by virtue of its height, design and materials it would not have an undue adverse impact on the character and appearance of the countryside.

Highway safety

On the advice of the Highway Authority there would be no detriment to highway safety interests.

Residential Amenity

The proposals would not be seen from within the adjoining dwelling and the increase in activity at the site as a consequence of the development would be unlikely to materially increase the impact of the use in this regard.

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

Recommendation

GRANT permission subject to the following conditions:

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

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

2. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority.

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

3. Large scale drawings to a minimum Scale of 1:10 of eaves and verges shall be submitted to and approved in writing by the Local Planning Authority before they are incorporated in the development. The eaves and verges shall be constructed in accordance with the approved drawings.

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

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

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

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

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

6. Pointing of the existing/ proposed building shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish.

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

7. A sample panel of pointed brickwork/stonework 1 metre square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority prior to the implementation of any other works of pointing. The works shall be carried out in accordance with the approved sample.

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

8. 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.

9. Unless as may otherwise be agreed in writing with the Local Planning Authority, prior to the development being brought into use, the car parking and manoeuvring areas shall be laid out in accordance with the application drawing and shall thereafter be retained free of any impediment to their designated use.

Reason: In the interests of highway safety.

Item **1.7**

Reg. No. **9/2009/0389/NO**

Applicant:

Mrs Sally Warrener
Melbourne View Hotel

Agent:

Steedman Planning Ltd
Tournament Way
Ashby De La Zouch

Proposal: **The erection of an extension to form new reception area
and toilets at Melbourne View Hotel Ramsley Fields
Station Road Melbourne**

Ward: **Melbourne**

Valid Date: **18/05/2009**

Reason for committee determination

See report 9/2009/0388/NO on this agenda.

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. All facing bricks used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless otherwise agreed in writing by the Local Planning Authority.

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

Item **1.8**

Reg. No. **9/2009/0390/OX**

Applicant:

Mrs Sally Warrener
Melbourne View Hotel

Agent:

Steedman Planning Ltd
Tournament Way
Ashby De La Zouch

Proposal: **Outline application (all matters except appearance & landscaping to be reserved) for the erection of a building to create 5 hotel rooms at Melbourne View Hotel Ramsley Fields Station Road Melbourne**

Ward: **Melbourne**

Valid Date: **18/05/2009**

See report 9/2009/0388/NO on this agenda

Recommendation

GRANT permission subject to the following conditions:

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

 (b) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

 Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.
2. Approval of the details of the appearance and the landscaping shall be obtained from the Local Planning Authority in writing before any development is commenced.

 Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.
3. The scale of the building shall be as specified in the submitted Design and Access Statement.

 Reason: For the avoidance of doubt and to ensure that the development is of appropriate scale in its context.
4. Unless as may otherwise be agreed in writing with the Local Planning Authority, prior to the development being brought into use, the car parking and manoeuvring areas shall be laid out in accordance with the application drawing and shall thereafter be retained free of any impediment to their designated use.

Reason: In the interests of highway safety.

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

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

Item **2.1**

Reg. No. **9/2008/0707/SGF**

Applicant:

ATL Limited
Burton Upon Trent

Agent:

John Church
John Church Planning Consultancy
Limited
Victoria Buildings
117 High Street
Chesterfield
Clay Cross Chesterfield

Proposal: **The erection of storage building, construction of
access road & use of land for outside storage Land at
Woodyard Lane Uttoxeter Road Foston Derby**

Ward: **North West**

Valid Date: **06/08/2008**

The application was reported to Committee on 21 April 2009. Members resolved that, contrary to the recommendation, the application be deferred, without prejudice, to allow the applicant to enter into negotiations with the adjacent landowner regarding access arrangements. The application has been amended and further notification and consultation carried out. The summary of changes to the original report is identified by italic text.

Reason for committee determination

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

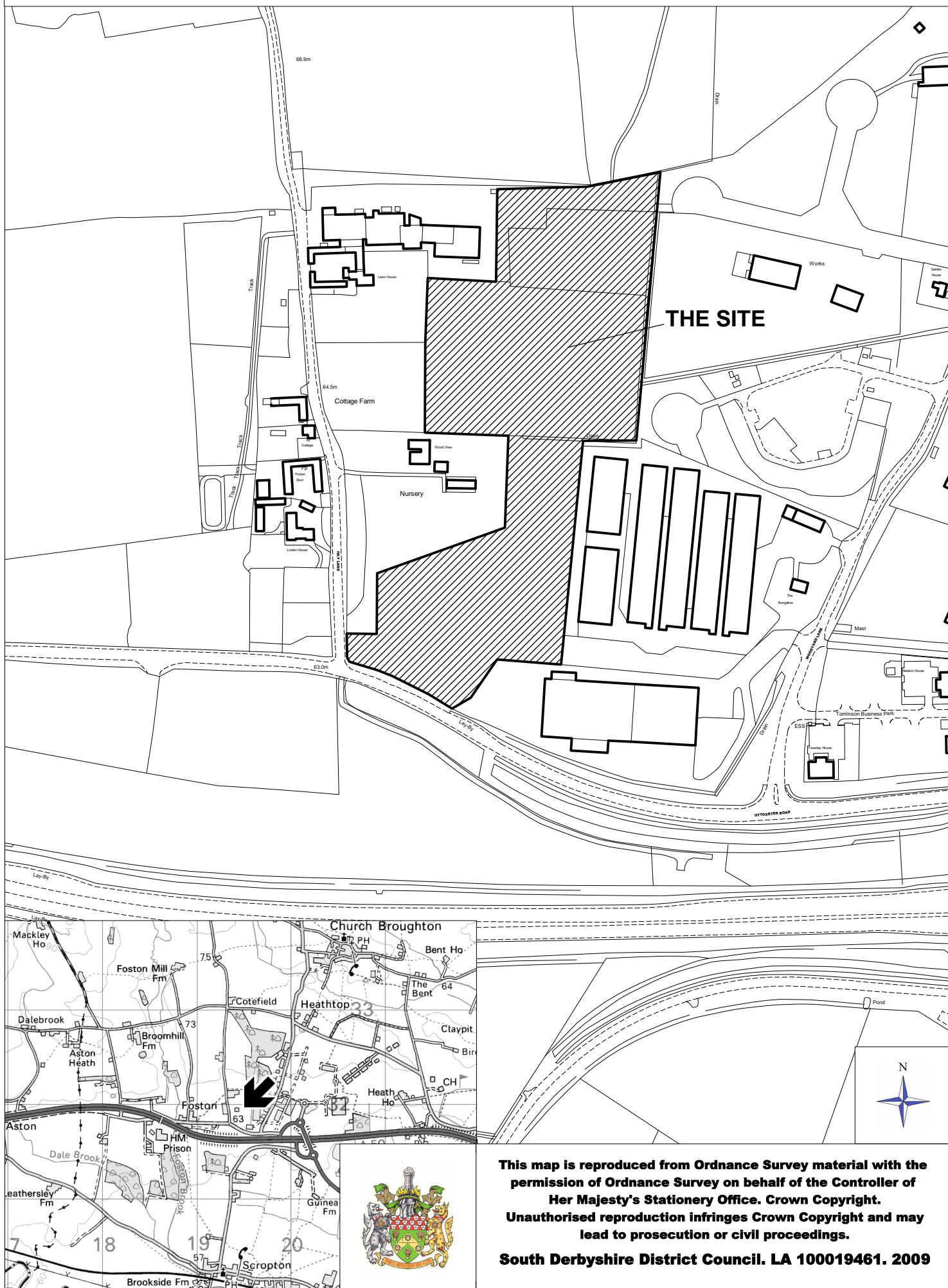
Site Description

The site comprises mainly fields between the applicant's existing storage and distribution site and Hay Lane. Also included is land subject to the grant of planning permission for a storage unit to the rear of the Elbar Services premises in Hay Lane. The area of land subject to the application is some 4.8 hectares.

The land in the vicinity of the site of the proposed building presently contains storage racking, but this does not benefit from planning permission.

Proposal

The main part of the application site would be used for open storage to extend the capacity of the existing storage and distribution business. The maximum height of open storage would be 3 metres (in the south western corner of the site) to 4.5 metres in the



first phase of the project (land to the east and south of Wood View Nursery). The land to the rear of the Elbar premises would be subject to a new warehouse of some 3,600 sq m floor area and maximum height of about 14.5 m. The existing Woodyard Lane access would be utilised.

The amended scheme presents the following changes:

- *The new internal access road would be realigned, some 23 m to the west.*
- *The open storage area would be reduced, being confined to the area to the south west of the new internal road. Its maximum height would be 3.5 m in the area shown hatched on the submitted plan.*
- *Reference to a second phase of open storage is deleted, now annotated as undeveloped unless permitted by the LPA.*
- *The area to the east of the new road and to the west of the existing operational site would be utilised for the parking of trailers. This area would measure approximately 35m x 150 m.*
- *The new warehouse would be some 30m south and 2.5 m west of the original proposed position. This would make it physically possible for vehicles to gain access to the Elbar site via Woodyard Lane and the ATL premises.*

Extensive landscaping is indicated, in particular to the western boundary separating the site from dwellings in Hay Lane to the north of the nursery, where a 2.5 metre high earth bank and acoustic fencing are also proposed.

The amended scheme shows the earth bank and acoustic fencing to be located to the eastern side of the main proposed landscaping.

Originally it was proposed that hours of operation would be continuous.

The applicant confirms a willingness to restrict activity in the new building and open storage areas to between the hours of 7 a.m. and 7 p.m. The trailer parking area would be available at all times.

The application is accompanied by a Noise Report, a Flood Risk Assessment, and a Lighting Design Scheme.

Applicants' supporting information

- ATL Limited wishes to emphasise that it is vital to the sustainability and growth of the Company as a leading logistics operator in the East and West Midlands Regions that the proposed development is approved. Notwithstanding the widespread impact of the current recession, the Company has not needed to declare redundancies. Its strategy is to be in a key position to meet the demands of the future economic upturn through delivering quality services at the right time to a range of multinational and national businesses.
- Planning permission exists in outline for the building that forms part of the application. It will provide outstanding storage and distribution opportunities but, at present, it is constrained by the need to access it by means of Hay Lane. Whilst the number of vehicle movements are restricted by the terms of the decision to grant planning permission, Hay Lane will be subject, nevertheless, to a considerable volume of vehicle movements including many daily movements by

heavy goods vehicles. Under the ATL Limited proposals, the vehicle movements to and from the new building will, however, no longer be required to utilise Hay Lane, if the detailed proposals contained within the planning application are approved. These envisage the new building being accessed from a new internal site road so that all vehicles both entering and leaving the existing ATL premises, the open storage areas and the new building will arrive and depart via the improved access at Woodyard Lane. This has very significant implications of a positive nature for local residential amenities.

- The proposed open storage use will be developed in phases. The first phase is limited to the parcel of land adjacent to the existing buildings where the site is comparatively well screened from both Uttoxeter Road and Hay Lane. Nevertheless, very significant additional landscaping will be provided around the south western periphery of the site. The height of outside storage will be restricted in accordance with assurances already provided to the Council.
- Further very significant landscaping, including the provision of a screen bund along the western periphery of the site where the proposed development is closest to the one large residential property on the east side of Hay Lane, will be implemented. ATL Limited has a strong commitment to its site being located within intensively landscaped surroundings.
- ATL Limited wishes to emphasise the very strong competitive advantages that the Foston location provides, having regard to immediate accessibility to the adjacent A50 junction. There is a growing recognition of the logistical accessibility of this location and of a consequential ability to support a wide range of local employment of all types. Nevertheless, it would not be possible for ATL to grow by it operating from split locations. This would bring with it both logistical difficulties and operational disadvantages arising from the double handling of merchandise.
- Negotiations are at a very advanced stage to involve two key multi-national employers in using ATL's site as their United Kingdom distribution base. The future development that is the subject of this planning application is, therefore, vital to securing this and other long term contracts. The attractiveness of ATL Limited's site to these two companies alone will bring with it, it is anticipated, 30 new jobs. This is extremely significant when many local employers are laying off staff, rather than attracting new employment.
- It is therefore, vital that the submitted planning application is approved. Finally, ATL Limited wishes to reaffirm its commitment to carry out not only intensive new landscaping but also to ensure that the new building is served for normal day to day purposes exclusively from the new internal site road. Accompanying this assurance is the commitment to limit the height of outside storage within the first phase development.
- *A letter has been supplied by the managing director of Elbar Services Limited confirming his willingness, in principle, to work with the applicant with a view to heavy goods vehicle movements from the Elbar site utilising the new ATL access road, once constructed, thus avoiding such movements to and from Hay Lane. Furthermore it is indicated that the applicants would be granted first option to buy the Elbar site, subject to agreement on price.*
- *All vehicles from the development to which the application relates would be via Woodyard Lane. This carries considerable advantage over the appeal situation because only HGV movements are regulated by the inspector's' decision and conditions. It is hoped that the potential to divert HGV movements from the existing Elbar site will be given weight when a decision is reached.*

- *Views of the relocated building would be masked by the proposed bund and landscaping.*
- *Views of existing permitted industrial development would also be screened.*
- *Being set behind a 30m belt of block planting the relocated bund would not be visible from Hay Lane, but would act to deflect noticeable noise from vehicle movements within the site.*
- *The proposed amendments would ensure that the development would not be harmful to the character of the locality or to residential amenity and thus it would accord with Employment Policy 1. The objectives of the Local Plan provide a framework in which existing firms can develop and grow, particularly in reflection of the opportunities afforded by the proximity of the A50 and Toyota. Furthermore the traffic problems arising from the appeal decision would not occur.*
- *Alternative sites referred to in the previous recommendation are not suitable for the applicant's business because:*
 1. *A split site would introduce many unacceptable inefficiencies and would destroy competitiveness.*
 2. *There would be considerably increased traffic on Hay Lane. HGV trip generation only is restricted by the Inspector's decision.*
 3. *Enquiries revealed that the cost of re-locating and developing an alternative location on the land nearby at Foston could not be met. An approach had been made and the figures quoted were not within their capacity.*
 4. *The Company has invested very considerably in the existing site enabling it to capture a significant market share in the national and regional logistics sector in which it specializes.*

Planning History

Various permissions have been granted for incremental expansion of the company's existing premises.

Outline permission was granted on appeal for a cold store to the rear of the Elbar Services premise on Hay lane (9/2005/0191). A condition was applied limiting hours and frequency of HGV movements.

Responses to Consultations

Foston and Scropton Parish Council objects for the following reasons:

- a) The development would replace green fields.
- b) Landscaping would be inadequate.
- c) It is not clear whether the proposed building would replace existing temporary storage units.
- d) The drainage may be inadequate.
- e) Light pollution could adversely affect residents.
- f) There would be a 400% increase compared to existing, a huge and unacceptable rise in industry in the village.
- g) There would be increased traffic.
- h) The site is not part of the former MOD site and has never been allocated for industry.
- i) There is allocated industrial land at Dove Valley Park.

- j) A precedent would be set for further industrialisation of Foston village.
- k) Lorries would still use the village as a cut through. Junctions between Hay Lane and Woodyard Lane to Uttoxeter Road have very poor visibility.
- l) There are no footways for pedestrians on either road.
- m) There would be increased noise pollution.
- n) The Parish Council supports the objections of villagers.

The Parish Council reiterates its objection to the proposal and makes the following additional comments on the amendments:

- *There is no definitive commitment to the removal of HGV traffic in Hay Lane.*
- *Proposed sound attenuation would not be effective until the landscaping matures, which could take several years.*
- *There is no weight restriction on vehicles passing through Foston village from the A50.*

Church Broughton Parish Council also objects:

- a) The development would encroach in to open countryside.
- b) This is a Greenfield site.
- c) There is sufficient land at Dove Valley Park.
- d) There is housing close by.
- e) The land is not part of the former airfield.

The Highway Authority considers the principle of development to be acceptable subject to the imposition of conditions requiring improvements to the Woodyard Lane access. It considers that the proposal would not necessarily result in a decrease in vehicle movements in Hay Lane.

The Highways Agency has no objection.

The Development Control Archaeologist considers that there would be no threat to archaeological interests.

The Pollution Control Manager considers that there would be unacceptable noise experienced by neighbours and recommends refusal of permission on this basis. *The revised proposals would be sufficient to remove the objection, subject to operational conditions and the provision of additional acoustic barriers between the edge of the proposed bund and new building and around the west and north-west boundaries of the proposed outdoor storage area.*

The Environment Agency objects because the FRA does not provide sufficient information to enable the flood risks to be assessed. *A revised FRA has been received and the Environment Agency's considered response will be reported verbally.*

Responses to Publicity

31 local households have objected as follows:

- a) The proposal would be contrary to the development plan.

- b) There would be a huge increase in business activity at the ATL premises.
- c) There would be increased traffic and highway dangers.
- d) Noise and light pollution would be detrimental to the occupiers of residential properties.
- e) The noise report omits to take account of several near neighbours.
- f) There would be increased disturbance in the wider locality because of increased HGV movements.
- g) The development would be detrimental to the character of the countryside.
- h) The economic needs of the applicant do not justify development in the countryside.
- i) Good quality agricultural land would be lost.
- j) The site is not well placed to provide local employment. Staff would have to travel to the site.
- k) There is other land allocated for such development in the locality.
- l) Proposed landscaping and earth bunds would not alleviate noise to neighbours.
- m) Claims that traffic in Hay Lane would be reduced are misleading.
- n) The land has not been in MOD ownership.
- o) The proposal is not comparable to the development allowed on appeal to the rear of Elbar premises.
- p) 24 hour working has previously been rejected. The Elbar appeal decision carries conditions precluding HGV movements at unsociable hours.
- q) A precedent would be set for further industrial development in the countryside.
- r) The risk of fire would be unacceptable.
- s) There is insufficient detail about the nature of the use to properly assess impact.
- t) The flood risk assessment does not address the drainage implications of large new hardstanding areas. The area already suffers from flooding.
- u) Adjacent land could be contaminated.
- v) There could be harm to livestock.
- w) Nearby equestrian businesses would be adversely affected by noise.
- x) Development should take place on brownfield sites and not this greenfield land.
- y) There would be increased and unjustified environmental pollution.

In response to the amended scheme 15 letters reiterate previous concerns, and the following additional comments are made:

- a) The resolution to defer the application to allow the applicant to discuss traffic movements to the Elbar site is not understood, because HGV traffic in Hay Lane was not an issue cited in the recommendation to refuse permission.*
- b) Because the owner of Elbar cannot fully control lorries using the site (which has tenants) a condition cannot be imposed on that site.*
- c) Even if the permitted 50 movements to Elbar via Hay Lane were to be removed the neighbours would experience a huge deterioration to amenity as a result of the 250 movements proposed in the application.*
- d) Confusion over the Hay Lane Access is fudging the whole issue and the valid grounds for refusal remain.*
- e) The Elbar appeal inspector's limits on HGV movements (maximum 50 per day) were imposed for amenity reasons and the permitted levels must not be increased.*
- f) The proposed amended hours for the new building must be subject to the lower numbers of HGV movements imposed by the inspector for weekends and bank holidays.*

- g) *The 24-hour operation of the trailer park would cause disturbance and loss of amenity to Hay Lane residents, and by having different parts of the site subject to different operating hours there would be monitoring difficulties. The proposed bunding is partial only and would not reduce noise to residents from this and other parts of the site.*
- h) *The noisiest part of the site (apron to the new buildings) is in direct line to Lawn House with no bunding and little additional planting.*
- i) *The fact that the applicant has let buildings to third parties undermines the case that development is essential for the company's expansion needs.*
- j) *The re-sited building would increase noise to the neighbours. The Elbar appeal scheme stated that loading bays doors and plant would be sited to the north and east façades to reduce noise and disturbances. The revised plan would avail the occupants of Lawn House of the worst possible situation. If permission were to be granted for the building it should be on the same terms of control as the appeal scheme.*

Development Plan Policies

The relevant policies are:

South Derbyshire Local Plan Environment Policy 1, Employment Policy 1 and Transport Policy 6

East Midlands Regional Plan Policy 3 and Policy 35

National Guidance

PPS1, PPG4, PPS7, PPG13 & PPG24

Planning Considerations

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

- The principle.
- Impact on the character of the countryside.
- Residential amenity.
- Highway safety.
- Flood Risk.
- Archaeology.

Planning Assessment

The principle

The proposed storage building is of similar scale and character to the development allowed on appeal, albeit that the decision was based on a proposal related to another existing business, with its own specific context. However the application proposal affects a much larger area of open land and, in particular, would feature open storage to a height of 3.5 metres (close to Hay Lane) to 4.5 metres and an area for trailer parking. Local Plan Saved Employment Policy 1 provides for the expansion of industrial or business uses adjacent to their existing premises provided that the proposal is not detrimental to the character of the locality or residential amenity and does not cause

environmental or traffic problems. PPS1 and PPS7 stress the need to protect and enhance the quality, character and amenity value of the countryside. PPS7 seeks to steer new business development in rural areas to the re-use or re-development of existing buildings. This is an important contextual consideration when assessing whether or not a development would be compliant with Employment Policy 1. For the reasons set out below, in terms of impact on the countryside and residential amenity the development would not achieve all the qualitative requirements of the policy. Furthermore there is land available in the local area where the business could be accommodated, including Dove Valley Park and Hilton Business Park. There is also land amounting to about 4 ha on the opposite side of Woodyard Lane with permission for B8 development, which could potentially be utilised for expansion of the firm. Acceptance of this major expansion could make it difficult to resist similar applications for the expansion of businesses that involve significant outward encroachment into open countryside. *Notwithstanding the other potential sites the applicant contends that these are not feasible options for the company for the reasons set out in the applicant's supporting information.*

Impact on the Character of the Countryside

The development would involve a profound change to the open character of the countryside west of the established ATL site. Whilst the *original* application proposed extensive screen landscaping, this would *have been* achieved by substantial earthworks, in the form of a 2.5 metre high bund topped with 1.5 metre high fence, itself an alien feature in the settled farmland landscape of the area. *The bund and fence would have been in the foreground when viewed from Hay Lane. The revised design of the landscaping and earthworks would be more appropriate to the landscape character of the area and would screen and mitigate the visual impact of proposed and existing industrial buildings when viewed from Hay Lane.* Even with extensive landscaping the presence of substantial quantities of outside storage and associated lighting *to the south-west corner of the site* would have a harmful impact, particularly in the winter months, when foliage becomes sparse or non-existent. This fundamental failure to protect and enhance the quality, character and amenity value of the countryside, as advocated by PPS7, weighs against the benefit to the applicant of expanding in the westerly direction.

Residential Amenity

The existing premises can be operated continuously. The outline permission granted on appeal (9/2005/0191) was subject to restrictions on the number of lorry movements and the times they could take place. *Those restrictions were imposed to protect the amenities of neighbours and they highlight a relevant material consideration. Nevertheless it is incumbent on the local planning authority to consider each case on its merits. In this case the main distinction between the application proposal and the appeal proposal, in respect of the proposed building, is the means of access, which has implications for the source of potential disturbance from vehicle movements.* By bringing a 24-hour operation into closer proximity with existing residential properties the proposal would *have*, on the advice of the Pollution Control Manager, resulted in unreasonable interference with the amenities of occupiers. This would *have been* against the guidance in PPG24. This issue further weighed against the economic benefits described by the applicant.

The additional information provided by the applicant relating to potential changed traffic flows to the existing Elbar site cannot be secured by condition, as that site is not within the applicant's control. However in the event that the applicant were to implement the

current Elbar permission then traffic would be entitled to enter and leave via Hay Lane, albeit bound by the conditions imposed by the appeal inspector on HGV movements. Vehicles of 7.5 tonnes laden weight, or less, would be unrestricted. If the current application were to be permitted a condition could be applied, limiting traffic movements to the building from Woodyard Lane only, and the applicant has also agreed to the hours of operation being controlled.

The proposed reduction in hours of operation would limit the potential for disturbance. On the advice of the Environmental Protection Manager and subject to appropriate conditions the revised proposal would not result in demonstrable harm to the amenities of neighbours.

Highway Safety and Transportation

On the advice of the relevant highway authorities the application does not offend highway safety or sustainable transport interests. By precluding implementation of the outline permission for the Elbar site the vehicle movements associated with that permission along Hay Lane would not occur as a direct consequence thereof. Nevertheless the current proposal remains to be considered on its own merits, as it cannot offer any ultimate guarantee about vehicle movements relating to another site.

Flood Risk

The submitted Flood Risk Assessment does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. *A revised FRA has been received and the Environment Agency's considered response will be reported verbally, along with an appropriate recommendation taking account of that response.*

Archaeology

The development would not threaten archaeological interests.

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

Recommendation

REFUSE permission for the following reason:

1. Local Plan Saved Employment Policy 1 provides for the expansion of industrial or business uses adjacent to their existing premises provided that the proposal is not detrimental to the character of the locality or residential amenity and does not cause environmental or traffic problems. The proposed open storage areas and the associated lighting scheme would be visually obtrusive, failing to protect and enhance the quality, character and amenity value of the countryside. As such the proposal is not compliant with either the aforementioned policy or Local Plan Saved Environment Policy 1.