

REPORT OF THE HEAD OF PLANNING SERVICES

SECTION 1: Planning Applications

SECTION 2: Appeals

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

1. PLANNING APPLICATIONS

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

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

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

Item 1.1

Reg. No. 9/2009/0700/U

Applicant:
Mrs Margaret Rook
c/o Agent

Agent:
Mr Matthew Green
Green Planning Solutions LLP
Unit D Lunesdale
Upton Magna Business Park
Shrewsbury

Proposal: **The Change Of Use Of Land To Extend Existing Residential Gypsy Site To Provide Utility/Day Room And Additional Hard Stand Ancillary Use At Blue Posts Caravan Site Derby Road Egginton Derby**

Ward: **Etwall**

Valid Date: **02/11/2009**

Reason for committee determination

Councillor Lemmon has asked for this application to be brought to Committee as local concern has been expressed about a particular issue.

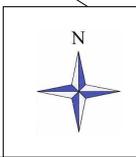
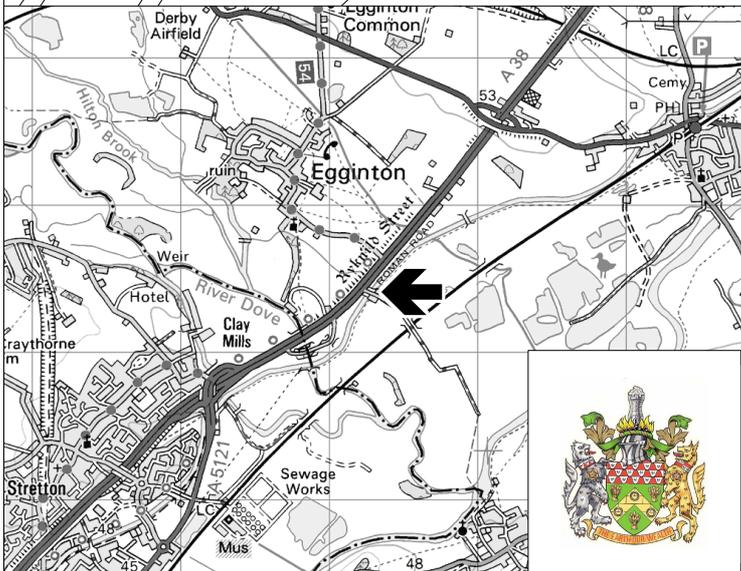
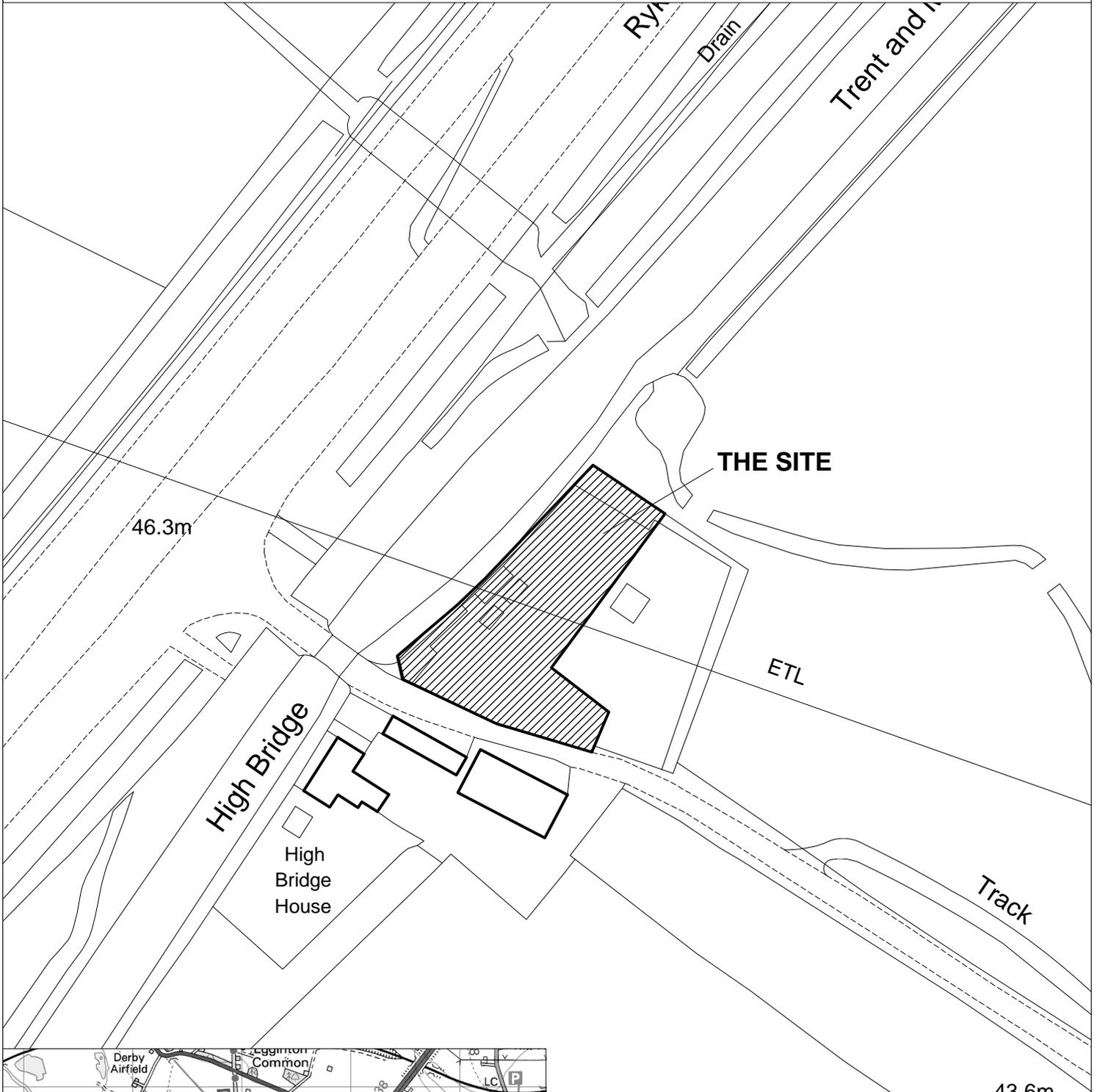
Site Description

The application site comprises a part of the land ownership of the gypsy family that occupy the authorised part of the site. The site lies below the level of the Trent and Mersey canal that is a Conservation Area for its whole length that passes through South Derbyshire. The bridge that passes over the canal is listed Grade II, as is High Bridge House that lies to the south of the application site. The site is separated from the canal by a wall and hedge and a wall that fronts onto High Bridge Lane and the site is also below the level of this road until the site entrance off High Bridge Lane to the authorised part of the site. There is currently no boundary between the authorised site and the rest of the applicant's land ownership.

Proposal

The application has been amended since submission to change the appearance of the proposed day room. It would be constructed in brick and tile with windows and doors of a traditional appearance. The other alteration is a change to the originally proposed fence boundary between what would become the authorised site, should planning permission be granted, and the remainder of the site in the applicant's ownership. The application also proposes an increase in the area of authorised hardstanding.

9/2009/0700 - Blue Posts Caravan Site, High Bridge Lane, Egginton DE65 6HA



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Applicants' supporting information

The proposals have been drawn up in accordance with the principle set out in the Model Standards for Caravan Sites 2008; the proposals meet the needs of the applicants and their extended family and includes a small area of grass outside the day room for amenity purposes. The proposed building has been designed with the features typical of a canal side building of this scale. The supporting statement contains an offer to replace the wall on the north boundary to increase flood storage capacity to meet some of the objections raised by the Environment Agency at the previous public inquiry.

Planning History

The site is long established having gained planning permission for use as a gypsy site in 1989 at appeal. The use of the site was confirmed following an appeal in the early 2000s when the occupation of the site was limited to three caravans. Subsequent to that appeal decision, the site owners acquired additional land and expanded the site without the benefit of planning permission. A regularising application was submitted and refused and the subsequent appeal dismissed after a public inquiry. Enforcement action was then taken to restore the site to its original boundaries and the appeal (again at a public inquiry) against that action was dismissed very much for the same reasons that the previous appeal was dismissed. The provisions of the enforcement notice have been enforced without the need to resort to court action. However, there are some elements to the enforcement notice that remain to be completed. Action on these has been delayed pending the outcome of this application, as some of the elements would be affected if this permission were granted now or at appeal. These relate to the erection of a fence to separate the permitted site from the rest of the applicants land ownership, the removal of a septic tank and final works to remove the internal fittings within the unauthorised building together with the grassing of the remaining area of hardstanding that is within that extended ownership.

Responses to Consultations

Egginton Parish Council strongly objects to this application on the basis that this is yet another attempt to increase the size of the site and its facilities and this should in no way be allowed. Specific grounds of objection are as follows:

- a) The site is at high risk from flooding not only from the River Dove but also the tributaries of that river that abut the site. There is no safe means of escape from the site in the event of a flood
- b) Impact on the Listed Buildings and Conservation area would be visually intrusive on both these heritage assets. Two inspectors have found the extension of the site to detract from the listed buildings and most recently the proposal was found to have an *'alien urban appearance that draws the eye away from the listed buildings to an extent that it seriously detracts from their setting'*. The Parish Council considers that adding a day room and an extension to the hardstanding would merely intensify this impact.

The Environment Agency has objected to the development on the basis that the site lies within Flood zone 3 and has a high risk of flooding where there is a risk to life and/or property within the site from fluvial inundation that would be unacceptable if development were to be allowed. [see *planning assessment below*].

British Waterways has no objection to the principle of the development subject to the imposition of conditions. These relate to the position of the building but it is willing to accept building within 5 metres of the canal, landscaping, tree planting, lighting and the materials of construction. British Waterways requests that its requirements for the construction of the day room are drawn to the attention of the applicants.

The County Archaeologist notes the position of the site and has identified that there may be prehistoric and Romano-British archaeology that would be revealed during the excavation of foundations and service trenches. Accordingly a condition requiring a watching brief during excavations is recommended.

Responses to Publicity

No representations have been received.

Development Plan Policies

The relevant policies are:

RSS8: Policies 1, 2, 12 & 26

Saved Local Plan: Housing Policy 15.

National Guidance

ODPM Circular 01/2006

PPS 3 & 7

Other Advice

Derbyshire Gypsy and Traveller Accommodation Assessment 2008

Designing Gypsy and Traveller Site Good Practice Guide 2008

Planning Considerations

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

- The Development Plan and other guidance/advice as a material consideration
- Listed Building and Conservation Area Issues
- Flooding Issues
- Other material considerations.

Planning Assessment

The Development Plan and Government Advice

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

Policy 16 of the East Midlands Regional Plan (EMRP) refers to Circular 01/2006, which requires pitch numbers to be allocated to each Local Authority in order to meet a serious shortfall in gypsy and traveller sites. Appendix 2 of the EMRP sets out the minimum additional pitch requirements for gypsies and travellers within the District between 2007-2012 identifying a requirement for 19 pitches. There currently remains an outstanding requirement of 7 pitches within the District. Following 2012, an ongoing increase of 3% per annum should be assumed unless a revised Gypsy and Traveller Accommodation Assessment had been completed. There remains an identified need for the provision of gypsy and traveller sites within South Derbyshire. The current proposal would not contribute towards meeting the District's needs to 2012 as identified in the EMRP as this is an existing site that was counted in the Derbyshire GTAA 2008.

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

'Designing Gypsy and Traveller Sites Good Practice Guide 2008' which recommends that as a guide an average family pitch must be capable of accommodating an amenity building, a larger trailer and touring caravan, parking space for two vehicles and a small garden area. The proposal conforms to this advice in respect of gypsy and traveller sites.

Listed Building and Conservation Area Issues.

These issues were considered by previous inspectors to be paramount in rejecting both the planning and enforcement appeals for the whole of the applicants land ownership. The Parish Council rightly draws attention to the last appeal inspector's conclusion that: *"Because of the open nature of the adjoining countryside to the east when looking towards the listed buildings the appeal site is an important part of their setting. I found that its alien urban appearance draws the eye away from the listed buildings to the extent that it seriously detracts from their setting. Therefore there is conflict with Local Plan Environment Policy 13 and the advice in PPG 15 referred to above."*

However this proposed site is different to the proposals before those Inspectors. The building that was previously considered intrusive by the Inspectors has been restored to a more agricultural appearance through the works undertaken to comply with the enforcement notice.

The proposals involve a single storey day room (as envisaged by the last planning inspector) that would replace the inappropriately design existing amenity block albeit that the new structure would be larger than the existing building. The design of the building is more sympathetic than the existing amenity block has recently had some minor adjustments to that design to ensure that its setting is sympathetic to the canal conservation area and the nearby listed structures.

The extension to the site is also considerably reduced from the previous proposals. Given that inappropriately designed buildings and land in the vicinity of the agricultural building would be returned to grass under the terms of the enforcement notice, then the issue is whether the expansion of the site proposed by the applicants that reflects a

need to access the grassed area and the agricultural building, is justification in itself to refuse planning permission for the development.

It is considered that the increased site area would have an impact on the character and appearance of the Conservation Area and the listed structures. However, by imposing appropriate conditions to remove the existing amenity block, control the design and materials of construction of the day room and the surface finish of the area of hardstanding, on the advice of the Design and Conservation Officer, the scheme would be acceptable and actually offer an enhancement to the setting of the listed building and conservation area.

Flooding Issues

The Environment Agency objection is noted. However, the Inspector at the enforcement appeal considered the flooding issues at this site in March last year. His conclusions were (inter alia):

“15. There is no dispute between the parties that the site is subject to flooding; this is evident from the submitted photographs. It is within the flood plains of the River Dove and Egginton Brook. No Flood Risk Assessment (FRA) has been submitted for this development but one was prepared by the appellant in connection with a 2007 planning application for the extension of the caravan site. This indicates a 1 in 100 year flood depth of between 0.7 and 1.4m. The Environment Agency generally accepts this FRA apart from its failure to identify the site as falling within the functional flood plain of the River Dove, bringing it within flood zone 3b rather than 3a. This was not disputed by the appellant at the inquiry.

“16. As far as flood risk vulnerability is concerned in my view the appeal development falls within the less vulnerable category of table D2 to Annex D of PPS25. It comprises land and buildings used as part of a residential caravan site and as such occupiers and visitors are likely to be present on the premises and therefore there is a potential risk to people and property. Applying table D3, less vulnerable development should not be permitted in zone 3b.

“17. However, there are specific circumstances relating to this site that should be taken into account. The Environment Agency representative accepted that the development involved the removal of other buildings and structures and although a small extension had been added there was, in totality, no decrease in flood storage or detrimental effect on flood levels. Possible contamination from the effects of flooding on the septic tank would be minimal bearing in mind the polluted nature of floodwater generally. Also, whilst a wall close to the water course on the north side of the site could impede the movement of flood water this could be resolved if the wall were replaced by post and rail fence, in effect resulting in a net gain in terms of displacement and flows. Appeal Decision APP/F1040/C/08/20823296

“18. There were concerns that acceptance of this development would set a precedent and thereby have a cumulative effect on flood risk. In my opinion these concerns are ill founded because the prospect of other similar developments coming along within the flood plain is remote. It seems to me that the flood risk implications arising from the appeal development are minimal in terms of the effect on the capacity of the flood plain to store water and on the flow of floodwater. Indeed, if planning conditions were imposed requiring the implementation of a scheme for warning occupiers of the caravan

site of possible flooding and requiring changes to the northern boundary any concerns regarding safety and flooding could be resolved. Consequently I see no reason for rejecting this development on the basis of its effect on flood risk.”

Having considered the flooding issues in that case with a larger area devoted to use as a gypsy site, the Inspector’s conclusion was that there was no basis for rejecting the development on grounds of flood risk. To pursue an objection on these grounds now would be unreasonable and open the Council to the risk of costs being awarded.

The Environment Agency has been notified of the Officer’s Recommendation to grant planning permission.

Other Material Considerations

British Waterways has no objection to the principle of the development but originally requested a condition moving the building away from the side of the canal. This would have had the effect of siting the building in close proximity to the agricultural building and increasing the exposure of the site from the Canal Conservation Area. (British Waterways offers no right of support to adjacent property and it is for the applicants to ensure that their works do not adversely affect the canal infrastructure at this point. In other words, British Waterways has the power to ensure that works in the vicinity of the canal do not compromise its integrity; they have confirmed this). However, they have now agreed to the original siting subject to conditions.

The County Archaeologist’s request for a watching brief on any excavations on the site through the imposition of a condition is recommended.

In the light of the above the application is recommended for permission subject to recommended conditions that are considered further below.

Conditions.

An important issue here is to limit the number of caravans on the site to three, as is the case at present. In addition to conditions requiring that the site be occupied by the gypsy or traveller community, no trade or business, limiting the caravans to those that can be towed on the public highway are also recommended. It will also be important to control the construction of the day room to ensure that its appearance complements the conservation area as well as meeting British Waterway’s requirements for protecting the integrity of the canal. Conditions relating to the new sewage treatment system and any soakaway are also recommended.

Enforcement Issues

If the Committee is minded to grant permission then the requirements of the extant enforcement notice have to be considered. One of the main outstanding requirements is the erection of a fence to delineate the permitted gypsy site from the remaining land in the ownership of the applicants. The line shown on the enforcement notice drawing would no longer be enforceable should this application be granted permission. Accordingly the erection of a fence, including gates to access the remaining land ownership is recommended.

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

Recommendation

GRANT permission subject to the following conditions:

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 08_021_004 B.

Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. No work shall take place on the site until details of the scheme for the disposal of foul water the position of which is illustrated on the approved drawings have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details that have been agreed prior to the first occupation of the day room hereby permitted.

Reason: The position of the foul water disposal system is only illustrated on the approved drawings and the Local Planning Authority wishes to ensure that it and any soakaway are designed to minimise potential pollution to the adjacent watercourse.
4. Prior to the development hereby approved commencing, details of the finished floor levels of the proposed day room hereby approved shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

Reason: To minimise the impact of the development on the adjacent Trent and Mersey Canal Conservation Area and nearby listed structures
5. Details of the fence to be erected to define the boundary of the gypsy site hereby permitted shall be submitted to within one month of the date of this permission. The approved fence details shall then be used to construct the fence and it shall be erected on the boundary of the gypsy site as shown on the attached drawing 9/2009/0700/A within one month of the approval of the details. Once erected the fence shall thereafter be retained in place to define the area of the approved gypsy site known as Blue Post High Bridge Egginton.

Reason: The curtilage of the approved gypsy site at High Bridge has been the subject of two planning appeals in recent years. The result of each of these appeals was that the extent of the gypsy site should be limited to that originally permitted in 1989. The Local Planning Authority recognises that the original appeal site does not contain all the facilities now recognised as representing good practice under current Government advice. Accordingly planning permission has been granted for the dayroom and an additional area of hardstanding. In the light of this a new boundary to the permitted gypsy site is required and this condition seeks to define that boundary to reflect the

requirements of the extant Enforcement Notice, which requires the erection of a boundary fence to so define the permitted gypsy caravan site.

6. Prior to the commencement of the building works to the day room hereby permitted the 'patio' area to the front of the existing amenity block, including all associated boundary walls, shall be removed from the land. Within one month of the first occupation of the day room the existing amenity block shall be demolished and permanently removed from the land.

Reason: In order to facilitate the construction of the new day room and remove the existing amenity block that the permitted day room will replace and in the interests of improving the character and appearance of the Trent and Mersey Canal Conservation Area and the setting of the grade II listed High Bridge and High Bridge House.

7. The caravans sited on this site shall be occupied solely by persons who conform to the definition of a gypsy or traveller found in ODPM Circular 01/2006.

Reason: The caravan site contributes to the gypsy and traveller accommodation in South Derbyshire and has been permitted as such. The Local Planning Authority wishes to maintain the supply of gypsy and traveller accommodation within the district that would be lost unless there is a condition limiting the occupation of the site.

8. No vehicle larger than 3.5 tonnes shall be kept at the site at any time save for those used in the construction of the facilities permitted by this application.

Reason: The site is accessed via a Grade II listed structure that has a limited carrying capacity. Whilst it is appreciated that construction traffic of a heavier weight may be necessary, the general traffic to and from the site is hereby limited in the interests of the future stability of the structure.

9. This permission authorises the siting of three caravans on the site that shall be capable of being towed on the public highway.

Reason: The site is served via an access to the A38 Trunk Road, the siting of additional caravans could lead to an increased risk to highway safety to the detriment of the occupiers of the site as confirmed by the Planning Inspectorate in its decision dated 6th March 2006 in respect of appeal APP/F1040/A/05/1181438.

10. Before development is commenced, details of the construction of the footings for the day room shall be submitted to and approved in writing by the Local Planning Authority in consultation with British Waterways. The day room foundations shall thereafter be constructed in accordance with the approved details prior to the construction of the rest of the dayroom.

Reason: In order to ensure that the construction of the day room does not prejudice the structural integrity of the adjacent Trent and Mersey Canal in the interests of the canal available for recreational purposes.

11. The land within the curtilage of the gypsy site hereby permitted shall not be used for the parking of motor vehicles other than private motor vehicles and shall not be used for the purposes of trade or business.

Reason: To protect the character and appearance of the Trent and Mersey Canal Conservation Area and the setting of the Grade II Listed Structures.

12. Prior to the first use of the day room hereby permitted the owners of the site shall register with the Environment Agency Flood Alert system and a letter confirming membership of the system shall be submitted to the Local Planning Authority prior to the first occupation of the day room.

Reason: The site lies within Flood Zone 3b and in order to minimise the risk to the occupants of the site, the site is required to be part to the Environment Agency's Flood Risk Alert System in order that the occupiers of the site receive adequate warning of the risk of flooding to the site.

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

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

14. Details of the intensity, angling and shielding, and the area of spread of any lights in addition to those already on the site shall be submitted to and approved in writing by the Local Planning Authority. The additional lights shall be installed in accordance with these details and thereafter retained in conformity with them. The submitted scheme shall comply with the Institute of Lighting Engineers "Guidance notes for the Reduction of Light Pollution" (2000).

Reason: To preserve the character and appearance of the Trent and Mersey Canal Conservation Area.

15. Notwithstanding the submitted details no part of the day room building shall be carried out until samples of the facing materials to be used in the execution of the works have been submitted to and approved in writing by the Local Planning Authority. The agreed materials shall then be used in the development hereby approved.

Reason: In the interests of improving the character and appearance of the Trent and Mersey Canal Conservation Area and the setting of the grade II listed High Bridge and High Bridge House.

16. 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 improving the character and appearance of the Trent and Mersey Canal Conservation Area and the setting of the grade II listed High Bridge and High Bridge House.

17. Large scale drawings to a minimum Scale of 1:10 of eaves, verges, external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The external joinery and associated details shall be constructed in accordance with the approved drawings

Reason: In the interests of improving the character and appearance of the Trent and Mersey Canal Conservation Area and the setting of the grade II listed High Bridge and High Bridge House.

18. No part of the development shall be carried out until precise details, specifications and samples of the materials to be used in the hard landscaping

works have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the Local Planning Authority.

Reason: In the interests of improving the character and appearance of the Trent and Mersey Canal Conservation Area and the setting of the grade II listed High Bridge and High Bridge House.

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

Reason: In the interests of improving the character and appearance of the Trent and Mersey Canal Conservation Area and the setting of the grade II listed High Bridge and High Bridge House.

20. 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 improving the character and appearance of the Trent and Mersey Canal Conservation Area and the setting of the grade II listed High Bridge and High Bridge House.

21. Pointing of the 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 improving the character and appearance of the Trent and Mersey Canal Conservation Area and the setting of the grade II listed High Bridge and High Bridge House.

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

Reason: In the interests of improving the character and appearance of the Trent and Mersey Canal Conservation Area and the setting of the grade II listed High Bridge and High Bridge House.

24. The day room building hereby permitted shall only be used as a day room to serve the existing gypsy site and for no other purpose.

Reason: In order that the Local Planning Authority may retain control over the future use of the premises and in the interests of the amenity of the area.

Item 1.2

Reg. No. 9/2009/0898/FO

Applicant:
Mr Gary Jesson
Commerce Street
Melbourne

Agent:
Mr Gary Jesson
Commerce Street
Melbourne

Proposal: **Outline Application (All Matters To Be Reserved Except For Means Of Access) For The Erection Of A Dwelling And Garage On Land Adjacent To 86 Commerce Street Melbourne Derby**

Ward: Melbourne

Valid Date: 15/12/2009

Reason for committee determination

The application requires judgement to be applied in respect of Supplementary Planning Guidance.

Site Description

The site lies towards the western end of Commerce Street and is part of the side garden to No 86. There are two new dwellings (82 & 84) immediately to the east of the site. The site level is approximately 800 mm lower than the ground level to No 84.

Proposal

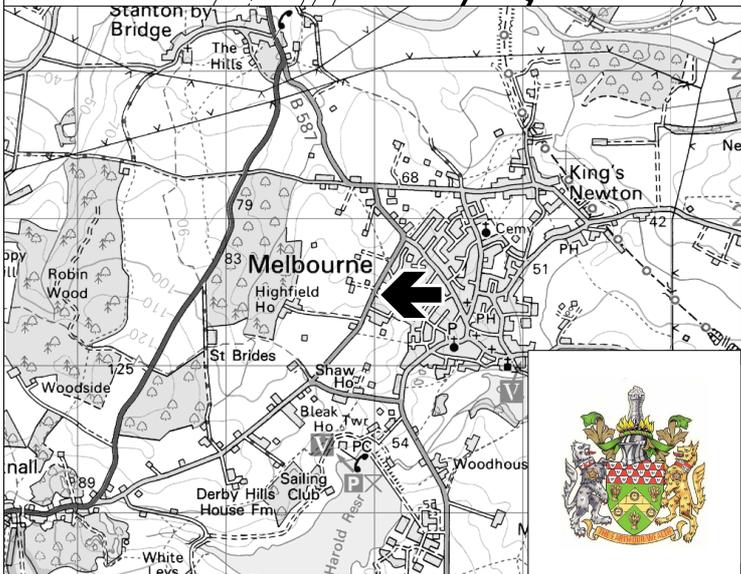
The proposal is in outline, with access to be considered now. An indicative sketch shows a dwelling using the roof space to provide first floor accommodation. A low single storey wing is indicated to the front of the proposed dwelling, with the height increasing to 1.5 storeys at a distance of about 6 metres from the nearest habitable room window to No 84. The maximum eaves height would be 2.5 m relative to ground level at No 84.

The existing old garage/store adjacent to the frontage would be demolished. A new joint access, serving both No 86 and the proposed dwelling, would be formed at the eastern edge of the site frontage. The existing access adjacent to the Commerce Street/Cockshut Lane junction would be closed.

Applicants' supporting information

The Design and Access Statement contends that the relationship of the site with No 84 Commerce Street has influenced the proposed design in terms of mass and privacy.

9/2009/0898 - Land adjacent to 86 Commerce Street, Melbourne DE73 8FT



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Planning History

The two new houses at Nos. 82 & 84 have been built in the eastern half of the original side garden to No 86 (9/2000/1082/F).

Outline permission for this proposal was granted, following a site visit by Committee, in 2005 (9/2004/1450) but has since lapsed.

Responses to Consultations

The Parish Council has no objection subject to the provision of two parking spaces, to avoid further congestion in Commerce Street.

Melbourne Civic Society considers that the earlier grant of permission was wrong, noting that a large part of the original garden to No 86 has already been developed. The Society considers the proposal to be 'town cramming' at its worst, substandard in amenity and privacy.

Severn Trent Water Ltd and the Highway Authority have no objection.

Responses to Publicity

None

Development Plan Policies

The relevant policies are:

East Midlands Regional Plan Policies 2 and 3.
Saved South Derbyshire Local Plan Housing Policies 5 & 11 and Transport Policy 6.

National Guidance

PPS1 PPS3 PPS13

Planning Considerations

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

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

Planning Assessment

The site lies within the boundary of a serviced settlement. As such the principle of development would be in accord with the development plan.

Supplementary planning guidance seeks to ensure that two storey dwellings do not result in overlooking and overbearing to neighbours. The illustrative drawing indicates two potential sources of conflict with guidance. Firstly the lower portion of the new

building would be within 4 metres of the dining room window to No 84 Commerce Street, whilst the higher part would be some 6 metres therefrom. Secondly the ground floor window to the new dwelling would be a similar distance from the dining room and bedroom windows to No 84. However the applicant's stated intention to keep the eaves level to a height of 2.5 metres relative to the ground level of No 84 would result in impact on that property comparable to a single storey building. Furthermore the existing screen wall and the difference in levels would ensure the retention of a high degree of privacy to the occupiers of No 84. The supplementary planning guidance acknowledges that differences in levels may result in appropriate adjustment to the distances normally expected. The guidance makes it clear that single storey buildings will be considered on their own merits. In the circumstances, with the proposal being akin to a single storey building relative to the habitable room windows of No 84, it is considered that the impact on the living conditions of the neighbours would be acceptable.

Whilst the existing outbuilding is of traditional design and materials it is nevertheless not a listed building, nor does it lie in a conservation area. Therefore there is no statutory protection for it. The narrow rectangular plan form of the proposed dwelling would lend itself to a traditional design approach and this could assume the character of an outbuilding, subordinate in scale to the existing dwelling. A condition requiring appropriate screen walling, to restrict open views into the curtilage of the existing and proposed dwellings, would protect the character of the street frontage, although this would be secured at reserved matters stage.

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

In view of the previous grant of permission for this development there is no material change in circumstances that would warrant a different decision.

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. (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 either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.

2. Approval of the details of the layout, scale, appearance and the landscaping shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.

3. No development shall be commenced until the existing vehicular accesses have been permanently closed, including the reinstatement of footway and full kerbing, in accordance with a scheme first submitted to and approved by the Local Planning Authority, and the proposed access has been provided in accordance with the submitted plan.

Reason: In the interests of highway safety.

4. Prior to the first occupation of the dwelling the first 5m of the access shall be surfaced with a solid bound material and measures implemented as necessary to prevent the flow of surface water from the access onto the highway.

Reason: In the interests of highway safety.

5. The proposed dwelling shall not be occupied until the vehicle parking and turning space has been provided as shown on the attached plan. Thereafter the facilities shall be maintained free of any impediment to their designated use.

Reason: In the interests of highway safety.

6. The maximum height of the eaves relative to the ground level of the adjacent property No 84 Commerce Street at its rear main wall shall not exceed 2.5 metres.

Reason: To avoid overbearing to the adjoining property in the interest of protecting privacy.

7. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), the dwelling hereby permitted shall not be altered 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.

Informatives:

To contact the Area Engineer South, Trent Valley Area, Derbyshire County Council, Director of Environmental Services, County Hall, Matlock, Derbyshire (Tel. 01629 580000 ext 7595) at least six weeks before the commencement date of the proposed works in order to arrange the necessary supervision of works on the highway crossing. A lamp column will also need to be relocated at the applicant's cost.

Further to Condition 2 the Council will expect the design of the dwelling to reflect the local distinctiveness of the area in accord with Policy 2 of the East Midlands Regional Plan and PPS1 & 3.

With regard to condition 6 above, you are advised to agree the ground level of 84 Commerce Street prior to designing the new dwelling hereby permitted.

Item 1.3

Reg. No. 9/2009/1013/SMD

Applicant:

East Midlands Housing Assoc
65 Church Street
Sutton in Ashfield

Agent:

Cullen Carter & Hill
1 Kayes Walk
The Lace Market
Nottingham

Proposal: **The Erection Of Ten Dwellings And Associated Access,
Turning And Parking On Land Adj 31 Linton Heath Land
At Sk2816 3640 Linton Heath Linton Swadlincote**

Ward: **Linton**

Valid Date: **03/12/2009**

Reason for committee determination

The application has been brought to committee because it is a major application that has attracted more than two objections.

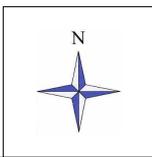
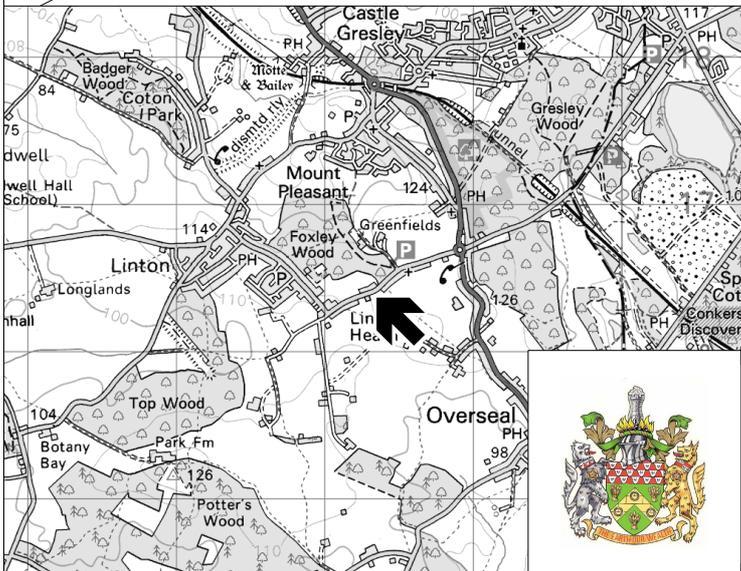
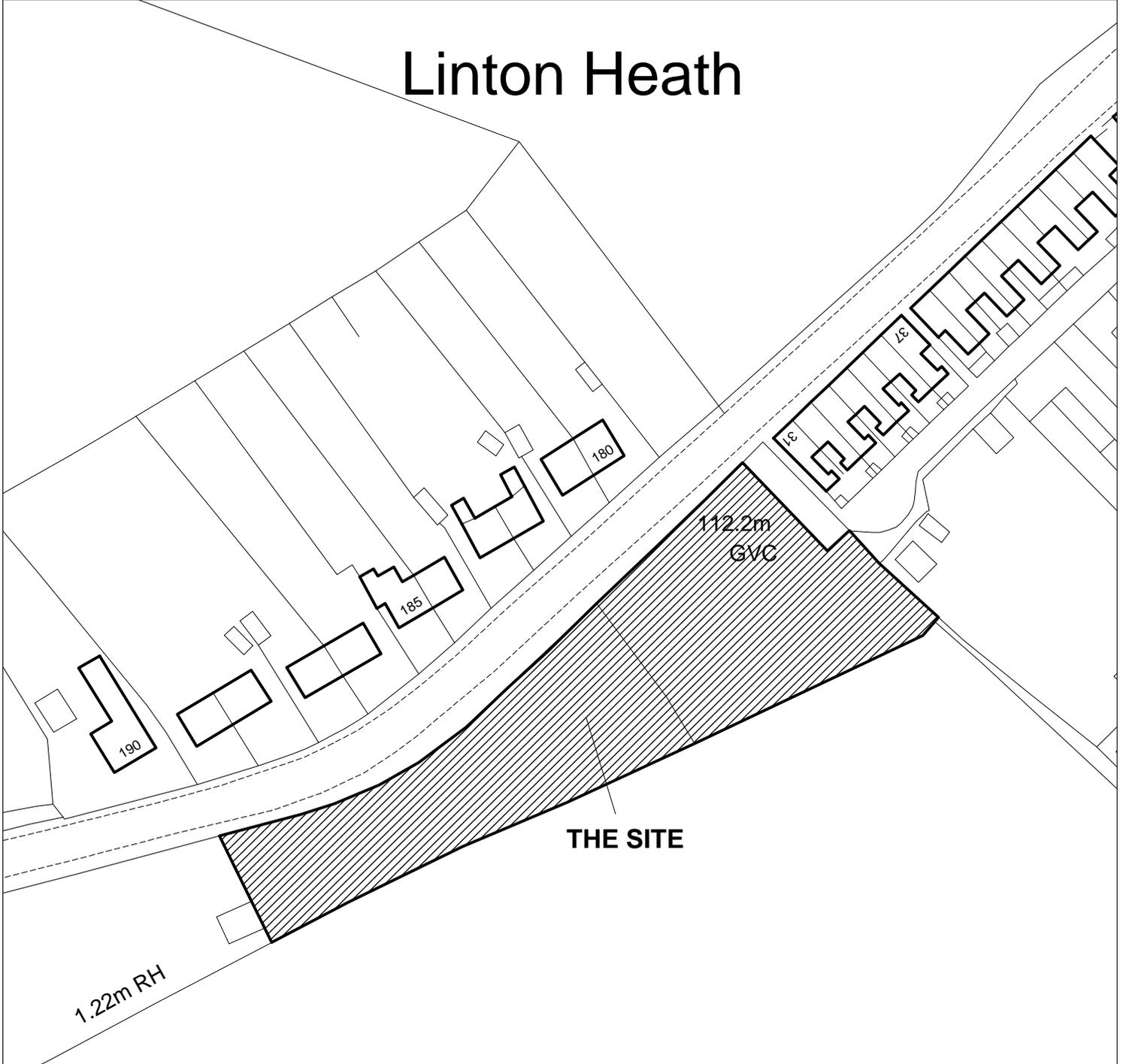
Site Description

The site is located on the south east of the village at Linton Heath. It is located outside the village boundary as defined on the adopted South Derbyshire Local Plan proposals map and is currently grazing land. To the north east of the site is a row of terraced two storey traditional style properties and to the north west are two storey semi-detached properties. To the south of the site are agricultural fields. Dense hedging being approximately 2.5 - 3m in height surrounds the site.

Proposal

The proposal is to provide 10 affordable dwellings, which are divided into three blocks consisting of one semi-detached block (of bungalows) and two separate terraced blocks of 4 dwellings, one block being two storey and the other bungalows. All properties would front Linton Heath and would have car parking provided in areas to the rear of the proposed properties or the side. Two accesses would be created into the site, one between plots 4 and 5 and a further one between plots 8 and 9. Rear gardens are shown to be approximately 6.5m to 14m in length. The materials to be proposed are red brick with render to match the existing properties and interlocking clay tiles. Each garden would contain a lockable shed and a compost bin. All dwellings would comply with level 3 of the Code for Sustainable Homes.

Linton Heath



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The existing ditch would be retained together with sections of the existing boundary fencing at the front and the entire existing boundary hedging at the rear of the site. Two car parking spaces per dwelling are shown and boundary treatments consisting of a mix of close boarded fencing, railings and a wall.

Landscaping areas are shown around the car parking areas and to the side of the proposed dwellings on plots 5 and 8.

Amended plans were received during the application process on 26 January following concerns from County Highways with regards to visibility. These do not alter the form of the development, just the layout of the car parking area and landscaping.

Applicants' supporting information

In support of the application is:

- a design and access prepared by specialist consultants
- an Ecological Assessment prepared by specialist consultants
- an Intrusive Ground Investigation prepared by specialist consultants
- a Flood Risk Assessment prepared by specialist consultants

Planning History

There is no planning history relevant to this application.

Responses to Consultations

Linton Parish Council initially objected to the application stating that: it was outside the village boundary, there was potential for an increase in traffic from an already busy road and that if it were approved S106 monies would be required for road calming measures. This objection was later withdrawn during the application process stating that subsequent information had now alleviated the Parish Councils initial concerns.

The County Highways have not raised any objections to the application subject to the application being carried out in accordance with the amended plan drawing No 1703/3/PO1A received 26 January 2010 and standard conditions being applied.

The Council's Drainage Engineering Technician initially raised some concerns regarding the filling of the ditch course, the tracing of pipe origins, and the regrading and re-establishment of the ditch course. However these have been addressed during the application process subject to conditions.

The -Police Crime Prevention Design Advisor has not raised any objections but advises that a lockable gate to the parking court between plots 8 and 9 be erected together with railings and lighting in the parking areas should be provided.

The Council's Contaminated Land Officer has not raised any objections to the application subject to a standard condition.

Severn Trent Water has not raised any objections to the proposal subject to a standard condition regarding drainage.

The Local Education Authority advises that they would not be seeking a contribution towards education.

The Environment Agency advises that they are not a statutory consultee as the land is not within a Flood Zone and therefore standing advice should be applied.

Derbyshire Wildlife Trust does not raise any objections to the application and advises that they are not aware of any nature conservation interest within the site or immediate surroundings. They note the neighbours concerns and advise that a representative of the trust visited the site but no Badger Sets were present at the site and that the proposed development is unlikely to have any impact on local populations of Badger or Great Crested Newts in the Local area. They do recommend that conditions be applied regarding replacement hedgerow planting between the two access roads and facilities for roosting bats be provided.

The Housing Strategy Manager does not raise any objections to the application and advises that the site is classified as an exception site, which reflects the property types and tenures recommended by the housing needs study and that grant funding has been secured to develop the scheme provided the work commences by the end of March 2010.

Natural England does not raise any objections to the development and request that conditions be applied regarding vegetation removal and breeding birds.

Responses to Publicity

Five letters of representation were received. The concerns noted were:

- Great crested newts are in the ponds at 184 and 181 Linton Heath and therefore are within 50m of the proposed site so the application cannot go ahead.
- Plans do not detail the exact size of the dwellings.
- Too many houses would be on too small a piece of land.
- Cars may park on the street and this could lead to more parking problems and congestion on the road.
- Danger from the access when entering and leaving the site would be likely.
- Development would lead to overlooking of existing houses opposite and as a result they would suffer a loss of privacy.
- There is a badger set within close proximity and a number of ponds.
- The site is too far from village facilities and the village itself is isolated.
- Water drainage – the site is prone to flooding from Rickman's Corner to No 31 Linton Heath and beyond.
- The ditch fills with water and would flood all the properties at Linton Heath.
- Where will the lamp post relocate to that is to be removed next to the proposed plots at 8 and 9?
- There is no need for more houses in the area - plenty at Woodville and Castle Gresley have not sold.

National Guidance

Planning Policy Statements 1 and 3.

Development Plan Policies

The relevant policies are:

East Midlands Regional Plan (2009): Policies 1 and 3.

Saved Policies from the Local Plan: Housing Policy 5 and Transport Policy 6.

Planning Considerations

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

- Development plan policy and national guidance and advice
- Impact on highway safety
- Impact of the proposal on the neighbours and future occupiers of the dwellings

Planning Assessment

The site lies outside the village confine of Linton. The proposal is for the erection of ten affordable houses on a 'rural exception site' by East Midlands Housing Association. General development and housing policies require development away from and outside settlements to be necessary to such a location. They are generally restricted. Notwithstanding this, PPS 3 states that where viable and practical, local planning authorities should consider allocating and releasing sites solely for affordable housing including using a rural exception site policy. This enables small sites to be used specifically for affordable housing in small rural communities that would not normally be acceptable for market housing due to policy constraints.

As the proposed housing is to be located to the side of existing housing in Linton Heath it is accepted that the development would be seen in the context that currently displays the character of an edge of village location. With suitable materials being used, appropriate landscaping and boundary treatments it is considered that the proposed development would not only be in keeping with the traditional properties and characteristics of a South Derbyshire village but also provide much needed affordable housing in this location and would make a valuable contribution to the street scene. Properties in the immediately vicinity are mainly two storey, being terraced in design on the same side as the proposed site and semi-detached opposite. The proposal therefore by starting with a block of four terraced two storey properties and reducing to terraced bungalows to then semi-detached bungalows is similar in design to the existing properties and the use of bungalows would limit overlooking the existing properties opposite, albeit they are separated by a highway and thus not contrary to supplementary planning guidance. The design of the bungalows adjacent to open space also ensures a reducing impact on the countryside.

The level of additional traffic and general disturbance arising from ten additional dwellings would not bring about demonstrable harm to existing residents and the County Highway Authority have confirmed that subject to standard conditions being applied they do not object to the proposals.

There is no evidence that existing facilities and sewers are inadequate.

The neighbours concerns regarding badgers and great crested newts on the site have been addressed and Derbyshire Wildlife Trust and Natural England confirm that the

proposed development is unlikely to have any impact on local populations of badger or great crested newts in the local area.

In summary PPS 3 provides a clear objective to Local Planning Authorities that sites should be allocated and released for affordable housing where small rural communities could not normally have land released for open market housing and this is reiterated in the East Midlands Regional Plan. The proposed site having been confirmed by the Housing Strategy manager as a genuine exception site would not give rise to highway safety concerns; it is on the edge of an existing settlement, would address local needs and has been designed to be in keeping with the existing properties making a positive contribution to the character and street scene.

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. The work shall be carried out in accordance with the approved details.

Reason: To safeguard the appearance of the existing building and the locality generally.
3. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no's 1703/3/P01A and 1703/3/P05A and additional drawings 2009.2558.01B, 2009.2558.02B and 2009.2558.05A and 2009.2558.03A.

Reason: For the avoidance of doubt, the original submission being considered unacceptable.
4. The development shall not begin until a scheme for the provision of the affordable housing hereby permitted has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of PPS3 or any future guidance that replaces it. The scheme shall include:
the tenure of the affordable housing provision to be made which shall consist of not less than 100% of housing units;
the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing (if no RSL involved) ;
the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Reason: To ensure the provision of 100% affordable housing as stated in PPS 3.

5. 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.

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

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

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

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

8. Prior to the commencement of any operations on site, details of the proposed sheds shall be submitted to and approved in writing by the local Planning Authority.

Reason: For the avoidance of doubt as to what is permitted.

9. 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.

10. 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.

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

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

12. Prior to the first residential occupation of the dwellings facilities for roosting bats shall be provided in 50% of the properties forming a bar brick leading to a bat roost unit as detailed in the submitted ecological assessment dated October 2009, in accordance with details which shall have been submitted previously to, and approved in writing by, the Local Planning Authority.

Reason: In the interests of the preservation of the species.

13. The ditch course at the rear of the site shall not be stone filled and a scheme shall be submitted to the Local Planning Authority prior to commencement of the development showing the regrading and recutting of this ditch course. The scheme shall then be carried out in accordance with the details agreed in writing by the Local Planning Authority.

Reason: To prevent localised flooding.

14. Prior to commencement of the development the ditchcourse downstream of the proposal site shall be cleared of blockages and silting.

Reason: To ensure unrestricted water flows

15. Prior to commencement of the development a CCTV survey of the culverted sections of the ditch course (and associated manhole chambers) shall be carried out and submitted to the Local Planning Authority.

Reason: to establish the condition of the ditch course in order to avoid potential localised flooding occurring.

16. Before any other works commence, space shall be provided within the site curtilage for the storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives' and visitors' vehicles, laid out and constructed in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of highway safety.

17. Prior to any other works commencing (excluding condition 1 above) a temporary access for construction purposes shall be formed to Linton Heath. The access shall have a minimum width of 5.5m, provided with 2.4m x 60m visibility sightlines in each direction, the area forward of which shall be cleared and maintained clear of any obstruction exceeding 600mm in height relative to road level. The access shall be positioned such that the forward visibility available to a driver approaching behind a vehicle waiting to turn right into the site is equal or exceeds 60m.

Reason: In the interest of highway safety.

18. Prior to the occupation of the first dwelling, the footway fronting the site shall be widened to 1.8m, laid out and constructed in accordance with Derbyshire County Council's design guide, constructed to base level, drained and lit in accordance with the County Council's specification for adoptable roads.

Reason: In the interest of highway safety.

19. Prior to the occupation of the first dwelling, the two new accesses shall be provided onto Linton Heath. The accesses shall be laid out in accordance with the amended application drawing (1703/3/PO1A), constructed as splayed vehicular crossovers and provided with 2.4m x 60m visibility sightlines, the area forward of which shall be cleared and maintained thereafter clear of any obstruction exceeding 1m in height (600mm in the case of vegetation) relative to the nearside carriageway edge.

Reason: In the interest of highway safety.

20. Prior to the occupation of the first dwelling, space shall be provided within the site curtilage for the parking and turning of two vehicles per dwelling, laid out in accordance with the amended application drawing (1703/3/PO1A) and maintained throughout the life of the development free of any impediment to its designated use.

Reason: In the interest of highway safety.

21. Any gates shall be set back at least 5m into the site from the highway boundary and open inwards only.

Reason: In the interest of highway safety.

22. 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.

Informatives:

Site clearance operations that involve the destruction and removal of vegetation on site shall not be undertaken during the months of March to August inclusive, except when approved by the Local Planning Authority, to ensure that breeding birds are not adversely affected.

If breeding birds are discovered during work on the development, the relevant work should be halted immediately and Natural England or your ecological consultant (if you have previously employed one) should be notified and further advice sought. Failure to comply with this may result in prosecution and anyone found guilty of an offence is liable to a fine of up to £5,000 or to imprisonment for a term not exceeding six months, or both.

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months prior notification shall be given to the Environmental Services Department at County Hall, Matlock (tel: 01629 580000, ext 38595) before any works commence on the vehicular access within highway limits. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (ie unbound chippings or gravel, etc). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness. Pursuant to Sections 38 and 278 of the Highways Act 1980, the footway fronting the site shall be constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in Section 38/278 Agreements may be obtained from the Department of Environmental Services at County Hall, Matlock (tel: 01629 580000). The applicant is advised to allow at least 3 months in any working programme of works to obtain an Agreement.

Highway surface water shall be disposed of via a positive, gravity-fed system (ie; not pumped) discharging to an approved point of outfall (eg; existing public sewer, highway drain or watercourse) to be sanctioned by the Water Authority (or their agent), Highway Authority or Environment Agency respectively. The use of soakaways for highway purposes is generally not sanctioned.

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. 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.

Item 1.4

Reg. No. 9/2009/1040/NO

Applicant:

Mr Clive Leake
Seales & Linton Scout Group
8 Essex Drive
Church Gresley
Swadlincote

Agent:

Mr M Aflat - Chairman
Seales & Linton Scout Group
240 Hillside Road
Castle Gresley
Swadlincote

Proposal: **The Erection Of A Scout Hut At Roslison Cricket Club
Strawberry Lane Roslison**

Ward: **Linton**

Valid Date: **24/12/2009**

Reason for committee determination

The application is brought to committee as the agent for the application is a senior officer of the Council.

Site Description

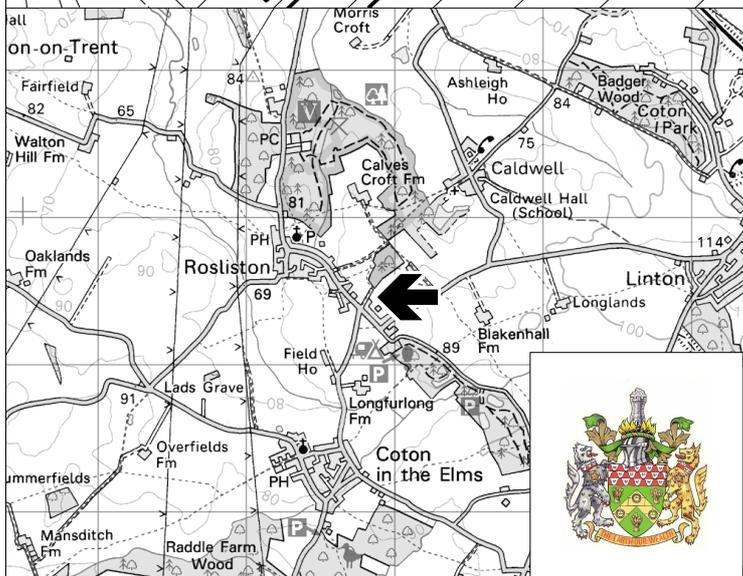
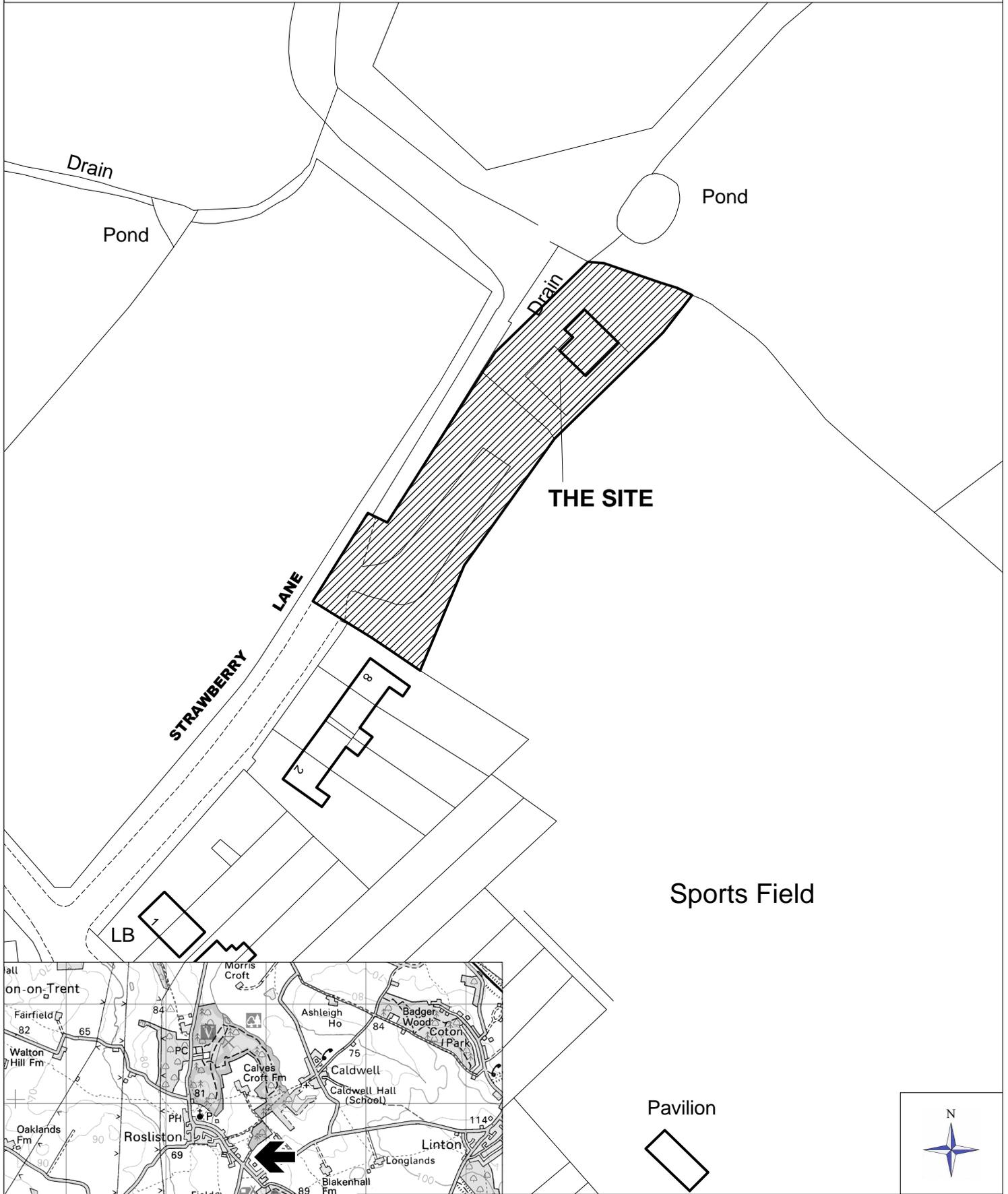
The site is a field, which is accessed off Strawberry Lane beyond a small informal car parking area and currently has a derelict and vandalized single storey flat roofed building situated on it, which was formerly used by Roslison Cricket Club. To the rear of this building is a portable storage type structure. The existing building occupies approximately 90 square metres in internal floor space.

Proposal

The proposal is to remove the existing derelict building and to replace it with a building, which measures 21m in length x 6m in width x 4m in height and has an internal floor space of 126 square metres. This building would be located in the same location as the existing building and is cedar clad and in need of some cosmetic decoration.

Applicants' supporting information

The applicant has stated in the Design and Access Statement that they are the first new Scout Group to be formed in the District in fifteen years, and cover the villages of Overseal, Netherseal, Coton, Linton, Castle Gresley and Roslison. They have 13 Scouts, 24 Cubs, 24 Beavers and a waiting list of 20 children for Beavers. They are an expanded group and the proposed building would provide the opportunity for hosting



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family camps and District events and it would provide an additional much needed community facility.

The applicant states that Scouting is a really important part of children's social, spiritual, physical, educational and cognitive development and in order for them to continue to achieve this they need a facility that is fit for purpose and the proposed site would provide this.

Responses to Consultations

Severn Trent Water has raised no objections subject to a standard condition being applied.

Councillor Wheeler (ward member) expresses his full support for the application.

Responses to Publicity

None have been received.

National Guidance

Planning Policy Statement 1 and Planning Policy Guidance 17.

Development Plan Policies

The relevant policies are:

East Midlands Regional Plan (2009): Policies 2 and 3

Saved Policies from the Local Plan: Community Facilities Policy 1

Planning Considerations

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

- Development plan policy (and national guidance and advice as a material consideration)
- The impact of the proposal on the neighbours.

Planning Assessment

Planning Policy Guidance 17 seeks to ensure that where recreational land and facilities are of poor quality or under-used it should not be assumed that this is an indication of an absence of need in the area. Local authorities should seek opportunities to improve the value of existing facilities and this application seeks to do this.

The application proposed is to remove an existing vandalised, derelict and poor quality used facility and to replace this with a purpose built facility that would allow the expansion and continued use of a scouting facility for all members of the community to enjoy. The design of the proposed building is standard for this type of community facility and whilst it requires some decoration it would be in keeping with the existing area and would provide the area with a (seemingly) much-needed facility.

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. Within three months of its location on site, the building shall be decorated in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.
Reason: In the interests of the appearance of the building and the character of the area.
3. This permission shall relate to the amended Ordnance Survey plan received 21 January 2010.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.

Informatives:

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.

Item 1.5

Reg. No. 9/2009/1048/FH

Applicant:

Mr Sean Gordon
21 THE WHARF
SHARDLOW
DERBY

Agent:

Mr Sean Gordon
21 THE WHARF
SHARDLOW
DERBY

Proposal: **The Erection Of Extensions At 21 The Wharf Shardlow Derby**

Ward: **Aston**

Valid Date: **14/12/2009**

Reason for committee determination

The application has been brought before committee at the request of Councillor Watson as local concern has been expressed about a particular issue.

Site Description

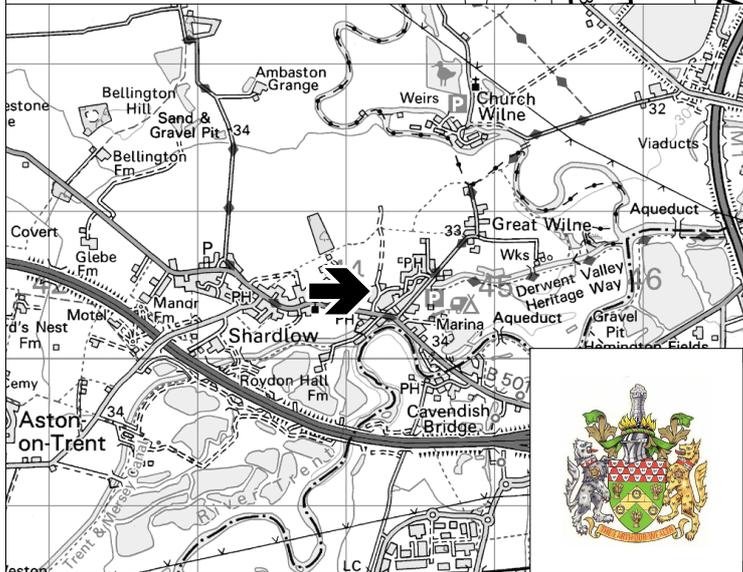
The application site is a semi-detached dwelling, part of a development of 2 pairs of semi-detached properties built in the 1970s. The Shardlow Wharf Conservation Area boundary abuts the southern edge of the application site, as does an end terrace property that forms part of a grade II listed row of four 18th Century houses. The site also lies to the west of the village green.

Proposal

The proposal (amended from that originally submitted) is for the erection of a two-storey side extension to accommodate an additional bedroom, together with a single storey front extension that comprises a new playroom and hallway. The extension also has a single storey rear element that provides additional space for the existing lounge and a utility room.

Applicants' supporting information

The application site lies outside the conservation area so there is no requirement for a Design and Access statement to provide supporting information for the householder planning application.



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South Derbyshire District Council. LA 100019461. 2010

The plans have been annotated to show interlocking concrete tiles and facing brickwork to match the existing house. Marley Wessex interlocking roof tiles, with the colour to match the existing, have been indicated for the roof to the single storey rear extension.

New doors and windows are to be uPVC to match the existing and obscure glazing is proposed for the first floor window to the front elevation and the ground floor side elevation window.

The verges of the extensions will match the verges of the existing house and the proposed fascia boards have been drawn to match the existing.

Planning History

Planning permission was granted in April 1970 for 2 pairs of semi-detached dwellings with integral garages and in 1976 permission was given to convert the existing garage into a dining room. The existing detached single garage on site did not require planning permission.

There is no further relevant planning history for the application site.

Responses to Consultations

The Parish Council has objected to the initially submitted plans as follows:

- The extension is too large for the area. It is imposing and a site visit is recommended.
- There is no wheelchair access at the site.
- Access is required for agricultural vehicles and it is a single track lane.
- Concern raised about building over existing mantles and problems with drainage/sewerage in the village because of the lack of fall.
- There is less than 90cm between the boundary and the wall of the extension - too little for maintenance and construction.
- The front door does not meet building regulations.

Amended plans were inspected at the Parish Council meeting on 27 January and any further comments arising will be reported verbally at the committee meeting.

Responses to Publicity

2 objections have been received on the initially submitted plans, covering the following points:

- The proposal represents an over intensification of development in this area of The Wharf directly adjoining a conservation area.
- The proposed extensions will almost double the size of the existing dwelling.
- The build and designs are considered excessive, aesthetically poor and inappropriate to the general area, seriously detracting from the balance and pleasing designs of the 2 existing pairs of semi-detached houses in this well established small development adjoining the Village Green.
- The design of the proposed extension clashes with the style of the existing pair of semi's and includes a hotchpotch of different window sizes and miss matched roof levels.

- The proposed garage is out of symmetry and design of the existing properties.
- A sloping roof line at the front and back are out of symmetry with the existing properties especially in respect of the existing flat roofed garage at No 23.
- The front door now faces directly onto the road unlike the other similar properties where access is to the side of the buildings.
- The poor visual appearance of this unsympathetic design contrasts with those promoted by SDDC and represents an example of an extension that has blighted so many well established housing developments.
- It is understood from the planning consent (granted 07/1969) that the then new properties should be with certain restrictive covenants including a specified distance away from the boundary of 17 The Wharf and that the building line should extend no further than that of the agreed planning consent.
- The proposed extension will abut a conservation area and will dramatically impact on the skyline as viewed from the Village hall, the Green and the immediate areas within the conservation area and would greatly detract from what is a well protected beautiful place.
- The new extension will extend to within 0.9m of the property's boundary and the overbearing presence of a full height extension will be detrimental to the outlook of and will conflict with the considered single storey extensions present at No 17 The Wharf.
- The extension would considerably block the sunlight to 23 The Wharf thereby affecting neighbour's lifestyle and enjoyment of a neighbour's house and garden.
- The unmade road serving 9 to 29 The Wharf has no drainage and frequently floods during wet weather. The proposed building will exacerbate the situation and add further pressure to the already poor drainage.
- The existing road is narrow and serves farm traffic as well as the surrounding houses so the movement of lorries, vans and positioning of skips will cause access problems and further damage the poor state of the road and edge of the village green.

Following the Parish meeting, a further objection has been received from a previous objector and their comments are as follows:

- The changes made are of no improvement as the whole of the ground floor has just been moved back.
- Although the line between the existing garages has been improved, there is now a 3 metre brick wall along a rear boundary which will hinder light into their conservatory and will look ugly and overbearing.
- The issue of the size of the extension's footprint being too large and imposing for a semi of this size has not been resolved.
- The extension is still of a poor aesthetic quality, with an odd mix of windows, the door being on the front elevation and the tiled front face of the existing second storey not being followed on to the new extension.
- The extension will block the view of the fields behind.
- The whole project is unsightly and out of keeping with the area.

Development Plan Policies

The relevant policies are:
RSS8: Policy 27

Local Plan: Saved Environment Policy 12 and Saved Housing Policy 13 of the Adopted Local Plan.

National Guidance

Planning Policy Guidance 15 – Planning and the Historic Environment

Planning Considerations

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

- The impact of the proposal on the setting of the Grade II listed building and the adjacent Shardlow Wharf conservation area.
- The impact of the extensions on the amenities of the neighbouring properties.

Planning Assessment

The Heritage Officer objected to the originally submitted plans for the extension due to its size in relation to the existing dwelling and therefore its potential adverse impact on the setting of the listed building and the surrounding area. Following a site meeting to discuss and resolve the issues, amended plans were received on 26 January 2010 and are in line with on-site discussions. The amended proposal is a sympathetic scheme that is more truly sub-ordinate to the original dwelling and retains the main frontage of the property in its original form. All materials would match the existing dwelling. On the advise of the Heritage Officer, the amended scheme would not have an adverse effect on the setting of the grade II listed building, the character and appearance of the adjacent conservation area or the surrounding area in general.

The plans as amended conforms to the standards set out in the Council's supplementary planning guidance 'Extending your Home' and would not unduly affect the amenities of the neighbouring properties. The scheme therefore complies with Saved Housing Policy 13 of the Adopted Local Plan

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos. 2951-2C and 2951-3B, received 26/01/10.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.

3. 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.

Item 2.1

Reg. No. 9/2009/1018/NU

Applicant:

Mr JM Cawley & Mr J Ward
Land West of Sutton Lane
Hilton

Agent:

Mr JM Cawley & Mr J Ward
Land West of Sutton Lane
Hilton

Proposal: **Change Of Use Of Land And Its Retention As A Traveller Site Comprising 2 Static Caravans, 2 Touring Caravans, 2 Portable Utility Blocks And Ancillary Works Including Provision Of Hardsurfacing And Perimeter Fencing And Reinstatement Of 2 Access Points At Land West Of Sutton Lane Hilton**

Ward: Hilton

Valid Date: 10/12/2009

Reason for committee determination

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

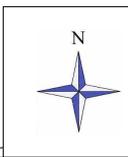
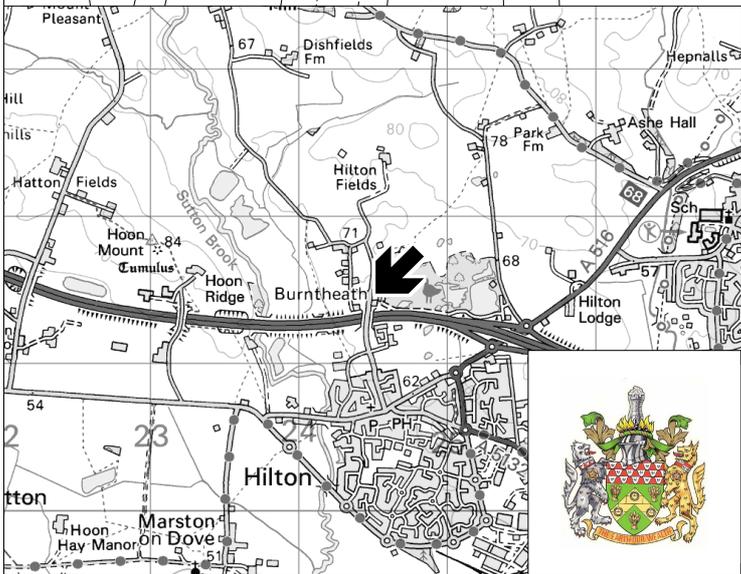
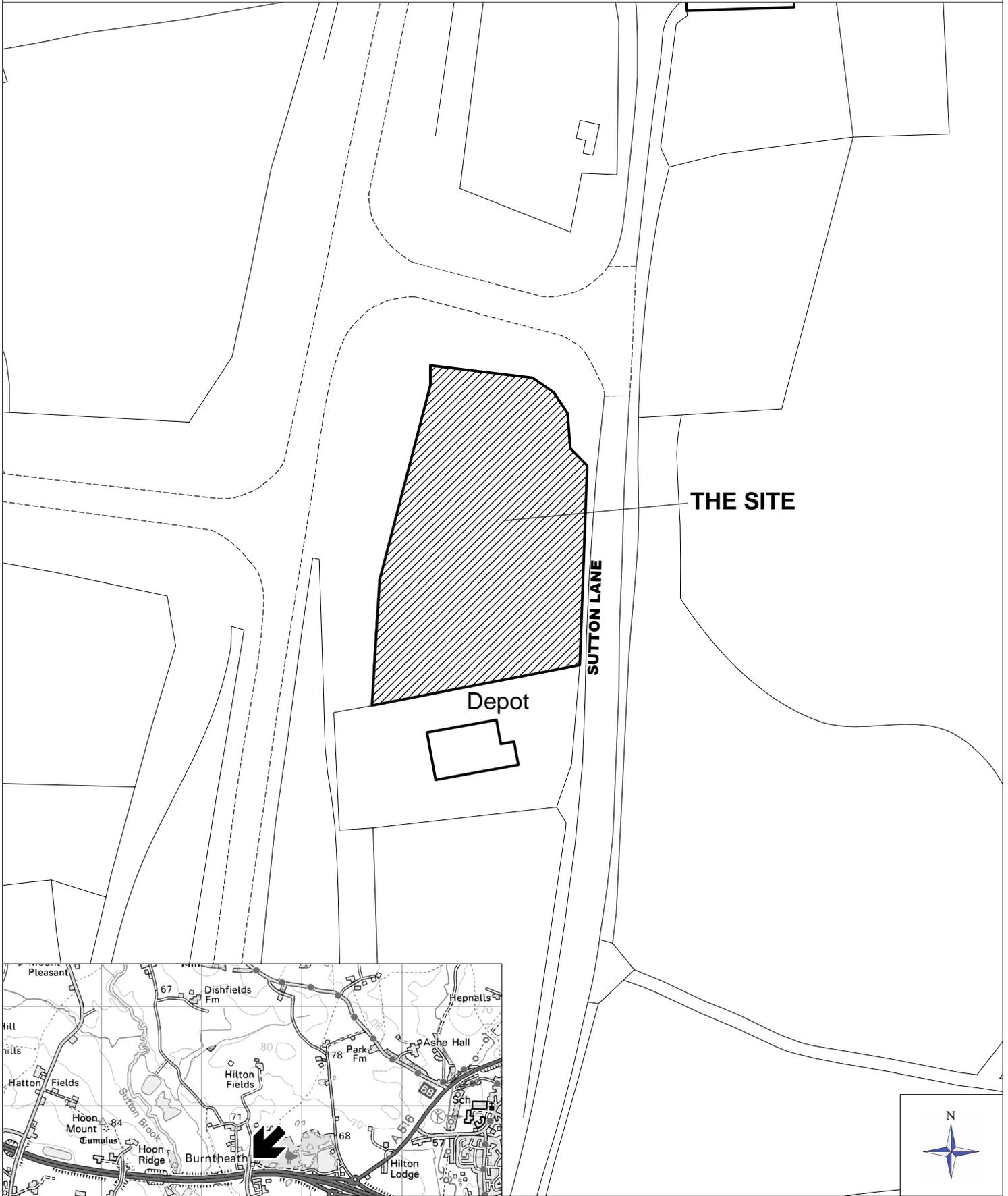
Site Description

The site is enclosed by roads on three sides and by a haulage use on the southern boundary. Accesses would be from the 'old' Sutton Lane where the site has been enclosed by means of a 2.2 metre high palisade fence. Landscaping to the 'new' Sutton Lane screens the development from that vantage point, the landscaping extending around the north boundary of the site. Opposite the site to the east is the Hilton Gravel Pits nature reserve that is a designated SSSI.

Proposal

The applicants moved on to the site in November last year and this application is for the retention of the use as a gypsy site for two families comprising two pitches accommodating two mobile homes, two touring vans and 2 portable amenity blocks. The application also proposes the reinstatement of an access to supplement the existing access from 'old Sutton Lane. The frontage fence to 'old' Sutton lane would be replaced with a 1.25 metre high close boarded fence and the other boundaries would have 2.25 metre high close boarded fencing. The 2.25 metre wooden fencing would be attached to the existing palisade fences but at present the frontage fence would involve the removal of the palisade fencing and the erection of a new wooden fence as described.

9/2009/1018 - Land West of Sutton Lane, Hilton DE65 5FE



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Applicants' supporting information

The application is accompanied by a contaminated land study. It concludes that subject to no excavations the site is fit for purpose.

There are four letters submitted with the application, two from companies in the Ripley and Ilkeston areas stating that they know the applicants as travellers and that they have carried out work for the companies in a diligent and trustworthy manner. Another is from a home tutor who has known the families for about 12 years that also confirms the gypsy status of the family. The last letter is from the Healthy Living Centre Co-ordinator based in Nottingham, who has known the family for about three years and also confirms the gypsy status of the family. She confirms that the families have respect for facilities they use and that they have had difficulty in finding a suitable site to base their families. A base at the application site would be of benefit to the children improving their standard of life and education.

The supporting statement confirms the gypsy status, details the background of the families and their travelling lifestyle and the fact they have been based in the Nottingham area for the last 10 years. The families are scrap metal dealers but no business activities are to be carried out at the site. The site is considered well screened by hedges from two directions. A fence encloses the south boundary but is open to 'old' Sutton Lane.

The applicants have been aspiring to a permanent settled site for around 2-3 years and in that time have been considering a site to purchase. They have been considering possible sites throughout the Midlands, wanting a site with good accessibility to other family members, who live in the north west (Oldham/Sandbach) and in the Nottingham area. The South Derbyshire area has good contacts for the applicants' employment. The application site was considered ideal for these locational reasons and additionally there was land available locally. The applicant's son-in-law rents land from a local farmer for horse grazing.

The statement then examines the relevant planning policies at National, Regional and local level together with Government advice in respect of PPS 3 and Circular 01/2006. Reference is also made to the Derbyshire Gypsy and Traveller Accommodation Assessment (2008). The conclusion on the applicants is that the site meets the requirements of planning policy.

The statement then goes on to examine other considerations that may affect a decision. Hilton Gravel Pits SSSI would not be adversely affected in terms of either the wildlife or recreational amenity issues. Indeed it is asserted, the adjoining haulage use is more likely to have an onerous impact.

Ground conditions have been carefully assessed in respect of the contamination of the land. It concludes that the site may contain potential contamination; it concludes that the use of the site for caravans on hard standings with no gardens or exposed soil is acceptable and has negligible risk to human health. In response to queries raised by the Council, the applicants confirm that no underground services are proposed; ingress of ground gas will not be possible as the caravans are on hard standing and the utility blocks would be raised on legs. The report concludes that no phase 2 investigation is necessary as the site is considered fit for purpose.

The applicants assert that the nearest dwelling is some 200 metres away and there would be no impact on amenity of the occupiers of houses, the main access to the SSSI is on the east side of the SSSI site and the adjacent haulage use involves vehicles leaving the site at 0500.

It is noted that there is a waiting list for the sites in South Derbyshire and in response to a request for reasons why the applicants could not occupy the Woodyard Lane site the applicants have commented as follows. It is understood that there is an existing Council-owned traveller site at Woodyard Lane, Foston. This site was considered for occupation by the applicants but was rejected for a number of reasons. The applicant's personal attributes and lifestyle (being non-smokers, teetotallers and church-going travellers) are likely to be discordant with the gypsy-travellers currently occupying this site. The applicant's don't know any occupiers of the site and social, racial or religious differences would make integration very difficult. Council-owned sites are considered to be frequently the subject of fly tipping, with resultant rubbish and vermin. The applicants are also aware of nuisance and disturbance on other sites. The applicants want to establish a quiet, settled site in order to raise their families. A settled, permanent site will give greater educational and health opportunities to the applicants and particularly their children. The applicants see their current site as a good investment to provide a safe, clean and settled site. There is an on-going need for gypsy sites in South Derbyshire as demonstrated by recent planning applications.

The applicants would be able to control the activities of all the family members and therefore will have security from eviction. They view any "temporary" site (which is outside their ownership or control) as not being able to give adequate security to the future of their families and children. The applicants have already made steps to demonstrate their need for a secure site, registering for Council tax and applying for a postal address for the site.

The applicants recommend conditions be attached if the Committee is minded to grant planning permission: occupation of the site limited to gypsies, limitation of the number of caravans and structures permitted on the site, no business activities on the site, no gardens or underground services and full details of site drainage and water supply to be provided.

The applicants conclude that this is a good rural exception site in a location that meets the recent government advice on traveller sites that would not adversely affect the nearby SSSI, commercial uses or any residential properties.

Planning History

Prior to the gypsies moving on to the site, the Council was pursuing enforcement action against a previous owner in respect of the unauthorised erection of fences and the unauthorised deposit of hardcore on the site. There is no other relevant planning history.

Responses to Consultations

Mark Todd MP has written following complaints from constituents about the lack of publicity for the application.

Hilton Parish Council has no objection to the development.

The County Highway Authority has no objection subject to conditions.

The Environment Agency has no objection subject to conditions and draws attention to the Contamination report that accompanies the application and its assertion that there would be no excavation of foundations for permanent buildings.

Natural England has no comments as it considers that the proposals are likely to significantly affect the natural environment that Natural England was established to protect.

The Derbyshire Wildlife Trust considers that the proposals would have any impact on the Great Crested Newt population the SSSI or have any other impact on the SSSI. It recommends that the hedges on the north and west boundaries should be retained by a condition of the planning permission.

The Environmental Protection Manager has no comments.

The Development Control Archaeologist has been consulted and has no objection.

The Environmental Protection Manager considers that the site represents a good location for a gypsy site in all respects except for the potential for complaints from the site occupiers about the haulage operators and the noise generated at that site. If complaints were received, then the Environmental Protection Manager would have a duty to investigate such complaints. In the light of the advice in PPG 24 the Environmental Protection Manager objects to the development and recommends refusal of the application. The analogy drawn is that a permanent dwelling would not usually be permitted in such close proximity to a haulage base.

The contaminated land officer has examined the report that accompanies the application. He concluded that it deals with the contamination issues and that provided that the suppressive measures proposed in the report are implemented, there should be no risk to the users of the site as no path way would exist between the end users and the potentially contaminated material.

Any comments from the Derby and Derbyshire Gypsy Liaison Group will be reported at the meeting if available.

Responses to Publicity

Two expressions of support for the development have been received stating that this is a good use for the land for a gypsy family. One response from the education welfare officer who is working with the families to find school places for them knows the families; the children having previously suffered disruption to their education and being based at Hilton would provide stability for the children and allow them to have easy access to schools.

45 letters/e-mails objecting to the development have been received. The objections can be summarised as follows: -

- a) The presence of the site would discourage people using the gravel pits SSSI. It lies in the open countryside albeit there is an industrial site nearby and it would detract from views of the nature reserve from local properties.
- b) The nature reserve would be adversely affected and would be out of keeping with the reserve and be detrimental to the wildlife known to be present in the reserve. The site may be the subject of fly tipping that is already being complained about by local residents.
- c) The site should be identified by the Council as suitable as a gypsy site under the provisions of PPG 12. It is not fair to the settled community that gypsies are allowed to acquire land and live in beautiful surroundings where sites for new dwellings in the countryside are difficult if not impossible to find. The site is remote/too far from transport routes and community services and has inadequate facilities for permanent occupation.
- d) There is concern amongst objectors that the families would require services from the Council but not pay Council Tax.
- e) There would be an increase in traffic along Sutton Lane including heavy vehicles to empty the septic tanks. Heavy traffic already uses Sutton Lane to access the industrial site to the south. The residents are compromising traffic safety by speeding up the lane. Children have been seen driving a vehicle on the land unsupervised.
- f) One objector complains that he was the subject to a burglary and others contend that the gypsy community cause trouble in village pubs. Another was asked what he was doing when all he was doing was going for a walk.
- g) The site was used to tip waste from Willington Power Station and there is asbestos waste beneath the site from tipping operations. There is a legal if not moral obligation on the Council to determine if the site is safe for occupation and the need to find sites for gypsy accommodation should not take precedent over their health and safety.
- h) The site is noisy as generators are running nearly all day and night to provide electricity.
- i) It is alleged that material is being burnt on the site causing noxious smoke.
- j) The gypsies always leave a mess that the community has to pay to be cleared albeit the current occupiers are very tidy. The community is wary of travellers given past experience of fouled sites and vicious dogs.
- k) It seems that a Notice preventing additional vans being stored on the site have been ignored. There are already more than 4 caravans on the site. Other traveller families may be attracted to the area. If the site were permitted, more caravans would be needed to accommodate the growing families.
- l) If permitted no business use should be allowed on the site. The terms of any planning permission should be strictly adhered to.
- m) There is a risk to the health and safety of the children given the site's location next to a haulage business.
- n) The site that was a green field until recently was established without planning permission, this is not legal and it shows a disregard to the requirements the law. Permission for the development would be seen as rewarding that action. The only reason this application has come to light is that the gypsies moved onto the site without planning permission.
- o) There has been no direct neighbour consultation and the period of consultation was limited by the holiday; an extension of the time for objection would remove this complaint. The application is not easily found on the Council's web site.
- p) Pensioners are fed up with cold callers offering to do work, this would get worse should the site be permitted.

- q) Some 60% of Derbyshire traveller sites are located in South Derbyshire. There are sufficient sites in Hilton and the District and no more are needed and the Committee should take note of this in determining this application other travellers are accommodated in houses within the village. People are looking to move from what was once a popular village.
- r) The extension of an existing site should be considered in advance of allowing a new site. The travellers should be encouraged to occupy affordable homes that have recently been provided within the village
- s) Hilton is already over-filled with development and the primary school is oversubscribed having recently erected a temporary classroom. It no longer resembles the village it was 10 years ago. It is understood that there is to be no new building in Hilton for the next 10 years
- t) The application form is incorrect in that this land was vacant prior to the travellers moving onto it.
- u) There is a growing problem in the Burnt Heath area with landowners ignoring planning law.
- v) It would devalue property prices.

Development Plan Policies

The relevant policies are:

RSS8 (EMRP): Policies 1, 2, 12 & 26

Saved Local Plan: Housing Policy 15.

National Guidance

ODPM Circular 01/2006

Designing Gypsy and Traveller Sites - Good Practice Guide

PPS 3 & 7; PPG 24.

Planning Considerations

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

- The Development Plan and Government Advice.
- The Gypsy Status of the Applicants.
- The suitability of the site for its use in terms of its impact on the character of the countryside and impact on the SSSI.
- Access and Drainage.
- Contaminated Land
- The grounds of objection.
- Overall Conclusion.

Planning Assessment

The Development Plan and Government Advice

Circular 01/2006 seeks to significantly increase the number of gypsy and traveller sites in appropriate locations advising that rural sites, which are not subject to special planning constraints, are acceptable in principle. The Circular advises that local authorities must allocate sufficient sites for gypsies and travellers, in terms of number of

itches required by the Regional Spatial Strategy, in site allocations Development Plan Documents.

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

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

Gypsy Status

Based on the submitted evidence the applicants are considered to be gypsies in the terms expressed in Circular 01/2006 accordingly the application should be determined in accordance with the provisions of that circular and in the light of the Development Plan policies.

Suitability of the Site

The site lies to the north of the village of Hilton about 0.95km from the village centre where the bus services pass, it is reasonably well related to the shops on Main Street. The primary school and other shops on Witham Close are slightly further away from the site. These distances are not considered unreasonable in relation to the advice in Circular 01/2006. This states that a more settled existence can prove beneficial to some gypsies and travellers in terms of access to health and education services and employment. It can contribute to greater integration and social inclusion with local communities. The families the subject of this application have clearly indicated that they aim to utilise this location to afford them opportunities to make use of services which they find difficult to access due to their existing circumstances.

In respect of the impact on the Countryside in general and the SSSI in particular, Circular 01/06 advises that gypsy and traveller sites in rural locations are acceptable in principle providing the site is not subject to special planning constraints. Where it can be demonstrated that the objectives of the designation of nationally recognised designations, such as Site of Special Scientific Interest (SSSI) or National Parks, planning for gypsy and traveller sites should only be granted where it can be demonstrated that the objectives of the designation will not be compromised by the development. Local landscape and local nature conservation designations should not be used in themselves to refuse planning permission. There have been no objections to the site being located adjacent to the SSSI from either Natural England or the Derbyshire Wildlife Trust and it is considered that the countryside impacts of the

development are negligible. The main views of the site are from 'old' Sutton Lane from Sutton Lane and south of the A 50 views of the site are obscured. Views of the site from the nearest dwellings are mitigated by existing vegetation albeit that at this time of year the screening effect of the vegetation is reduced. The site is therefore considered acceptable in terms of its impact on the wider countryside and the SSSI.

However, the Environmental Protection Manager has objected to the development on the basis of the impact of the adjacent business upon the occupiers of the site. It is his opinion that the site in many ways is suitable but in the event that complaints about the adjacent operations the Authority is duty bound to investigate those complaints and if a nuisance is found then to take action against that use. This is a situation envisaged in PPG 24 that places a duty on the Local Planning Authorities to ensure that in permitting development unreasonable restrictions and undue administrative burden and cost is not placed business. This objection has been put to the applicants and they are willing to accept a personal permission on the basis that they bought the land in the knowledge that there was a haulage use on the adjacent land.

Annexe C to ODPM Circular 01/2006 contains the following advice:

'In general gypsy and traveller sites should not be located on significantly contaminated land, but this does not necessarily rule out all locations near or adjoining motorways, power lines, landfill sites or railways, any more than it does conventional housing. The site needs to have safe and convenient access to the road network.'

The Environmental Protection Manager considers that an application for conventional housing in a location such as this is likely to give rise to complaints and as such the gypsy community should not be exposed to such a potential nuisance.

Access and Drainage.

The County Highway Authority has no objection to the development on highway safety grounds. Conditions are recommended to secure its requirements. There is no proposal to dispose of foul water to the sewer system. The form states that surface water would be allowed to soak away.

Contaminated Land

A contaminated land assessment accompanied the planning application. Both the Environment Agency and the Council's Contaminated Land officer have considered this. Both are content with the conclusions of the report albeit the report acknowledges the potential for contamination and the transfer of landfill gasses to the site. However, both are content to accept that the use of the site as proposed in the planning application is acceptable subject to the conditions.

The Objections to the Development-

The grounds of objection are summarised above. In terms of access and the impact on the countryside and the SSSI these issues are addressed above. The requirement for more sites in South Derbyshire is also considered above together with the special place in planning law for members of the gypsy and travelling community as expressed in Circular 01/2006. This does not remove the concern expressed by the wider community that there are exception policies in planning law that do not always allow the settled

community to develop land in the countryside. However, it remains a fact that in order to meet a severe shortage of site for the gypsy and travelling community, that community has special provision within planning law that allows development in the countryside where housing development is not normally acceptable.

One of the concerns expressed by objectors is the potential for more travellers to be attracted to the area. This has arisen because an area to the south of the application site has received the same treatment as the application site in the form of tipping hardcore and erection of fences. The landowner of that land is being pursued for an application to regularise the development that has taken place. His representative has indicated that there is no intention to sell the land to the gypsy or travelling community and the owner intends to submit a planning application to regularise the development that has taken place and seek permission for a storage use on the land. The site is being monitored and an application was promised by the end of January. At this stage there is no ground for progressing enforcement action against the landowner currently but the situation is being monitored.

Objectors have made complaint that the consultation period for objections fell during the holiday period and that no neighbours were directly consulted about the application. The period for responses to consultation was extended to take account of the holiday period. Indeed responses were accepted up to the date this report was prepared in accordance with the adopted Statement of Community Involvement. A 3-week period is normally specified to assist with the early determination of planning applications. No neighbours fall within the 4-metre consultation zone where a consultation letter is normally sent. The nearest dwelling lies a significant distance from the site so no consultation letter was sent. A site notice was erected on 14 December on a pole near the site. In any event, given the number of objections received it may be concluded that the application is well known.

With regard to noise issues, the Environmental Protection Manager has visited the site when the generator has been in operation and found that noise levels were unlikely to cause a nuisance. However, the proximity of the haulage yard appears to be an insurmountable obstacle to the occupation of the site and therefore with the application as submitted.

The Environment Agency and the Contaminated Land Officer at this Authority have examined contamination issues. Both are satisfied that the information submitted with the application is sufficient to conclude that the assessment shows that there is no significant risk posed to the applicant.

Conclusion

In the light of the Environmental Protection Manager comments above the following recommendation is considered appropriate.

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:

The site lies in the countryside adjacent to an established haulage business. Whilst the site has many attributes that would make it a suitable location for a site to meet the needs of the gypsy and travelling community, the presence of an established transport business on the adjacent land requires consideration of the application against the provisions of PPG 24 - Planning and Noise. The advice in this document is that the planning system should be used to minimise the adverse impact of noise without placing unreasonable restrictions on development or adding unduly to the costs and administrative burdens of business. In this case the development would be unacceptable because of the potential adverse impact on the development in terms of noise on the occupiers of the site to a point where complaints against the business could arise. Addressing these complaints would place an undue burden on that business. Housing Policy 15 requires (inter alia) that gypsy sites should be acceptable in environmental terms. In the light of the above this site is considered unacceptable and as such the development is contrary to the provisions of saved Housing Policy 15 of the adopted South Derbyshire Local Plan.

2. **PLANNING AND OTHER APPEALS**

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

Reference	Place	Ward	Result	Cttee/delegated
9/2009/0163	Linton	Linton	Dismissed	Delegated
9/2009/0484	Netherseal	Seales	Dismissed	Delegated
9/2009/0705	Shardlow	Aston	Allowed	Delegated



Appeal Decision

Site visit made on 12 January 2010

by **Jean Jones MA DipTP MRTPI**

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
22 January 2010

Appeal Ref: APP/F1040/A/09/2114418

Land adjacent to Heath House, Colliery Lane, Linton Heath DE12 6PE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr P Robinson against the decision of South Derbyshire District Council.
- The application Ref 9/2009/0163/F, dated 20 February 2009, was refused by notice dated 20 April 2009.
- The development proposed is the reconstruction of an implement shed, feed store and stabling.

Decision

1. I dismiss the appeal.

Main issue

2. The main issue is the impact of the development on the character of this rural area, having regard to development plan policies that seek to limit development in the countryside.

Reasons

3. The foundations of the building have been constructed and also parts of the breeze block walls. The application form describes the development as 'reconstruction' but the Council is unaware of any previous building and the Parish Council also queries this point. I am therefore dealing with the application as for a new building.
 4. My starting point is the development plan, the most relevant policies being Environment policies 1 and 5 (ENV 1 and ENV 5) of the South Derbyshire Local Plan 1998. Although this is now of some age, the policies are not inconsistent either with those of the East Midlands Regional Plan or with national policy in Planning Policy Statements 1 *Delivering Sustainable Development* and 7 *Sustainable Development in Rural Areas*. The only livestock on site at the time of my visit was one pony. There were scaffolding company vehicles on the land as well as piles of materials, a portakabin and a caravan. It is not clear that the proposal involves agricultural development and it would not therefore fall to be considered under ENV 5.
 5. Turning to ENV 1, there is no evidence that the building is essential to a rural based activity. While existing run down buildings are used as a stable for the pony and for storage, the proposed building is very large by comparison and the need for it has not been justified. The appellant states that the building is
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needed on animal welfare grounds before any livestock could be brought onto the land but no details have been provided about future business plans. I do not consider that planning conditions could be used to ensure the introduction of livestock in the future to justify the building in retrospect. Its appearance would be industrial rather than a traditional farm building and it would harm the rural character of the countryside. The use of metal cladding and the fact that there are larger sheds on adjoining land would not prevent this harm.

6. It is my conclusion that the appeal proposal would conflict with the development plan. The other material considerations have been taken into account but none of them outweigh the harm that I have identified and the appeal is dismissed.

Jean Jones

INSPECTOR



Appeal Decision

Site visit made on 12 January 2010

by **Jean Jones MA DipTP MRTPI**

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

**Decision date:
21 January 2010**

Appeal Ref: APP/F1040/D/09/2117730

31 Church Street, Netherseal, Swadlincote DE12 8DF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr D Green against the decision of South Derbyshire District Council.
- The application Ref 9/2009/0484/FH, dated 9 June 2009, was refused by notice dated 15 September 2009.
- The development proposed is to upgrade the existing loft space of an existing garage to a "Granny Flat" for elderly parents.

Decision

1. I dismiss the appeal.

Main issue

2. The main issue is the impact of the proposal on the character and appearance of the Netherseal Conservation Area.

Reasons

3. The conservation area covers the core of the village including the church and Netherseal Old Hall which are listed buildings. Although both these are in the vicinity of the appeal site I do not consider that the proposal would affect the setting of a listed building. The character of the conservation area stems from the historic and irregular arrangement of traditional buildings, including farms and cottages. Groups of buildings are arranged spaciouly with stone and brick being the predominant materials.
 4. The appeal property has been designed together with number 29 to have a simple, traditional and uncluttered appearance. The garage, which is the subject of the appeal, is again of simple design with a low sloping roof over the two doors.
 5. The proposed extensions would introduce a timber clad gable with two windows to the front of the garage and a further four rooflights in the gable slopes. At the rear would be another gable with spiral stair to the first floor entrance. My inspection showed that the garage is set back between numbers 29 and 31 so that it is not readily visible from Church Street. However, there is a public footpath running up past the front of these houses and the front of the garage would be clearly visible from this. I consider that the proposed additions to the front of this building would harm its simple design by adding a complicated roof shape, windows and different materials. This would take away from the
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uncluttered and traditional design originally provided and would fail to preserve or enhance the character or appearance of the conservation area.

6. The most relevant development plan policy is Environment Policy 12 (ENV 12) of the 1998 South Derbyshire Local Plan and, while this is now of some age, it remains consistent with regional and national policy in seeking to protect conservation areas. I consider that the appeal proposal would not meet the requirements of ENV 12 because of the adverse effect on the character and appearance of the conservation area resulting from its design. I have taken into account all the points raised by the parties but none are sufficient to outweigh this harm and the appeal is dismissed.

Jean Jones

INSPECTOR



Appeal Decision

Site visit made on 21 December 2009

by **Mick Boddy F Arbor A FICFor CEnv**

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

The Planning Inspectorate
4/09 Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-inspectorate.gsi.gov.uk

Date:
28 JAN 2010

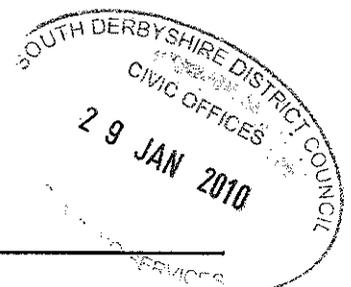
Appeal Ref: APP/TPO/F1040/920

1 Mill Green, The Wharf, Shardlow, Derby, DE72 7WE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent for the felling of a plum tree (T1) protected by a Tree Preservation Order.
- The appeal is made by Ms E Peeks against the decision of South Derbyshire District Council.
- The application Ref: 9/2009/0705/TP, dated 25 August 2009, was refused by notice dated 26 October 2009.
- The relevant Tree Preservation Order (TPO) is the South Derbyshire District (Land at 1 Mill Green, The Wharf, Shardlow) Tree Preservation Order No. 295 (2007), which was confirmed on 4 March 2008.

Decision

1. I allow the appeal and grant consent for the removal of the plum tree growing within the garden of 1 Mill Green, The Wharf, Shardlow, in accordance with the application ref: 9/2009/0705/TP, subject to the following conditions:
 - (i) The work for which consent is hereby granted shall be implemented within two years of the date of this decision.
 - (ii) Within twelve months of the date of the removal of the plum tree, a light standard rowan (*Sorbus aucuparia*), of 2.5 - 3 metres in height and 6-8 centimetres girth at 1 metre, shall be planted in a suitable location as close as reasonably practical to the position of the existing tree.
 - (iii) If within a period of two years from the date of planting, the replacement tree (or any other tree planted in its place) is removed, uprooted, destroyed or dies, a further tree of the same size and species shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original.



Main Issues

2. I consider that the main issues in this case are:
 - (i) Whether the proposed removal of the plum tree would be detrimental to the visual amenities of the Shardlow Wharf Conservation Area.
 - (ii) Whether or not there are sufficient grounds for the removal of the plum tree.

Reasons

The impact of the proposed removal of the tree

3. The subject tree is an immature purple-leaved variety of the cherry plum, *Prunus cerasifera*, the most common of which is 'Pissardii'. It is triple-stemmed from 700 millimetres and approximately 8.5 metres in height. Its crown has previously been raised and extensively thinned, and the principal upright branches are relatively slender. Clusters of vigorous young shoots are developing from several of the pruning wounds in the lower and mid crown.
4. From the photographs submitted by the appellant, it is evident that the plum is densely foliated and in view of its purple colouration is no doubt an attractive specimen when in leaf and also whilst flowering early in the season. However, when devoid of foliage it is an unexceptional specimen of limited merit.
5. By virtue of its position close to the boundary wall, the tree's crown is fully visible when approaching Mill Green along The Wharf from the south-west. Whilst the plum therefore affords a degree of public visual amenity value, I do not consider it to be a critical element of the Conservation Area.
6. In relation to this first issue, I conclude that the proposed removal of the plum tree would not have prohibitively detrimental impact on the visual amenities of the Conservation Area, subject to the planting of an appropriate replacement.

Grounds put forward for felling the tree

Shading

7. A photograph submitted by the appellant shows the crown of the tree in full leaf viewed from the adjacent bedroom window. This clearly illustrates that the plum blocks the view from the window and, due to the aspect, will shade this section of the south-western elevation for a proportion of the day. However, as this is not a principal room that would normally be occupied during the day, I do not consider that the current level of shading is sufficient to warrant the tree's removal.

Shedding of Fruit

8. A further photograph submitted by the appellant shows the extent of fruit shed from the tree and this issue is also raised in an e-mail from Nadine Killick, of 2 Mill Green.

9. Whilst the fallen fruit will undoubtedly cause a degree of seasonal inconvenience and additional maintenance, and may well also attract the attentions of wasps and potentially vermin, such problems in isolation would not normally justify the removal of a healthy protected tree.

Surface Roots

10. A substantial root has breached the surface of the lawn to the north-east of the tree and the appellant indicated a section of the patio, which runs parallel to the rear elevation of the house, that has previously had to be repaired, apparently due to the pavements being disrupted by the tree's roots. As with the other issues raised, whilst an inconvenience, these problems in isolation are currently insufficiently serious to warrant the tree's removal. However, the plum has the potential for significant further growth and whilst it is possible to control the extent of its crown by pruning, there are no practical measures that could be adopted in this situation to prevent potential further problems associated with the development of its root system.

Cost of Pruning and Repairs

11. As referred to above, the tree has the potential for significant further growth and it is apparent that it has already been extensively pruned. However, it is regenerating vigorously and the typical habit of this species is to have a very dense crown, congested with a mass of upright slender shoots developing from the inner branching, as is occurring in this instance from the old pruning wounds.
12. In order to restrict the plum tree to a size compatible with its situation, it will be necessary for it to be pruned on a regular basis, involving a significant financial outlay for the appellant. There may also be additional costs incurred if there is further disruption to the patio caused by the tree's roots, as is likely to be the case.
13. In relation to this second issue, I conclude that in isolation none of the reasons put forward by the appellant currently warrant the removal of the plum tree, but when considered collectively are sufficient to justify this course of action.

Conditions

14. The appellant has indicated that she would like to replace the plum tree with either a rowan or a Lombardy cherry. As there could be problems with the roots of a cherry, I have imposed a condition requiring the planting of a replacement rowan
15. I have also imposed a condition requiring that the plum tree be removed within two years of the date of this decision, to give the Council the opportunity to re-assess the situation in the event of the works not being carried out within this period.

Conclusions

16. In view of my decisions on the main issues, I have concluded that the current and potential future issues associated with the plum tree outweigh its amenity value and I therefore grant consent for its removal, subject to a replanting condition.

Mick Boddy

Arboricultural Inspector