

REPORT OF THE HEAD OF PLANNING SERVICES

SECTION 1: Planning Applications

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

1. PLANNING APPLICATIONS

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

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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. 9/2006/1430/MAF

Applicant:

Rokeby (Swadlincote) Ltd & Peveril
Securities Ltd

Agent:

Signet Planning Limited
12B Hornbeam Park Oval
Hornbeam Park
Harrogate

Proposal: **The development for retail, leisure (including multi-plex
cinema) food and drink uses including
retention/extension of existing buildings, means of
access and car parking at former Wraggs Pipes
Hepworths Coppice Side Swadlincote**

Ward: **Swadlincote**

Valid Date: **04/01/2007**

This application was brought to committee on 29 July 2008 when it was resolved to advise the Secretary of State that the committee was minded to grant permission subject to the signing of a Section 106 Agreement. The Secretary of State confirmed on 1 September 2008 that the proposal did not raise issues of such wider significance as to warrant the application being called in and thus determination by the Local Planning Authority was appropriate. The S106 agreement was not signed and a subsequent approval was granted by this committee for the housing element of the scheme as a separate permission. In the meantime amended plans for the retail element have now been received and due to the importance of the scheme for Swadlincote it is brought before committee for determination.

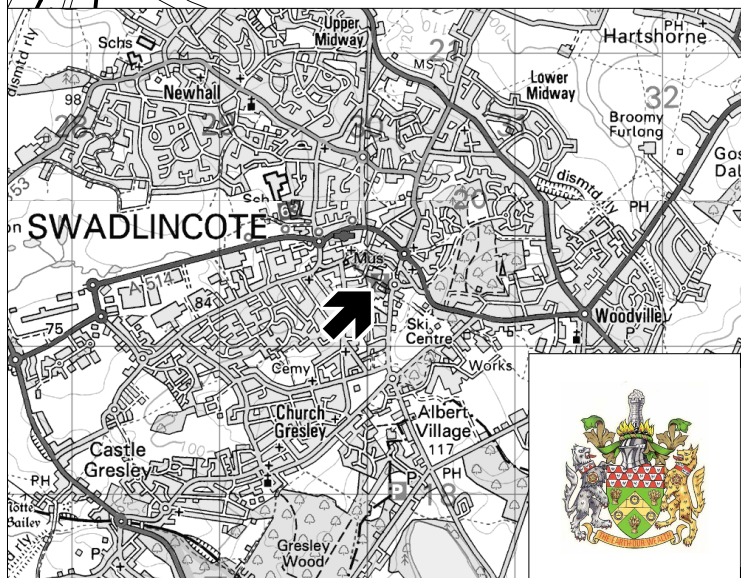
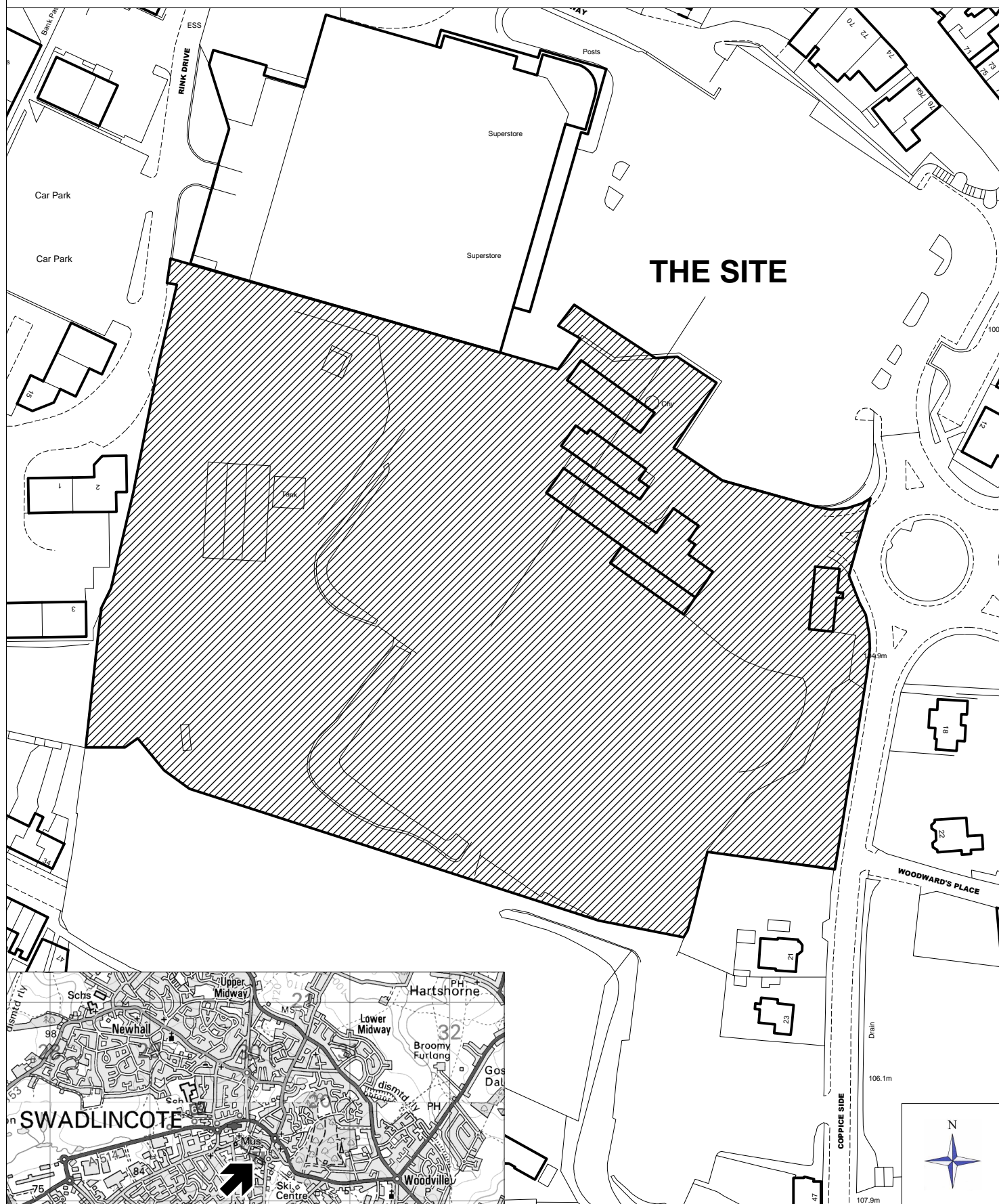
Introduction

The amended plans that were submitted on 1 June 2010 and are the result of negotiations over a 6 month period. The amendments are probably a result of the downturn in the economic climate and as such a different mix of uses is now proposed that omit the housing element, and reduce the comparison retail and leisure floorspace. Full consultation with all parties previously consulted for a 21 day period was necessary due to the time lapse and proposed changes. This report covers all aspects of the development now under consideration.

Site Description

The site was part of a pottery and pipe works formerly occupied by Wraggs and more latterly by Hepworths Building Products but now vacated and derelict. It comprises

**9/2006/1430 - Former Wraggs Pipes Hepworths, Coppice Side, Swadlincote
DE11 9AA**



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South Derbyshire District Council. LA 100019461. 2010

some 3.6 hectares of land to the southern side of the town centre adjoining the southern boundary of the Morrisons supermarket site (which occupies what was the remainder of the works). Generally the land rises to the south and at the southern edge it is significantly higher than the northern edge by up to approximately 5.1 – 5.6 metres.

Part of the site lies within the Swadlincote Conservation Area and there remain a number of historic buildings grouped around a Grade II Listed chimney and adjoining workshop which were part of the former pipeworks.

The site is bounded on its southern edge by the housing site currently under construction.

There are many significant views of the site from further afield including from the A511 and various approaches to the town from the north and east and particularly from the approach to the town from Derby Road and Coppice Side. The site is currently accessed from Coppice Side on its eastern boundary.

Proposal

Planning permission is sought for a retail/leisure scheme which comprises 10 retail units (two of which would be food retail), a five screen cinema and seven A3/A4 (restaurant/bar/pub) units.

The four existing historic buildings on site adjacent to the chimney on the northern boundary with Morrisons and adjacent to Coppice Side would be refurbished and converted into food and drink uses. Ten retail units would form an 'L' shape to the south of the existing buildings surrounding a surface level car park. The cinema would be in the north western corner of a height of 15m and with a tower feature of a height of 18m. Three new build units are proposed in between the cinema and the existing buildings which would be of modern design with a mono-pitch roof and a circular tower feature.

The 10 retail units would have floorspaces ranging from the smallest at 84 m² to the largest at 1398 m². Eight of the units would be comparison goods retail with floorspaces ranging from 400 -760 m². Two units would be food retail with floorspaces of 725m² and 1398 m². The cinema would have a floorspace of 1,298m², the new A3 / A4 units would be 325m² in total and existing buildings would be 1,071m².

The total amount of car parking would be 229 spaces (including 15 disabled spaces). The reused former offices on the site frontage (Building D) would have its own 11 spaces. 18 cycle stands are also proposed. A cycleway / footpath adjacent to the western boundary is proposed as is a pedestrian walkway along the majority of the northern boundary and would both link to the pedestrian link across the existing car park to Rink Drive. This would be secured through a Section 106 Agreement.

Changes since last committee are detailed below:

- 1) The housing part of the scheme is no longer part of the proposal and was granted permission at committee on 3 March 2009 and is nearing completion.
- 2) The leisure floorspace has been reduced by 1,999 m² by removing that which was above units 2-4. Therefore the height of the building adjacent to the cinema has reduced by 5.1m.

- 3) Two food retail units are proposed with a total floorspace of 2123 m².
- 4) Unit 8 would be been increased in size, 'L' shaped and would be set only 5 metres forward of units 5-7 as opposed to 13.2m in the previous scheme. The roof design of Unit 8 has changed to only being hipped on the end adjacent to Coppice Side and five panels on the front (northern) elevation are not fully glazed.
- 5) The overall retail floorspace of the development has reduced from 9,758 m² to 7,768 m². All floorspace of the 10 retail units have changed since the previous submission. The retail comparison floorspace has been reduced by 1992 m². Mezzanine floorspace amounting to 976 m² is proposed in units 2 and 6.
- 6) There is an increase of 8 car parking spaces.
- 7) An extension to the south of one of the converted buildings (Building C) is proposed measuring 6m x 19.5m.
- 8) In relation to servicing, the turning area to the rear of Unit 8 has been removed and turning of vehicles is proposed in the north western corner to the rear of the cinema and to the rear of Units 2 and 5.
- 9) The lift design has changed in order to make it more robust and avoid vandalism. The tower element has been removed and thus the proposal is 0.5 metres lower than previously. The roof would be sloped and the lift would be fully glazed adjacent to the Morrisons car park and the side elevations would be brick and terracotta cladding rather than steel.

Applicant's Supporting Information

Due to the time lapse, changes proposed in relation to convenience (food) retail floorspace and the publishing of PPS4, a further retail statement was considered necessary.

This document provides an assessment of the amended scheme in relation to quantitative need and PPS4 Policy EC10 Economic Development Test and Policy EC16 Impact Assessment. The assessment focuses on convenience goods floorspace as the committee resolution in July 2008 accepted the redevelopment of the site for retail and leisure purposes. A lot of weight is given to the fact that the introduction of the convenience goods retail has made the scheme viable and thus ensures the regeneration of this edge of centre site with the renovation of the existing historic buildings. It concludes that the trading impact upon the viability and vitality of Swadlincote town centre and other existing foodstore operators within the town would be well within acceptable limits.

The application is accompanied by an Environmental Statement (ES) (available on the register) which includes detailed assessment of:

- The proposed development and associated need
- Planning policy context
- Townscape and visual impact
- Townscape and conservation impact
- Cultural heritage and archaeology

- Contamination and ground conditions
- Flood risk and surface water run-off
- Ecology
- Transport and access
- Ecology
- Noise and vibration
- Construction
- Cumulative effects and interrelations.

As this document assessed the upper limit of development an updated ES was not considered necessary in relation to the amendments now being considered.

In support of this are the following related papers:

- Non-technical summary
- Transport assessment (by specialist consultant)
- Geo-environmental report and detailed quantitative risk assessment report (by specialist consultant)
- Planning statement (by specialist consultant)
- Design and access statement (by specialist consultants)

Planning statement summary

The supporting planning statement concludes as follows:

- The planning application by Rokeby seeks the regeneration of the former Hepworth Works' site through a mixed-use development comprising non-food retail uses, leisure uses (including a cinema), food and drink uses and the retention and extension of existing buildings for food and drink and also office purposes.
- The scale of the retail proposals is that approximately 6448 square metres of retail are intended, together with approximately 2,719 square metres of leisure and food and drink outlets. Of the leisure provision about 1,298 square metres will be in the form of a five-screen multiplex cinema.
- The Chimney and Building A adjoining are Grade II Listed Buildings and would require Listed Building Consent prior to any works being undertaken.
- In planning policy terms there is considered to be a strong case to support the development because it will lead to the regeneration of the site and an enhancement to the retail and leisure facilities currently offered by Swadlincote town centre. The town loses considerable amounts of expenditure to competing centres such as Burton-on-Trent and Ashby because of its lack of attractive retail and leisure outlets. In addition, the cinema and food and drink proposals will enhance the offer of Swadlincote for the evening economy. There are intended to be improved pedestrian linkages to the town centre via a footpath down the western boundary; through the Morrisons' car park and through a new footpath along Rink Drive (to be discussed in the context of the Section 106 Agreement).
- The scale of retail development is within the capacity identified as being appropriate for the town within the Donaldsons' retail report prepared for the Council as updated by our retail assessment. In any event, the regeneration benefits of the scheme are substantial and there is thus compliance with the relevant retail policies applying in PPS4.

- The small element of partial demolition of existing buildings (extension to Building C) is required as part of the overall scheme but is more than compensated for by the restoration of those buildings remaining.
- Although the existing site was used for employment purposes, the 'loss' of employment land is not considered to be an overriding planning issue because of the very high costs of developing the site for solely employment purposes which would not be commercially viable; the marketing history of the site; the existence of other employment sites in the vicinity of Swadlincote and also because the regeneration of the site will yield some 351 jobs (albeit they are not manufacturing jobs).

In these terms the proposals are regarded as complying with key planning policies and can be supported by the local authority.

Non-technical summary of the ES

The non-technical summary of the ES concludes that overall, the impact of the scheme on the environment when compared to the existing employment buildings on site is regarded as being minor or negligible. To a great extent, if the site was maintained as industrial in its current form, a modern retail / leisure scheme could be seen as beneficial. The main perceived impact for residents and users of Swadlincote Town Centre will be in terms of the visual impact of the new development compared to the existing buildings (although some of these are being retained) and the increase in traffic, which is all likely to be retained within the capacity of the existing road network. There will be temporary impacts caused by the construction of the development in terms of noise, air quality and traffic but these will be controlled by a scheme that will need to be submitted to and approved by the council.

Transport Statement May 2010

Due to the time lapse in relation to the amendments to the scheme a transport statement was requested. The report considers that the amended proposal would reduce the amount of traffic entering and leaving the site during both the Friday evening peak hour and the Saturday afternoon period due to the reduction in floorspace from 9,758 m² non food retail to 7,358 m² food / non food retail. It contends that it was previously accepted by the highway authority that the site has good levels of accessibility by all modes of transport and its location would enable linked shopping trips to be undertaken.

Planning History

There is no planning history relevant to the site as a whole. However, when the Morrison's store was approved the Grade II Listed Chimney formed part of a Section 106 Agreement that required certain repair works. In accordance with that Agreement re-pointing of a section of the chimney from the ground has been undertaken along with repair of the building attached to it.

9/2008/1179 - The residential development of 39 units with associated open space and highway works, Granted by Development Control Committee 3rd March 2009.

Responses to Consultations

Original plans

Sustrans (the cycling charity) objected to the proposal on the grounds that it made no provision for improved passage by bike and the 'canal without water' is too pinched at one point even to accommodate pedestrians in reasonable comfort let alone facilitate shared use if the east west option were pursued. Furthermore the proposed east west route is poorly detailed and emerges at one of the most difficult and dangerous places on Coppice Side with no attempt to offer a safe crossing or otherwise consider how riders travel to or beyond this point.

East Midlands Development Agency commented that development of the site would support the Priority Action 'Previously developed land and buildings', which is included in the Regional Economic Strategy 'A flourishing region' and aims to increase the re-use of previously developed land. It has consulted the Derby and Derbyshire Economic Partnership, the Sub-regional Strategic The Partnership for the area, and supports the application.

The Council's Economic Development Officer is supportive of the proposal and comments that it would regenerate a brownfield site, recapture spending that is currently being lost to the District, create employment, address low levels of vacant retail property, enhance the range and mix of retail provision and improve the leisure provision.

The County Council (Strategic Planning) had the following concerns in relation to the retail element of the scheme:

- The potential impact on the town centre
- The approach to the sequential test and availability of other town centre sites
- The cumulative impact implications which are not assessed by the applicant
- The proposed pedestrian linkages to the town centre

Provided the District satisfactorily addresses these issues the County Council considers that the potential benefits to the town centre are likely to outweigh concerns regarding retail impact and sequential test, particularly if the development is well integrated with the town centre through the provision of good pedestrian linkages.

The County Council Urban Design and Conservation Officer has submitted detailed comments. A number of concerns have been raised regarding the conclusion of the submitted documents. The conclusion is that the proposal would undermine the vitality and viability of the town centre as this site is not conveniently accessible enough to stimulate shared shopping trips. Furthermore it is questioned that sufficient connectivity between the site and the town centre can ever be achieved to justify retail units on this site. There is a strong possibility that the improvement works that have received public funding will be undermined by this proposed development.

The County Council Greenways Officer comments that no provision has been made through the proposed leisure and retail site for the proposed strategic Cycle Network Route 63 that has been identified through both the District and County Council strategic documents. It is vital for the continuity of this route to create this link.

English Heritage was unable to provide specialist advice but draws attention to the requirements of PPG15 and points out that Swadlincote may have potential for an area grant scheme and suggests that the authority takes into account any negative impact that this application may have on the Conservation Area.

The County Development Control Archaeologist comments that a condition should be imposed for a programme of recording before any works commence and thereafter a suitable qualified person should provide a watching brief.

The County Highways Authority requested an up to date Traffic Impact Assessment for the retail element of the proposal as the submitted document was out of date and had not commented on the residential part of the scheme.

Severn Trent Water has no objection subject to condition.

E-on has no objection.

The adjoining Local Authorities, East Staffordshire Borough Council and North West Leicestershire District Council raise no objection.

The Environmental Protection Manager (pollution) recommends conditions to deal with the potential for ground pollution, construction noise, noise breakout from the proposed units and a limitation on hours of delivery. Suitable conditions should safeguard occupiers of nearby properties from nuisance from extraction methods and lighting. The pollution control officer (contamination) considers that the applicants need to submit further data to enable further comment. (This will be reported further at the committee and in any event is the subject of recommended conditions below.)

The Commission for Architecture and the Built Environment (CABE) were unable to assess the proposal. However, the original proposal was submitted for review by OPUN, the East Midlands Design Review Panel. It stated that the scheme was extremely car dominated and that little consideration had been given to pedestrian and cycle access. There was little evidence of how this development would create a sense of place and help Swadlincote avoid becoming another 'clone town'. The design does not attempt to demonstrate locality. The site contains some buildings of high architectural quality but there appears to be little connection between them and the proposed new structures. The panel made various suggestions including that the block would benefit from being broken up and assimilated into its surroundings. It currently feels like an enclave which is completely separate from the town centre despite its close proximity and likely impact. Links to the town centre are weak and not enticing to potential users. The report accepted that servicing seems to have been approached sensibly but there is a distinct lack of overall masterplan and vision and no consideration of the wider context. With rear car parking the site could begin to be transformed from a standard retail park to a distinctive shopping and leisure complex for all to enjoy whether they arrive on foot or by car.

The Police Liaison Officer has not objected but advised on best practice for consideration of the footpath/cycleway.

Amended Plans (January 2008)

Sustrans are willing to accept the revised scheme subject to the location of some proposed gates being reconsidered under the Disability Discrimination Act and connection through the site to Highfield Road.

GOEM were advised that should the Council be minded to grant consent it will be referred under the Shopping Directive.

Central Networks had no objection.

North West Leicestershire had no objection.

EMDA have not commented further.

The County Council's Urban Design and Conservation Officer considered that the proposals do not adequately address any of the design objectives as set out in government advice and therefore it is difficult to accept the design as being the correct solution for the site. He concludes that even if the following elements were addressed, the acceptability of the scheme would still be in the balance:

- the buildings need to be built in appropriate materials with a high level of resolution in their detailing.
- the public spaces need to be of a high quality and relate to the old and new buildings in order to produce an integrated scheme
- the site's connections to the High Street need to be as good as practically possible

However, he does not believe that these elements of the scheme have been adequately addressed and as such the scheme fails to take the opportunities available for improving the character and quality of the area and therefore he recommends the application be refused on design grounds.

English Heritage states that consideration should be given to any negative impact on the conservation area and to seek the views of the Council's Conservation Officer.

Amended Plans (June 2008)

The County Highway Authority (CHA) states that the proposal has been the subject of consideration for some time resulting to some extent from the need for the applicant's consultant to carry out further traffic surveys and revise the submitted Transport Assessment. The stage has now been reached where it is satisfied that traffic generated by the proposals would not impact on the highway network to an extent that material harm justifying refusal of planning permission could be demonstrated. However, it considers that there are some elements of the scheme that would benefit from further detailed consideration although it is acknowledged that a balance needs to be struck between material issues. It is likely that the development would result in some additional congestion on the highway network, primarily at the Derby Road / Civic Way roundabout. Whilst this is unlikely to occur to a degree that would justify refusal of permission, the Council would need to recognise that some congestion is an inevitable consequence of this development.

There are also some concerns regarding the internal layout of the commercial part of the development. The CHA considers that the alignment of the access road in the

vicinity of the roundabout junction is far from ideal although it understands that this has been dictated by planning and design considerations. Nevertheless it wishes to make clear that the access road alignment and the location of a service vehicle access on the outside of the bend could create a potential for conflict at this location. With further reference to the service vehicle access there is an inference that this also forms part of the pedestrian links between the site and the town centre. Clearly the mix of servicing traffic and pedestrians is not ideal in terms of safety and may have implications for discouraging linked trips.

It is understood that the developer is to be required, via a Section 106 Agreement, to provide/improve a pedestrian route extending northwards across Rink Drive to Bank Passage and thence to High Street. As a matter of principle the Highway Authority is supportive of this initiative. A series of conditions are recommended for each element of the scheme in the interests of highway safety.

The Environment Agency has no objection subject to conditions.

The Ramblers Association has no objection but hopes that an existing adjoining section of footpath could be hard surfaced to improve usability and that the proposed footpath linking Weston Street with Highfield Road be made a public right of way.

Amended Plans (June 2010)

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

Derbyshire County Council's Rights of Way Officer makes comments in relation to Public Footpath 31 which adjoins the southern boundary of the housing site. [This site is no longer part of the scheme and is nearing completion and thus the comments are not relevant to this scheme].

The Council's Contaminated Land Officer confirms that all the original conditions still apply. Details as to the suitability of the site and remedial proposals to facilitate development specifically relating to gas, made ground; mining issues and other identified risks are required.

The Environment Agency has no objections to the revised plans as submitted.

Derbyshire Police's Crime Prevention Design Advisor considers the arrangement of the retail building blocks form good natural surveillance within the central area and provide for logical circulation. The changes to the lift to reduce vandalism are welcomed. The areas of concern are the pedestrian links to and from the site especially the connections to the Town centre and safety of the late night economy use and users. The route to this mixed use development from High Street and from Rink Drive is secluded and has little surveillance, falling behind blank walls and building elevations. The rear pedestrian path enters the site adjacent to the service yard and walls/hedges along to the side elevation of the Cinema. This link certainly requires CCTV due to the route being enclosed, unobserved and isolated which could create fear of use especially in the later evening when Cinemas operate.

The area directly from Morrison's car park utilising a lift and stairway to enter the site into a line of 3 blocks building A, B and C. This area shows zoning but it is possible to traverse all around the site. The complexity of this layout and entrance and its slightly

hidden access behind building A without clear lines of sight means that the area could become susceptible to anti social behaviour (ASB) and unwanted congregation. The area would greatly benefit from CCTV coverage to the access point, due to the many facets and changes in elevation and A3 late evening use to prevent and deter crime and ASB and remove any fear of use. A comprehensive lighting scheme is also essential to all public areas, but especially to the pedestrian links and beyond. Other issues to do with licensed premises management should be dealt with under any premises licensing application.

In summary he considers that a CCTV scheme should be provided especially covering the two pedestrian links for safety, security and to reduce fear of crime. The whole development would also benefit from CCTV cameras covering the main development access point for all users, to deter car crime and opportunist criminals. Cinema car parks do generally suffer from a higher level of car crime than many other leisure uses in Derbyshire.

The Council's Environmental Health Officer recommends the previous conditions as per the 29 July 2008 Committee report. The changes to the hours of use that are proposed for two of the units (SU6 and SU8) are considered acceptable with the proviso that reversing beepers are restricted and rubber matting is used outside where rolling delivery cages would be used. These can be controlled through the noise condition.

The County Highways Authority has confirmed that there is unlikely to be material detriment to the highway network compared to the previously "approved" scheme and, as such, the proposal is acceptable in principle. It should be remembered however that Members would need to recognise that some congestion is an inevitable consequence of a development of this nature.

East Midlands Development Agency has not responded as yet.

The County Council (Strategic Planning) had the following concerns in relation to the retail element of the scheme:

- The potential impact on the town centre
- The approach to the sequential test and availability of other town centre sites
- The cumulative impact implications which are not assessed by the applicant
- The proposed pedestrian linkages to the town centre

The County Council (Strategic Planning) considers that the methodology and data assumptions which have been applied in the retail impact assessment are robust and based on reliable sources. There are no general issues to raise on the scale issue as the two proposed foodstores are appropriate in the context of the role and function of Swadlincote.

A concern is raised in terms of the sequential test in that the Kwik-Save unit is vacant within the town centre and may be able to accommodate the smaller Iceland store. Further assessment in terms of its availability, suitability and achievability is required. There is also a concern about the lack of assessment of the impact effects on the Somerfield store within the town centre. There is no assessment of its current trading position and its future trading viability in experiencing a trade diversion of £0.467m. Further information is thus required as to whether a 3.7% draw would be a significant impact on that individual business. On the wider social, environmental and

economic impacts, there is support of the benefits of the proposals. Overall the conclusion is that the proposals are broadly compatible with the key retail tests in PPS4 but that for certainty additional info on sequential test issue and impact on Somerfield should be sought.

East Staffordshire Borough Council states that the Retail Statement appears somewhat deficient in that it has not taken account of the allocated sites within Burton, despite the fact that there is a considerable overlap of Burton and Swadlincote's catchments. It also seems odd that Paragraph 4.18 refers to trade being taken from Sainsbury's and Morrison's, but makes no mention of Tesco or Asda which are geographically closer. Notwithstanding these reservations, the limited size of the proposed convenience floor space and nature of the operations are such that the proposal is considered unlikely to have an adverse impact on retailing in East Staffordshire. However, a condition prohibiting the change of any of the comparison floor space to further convenience floor space is recommended (no mention of Tesco and Asda are made as there are no stores within the immediate study area).

English Heritage do not wish to offer any comments on the proposal and recommend the application be determined in accordance with national and local policy guidance and on the basis of the Council's specialist conservation advice.

North West Leicestershire District Council, the County Archaeologist, British Gas / Transco, Sustrans, Central Networks, the County Greenway Officer, the Ramblers Association and Chamber of Trade have not volunteered any additional comments.

Responses to Publicity

Prior to the submission of the application, the applicants held an exhibition of their original proposals at the Sharpes Pottery Museum in Swadlincote for two days in October 2006. The results are reported more fully in the applicants' supporting planning statement but featured:

- Attendance by 200 people
- 30 comment forms returned with support from all bar two
- A small number of individual traders verbally expressed some concern about the competition from newcomers.

The following comments were made as a result of the Council's usual public consultation and notification procedures.

Original Plans

Cllr Ron Lane has requested consideration be given to securing contributions towards: Eureka Park (including a youth shelter, band stand and play equipment), arts and culture in the town, traffic management survey and the town centre public realm.

Ten letters of objection were received stating the following:

- a) The increase in traffic on Highfield Road, Weston Street, Hastings Road and Coppice Side would cause a greater danger to road users and an increase in noise and disturbance.
- b) These roads are already full up and not wide enough; access is already poor for existing residents, service and emergency vehicles. Drive ways are frequently

- blocked and car parking at a premium. The scheme would exacerbate all these problems. Further parking restrictions in the area would be difficult to enforce.
- c) The area is already being used as a short-cut for drivers avoiding the Morrison's traffic lights. Speed bumps and access restrictions should be considered.
 - d) Construction traffic would cause traffic disruption on Highfield Road.
 - e) The junction of Highfield Road and Highfield Street needs improvement to prevent accidents.
 - f) There is no provision for safe access by cyclists and inadequate access for them to share the pedestrian route.
 - g) The site would be better accessed from Coppice Side.
 - h) The housing development would not be in keeping with the area; four storey blocks would be twice as high as neighbouring housing.
 - i) There would be a loss of privacy for neighbouring residents whose property would be overlooked and overshadowed and suffer from more noise and disturbance.

A planning consultancy has also written a lengthy letter of objection on behalf of another potential developer in the town to state that (in summary): inadequate supporting information has been submitted; the scheme conflicts with the RSS, PPS6 and PPG13, and conflicts with PPG15, the Wraggs SPG and would be detrimental to the setting of the listed building. It considers that the slow progress made in determining the application is adversely affecting the local retail market and is therefore stifling investment in the town.

Amended Plans (January 2008)

25 letters of objection (many from those already having objected before and many not objecting to the commercial development) were received setting out many of the same points as made to the original plans but also the following:

- a) HGVs are using Coppice Side as a short cut through the area despite a weight restriction. Coppice Side and Herbert Wragg Way are already congested and driveways on Coppice Side are difficult to access.
- b) Local infrastructure is inadequate.
- c) The open space on the housing scheme may attract groups that would cause a public nuisance.
- d) Some of the open space could be used to provide more parking.
- e) As the area suffers from subsidence, piles are likely to be used which could cause noise and disturbance and damage to property.
- f) Pollution levels would increase.
- g) Grass snakes occupy the site.
- h) Swadlincote is at the heart of the National Forest.

2 letters of support have also been received stating the following:

- a) The site is currently a 'tip' and its development would be good for the town.
- b) The proposed extra parking at the top of Weston Street is welcomed.
- c) The development would put life back in to the town and would be beneficial to the younger generations.

Amended Plans (June 2008)

Seven letters have been received, many stating similar objections as before and all stating that the amended scheme does not meet the objections set out in previous

letters regarding the multiple traffic and highway safety problems that the housing development would cause and one in particular highlights the extra traffic noise that would result forcing her to consider triple glazing. Once again neighbours are requesting that access is taken directly from elsewhere.

Amended Plans (June 2010)

No letters have been received in relation to the amendments now under consideration.

Development Plan Policies

Saved Local Plan: Housing Policies 4 and 11; Environment Policies 12, 13 and 14; Transport Policies 6, 7 and 8; Shopping Policy 1; Recreation and Tourism Policies 1 and 4.

National Guidance

PPS 1 – Delivering Sustainable Development
PPS 4 – Planning for Sustainable Economic Growth
PPS 5 – Planning and the Historic Environment
PPS 23 – Planning and Pollution Control
PPG 13 – Transport
PPG 24 – Planning and Noise

Planning Considerations

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

- Principle of development and previous committee resolution and the agreement under Section 106.
- The location of development and the retail impact on Swadlincote Town Centre (the PPS4 tests).
- The design and layout of the retail/leisure development and its impact on Swadlincote Conservation Area and the listed building.
- Access, highway capacity and safety, and links to the town centre.
- Environmental impacts (including ecology, hydrology, archaeology, landscape).
- Amenity of occupants of nearby dwellings.
- Crime prevention Measures

Planning Assessment

The previous scheme for a larger floorspace of comparison retail and leisure development together with the housing element was considered at Planning Committee on 29 July 2008. Exactly 2 years on the scheme is back before committee in a different form probably due to the impact of the recession. The previous committee resolution and comments from the then Secretary of State are considered material considerations in the assessment of this amended proposal.

Previous committee resolution on 29 July 2008 was as follows and items relating to the housing part of the proposal have been removed to avoid confusion:

That the Secretary of State be advised that the Council is minded to grant planning permission, subject to the conditions set out in the report of the Head of Planning Services, amended as indicated above and to the additional requirements raised by Members listed below together with an Agreement under Section 106 of the Town and Country Planning Act 1990 to secure the satisfactory provision of a contribution... towards heritage facilities in the town, a satisfactory pedestrian/cycle link to the town centre from the west/north-western boundary, and the satisfactory retention/repair and conversion of the historic buildings described as A-D prior to the first opening of any retail/leisure unit to the public:-

- *CCTV (condition No. 42) – use best endeavours to secure in discussions with the developer, police and Crime Prevention Officer if this is deemed to be an appropriate option.*
- *Parking – use best endeavours to secure unrestricted parking in the main car park, although this cannot be required legally.*
- *TV receptions – non-interference to be conditioned where necessary.*
- *Traffic calming / restricted parking on local roads – ask County Highways Authority to consider in consultation with Local Members.*
- *Construction noise – advise Pollution Manager of Members' wishes to restrict working hours during the development phase, particularly during the evenings, early mornings and Sundays.*
- *Establishment of Liaison Committee – include as part of the Section 106 Agreement requirements, which preferably should be chaired by an independent representative.*
- *Condition No. 45 – insert occupation of the first building as the trigger point.*
- *Condition No. 47 – consider and clarify maintenance arrangements.*
- *Exposed retaining wall – request scheme for screening via a condition.*
- *Walkway to Rink Drive – require the erection of bollards via a condition.*
- *Links – report back for Committee approval if Head of Planning Services considers it necessary.*

The main elements of the previous scheme have been retained in terms of the renovation of the existing buildings on site, the links to the town centre, the retail, leisure and food and drink uses and thus it is considered that the principle of the development was established by the committee resolution and Secretary of State comments in 2008. The amended proposal is thus considered acceptable in principle.

The location of development and the retail impact on Swadlincote Town Centre

Swadlincote is defined as a 'town centre' for the purposes of PPS4 and, in line with Adopted Local Plan Shopping Policy 1, is seen by the Council as being a priority for new retail, leisure and commercial development, as well as public realm renewal. In this regard, the Council supported the centre's designation in the (now revoked) Regional Plan as a 'Sub-Regional Centre'.

The revoked Regional Plan advocated that action be taken to promote investment through design led initiatives and the development and implementation of town centre strategies. This was undertaken in Swadlincote in the form of the "Town Centre Vision and Strategy 2005" and "Town Centre Masterplan". The Town Centre Masterplan works are underway with the completion of West Street and the continuing works in The Delph that began in May. Its overall aim is: *"...to encourage business growth, create new jobs*

and regenerate vacant brownfield sites in and around the town centre through street improvements that enhance Swadlincote's historic character”.

A Development Brief for the site was adopted in 2001. Key themes were retention of the Listed Buildings, a building mass that reflected that of the industrial nature of the site, the use of building materials that reflected local distinctiveness and a definite link between the site and the existing retail properties on the High Street.

The Adopted Local Plan (1998) contains three saved policies specifically relating to retail development with Shopping Policy 1 being relevant to this application. The aim of Shopping Policy 1 in the adopted Local Plan is to ensure that the vitality and viability of Swadlincote town centre is sustained and enhanced subject to criteria requiring suitable scale and character, acceptable traffic generation and parking. In specific relation to the proposed development, Shopping Policy 1 seeks to ensure that developments immediately adjacent to the centre are permitted, provided; they cannot be accommodated in the centre; the site is not required for business or industrial use; and, that adequate links to the centre are provided for pedestrians and the disabled.

The previous scheme had a total retail floorspace of 9,758 m² which included provision for mezzanines within the retail units. This scheme proposes a total retail floorspace of 7,768 m² including 976 m² of mezzanine floorspace. A condition controlling mezzanines was considered by committee on 29 July 2008. However, given that the submitted Retail Statement now includes the mezzanine provision (and the fact that if further mezzanines are proposed if they are above 200m² then planning permission is required), it is not considered necessary to control them by condition.

The aims of the policies in the Local Plan are developed further by the more recent national guidance, PPS4. PPS4 sets out the primary objective for development in town centres, namely: promoting the vitality and viability of town and other centres as important places for communities. This is to be achieved by focusing growth in existing centres, enhancing consumer choice and retailer competition and preserving the historical, archaeological and architectural heritage of centres.

This application is a revision to a previously approved application, as is set out in this report. The principle of retail development at the Hepworth Works site has been previously accepted by the committee, however, with the alteration of the retail composition of the scheme and the emergence of new national guidance in PPS4, it was considered that further assessment was necessary. The revised application is required to satisfy policies EC10, EC15 and EC16 of PPS4, these considerations are detailed below.

Policy EC10 is entitled ‘Determining planning applications for economic development’. The applicants contend that the original supporting documentation covered EC10: a, b and c. It is considered that the applicants report demonstrates that these aspects of the scheme would not be significantly altered by the change in the retail composition of the development. In terms of physical regeneration in the area, the applicants contend that the delivery of this scheme will have a positive impact on regeneration in Swadlincote. The applicants report shows that the proposed alterations to the scheme would: improve the viability of the scheme and assist in bringing forward the related regeneration work; and lead to the creation of a greater number of jobs, impacting positively on local employment.

In addition to the applicant's report, further information has been submitted to address the requirements of Policy EC15, *The consideration of sequential assessments*. The applicant contends that there is no scope for disaggregation of the floorspace and that no sequentially preferable sites exist. From the evidence considered there are no sequentially preferable sites which are suitable, available and viable on which to fully consider the scope for disaggregation and therefore policy EC15 is satisfied.

Policy EC16 is entitled 'The Impact Assessment for planning applications for main town centre uses that are not in a centre and not in accordance with an up to date development plan'. There are six impacts to consider the revised application against and they are assessed below.

- a) *The impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal*

The applicants' report demonstrates that the proposed scheme is the most significant private investment near the town centre which is currently planned and, that by approving alterations to the scheme and increasing its viability, there would be an overall positive impact on investment in Swadlincote town centre.

- b) *The impact of the proposal on town centre vitality and viability, including local consumer choice and the range and quality of the comparison and convenience retail offer*

The applicants contend that the proposed scheme will bring forward a range of retail and leisure uses, which would assist in expanding the retail and leisure offering of Swadlincote. The full range of end users is not yet known and so it is not possible to quantify any positive or negative impacts on the quality of the retail offer.

- c) *The impact of the proposal on allocated sites outside town centres being developed in accordance with the development plan*

There are no retail sites allocated in the 1998 South Derbyshire Local Plan on which to impact.

- d) *In the context of a retail or leisure proposal, the impact of the proposal on in-centre trade/turnover and on trade in the wider area, taking account of current and future consumer expenditure capacity in the catchment area up to five years from the time the application is made, and, where applicable, on the rural economy*

The applicants report shows that, given a set of reasonable assumptions from established sources, the revised proposal would have a limited negative impact upon existing foodstore operators both in and on the edge of Swadlincote town centre. The applicants state that all of the forecast impacts are well within acceptable limits. The applicant's report contends that, by 2013, the growth in convenience expenditure in the primary and secondary catchment would be of a scale to cover the anticipated turnover of both proposed convenience stores. The report estimates that the impact on individual stores peak at 6.3% of turnover from Lidl or £1.4million from Morrisons.

In relation to the impact on Somerfield within the town centre and whether there would be a significant impact on that individual business, the agent has provided further information. The agent contends that the "*potential trade impact on Somerfield is small*

(3.7%), and should not, therefore, have an adverse affect upon the vitality and viability of this store or the town centre as a whole. Furthermore, the potential impact upon that store's trade, identified for 2013, uses figures that have been revised down in order to take into account the recent economic downturn. Whilst the future economic situation cannot be predicted the expectation of all parties is that it will improve, though not necessarily within the immediate/short term".

The agent also considers that *"the nature of the proposals is such that it will not only improve the site but also the offer of the town as a whole. With its increased attractiveness as a destination Swadlincote will retain revenue that is currently being lost to surrounding centres. It is, therefore, vital that the town secures these quantitative and qualitative improvements in order to respond to competition from nearby shopping centres and facilities"*.

The above is considered to adequately address the concern raised by the County given the circumstances in terms of forecasting trading figures in the current climate and the overall positive impact on the retail offer to Swadlincote as a whole.

- e) *if located in or on the edge of a town centre, whether the proposal is of an appropriate scale (in terms of gross floorspace) in relation to the size of the centre and its role in the hierarchy of centres*

The applicants report contends that the scale of the overall scheme was considered during the initial application and that the change in retail composition on the site does not impact upon the scale of the scheme.

- f) *Any locally important impacts on the centres under policy EC3.1e*

No locally important impacts have been defined in South Derbyshire.

Policy conclusion

Given all of the above considerations, although the applicant's report acknowledges an adverse impact on nearby convenience retailers, these impacts are not at a level which is considered to be significant - as is required by EC17.1b for a refusal. Given the scale of these impacts, PPS4 requires the proposed development to be further considered under policy EC17.2. Policy EC17.2 refers back to policies EC10.2 and EC16.1 and the overall positive and negative impacts of the scheme in terms of (among other things) sustainability, accessibility, high quality design, regeneration and job creation whilst taking account of other planned or committed developments. All of these issues have been addressed within this report and it is concluded that the overall impact of the scheme would be positive when considered alongside other planned and committed investment at Swadlincote.

With regard to whether the site is required for employment uses, the South Derbyshire Employment Land Study indicates that the site is no longer suitable for this purpose particularly given its close proximity to existing housing.

Section 106 agreements now stand to be tested under the criteria set out in regulation 122 of the recently published Community Infrastructure Levy Regulations 2010. This states that *'A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is—*

- (a) necessary to make the development acceptable in planning terms;*
(b) directly related to the development; and
(c) fairly and reasonably related in scale and kind to the development.'

The contributions/works required as set out in the recommendation below comply with these criteria.

The design and layout of the retail/leisure development and its impact on Swadlincote Conservation Area and the listed building.

The national and local conservation policies seek to ensure that development is not permitted that would have an adverse affect of the conservation area or the setting of any listed buildings.

Being more than 7m higher than the High Street and separated from it by a Morrisons superstore, the applicants' architects were set a challenging task to integrate a scheme effectively with the town centre. Negotiations on this scheme have been undertaken to ensure the best development for Swadlincote that positivity contributes to its built heritage and retail and leisure offer.

The principle conservation and urban design issues are:

- The integration of the development with the historic fabric of the conservation area
- Creating a high quality development with a sense of place that adds to and enhances the distinctive character of the town
- The creation of strong physical and visual links with the town centre
- Securing high design quality in new buildings and spaces
- The retention and re-use of surviving but redundant historic workshops

The scheme initially submitted did not address any of the above issues adequately. A number of the historic workshops were to be demolished and the remainder were treated in isolation, the quality of the new build and spaces was poor, there was no cycle route or pedestrian link to the residential area to the north and no strong link to the town centre. Rather than seek to demonstrate a positive impact, the applicants' accompanying Design and Access Statement sought only to demonstrate that the visual impact of the development would be minimal.

At the Council's request the scheme was presented to the OPUN East Midlands Design Review Panel in April 2007. The panel considered that there was a distinct lack of overall vision, the development felt like a car dominated enclave separate from the town with little consideration given to pedestrian and cycle access, there was little evidence of how the development would create a sense of place and help Swadlincote to avoid becoming another clone town and there was little connection between the proposed structures and existing buildings of high architectural quality. The panel thought that the site could be transformed by clustering the buildings around a more attractive open space less dominated by cars with parking to the rear. They acknowledged the need for retail units on the proposed scale and recognised the topographical constraints of the site but felt that much could be done to improve the design of the scheme building on the character of what is there, and integrating the development with the town centre without compromising viability. Specifically they recommended that:

- buildings should be clustered around a higher quality space with parking to the rear
- quality of place needs to be demonstrated responding to local character and incorporating contemporary design
- a clear dialogue should exist between the historic buildings and the new and the potential of the old buildings should be realised through a quality approach
- the cinema should be a strong feature that makes a convincing link with the locality that brings the retail development and town centre together using the relationship with the old buildings to add uniqueness
- if Rink Drive is to be the main strengthened pedestrian route, units at northern end of the development should be smaller to create a less intimidating route

The applicant was unwilling to make any radical change to the layout or the building configuration. However the amendments in January and June 2008 were made that improved the proposal:

- a redesign of the cinema block incorporating a high quality projecting tower at the entrance with high level cathode lighting and adjacent angled first floor glazing to the foyer
- a new well designed contemporary 'link block' incorporating a drum shaped tower which sits between the cinema and the listed and other historic buildings creating a well integrated physical and visual connection
- the incorporation of more glazing to shop fronts and improved signage panels
- a concentration of active uses at the northern end of the site creating a hub of activity between the old and new buildings close to the points of access towards the town centre
- a realignment of the access so that all the surviving historic buildings can be retained and their conversion has been handled sympathetically and to a high quality
- a pedestrian and cycle route has been added connecting the site to the residential areas to the south
- spaces between buildings have been redesigned using high quality materials
- landscaping has been developed to soften and reinforce the urban form of the layout
- the quality of cladding materials in the retail and leisure blocks has been improved and have a more locally distinctive character
- the link across the Morrisons car park has been improved with a higher quality contemporary lift and stair.

The overall quality is retained at this higher level; the development reflects and adds to local character, has a sense of place and pedestrian and cycle links to the town centre would be improved. Although the best solution would have been to change the layout, it is considered that the overall impact of the revised development would be positive provided a strong enough pedestrian link is created on the west side. This link is not shown on the plans as it is off site but its provision would be secured via a Section 106 Agreement.

The amendments to Unit 8 were difficult to negotiate given that the future occupier (Aldi), due to the nature of their business, are very fixed in terms of store layout and parking provision. The revised position and elevational treatment of Unit 8 are considered acceptable as the unit remains set forward of adjacent units to enclose the

space, the maximum amount of glazing has been secured on the front elevation to provide an active frontage and the hipped roof provides a good detail on this important end unit adjacent to Coppice Side. That said this unit has been compromised in terms of the enclosure it created in the previous scheme before committee together with the provision of a fully glazed active frontage. A compromise was considered necessary due to the importance of this particular occupier on the viability of the scheme. Further amendments have been negotiated in relation to the lift and staircase linking the site with Morrisons and extension to building C. Changes to the slope of the roof of the lift and external materials ensure a modern appearance that respects the context adjacent to the Listed chimney and Building A. The extension to Building C has been improved by the use of timber cladding on the southern elevation with large symmetrical openings and lowering the existing gable wall.

Subject to an incorporation of appropriate conditions, the revised scheme is considered to be acceptable from an urban design and conservation point of view. In particular, the scheme would not be harmful to the character and appearance of the Swadlincote Conservation Area.

Access, highway capacity and safety and links to the town centre

The CHA have been in extensive discussions with the applicants' highway engineer consultants. Due to the time lapse an updated Transport Assessment was submitted with the amended plans.

Whilst it now considers the scheme to be acceptable, it is important to note that if permission were granted, in the view of the CHA, it would not be without fairly significant impact in the form of some additional congestion on the highway network, primarily at the Derby Road/Civic Way roundabout. Whilst the CHA considers that this is unlikely to occur to a degree that would justify refusal of permission, the Council would need to acknowledge that some congestion is an inevitable consequence of this development and should only make the decision on that basis.

In terms of access by pedestrians and cyclists particularly to and from the town centre (High Street), there is general agreement about the importance of this, both in terms of convenience and in terms of how the development would compliment shopping in Swadlincote rather than operate as a separate entity. Whilst improvements to the scheme have been made over the various amendments particularly in the form of the modern lift and stairs to link through to Morrisons and the link via Rink Drive, it is considered that the scheme should stand or fall on the timely provision of these links. With this in mind it is recommended below that permission should only be granted subject to a Section 106 agreement to secure in particular, the construction of a satisfactory link through to the High Street. The applicant has provided a concept plan of the proposed link via Rink Drive which has the agreement of officers and can be detailed in the S106 agreement. Construction details, lighting and landscaping can be controlled through the agreement and so worded that the link be completed prior to the opening of the first store.

Environmental impacts (including ecology, hydrology, archaeology, landscape).

This application has been assessed against the considerations as set out in the EIA. The key environmental issues associated within the proposed development are set out in detail in the ES and in brief within the non-technical summary. Having reviewed the

contents of the ES it is considered that the impacts identified are considered in sufficient detail and appropriate mitigation measures have been identified. The ES identifies that the redevelopment of the site provides opportunities to improve the environmental condition of the site in respect of soil contamination and ecology and could also provide opportunities to bring back into beneficial reuse a number of derelict buildings located within the Swadlincote Conservation Area.

However, it is worth noting that the development proposal could still give rise to residual impacts. Perhaps the most significant of these are related to noise and vibration during construction and transport impacts. Although local residents could experience these impacts even after mitigation, the use of conditions attached to the permission should afford some level of control as advised by the Manager of Environmental Protection (pollution). Similarly increased traffic movements which, whilst within the capacity of existing infrastructure, could lead to notable increases in traffic flows of up to 20% on the roads immediately surrounding the site during peak times.

Notwithstanding these effects, it is considered that there is sufficient information set out in the ES to identify that this project would not give rise to significant environmental impacts such that planning permission should be refused on those grounds.

Amenity of occupants of nearby dwellings

The main impacts in terms of residential amenity would come from the proximity of the retail units to the newly completed housing development to the south. The properties have a 5.1 – 5.6 metre higher land level than the site. Where properties have side elevations adjacent to the rear of the retail units there is a distance of 15m and where properties have rear elevations facing the northern boundary a distance of 21 m is maintained. The apartments in the western part of the housing site would be in close proximity to the turning area to the rear of units 4 and 5, however, the significant change in levels means that this would not adversely affect the amenity of residents. Given that the development was previously integrated with the retail and leisure scheme and designed with both uses in mind the retail/leisure element would not have a significant impact on the amenity of the recently completed residential properties. The general impacts regarding potential noise intrusion are dealt with in the environmental impacts section below.

Crime Prevention Measures

Derbyshire Police have made recommendations in relation to a CCTV requirement especially in areas that would not have good natural surveillance. This is considered essential to ensure the links to the town centre are safe and secure. Members will note that a request to secure CCTV if it is deemed to be an appropriate option was part of the 2008 committee resolution. On this basis, the use of CCTV will be secured through condition 35 below.

Conclusion

The foregoing sets out the policy position and how the proposals can be assessed in relation to it. It is fair to say that the development which has now emerged as a result of hours of difficult negotiation is not favoured as 'ideal' by all consultees. Nevertheless the application has progressed to a point where it is considered that no more meaningful progress is likely to ensue from further negotiation and therefore members

are now being requested to consider all of the issues in order to make a decision. In particular the importance of the formal link with the town centre is highlighted. The Council's Design and Conservation Officer and the CHA also state the importance of the link. It remains that the CHA has made it clear that members should only grant permission on the understanding that congestion is an inevitable consequence of this development.

In conclusion, with the PPS4 test having been met (via securing the link through a Section 106 agreement), the decision rests on the weight that can be attributed to the remaining fundamental issues. It is considered that: the potential for the rising levels of traffic congestion and the potential for noise intrusion during construction does not outweigh the opportunity for the town to secure a future for the historic buildings on the site and bringing a derelict site back into use; secure a significant inward investment in the interests of the continued economic development of the town; and add to the opportunity for retaining local retail expenditure in Swadlincote.

The scheme now before members retains a large proportion of the improvements secured through negotiations prior to the 29 July 2008 committee resolution. The changes proposed in terms of Unit 8 particularly, are a compromise in respect of the previous scheme, however, a balance between actually securing the scheme for Swadlincote and not being entirely comfortable with the change to Unit 8, had to be made. The recession appears to have had a significant impact on the scheme and as such has shaped the scheme now before committee. In terms of the previous committee resolution, the link across Rink Drive to Bank Passage can be secured together with the satisfactory retention/repair and conversion of the historic buildings described as A-D. These can be secured through the S106 agreement which is currently in draft form. The heritage contribution and the establishment of a liaison committee can no longer be secured under the statutory criteria recently introduced.

Legislation no longer requires the application to be referred the Secretary of State as it did before.

Recommendation

- A. Delegate power to the Head of Planning Services to conclude an agreement under Section 106 of the Town and Country Planning Act 1990 to secure satisfactory provision of: a satisfactory pedestrian/cycle link to the town centre from the west/north western boundary; and the satisfactory retention, repair and conversion of the historic buildings described as A-D prior to the first opening of any retail/leisure unit open to the public.
- B. Subject to A., **GRANT permission** subject to the following conditions:
 - 1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
 - 2. 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 must 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 should 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.

3. 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.

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

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

5. 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.

6. Notwithstanding the originally submitted details, this permission shall relate to the Commercial/Leisure drawing nos. BNY-SA[08]10 01 E01, BNY-M7[08]10 21 E01, BNY-SA[08]10 21 E05, BNY-SA[08]20 21 E01, BNY-SA[08]20 01 E01, BNY-

SA[08]00 11 E05, BNY-SA[08]20 01 E01, BNY-SA[08]10 01 E01, BNY-M7[08]00 01 PL3, BNY-M7[08]00 02 PL2, BNY-M7[08]00 03 E02, BNY-M7[08]00 04 PL1, BNY-M4[08]10 01 E00, BNY-M4[08]00 01 E00, BNY-M6[08]00 01 E03, BNY-M6[08]00 02 E03, BNY-SA[08]00 21 E01, BNY-SA[08]00 22 E01 and BNY-SA[08]00 12 E02.

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

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

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

9. The premises, the subject of the application, shall not be taken into use until space has been provided within the site in accordance with drawing no. BNY-SA[08]10 01 E01 for the parking, loading and unloading, picking up and setting down of passengers, manoeuvring of staff, customers, service and delivery vehicles (including secure covered cycle parking), laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

10. No development shall be commenced until details of a Travel Plan have been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be implemented in accordance with the approved details prior to any development being taken into use and shall thereafter be maintained accordingly.

Reason: In the interests of the sustainable use of the site and highway safety.

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

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

12. Large scale drawings to a minimum Scale of 1:10 of all shop fronts together with signage panels, including horizontal and vertical sections shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The shop fronts shall be constructed in accordance with the approved drawings.

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

13. The retail/leisure units shall not be occupied until full details of all hard landscaping (including sections, details of materials, laying patterns, all boundary walls, steps, ballustrades and lighting) has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of any retail/leisure unit hereby permitted.
- Reason: In the interests of the appearance of the area.
14. Notwithstanding the submitted details, the retaining walls around the southern perimeter of the site shall be brick faced and surmounted with a shaped clay coping samples of which shall be submitted to and approved in writing by the Local planning Authority prior to the commencement of the development hereby permitted. The approved walls shall be constructed prior to the first occupation of the scheme hereby permitted.
- Reason: In the interests of the appearance of the area.
15. Notwithstanding the particulars of the application, revised details of the location and design of the electricity sub-station shall be submitted for approval in writing by the Local Planning Authority prior to commencement of building operations.
- Reason: The submitted details are considered unsatisfactory.
16. The retail / leisure units shall not be occupied until full details of the proposed scheme of lighting has been submitted to and approved in writing by the Local Planning Authority. The lighting shall be erected in accordance with the approved scheme prior first occupation of the retail/leisure development hereby permitted and shall be directed so as to avoid nuisance to occupiers of dwellings in close proximity. The lighting shall be designed to BS 5489 specification unless otherwise agreed in writing with the Local Planning Authority.
- Reason: To protect the amenities of adjoining properties and the locality generally and to safeguard the visual amenity of the area.
17. Notwithstanding the details originally submitted, the proposed lift and staircase as shown on drawings BNY-M6[08]00 01 E03 and BNY-M6[08]00 02 E03 shall be constructed, completed and available for public use prior to the first occupation of the retail/leisure development hereby permitted. The lift and staircase shall thereafter be maintained and available for public use at no charge in perpetuity.
- Reason: To ensure that pedestrian links are maintained in the interests of the vitality and viability of the town centre.
18. Notwithstanding the submitted details, revised details of the junction of the two boundary walls to the west of building A shall be submitted and approved in writing by the local Planning Authority. The walls shall be constructed as approved prior to the first occupation of the retail/leisure development hereby permitted unless otherwise agreed in writing by the Local planning Authority.
- Reason: In the interests of the appearance of the area.
19. Notwithstanding the submitted details of the barrier on the entrance to the service access to buildings A, B and C, a detailed scheme showing retractable bollards in lieu of the barrier shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the occupation of the related buildings.

Reason: The submitted scheme is of an unacceptable design.

20. Notwithstanding the submitted details, large scale drawings to a minimum Scale of 1:10 of all windows and doors, the balustrade to the steps adjacent to the lift and canopies, including horizontal and vertical sections, precise construction method of opening and cill and lintel details where applicable shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The details shall be constructed in accordance with the approved drawings.

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

21. Notwithstanding the submitted details, prior to the occupation of any of the units hereby permitted, a condition survey and a schedule of repairs for the making good of buildings A-D shall be submitted to and approved in writing by the Local Planning Authority. The approved repairs and conversion of buildings A-D shall be completed prior to the first occupation of the new retail and leisure units hereby permitted.

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

22. Pointing of buildings A-D shall be carried out using a lime mortar the specification for which shall be submitted to and approved in writing by the Local Planning Authority. The finished joint shall be slightly recessed with a brushed finish.

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

23. A sample panel of pointed brickwork of buildings A-D of 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 the appearance of the building(s) and the locality generally.

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

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

25. Gutters on buildings A-D shall be cast metal (with cast metal fall pipes) painted black and shall be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

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

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

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

27. All external materials used in the repairs/alterations to buildings A-D shall match those used in the existing building in size, 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.

28. Prior to the commencement of the development hereby permitted, a scheme highlighting details of the likely resultant noise levels from activities during the construction phase at the nearest noise sensitive premises shall be submitted to the local planning Authority. The investigation shall address the noise impact that the activities will have on nearby residential properties. This assessment and mitigation measures shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. Once approved, all identified noise control measures shall be implemented and thereafter retained.

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

29. Prior to the commencement of any works on site, a scheme for the assessment of noise and the provisions to be made for its control shall be submitted to and approved in writing by the Local planning Authority. The assessment shall address the noise impact that the activities inside and outside the proposed units will have on nearby residential properties. The approved noise control measures shall be implemented in accordance with the approved scheme and thereafter retained.

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

30. No deliveries shall be taken at or despatched from retail and leisure units SU1A, SU1, SU2, SU3, SU4, SU5, SU5A and SU7 outside the hours of 08.00 and 18.00 Monday to Saturday nor at any time on Sundays, Bank or Public Holidays. No deliveries shall be taken at or despatched from Unit SU6 outside the hours of 07.30 and 21.00 Monday to Saturday or 10:30 to 17:30 on Sundays, Bank or Public Holidays. No deliveries shall be taken at or despatched from Unit SU8 outside the hours of 07:30 to 18:00 Monday to Saturday and 10:00 to 16:00 on Sundays, Bank or Public Holidays. Unless otherwise agreed in writing by the Local planning Authority.

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

31. Any fixed plant or equipment installed on the retail/leisure site shall not exceed a background noise level (La90,t) as measured at the boundary of the nearest residential property at any time.

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

32. Any installed odour control extraction system on any of the retail/leisure buildings shall be so designed so that there are no detectable cooking odours at the nearest residential properties.

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

33. All footways, footpaths and cycleways shall be fully constructed and be available for free public use prior to the first occupation of the development hereby permitted.

Reason: To ensure proper pedestrian/cycle connection of the scheme to the adjoining areas.

34. Unless otherwise agreed in writing by the Local Planning Authority, details of a location for a public recycling centre on the site shall be submitted and approved in writing by the Local Planning Authority. Any agreed facility shall be made available in perpetuity at no cost prior to the first occupation of the development hereby permitted.

Reason: To enable adequate facilities to be provided locally.

35. Prior to the first occupation of the development hereby permitted, measures to minimise the risk of crime which shall include CCTV 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.

36. Notwithstanding the submitted details, facilities for the parking of cycles on the retail/leisure site shall be submitted to and approved in writing by the Local Planning Authority. The approved facility shall be installed and made available free of charge prior to the first occupation to any retail/leisure unit hereby permitted.

Reason: In the interests of the provision of non-car access to the site.

37. 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.

38. 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 first building 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.

39. There shall be no goods or materials stored in the open within the parking and/or delivery areas as marked on the submitted drawings.

Reason: To prevent interference with the safe manoeuvring and parking/loading of vehicles on the site.

40. Notwithstanding the submitted details, details of all bin stores for the site shall be submitted to and approved in writing by the Local Planning Authority. All stores shall be erected prior to the occupation of the part of the development to which it relates.

Reason: To ensure that adequate facilities are provided in the interests of visual amenity.

41. Notwithstanding the particulars of the application revised details of the boundary wall to Coppice Side shall be submitted and approved in writing by the Local Planning Authority prior to the commencement of the development hereby permitted. The approved walls shall be constructed prior to the first occupation of the scheme hereby permitted.

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

Informatives:

This permission is for (inter alia) conversion of buildings A-D only and does not convey any right to demolition and replacement by a substitute building. Any further demolition/replacement necessitated by on-site works should be first agreed in writing by the Local Planning Authority.

The proposed development lies within a coal mining area. In the circumstances Applicants should take account of any coal mining related hazards to stability in their proposals. Developers must also seek permission from the Authority before undertaking any operations that involves entry into any coal or mines of coal, including coal mine shafts and adits and the implementation of site investigations or other works. Property specific summary information on any past, current and proposed surface and underground coal mining activity to affect the development can be obtained from the Coal Authority. The Coal Authority Mining Reports Service can be contacted on 0845 762 6848 or at www.coal.gov.uk.

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

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

Further to the above Informative, the responsibility and subsequent liability for safe development and secure occupancy of the site rests with the developer and/or landowner. This grant of planning permission does not give a warranty of ground support or stability, neither does it necessarily imply that the requirements of any other controlling authority would be satisfied.

This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990.

That detailed plans of road levels, surface water drainage arrangements and the construction of the new residential street should be submitted to the County Surveyor, Derbyshire County Council, County Offices, Matlock, Derbyshire, DE4 3AG, prior to the commencement of the work.

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.

Where development is proposed, the developer is responsible for ensuring that development is safe and suitable for use for the purpose for which it is intended. The developer is thus responsible for determining whether land is suitable for a particular development or can be made so by remedial action. In particular, the developer should carry out an adequate investigation to inform a risk assessment to determine:

- whether the land in question is already affected by contamination through source - pathway - receptor pollutant linkages and how those linkages are represented in a conceptual model;
- whether the development proposed will create new linkages, e.g. new pathways by which existing contaminants might reach existing or proposed receptors and whether it will introduce new vulnerable receptors; and
- what action is needed to break those linkages and avoid new ones, deal with any unacceptable risks and enable safe development and future occupancy of the site and neighbouring land.

A potential developer will need to satisfy the local authority that unacceptable risk from contamination will be successfully addressed through remediation without undue environmental impact during and following the development. In doing so, a developer should be aware that actions or omissions on his part could lead to liability being incurred under Part IIA, e.g. where development fails to address an existing unacceptable risk or creates such a risk by introducing a new receptor or pathway or, when it is implemented, under the Environmental Liability Directive (2004/35/EC). Where an agreed remediation scheme includes future monitoring and maintenance schemes, arrangements will need to be made to ensure that any subsequent owner is fully aware of these requirements and assumes ongoing responsibilities that run with the land. The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

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

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

To note and act upon as necessary the attached plan of cables on the site provided by Powergen.

The application site is affected by a Public Right of Way Footpath No. 31 in the Parish of Swadlincote on the Derbyshire Definitive Map. The route must remain unobstructed at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Advice regarding the temporary (or permanent) diversion of such routes may be obtained from the Director of Environmental Services at County Hall, Matlock (tel: 01529 580000 and ask for the Footpaths Officer).

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. 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.

Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Department of Environmental Services at County Hall, Matlock (tel: 01629 580000 or via the County Councils website www.derbyshire.gov.uk).

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

(i) Although 6m manoeuvring space is shown for parking areas, bays at the end will be difficult to access without an additional reversing bay being provided beyond the last spaces. If bays cannot be provided, it is recommended that the manoeuvring width should be increased to 7m.

(ii) Parking for Plot 8 is too restricted - adjacent bays (Plots 9 & 6) should be moved 1m away.

(iii) Parking for Plot 16 will be difficult to access and therefore requires more width/manoeuvring space.

(iv) Plots 17-21 require a redesign to maximise the parking space availability and minimise the need for indiscriminate parking within the turning head. Spaces for Plots 17 & 18 are currently shown wider - are these plots designed for people with impaired mobility?

(v) It is unclear how refuse bin collection is to be arranged. It needs to be shown where bins are to be stored, and where bins are to be left on collection day. It is assumed that the refuse collection service requires bins to be left adjacent to the highway. The bin store for the flats is not adjacent and it is unclear where bin storage for the terraced houses is expected to be. This issue needs to be taken into account in new housing layouts, for convenience of residents and to avoid bins obstructing the highway.

Further to condition 21 above, a possible location of the sub-station would be to the south of Building D.

The lighting should be well integrated with the form of the hard landscaping and architecture and shall include elements that form an integral part of their design.

In respect of condition 28, the use of reserving beepers shall be prevented unless broadband ones are used and rubber matting floors shall be installed in areas outside where rolling delivery cages are used is required.

In respect of condition 28, the use of reserving beepers shall be prevented unless broadband ones are used and rubber matting floors shall be installed in areas outside where rolling delivery cages are used is required.

Item **1.2**

Reg. No. **9/2009/0341/MAO**

Applicant:

Roger Bullivant Ltd & E.ON UK Plc
c/o Roger Bullivant Ltd
Walton Road
Drakelow

Agent:

Ms H Pugh
David Lock Associates
50 North Thirteenth Street
Milton Keynes

Proposal: **A hybrid planning application with all matters reserved for up to 2,239 dwellings, including a retirement village: an employment park; two local centres comprising retail, services, leisure, employment and community uses; public open spaces; a new primary school, associated landscape and infrastructure including car parking, road and drainage measures; and the refurbishment of the listed stables and cottages (with full details- comprising change of use and repair of the building). Drakelow Park Walton Road Drakelow Burton-on-trent**

Ward: **Linton**

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

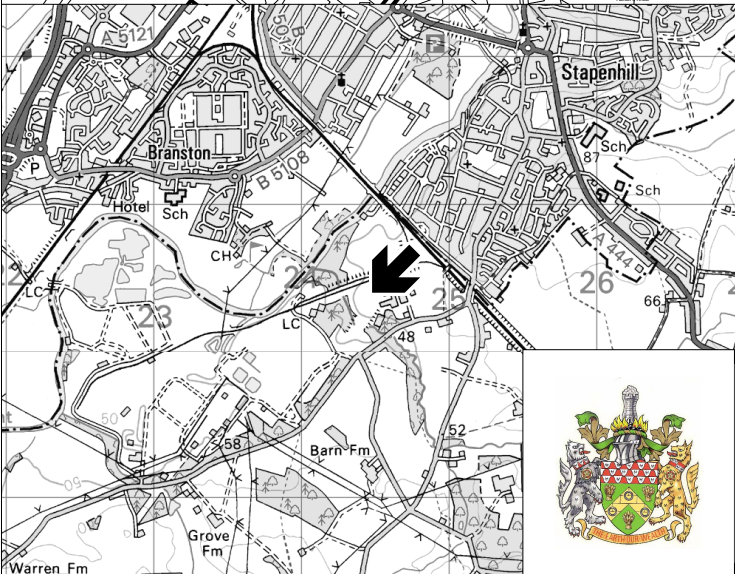
Reason for committee determination

The application is a major application that has attracted more than two objections and is not in accord with the development plan.

Site Description

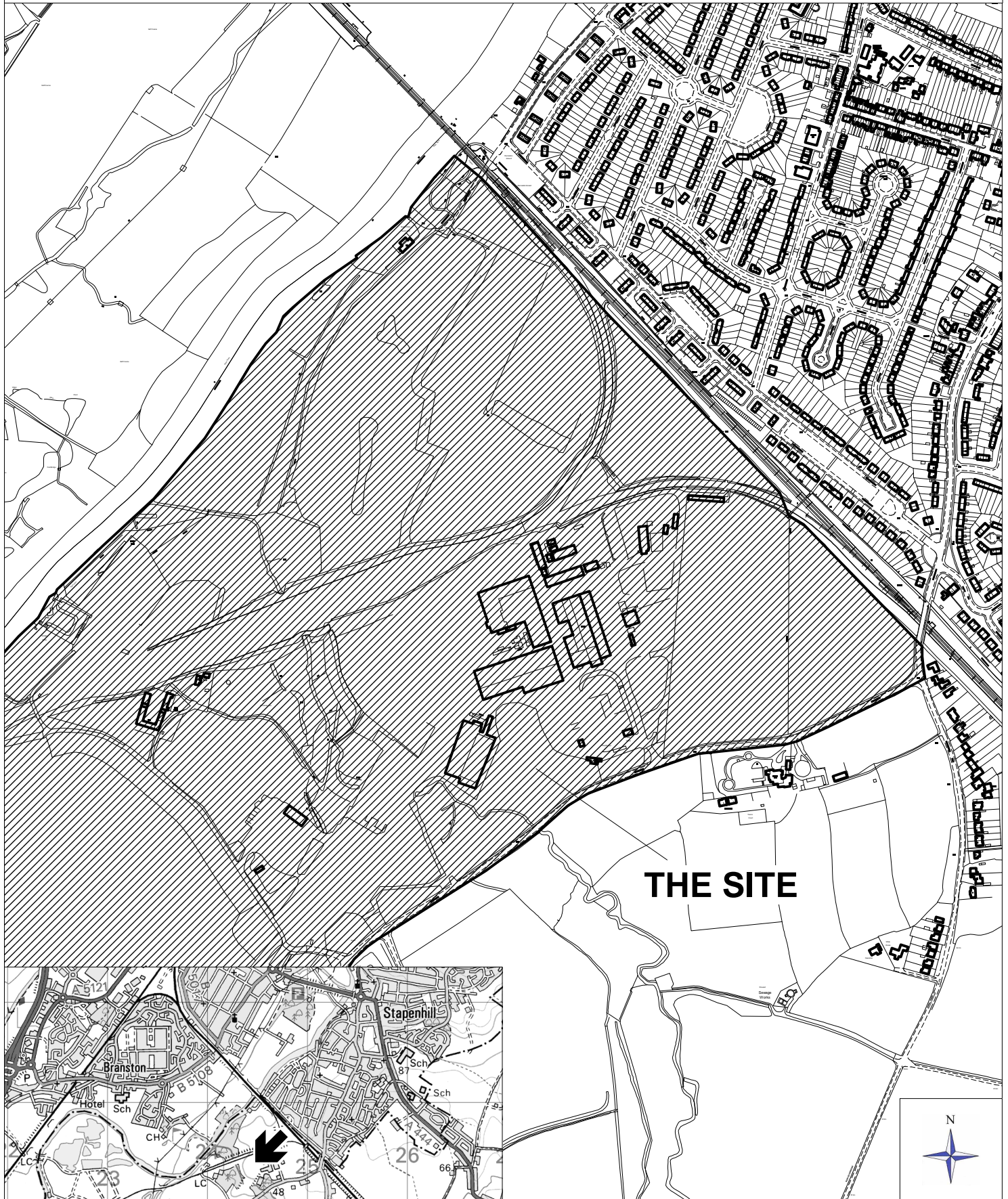
The application site (referred to as Drakelow Park) is located approximately 3km to the south of Burton-upon-Trent town centre and 5km to the west of Swadlincote town centre. It sits on the border between the East and West Midlands. The site is bounded by the River Trent to the north-west, with Branston Golf and Country Club and the residential estate of Branston beyond the river. To the southeast is Walton Road, which forms the south-eastern boundary of the application site. Over Walton Road there is little development other than farmsteads scattered across the otherwise agricultural landscape. Several small isolated woodlands (the largest of which is Grove Wood) are also located to the south and east of the site.

To the north-east is the Burton to Leicester freight railway line (known as the National Forest freight line) and beyond this is the residential estate of Stapenhill (a footbridge crosses over the railway line, linking the application site and the residential estate of



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Stapenhill (at Cumberland Road). To the west of the site is the site of the former Drakelow Power Station. In the north west of the site is agricultural land (presently cultivated) comprising 12 hectares together with mature woodland (most of which is covered by tree preservation orders). A small watercourse (Darklands Brook) flows through the centre of the site towards the River Trent. Areas of woodland currently on the site are covered by woodland tree preservation orders.

There are several Grade II listed structures within the site boundary including a stable block, cottages, sunken garden and garden wall, all remnants of the former Drakelow Hall. There is also an existing dwelling house and a boat house on the site and these would remain unaffected.

The application site is approximately 109.48 hectares in area and is largely on low-lying ground to the south of the River Trent. The part applicant Roger Bullivant Limited (RBL), (a foundation, engineering, and piling company) currently occupies the majority of the site, but a part of the site is owned by E.ON plc (E.ON) who is a joint applicant with RBL. Facilities on the site currently comprise manufacturing units, offices, car parks and product and pile storage areas. The south-western part of the site which was formerly associated with the adjacent power station site is vacant. The site is also crossed by a redundant rail siding.

To the west of the site is a National Grid substation and land owned by E.ON where consent has been granted for a 1,220 MW combined cycle gas turbine power station with ancillary equipment and a further application to extend this is currently awaiting determination by the Secretary of State.

Proposal

This is a hybrid planning application with all matters reserved for up to 2,239 dwellings, including a retirement village; an employment park; two local centres comprising retail, services, leisure, employment and community uses; public open spaces; a new primary school (two-form entry); associated landscaping and infrastructure including car parking, roads and drainage measures; and the refurbishment of the Listed stables and cottages (with full details). A separate application to refurbish the listed buildings was approved under planning permission 9/2009/0342 in July 2009.

The proposal indicates the use of the existing main vehicular access point which currently serves RBL's offices and site from Walton Road and an amended access would be created where a previous permission granted under application 9/2007/0356. In addition, there are two existing pedestrian connection points proposed linking the site to Stapenhill, one comprising a crossing over the railway line which utilises a footbridge joining with Cumberland Road to the north east of the site, and the other linking to an informal track passing beneath the railway viaduct adjoining the River Trent, to the junction of Cumberland Road and Waterside Road to the north of the site.

The application is presented as a three phase development. The first phase would include the construction of the local centre, primary school, a large central swathe of the woodland planting, drainage and recreation areas (up to the northern riverside edge); two main housing areas, the retirement village and the commencement of the first phase of the industrial development in the south western corner. It is stated that RBL would continue operating from its main site during the first phase although the relocation off site would have commenced (according to the interaction statement). Phase two

comprises the remainder of the housing on the east side, the supplementary local centre and the main woodland (existing) and open space areas along the Walton Lane frontage; and the remainder of the industrial phase on the western boundary. It is at this stage that RBL proposes to move its operation to a vacant site owned by E-ON beyond the eastern boundary. Phase three would see the development completed with the remainder of the residential area on the west central area and adjoining recreation areas.

The applicant's planning statement suggests that a Combined Heat and Power (CHP) system (which is the simultaneous generation of thermal and electrical energy from a single stream of fuel) is a possibility given that E.ON has consent for a Gas Fired (CCGT) Power Station adjacent to the development site which could potentially be associated in providing a CHP facility for the Drakelow Park site, thus providing the district heating and electrical energy for the development.

If permission were granted, supplementary works are also proposed which include physical improvements to the Barton Turns and Branston junctions of the A38 and improvement works in Burton. For the Barton Turns junction, (among other things) this involves replacement of the existing roundabouts with signalised layouts. For the Branston Interchange junction, this involves (among other things) signalling the north bound off slip where it meets the circulatory carriageway and widening that slip road to 3 lanes over part of its length.

Applicants' supporting information

In support of the application is a statement submitted by the planning agents stating that:

Permission should be granted at Drakelow Park for the following reasons:

1. It will secure the retention of a highly valued employer in the local area, safeguarding existing jobs and creating new employment opportunities on site;
2. It will bring very large areas of brownfield and derelict site back into productive use, reducing the need to build homes on greenfield sites, or on sites at risk of flooding, elsewhere within the District;
3. It will deliver a balanced community including a wide range of homes by type, tenure and price, encompassing special needs housing such as retirement homes, and giving many more local people the chance to trade up to better quality housing without having to leave the area;
4. It will establish in perpetuity more than 35% of the site as green space – including a riverside park, woodland nature trail, parks and village squares;
5. It will secure the refurbishment of the listed stable block and will open up parts of the historic site to the public for the first time for more than 50 years;
6. It will give people the choice to live and work in the same community, avoiding long journeys to work by car, and will deliver a high quality of life with a new primary school, health, local retail and other community facilities;
7. It will deliver a multi million pound transport package for the local area, including the already approved new bridge connecting the site to the A38 (Walton Bypass), thus ensuring there is adequate capacity on local roads;

It goes on to comment that the current economic climate is very uncertain, and the planning system is about to be changed radically. But demographic pressures keep

going - local people still need good quality housing close to good quality jobs. The opportunity to create such places, through good planning, careful design and careful implementation is rare. It says that the proposals before the Council reflect current best practice, conform to the essence of established planning policy, and will take 10 to 15 years to deliver in partnership with local organisations and institutions. Approval of the application will allow the creation of Drakelow Park to proceed without further delay.

As the application falls under Schedule 2, categories 10a and 10b of the Environmental Impact Assessment (EIA) Regulations (1999 – as amended): ‘industrial development projects’ (Category 10a) and ‘urban development projects’ (Category 10b) an Environmental Statement (ES) has been prepared. An EIA is undertaken to determine the likely significance of potential environmental impacts and the nature of any mitigation measures that may be required. The findings of the EIA are presented in the ES. Also included in support of the application are the following documents prepared by specialist consultants:

- A design and access statement (setting out the design and layout concept for the site and how the development would connect with the wider area)
- A planning statement (setting out the site context, the national, regional and local planning policy contexts, and a general planning assessment at the time of the application)
- A statement of community engagement (outlining the stages of public consultation prior to the submission of the application)
- A transport assessment (setting out the national regional and local transport policy context, the site location in regard to transport networks, the proposals with regard to demand for travel, and the strategy for managing and meeting the demand)
- A sustainability statement (including the approach, policy objectives and framework)
- A flood risk assessment
- A supplementary planning statement (giving the planning policy position in November 2009)
- A viability overview report (November 2009) - updated with letters, the last being July 2010 (this examines the viability of the project taking into account all the costs associated with the development, the income generated, profits and the residual sum that would be available to provide for affordable housing and other infrastructure contributions).
- Draft heads of terms for an agreement under Section 106
- Planning policy update statement (February 2010)
- A Transport Assessment Addendum (November 2009)
- An illustrative master plan
- An ecological appraisal
- A detailed phase 2 ecology survey and assessment
- An Arboricultural appraisal
- A culvert survey and report
- An interaction statement (describing the combined potential impact and interaction between the proposed development and the forthcoming power station on the adjoining site to the west)
- An Agricultural Assessment
- Illustrative master plan and drawings

- Planning policy update statement (May 2010)
- Transport Assessment Summary Report (May 2010)
- Travel Plan (May 2010)
- Briefing note on affordable Housing (May 2010 - produced by the main agent)
- A briefing note on public consultation which indicates that flyers, press releases, statements, public exhibitions, an interactive website, meetings, site-tours and a Liaison Committee Working Group were all set up prior to the application being submitted and the website and Liaison Group is still in operation.

Copies of all these documents are available to be viewed.

Planning History

Other numerous applications were granted on the site (mainly for RBL), which in part notionally established an amount of traffic generation [although not comparable to that envisaged in the current application] as regards the capacity of the local road network.

Notable is one application for the formation of the Walton by-pass including a bridge over the Trent to link to the East Staffordshire side at a point beyond the existing bailey bridge (9/2003/1525) which was granted in May 2005, with a further permission granted under section 73 (variation of condition) subsequently in May 2007.

Further applications include:-

9/2009/0350 - the construction of a pedestrian and cycle bridge across the River Trent between Drakelow Park site and Branston Golf & Country Club - withdrawn 05 August 2009.

9/2009/0342 - to repair and refurbish grade II listed Stable block - granted 15 July 2009.

Responses to Consultations

English Heritage do not raise any objections and advise that the application should be determined in accordance with national and local policy guidance and on the basis of the District Council's specialist conservation advice.

Advantage West Midlands advises that it welcomes the application as a sustainable urban extension to Burton-upon-Trent as this is in line with the strategic policy context offered by the West Midlands Economic Strategy, the emerging West Midlands Regional Spatial Strategy and the East Midlands Regional Spatial Strategy (as Burton-upon-Trent is a Growth Point) but is concerned with the transport issues that have been identified by Staffordshire County Council Highways. On reconsultation in December 2009 the agency noted the Supplementary Planning Statement and the inclusion of the West Midlands Regional Spatial Strategy (WMRSS) phase Two Panel Report recommendations and the recognition of the Panel's recommendation for similar wordings, on co-operative working on core strategies to that in the East Midlands Regional Plan (EMRP).

The Council's Contaminated Land Officer advises that the development requires a phased approach and there is likely to be made ground underlying the site. Standard conditions are requested should the application be approved.

Derbyshire County Council (DCC) Strategic Planning Committee considered the application and resolved that it has serious concerns that the application is premature and if approved could, by virtue of its scale, have disproportionate impacts on the area and could prejudice:

- the final outcome of the WMRSS Phase 2 Revision;
- ongoing works between East Staffordshire Borough Council (ESBC) and South Derbyshire District Council (SDDC) regarding the requirements of the Derby Housing Market Assessment (HMA); and
- preparation of SDDC Core Strategy vis the allocation of key strategic housing sites;
- There are no extenuating circumstances to suggest a more urgent release of land for housing given the current 5 year land supply situation.
- A member (DCC) comments that although he has no objection, there would be access problems associated with the main routes to the site.

The Highways Agency (HA) in June 2009 initially placed a holding objection on the application as it advised at this time that there was insufficient information supplied to warrant a substantive response and a directed that permission should not be granted until their concerns had been fully addressed. Further information was submitted in the form of a transport assessment addendum on 15 December 2009 and the Highways Agency stated that whilst the note moved things forward it did still not have the necessary information to accurately identify the impact on the trunk road network and therefore the direction remained in force.

Following extensive discussions with the HA, Staffordshire County Council (SCC) Highways, DCC Highways and SDDC in May 2010 the developer submitted a Framework Travel Plan and Summary Transport Assessment together with indicative drawings showing proposed physical improvements to the Branston and Barton Turns junctions of the A38. The developer also confirmed that further improvements of the A38 would be supported as required (to be agreed) and a monetary contribution to the HA will be provided as required in accordance with the Travel Plan submitted. The HA advises that in order for the development to be acceptable it requires the works proposed in the Summary Transport Assessment and the Framework Travel Plan to be carried out and would require full input into the drafting of the relevant parts of the S106 Agreement prior to any planning decision being issued.

The concluding position of the HA is that it now finds the principle of the development acceptable and has issued a direction that if permission were granted then a condition stating: 'No development or combination of development shall be occupied that would result in trip generation exceeding 426 vehicle trips in the AM peak or 380 vehicle trips in the PM peak (based on the trip rates set out below) unless and until road schemes broadly in accordance with Infrastructure Planning and Design Limited layout drawings IPaD - 09- 104-P-110 Revision D, IPaD - 09-104-P-111 Revision D, and IPaD - 09-104-P-112 Revision D have been implemented in full, open to traffic and approved by the Local Planning Authority in consultation with the Highways Agency. The vehicular trip rates to be applied are as follows: Residential (per dwelling) - AM Peak 0.37, PM Peak 0.335; Employment (per 100sqm) -AM Peak 0.87, PM Peak 0.76 would need to be applied'.

Staffordshire County Council Education Authority (SCCEA) advises that it has agreed a cross county approach with DCC due to the close proximity of the proposal to schools in Burton-upon-Trent (within the Staffordshire County boundary).

It advises that a new primary school would need to be built before homes are occupied. Initially, capacity needs to be limited so that primary schools within Burton-on-Trent are not affected adversely, suggesting a gradual increase in the size of the new proposed school.

It also advises that DCC advises that its secondary schools are at capacity and are further from the development site than Burton schools. Adding capacity to the nearest Burton school, Paulet High School by increasing its catchment and Stapenhill 6th Form Centre to cover the site appeared logical. However, neither has the capacity to cater for 350 secondary school pupils and 70 post 16 year olds that the development would be likely to generate. As such the development would need to contribute £7,079,590.00 (£5,817,700.00 Secondary (11-16) and £1,261,890.00 Post 16) calculated using the latest DCSF (central government) cost multiplier and in accordance with SCC's own Planning Obligations Policy). They advise that this could be further recalculated subject to detailed applications.

On receipt of the additional information and the viability study, SCCEA advised that the applicant's information submitted with regard to the viability assessment is incorrect and there are not sufficient places for the number of pupils generated from the development. In addition, without the necessary education contributions, there would not be sufficient resources to increase the provision in existing schools.

Derbyshire County Council Education Authority (DCCEA) initially advised that a two-form primary school (at a minimum of 3.0 hectares) together with funding to build the school (initially as a one-form room expanding to two forms) is required. The initial phase of the school would need to be built before the homes are occupied, expanding as the development progresses across the development area.

It advised that secondary provision would be in Burton as the nearest school in Derbyshire is William Allit – over three miles away with the Burton school of Paulet being only 2 miles away and on an existing bus route. Again it advised of a cross boundary approach with Staffordshire regarding secondary and sixth form provision and contributions.

On reconsultation following submission of the viability report from the developer, it advised that the development is likely to generate 448 primary school pupils, requiring a staged development of a two-form entry level primary school, initially consisting of a one form entry primary school to be built at the beginning of the development, with a site capable of expanding to two forms of entry level, with funding by the date of the conclusion of the site development. The development would also generate 267 secondary aged pupils (plus 54 post 16) requiring a contribution of £5,422,212 (£4,448,754 Secondary and £973,458 post 16).

The viability study from the developer is refuted by the Local Education Authority and they further advise that failure to fund Staffordshire secondary school places would leave DCCEA with only one conclusion – to build a secondary school on a site yet to be determined at a cost of approximately £20 million. It further advised that the funding

required for the two form entry level primary school as proposed would cost £8-9m and also advised that it required 2 hectares not 3 hectares as originally stated.

The Environment Agency initially objected to the application stating that the submitted Flood Risk Assessment (FRA) was unacceptable and did not comply with the requirements in Planning Policy Statement 25. The applicants submitted a revised FRA in December 2009 and EA subsequently removed their initial objections, subject to conditions being applied in relation to the removal of one culvert, a water drainage scheme being provided and agreed and the replacement culvert details being submitted and agreed.

Derbyshire Wildlife Trust (DWT) initially advised that the Scoping Opinion had been fulfilled by the applicant; although it was concerned regarding the loss of 1.5ha of the railway ballast which currently supports interesting pioneer vegetation and it suggested that the parking and service areas within the proposed Business Village would provide the best opportunities to create a suitable compensatory habitat for this loss. Following a response from the applicants ecological consultants, further comments were received alleviating the initial concerns raised and advising that Natural England had been adequately consulted with regard to protected species survey methodologies and the bat mitigation strategy. It was noted that a more appropriate evaluation of the Speckled Bush Cricket had been recognised and measures for the presence of the species would be incorporated into the Ecological Management Plan at the detailed design stage. Furthermore it was recognised that the railway ballast would be retained as much as possible and this was welcomed and supported. DWT has requested a fully funded Ecological Management Plan.

OPUN East Midlands commented on the proposal before the application was submitted. It concluded that an exploration of precedents in housing and urban design closer to the site was required, connectivity to Burton was an issue (stronger road links should be sought) and the development should meet the Building for Life standards. The master plan and design has not altered since these comments were prepared in May 2009.

Derbyshire County Council Archaeologist does not raise any objections to the application subject to conditions relating to a phasing of archaeological evaluation including geophysical surveys, trial trenching taking place and mitigation measures (should the proposed works impact upon identified archaeological remains).

Severn Trent Water does not object to the application, subject to a standard condition being applied with regard to the disposal of surface water and foul sewage.

The Council's Environmental Protection Manager has no objections to the application subject to conditions relating to a pre commencement condition regarding noise in the construction phase and an assessment of noise in accordance with PPG 24 throughout the life of the development. Major concerns regarding the potential for noise disturbance of future residents from the employment area have been expressed and these should be restricted to B1 usage where they are proposed adjacent to any residential development. Furthermore conditions regarding loading bays, installation of a bund, close boarded fence, no plant or equipment exceeding set noise levels and hours of conditions restrictions are required should the proposal be granted permission.

East Midlands Development Agency do not object to the application and state that the redevelopment of the site may also provide wider regeneration benefits to neighbouring communities including Burton and Swadlincote. The inclusion of employment uses in the proposed development is welcomed, but it does raise concerns regarding both the accessibility of the site and the intensification of the proposed uses, which will be likely to cause significant congestion on some of the existing highways infrastructure (should there be no further improvements). The particular area of concern is where the road (Rosliston Road South) passes over the railway line at the eastern edge of the site, which needs addressing should the application be approved. It further advises that there does not appear to be any beneficial improvement of pedestrian links and the safeguard or protection of any route alignment for a Regenerating Route linking the A38 to Swadlincote and beyond; this would be prudent at the current application stage.

The National Forest Company advises that the proposal would provide an overall proportion of 36% Green Infrastructure (GI) (the requirement being 30% for developments over 10ha within the forest area). It advises that some GI aspects should be improved (i.e. loss of habitat features including 4.05ha of woodland, 2.69ha of semi improved grassland and 393 metres of hedgerows). It acknowledges that there will be a gain in habitats overall but questions whether more can be done to retain the existing habitats. It recommends a wooded belt of at least 30 metres wide to Walton Road to maintain a strong green interface with the rural landscape to the east. Landscaping on the western edge of the employment area needs to be stronger and also with the adjoining housing area. It suggests a long term funding commitment through an agreed commuted sum should be in place for maintaining and managing the planned GI and commitment should be secured via a S106 to preparing an overall GI management plan.

Sport England advises that a development of this size, as calculated using Sport England's Sports Facility Calculator (SFC), would create the need to provide 60sqm of swimming pool provision, 1.7 badminton courts within a sports hall and 0.35 of an indoor bowls rink. This equates to between £1.7m and £1.8m through planning contributions to new or improved indoor facilities. Maintenance for the facilities should be secured for at least 10 years.

The Crime Prevention Design Advisor does not object to the application, subject to conditions being applied to ensure compliance with the "Secure by Design" standards to ensure a safe, secure and cohesive community is developed.

Network Rail does not object to the proposal but advises that it is concerned with regards to the strength of the pedestrian bridge, which crosses the site into Cumberland Road. It requires a significant contribution from the developer towards strengthening or re-building the bridge. It also suggests conditions be applied regarding fencing, surface water, excavations and earthworks, soundproofing, landscaping and lighting. On further consultation Network Rail advises that the contribution it would be seeking for construction/improvement to the footbridge would be approximately £300,000. This is based on the increase in loading factor from a 4KN/m² to 5KN/m² due to the likely increase in usage as a result of the proposed development and to make it Disability and Discrimination Act compliant.

Staffordshire County Council Highways and Transportation initially recommended refusal of the application as they stated that there was insufficient information contained

within the Transport Assessment (TA) to determine the application. They were unable to fully audit the TA because of fundamental issues with traffic generation and distribution. The area of assessment was not sufficient for the scale of the development and therefore in their opinion, it was not feasible to determine the acceptability of the travel plan or public transport strategy. They further advised what issues required addressing in a revised TA for the application.

On reconsultation in December 2009 after provision of further information by the developer they responded that there was still insufficient information to respond and advised that the area of assessment needed extending and being agreed; full details of the assignment of traffic had not been provided; the TA failed to demonstrate the site as being served by a suitable level of public transport; the TA failed to demonstrate any highway mitigation works; and the travel strategy and Travel Plans were incomplete.

On further reconsultation in June 2010, after the provision of yet more information by the developer, SCC advised that the development would have a significant impact on the County network. However, this would be mitigated to a significant degree by the emerging Burton Transport Strategy, a strong robust travel plan and a sustainable layout. The TA and Travel Plan (TP) rely on a modal shift of 30% away from car use to public and other means of transport. To make this possible SCC are looking for a fund to draw upon to provide additional mitigation measures in the event that the provisions of the TP fail to deliver this modal shift. This along with other provisos and conditions has led to SCC removing its objections subject to contributions being secured through a S106 agreement. These are detailed as:

- £815,000 towards the Burton Urban Area Transport Management Study (BUATMS) with a bonded £443,195 to be secured should the triggers points be exceeded on peak trips, securing of the Framework Travel Plan submitted in May 2010, £511,000 into an ESCROW account for the budget for the management and implementation of the Framework Travel Plan together with an additional £240,000 into an ESCROW account should the traffic levels be exceeded and the provision of a public transport service between 5am-midnight with 15minute frequency between 7am-7pm and twelve months free travel vouchers.
- Occupier Travel plans should be submitted and agreed prior to occupation of a particular unit or collective travel plans for smaller companies should be submitted through the Travel Plan Co-ordinator. The mechanism for monitoring and assessing targets exceeded is not agreed with the developer and nor are trigger points and these need to be the subject of further discussion in the S106.

Furthermore prior to any development commencing a master plan requires submitting for approval and subsequent compliance identifying:

- a detailed design concept for the overall site,
- details of any phasing
- details of any proposed road hierarchy
- the Public Transport Route Strategy, including timeframe for implementation and infrastructure to be implemented including real time information,
- details of the footpaths, cycleway, and landscaping for the overall site,
- details of the location for the proposed school site, retail areas and employment areas,
- identify the low car parking areas within the development as outlined in the Framework Travel Plan

- secure the cycle parking within the development as a whole, including specific areas such as the employment zones within/at the residential dwellings, through either a minimum size for the garage or a secure lock up'
- routing of construction traffic.

SCC Highways would wish to be reconsulted on the application should the developer not comply with these requirements.

Natural England does not raise any objections to the application. It advises that the culvert running across the middle of the site should be removed, the Railway Line should be retained in its original state and that a rare species of grassland and Yellow Wort are present and should be protected. Further survey work regarding bats, badgers and birds should be carried out. Additional green corridors should be encouraged linking GI throughout the development, rather than the GI existing in isolation. The Local Planning Authority should be satisfied that the proposal meets the 3 tests required under the Habitats Regulations prior to issuing any planning permission [see Ecology section in the Planning Assessment below].

South Derbyshire's Housing Strategy Manager has assessed the need for affordable housing in the area. The South Derbyshire District Strategic Housing Market Area Assessment (SD-SHMA) recognises that there are two significant pulls in the district: towards Derby in the north and Burton/Swadlincote in the southwest. The idea of Swadlincote and Burton as a single housing market area was suggested and supported by research undertaken by the West Midlands Regional Assembly.

The SD-SHMA indicates that a high proportion of people who live in Drakelow travel to work in Burton upon Trent and to a slightly lesser extent to the Swadlincote urban area. Therefore, it would not be unreasonable to assume that this development has the potential to meet a housing need for both Swadlincote and Burton upon Trent as well as a local rural housing need. The SD-SHMA considers the need for affordable housing across four sub-housing market areas operating across South Derbyshire. Drakelow is considered to be in the Swadlincote rural fringe sub-market.

Evidence shows that the current/proposed supply of affordable housing for the Swadlincote urban core is not contributing to the shortfall in affordable housing in the Swadlincote rural fringe. The SD-SHMA suggests an annual shortfall in affordable housing of **51** homes in the Swadlincote rural fringe sub-market. However, the SD-SHMA (pvii) refers to the, "Need arising from the Swadlincote rural fringe could be met to some extent in the urban area..." This means that by adding the Swadlincote rural fringe shortfall in affordable housing (51) to that for the Swadlincote urban core (62) the annual shortfall in affordable housing is 103 homes.

It should be noted that although the Swadlincote rural fringe is predominately in the south/central of the District, it also includes some parishes in the northwest, namely Hatton and Hoon. It would seem reasonable to assume that people aspiring to live in the north of the District would not necessarily consider that their housing needs can be met at Drakelow Park. The evidence of shortfall in affordable housing to date shows that the current/proposed supply of affordable housing for the Swadlincote urban core is not contributing to the shortfall in affordable housing in the Swadlincote rural fringe. Therefore the opportunity should be taken to deliver the Swadlincote rural fringe affordable housing need (51) at Drakelow Park. Any evidence of need in Burton that might contribute to this analysis is not yet available from ESBC although it appears that this may be in the region of 27%.

Integrating the affordable homes across the whole development should be a key feature in the design and layout of the homes. The DCLG projections for an average household in South Derbyshire suggest that this will be around 2.26 by 2016. Based on 2,239 properties, Drakelow Park could be home to over 5,000 people. For a settlement of this size it will be important that the design, type and range of properties available promote a socially inclusive community. Acknowledging the need to promote social inclusive communities for a range of household incomes/sizes and on the basis that there will be a balanced provision of house types/prices the tenure split should be as that recommended by the SD-SHMA for the district overall – 60% social rent: 40% intermediate. In conclusion and based upon all available evidence she recommends the following:

- Minimum of 28% affordable be delivered across the whole site.
- Each phase shall contain a minimum of 20% affordable to a maximum of 55%. (This should facilitate the cash flow in the early development years allowing more affordable to be delivered in the later stages).
- 60% of affordable homes to be for social rent: 40% intermediate.
- That a site specific housing needs study which considers cross-boundary housing needs be undertaken every 3 – 5 years to assist all parties at the detail design stage(s).

Derbyshire County Council – Highways initially advised that the Walton Bypass be a prerequisite of the development and the commencement of the development be dependant upon prior completion of the Bypass and river crossing. Improvements are required on Walton Road, Rosliston Road; existing roundabouts require modification works; the existing signalised junction at Caldwell Lane/Rosliston Road is unacceptable; and can be mitigated by way of a contribution of £30,000; and a further contribution of £100,000 for off street highways works for South Derbyshire roads. The travel plan should encourage travel by walking, cycling, public transport and car sharing, to be reviewed every 5 years. The extension of Greenway north eastwards and west is required together with the retention of footbridge over the railway and the application for the footbridge over the River Trent to Branston should be resubmitted.

On reconsultation following the provision of further information DCC responded in June 2010 stating that the development has the potential for significantly impacting on the Staffordshire highway network, the A38 Trunk Road and Derbyshire roads. It advises that it cannot be over emphasised that the integral thrust of restraint of car-borne travel and modal shifts, has a bearing on the acceptability of the overall development in terms of mitigation of residential generated traffic. The evolution and embodiment of the Framework Travel Plan (FTP) initiatives within a S106 agreement are therefore fundamental to the acceptability of the development proposals as submitted. It states that the trigger points are disputed regarding proposed mitigation and advises that there is no reference in the Summary Transport Assessment (STA) as to when the Walton by Pass will be implemented however the Transport Assessment 06 April 2009 does refer to early provision of the Bypass. The delivery of the Bypass should be achieved at an early stage within the phasing through the S106. Other mitigation measures required are:

- £10,000 (index linked) for a traffic regulation order
- £30,000 (index linked) for improvements to Caldwell Road/ Rosliston Road junction

- £100,000 in an ESCROW account for Off site highway mitigation works
- £150,000 for a Greenway contribution
- A scheme for routing of construction traffic to and from the site during the construction period.

A further comment received is the requirement for SDDC, DCC and the developer to look at improved public transport access between the proposed development site and Swadlincote as the Transportation Assessment only assigns 10% of the development traffic between the site and Swadlincote. Subject to these issues being resolved and reflected in conditions and the S106 agreement, it is considered that from the DCC Highways viewpoint that the impact of the traffic arising from the development can be mitigated on the Derbyshire highway network.

East Staffordshire Borough Council advised that the Council considered the application at its Planning Applications Committee meeting on 18 January 2010 and in principle were supportive of the proposal. However, it still had reservations and reserved the right to comment further on the scheme. The concerns noted were transport issues not being resolved, agreement of the Burton Urban Area Transport Management Study (BUATMS) contribution to SCC Highways, commitment to provide further pedestrian and cycle links to both Branston and Stapenhill, involvement in Section 106 negotiations with regards to affordable housing and that it wished to be provided with an opportunity to participate in the planning committee meeting when the application is considered. Clarification on the Air Quality Management Areas was sought and it advised that the proposal should be completed in accordance with the Design and Access statement submitted. Although the Officer's recommendation was that the housing figures should come off East Staffordshire Borough Council's land allocations (as then required by the West Midlands RSS) the Planning Committee decided to not claim the figures for the Borough Council. (It is understood that ESBC will be commenting further but these were not available at the time of writing).

Derbyshire County Council Greenways Officer advises that space should be made available to connect the western end of the Greenway route to the northern end of the employment zone road for completeness and this will allow for eventual onward route through future provision on the neighbouring site, but prevents the path becoming a dead end.

British Waterways advises it would wish that the [withdrawn] bridge application be reinstated, as it would promote accessibility and the use of foot, bicycle or public transport. It states that the development fails to meet the sustainability objectives of PPS 1 in light of the absence of an up to date Development Plan and should the application be approved, a Disabled Disability Access compliant bridge crossing, suitable for walking and cycling should be integrated as a S106 requirement.

Local Ward Members, Councillors Wheeler and Timms do not raise any objections to the development proposed but state that the transport infrastructure is totally inadequate and flooding is an issue. A third river/railway crossing from the A38 circa Branston should be considered and that vital funding is required to ensure that the development can proceed. Concern regarding lack of surgeries and other facilities, loss of the green field, a high quality mixed commercial and residential development is required which reduces the need to travel for work and should look for a community that can live, work, be educated and socialise on the site.

Barton-under-Needwood Parish Council objects to the application as submitted and to the additional information submitted in December 2009 on the grounds of policy prematurity and traffic impact. More specifically it states that:

- The journey to work trip assumptions for the application reflect a policy aspiration rather than a reality
- It is unlikely that people would consider moving to the development without the household having access to a car
- The assumptions about the levels of traffic using Barton Turns roundabouts may well be underestimated
- Concern regarding increased trips through the village of Barton -under-Needwood
- Sustainable Travel Strategy is weak and entirely reactive- once people are established in an area they are unlikely to change their travel patterns.
- Developer needs to be more proactive in realising sustainable transport objectives
- Existing mini roundabouts on east side of Barton Turns junction are inadequate to cope with increased traffic volumes the development is likely to generate
- Significant traffic journeys into Barton for children attending John Taylor School and its sixth form
- A contribution to a school drop off area to the east of the schools sites should be conditioned if approval is given
- Subsidies and infrastructure for public transport need to be in place for the first phase
- Real time Passenger Information should be introduced
- The proposal can only be considered as one potential site to meet the strategic housing need and therefore is premature to the preparation of the Core Strategy for South Derbyshire
- Call for joint working between SDDC and ESBC to establish the merits of all sites acceptable of meeting the strategic housing needs for the greater Burton and Swadlincote areas

The Council's Open Space and Facilities Development Manager advises that more could be made of the SUDS element of the scheme; strengthen use of open watercourses, balancing ponds and swales as part of the sites Green Infrastructure and to create strong links to the riverside habitats. She suggests a phased delivery of play provision. Suggests relocation of recreation ground/play area to the school site and this proposed area to be a nature /wildlife area. A Multi Use Games Area or 3G/ Astro turf at the school would benefit the school and community and would be easier to manage. A management plan outlining key objectives for the site is requested and discussion about potential involvement of SDDC in management of the site would be welcome. If on-site provision falls short of S106 matrix requirement for SDDC off site contributions should be provided.

The Rights of Way Officer (DCC) does not raise any objections to the proposal but advises that Public Footpath No 1 (Drakelow) crosses the east section of the proposal and will be directly affected by the proposed development. If the footpath is to be diverted from its definitive route a permanent diversion order will be required. Until the order has been confirmed, the right of way should remain open, unobstructed and on its legal alignment at all times.

Responses to Publicity

A petition objecting to the application signed by 41 residents was received together with three individual neighbour objections. The concerns raised were:

- Inadequate transport and congestion
- Pressure on existing services such as doctors, dentist, health care, adult education, libraries and secondary education
- Loss of the green field to housing
- Asbestos being buried on site
- Potential effects on existing wildlife
- Application is contrary to Saved Housing Policy 8 of the South Derbyshire District Local Plan 1998
- Site is unsustainable as a new river crossing is required due to the amount of traffic that will be generated
- The village of Barton-under-Needwood would have increased traffic volumes, most of which is a conservation area
- Insufficient liaison between South Derbyshire District Council, East Staffordshire Borough Council, Derbyshire County Council and Staffordshire County Council Highways
- The application should be determined by the Development Control Planning Committee and not a South Derbyshire District Council Development Control Officer
- The application is premature with regards to policy as an assessment of all the strategic sites has not been completed to show where the needs of housing should be for East Staffordshire and South Derbyshire
- Conjoined working with the respective Core Strategies is required and until then the proposal is premature.

On reconsultation in December 2009 additional responses received from one of the same objectors were that the information provided suggests that the culverts would collapse due to the additional strain placed on the culvert, traffic issues were still unresolved, green belt land was included in application and the instability of the local road infrastructure was a concern. Woodland should be increased, ringed plovers should be considered as the power station application had and an archaeological clearance should be carried out prior to any commitment to build on the land.

Hallam Land Management object to the proposal and they state that:

- The proposal prejudices land they are seeking to promote through the planning system in East Staffordshire
- The site could easily meet the East Staffordshire housing requirement
- Any application put forward to meet East Staffordshire's housing requirement should be submitted to East Staffordshire and not South Derbyshire
- Application can only be assessed on housing needs within South Derbyshire
- The analysis of the East Staffordshire housing requirement within the submission documents is incorrect
- Website suggests this could be a delegated decision, this must be a typographical error as such a major application should be heard at Committee
- If the proposal is determined on the housing requirements of South Derbyshire, Hallam Land's objection will be satisfied

- If the proposal is considered with regards to East Staffordshire's housing requirements then Hallam Land will make further specific representations related to transport and sustainable development.
- If it is the Council's intention to rely on East Staffordshire's housing requirements this needs to be publicised to allow for further representations as this would be a departure from planning law and practice.

Supportive Responses

One letter has been received from the existing residents on the site stating that they have no objections to the application as submitted.

Development Plan Policies

Saved South Derbyshire Adopted Local Plan (ALP) Policies (1998):

Environment Policies 1, 9, 10, 11, 13 and 14
 Transport Policy 6, 7 and 8
 Housing Policies 8, 11 and 14
 Employment Policies 7 and 8
 Shopping Policies 2 and 3
 Recreation and Tourism Policies 4 and 8
 Community Facilities Policy 1

n.b. The Secretary of State for Communities and Local Government announced the revocation of Regional Strategies with immediate effect on 6 July 2010. Therefore no weight should be accorded to PPS11 (Regional Spatial Strategies) and the East Midlands Regional Plan (2009) is no longer part of the Development Plan.

National Guidance/Policy

Planning Policy Statements 1: Delivering Sustainable Development
 Planning Policy Statement 3: Housing
 Planning Policy Statement 4: Sustainable Economic Growth
 Planning Policy Statement 5: The Historic Environment
 Planning Policy Statement 7: Sustainable Development in Rural Areas
 Planning Policy Statement 9: Biodiversity and Geological Conservation
 Planning Policy Statement 11: Regional Spatial Strategies
 Planning Policy Statement 22: Renewable Energy
 Planning Policy Statement 23: Planning and Pollution Control
 Planning Policy Statement 25: Development and Flood Risk
 Planning Policy Guidance 13: Transport
 Planning Policy Guidance 17: Planning for Open Space, Sport and Recreation
 Planning Policy Guidance 24: Planning and Noise

Planning Considerations

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

- The principle of development (including specific issues of location, sustainability, scale, five year land supply, employment and strategic distribution)
- Environmental Impact Assessment

- The design and layout of the proposal
- Access, highway and transport issues
- Impact of the development on the amenity of nearby residents
- The provision of on-site facilities
- Viability of development and planning obligations.

Planning Assessment

The Principle of Development

The site is not allocated for any proposed use in the adopted Local Plan and there are no saved policies which provide up-to-date guidance on the scale or location of future housing needs.

Furthermore, following the revocation of the East Midlands Regional Plan, there are no longer any specific numerical or locational requirements for the development of new houses or other development in South Derbyshire.

Nevertheless, national guidance - particularly Planning Policy Statements (PPS) 1 (Delivering Sustainable Development), 3 (Housing) and 7 (Sustainable Development in Rural Areas) - provide relevant guidance on the determination of this proposal. In seeking the creation of mixed and sustainable communities, these policies aim to ensure that housing is developed in suitable locations which offer a range of community facilities and with good access to jobs, key services and infrastructure. Similarly, for employment, the overall aim of national planning policy in PPS4 is achieving sustainable economic growth. This includes reducing the need to travel especially by car, responding to climate change and raising quality of life and the environment in rural areas.

Recent ministerial pronouncements are also relevant to the determination of this application. In particular, it is clear that growth and development (including housing) should be promoted in accordance with locally determined needs. The key policy principles to be assessed are therefore the extent to which the proposal accords with the Development Plan (i.e. the saved policies from the Adopted South Derbyshire Local Plan 1998) and national planning policies, in terms of the sustainability of its location and scale. This includes issues around housing, previously developed land, heritage, biodiversity, employment and transport.

1. Sustainability of the Proposed Development

The Adopted Local Plan makes no provision for housing development on the site. In terms of 'windfall' development, Housing Policy 8 seeks to ensure that housing development in countryside is avoided unless for the operation of a rural based activity. Ordinarily a development of this scale would come forward as a strategic allocation in a local plan or LDF. The proposed development is therefore not in accord with the Development Plan.

Environment Policy 1 seeks to ensure that outside settlements, new development is not permitted unless it is essential to a rural base activity, unavoidable in the countryside and does not unduly damage its character. Where development is allowed, it should be designed and located so as to create as little impact as practicable.

The proposed development would, however, represent an urban extension to Burton upon Trent. Furthermore, notwithstanding the revocation of regional strategies, the Panel Report of the *West Midlands Regional Spatial Strategy Phase Two Revision: September 2009* concluded that the housing market areas of Burton and Swadlincote clearly overlap and that development on the site would clearly serve both towns. The applicant also correctly points out that the majority of the site is “previously developed land” (i.e. brownfield). In this regard, PPS3 establishes a national target for 60% of new homes to be built on brownfield land and development at this location would assist in achieving that objective and in doing so may reduce the amount of greenfield land released to meet future housing needs. Similarly, sustainability and the protection of heritage assets are required by PPS5 (Planning and the Historic Environment) and, in turn, saved Local Plan Environment Policy 13. The proposal would involve restoring listed buildings and bringing them back into use. The need to promote biodiversity is also required by PPS9 (Biodiversity and Geological Conservation) and saved Local Plan Environment Policy 11. These issues are assessed under the EIA section of this report (below) but it is concluded that on the advice of the Council’s consultants (DWT) the proposal is acceptable on biodiversity matters.

PPSs 3 (Housing) and 7 (Sustainable Development in Rural Areas) also directs development to suitable locations which offer a range of community facilities and with good access to jobs, key services and infrastructure in both urban and rural areas. In terms of the sustainability of the development therefore, an important consideration is whether the development would be able to access or provide essential services and infrastructure and be capable of implementation without detrimental impact on the provision of infrastructure on the existing surrounding communities. These aspects are detailed elsewhere in this report (see below), but it may be concluded that the site has potential to meet this important objective subject to mitigation and developer contributions. As such, sufficient mitigation of the impacts identified through the consultation process must be delivered. Without the delivery of mitigation, such impacts could seriously undermine the sustainability of the development in future years and compromise the sustainable occupation of the adjacent communities. Thus, in order to be sustainable, the site must deliver appropriate infrastructure and services.

In terms of scale, the application proposes the construction of 2,239 dwellings. As noted above, the revocation of the East Midlands Regional Plan means there are no longer any specific dwelling targets to be met in South Derbyshire. However, it remains the Government’s policy to see increased rates of house-building nationally. In this regard, there is an ongoing requirement for the maintenance of a five-year supply of housing. Until the District’s housing need is determined through the Local Development Framework Core Strategy it would be reasonable to ensure a continuous supply of housing land on sites which represent sustainable development.

The Design and Access Statement indicates that the proposal, if approved, would be developed in phases with 981 dwellings being delivered in phase 1 which will take 6-8 years to develop, 566 dwellings in phase 2 which would take 5 –7 years and 692 dwellings in phase 3 which would take 5-7 years. The relocation of RBL is to take place at the end of Phase 1 in order to free up land to allow Phase 2 (further residential, second local centre and further open space and infrastructure) to be delivered.

Recent consultation on the South Derbyshire Local Development Framework Core Strategy: Issues and Alternative Options identified the site as a possible strategic development location to meet the long term housing needs of South Derbyshire. In this regard it has been established with ESBC that the site could represent an extension to Burton whilst meeting the housing requirements of South Derbyshire.

Whilst the most recent calculation of 5 year supply based on April 2009 figures indicated no immediate need to release land for housing (albeit based on now defunct regional Plan build rates), the housing provided on this site could nevertheless contribute towards meeting the District's needs.

Clearly, an important issue is the extent to which the development of this proposal would put at risk the implementation of development aspirations for Swadlincote in the emerging LDF Core Strategy. In this respect, the applicant contends that the nature and scale of the proposal is distinct from urban extension development options around Swadlincote. It is argued that, as a much larger development well located between two overlapping housing markets, it has the potential to increase locational choice for those seeking to purchase a home. Accordingly, the applicant concludes that the delivery of new housing at the site would complement rather than compete with new housing in Swadlincote. No evidence exists to suggest that this would not be the case. Furthermore, whilst a consent on this site would pre-judge the outcome of development options being considered in the Core Strategy process, PPS 3 is also clear in paragraph 72 that "prematurity" is not in itself a reason to refuse planning permission on sites which are sustainable.

The energy efficiency performance of the proposed development is also an important sustainability consideration. Both the Supplement to PPS 1 (Planning and Climate Change) and PPS 22 (Renewable Energy) require measures to address climate change through renewable energy.

PPS22 sets out the Government's target to generate 10% of UK electricity from renewable energy sources by 2010 and the further aspiration to double that figure to 20% by 2020. However these targets have now been superseded by broader carbon reduction targets set out in the Climate Change Act (2008) which has introduced legally binding targets to Cut Carbon Dioxide emissions by at least 34% on 1990 levels by 2020 and at least 80% by 2050. More recently the Government has consulted on a draft Planning Policy Statement on 'Climate Change: Planning for a Low Carbon Future in a Changing Climate' which reiterates the targets set out in the Climate Change Act together with other recently adopted low carbon strategies. This consultation document, once adopted, will replace the Planning and Climate Change supplement to PPS 1 and PPS 22 and will bring together planning policy related to low carbon energy generation and development in a single Planning Policy Statement.

Accordingly, the applicant has submitted an Energy Options Appraisal Report as part of the Sustainability Statement which identifies a number of technologies which might be available at this location to address renewable energy targets. These include Combined Heat and Power; geo-thermal and solar heating systems and it is suggested these should be considered further at detailed design stage. This is considered an appropriate approach and a suitable condition would need to accompany an outline planning permission referring to the most up to date guidance at the time.

2. Employment

Employment Policy 7 of the Local Plan seeks to ensure that the redevelopment of former industrial site and buildings for industrial development is not detrimental to the amenity and character of the locality on environmental and traffic grounds. Employment Policy 8 seeks to limit the environmental impacts of developments on their surroundings and to ensure that they can be properly assimilated. These issues are discussed under the EIA section below.

A Derby HMA Employment Land Review has been prepared to support the development of the Local Development Framework Core Strategy and indicates that there is an 80ha shortfall in available employment land within South Derbyshire to 2026.

The established RBL premises, measuring some 16ha (excluding wooded areas on the periphery), would be lost as a result of the proposed development, but new B1 and B2 business accommodation is proposed as part of the scheme, measuring some 12ha. RBL has expressed the intention to relocate its premises to the site of the former Drakelow C power station, owned by E.ON plc. However, while the submitted Interaction Statement indicates that the “existing manufacturing plant owned by Roger Bullivant Ltd would be relocated off site” during Phase 1 of the proposed construction schedule, it does not say where to. It is not known how much land these new premises would occupy even if there was a relocation to the E.ON site. If permission is granted for the current application and RBL does indeed relocate to the E.ON site, it can be anticipated that there would be unlikely to be a significant net loss of employment land. However if RBL does not relocate to the E.ON site, there may be some loss of employment land, amounting to approximately 4 ha.

3. Strategic Distribution

Planning Policy Guidance Note 13 indicates that in determining planning applications, local authorities should identify and, where appropriate, protect sites and routes, which could be critical in developing infrastructure for the movement of freight. In line with this and specific guidance in the now cancelled Regional Plan, this general location was identified in a recent consultation document on the LDF Core Strategy as being an option for accommodating such development. However, whilst the site was put forward for consideration, the “Strategic Distribution Site Assessment Study for the Three Cities Sub-Area of the East Midlands”, commissioned by the East Midlands Development Agency, published in May 2010 concludes that the site has very good rail connectivity, but is otherwise significantly constrained in terms of deliverability.

There would appear, therefore, to be insufficient grounds for seeking a refusal of this planning application on the basis that the land should be protected to meet a freight distribution need.

Environmental Impact Assessment

1. Transport

Transport Policy 6 of the Local Plan requires major new development to be sited close to the principal road network with appropriate level of access servicing and parking. It states that planning obligations will be required to meet the cost of any necessary

improvements to the highways network. Policies 7 and 8 look for developments to provide good access and networks for pedestrians and cyclists.

The applicant's consultants advise that they consider that the local road network has the capacity to support the additional movements arising from construction- related traffic and this would be relatively low in number compared to existing traffic flows. They suggest that a Construction Environmental Management Plan (CEMP) should be developed to encourage site employees to share vehicles or use public transport to reduce the dependency on private cars. Travel Plans would be developed and would include provision for improving accessibility to the site from surrounding areas through creation of walking, cycling and public transport routes (these would be based on the principles of the Framework Travel Plan). However, Chapter 5 of the Environmental Statement (ES) and Chapter 2 of the Addendum indicate that the proposal would give rise to increased delay and congestion and as such some localised road improvement would be required.

Transport issues have delayed and surrounded the proposal during the application process; with initially a holding direction from the Highways Agency, which was later lifted. No less than three Transport Assessments have been received during the consultation process along with a travel plan. It has now been accepted by the Highways Agency and both County Highway Authorities that the development would have an inevitable impact on the A38 and the local highway networks in both Staffordshire and Derbyshire. However, with the appropriate highways works secured through S106 agreements, S278 agreements or conditions they all agree these can be overcome and mitigated against.

2. Air Quality

PPS23 (Planning and Pollution Control) makes clear the importance attached to controlling and minimising pollution through the planning system. Full account is required to be taken of the potential for environmental impacts through development. The Environmental Statement identifies that the main potential impacts on local air quality would be dust emissions from earthworks and vehicles during construction. Predicted future air quality was modelled and results showed that it would comfortably meet current UK standards. The proposed power stations adjacent to the site are not predicted to have any adverse effects or quality impacts on the proposed residential areas of the proposal. The steam plumes would only marginally impact on the Employment Park adjacent to the site boundary.

The Environmental Statement (ES) submitted shows that during construction surfaces would be dampened down in dry weather, there would be a restriction of drop heights onto lorries on site, wheel washing facilities would be provided and reduced vehicle speed limits and routings on construction traffic would be imposed. All equipment for crushing, grinding and crushing would be fitted with dust control equipment wherever possible. A road sweeper would clean mud and other debris and lorries would be sheeted and skips when removing waste from the site. Further measures proposed are appropriate hoarding and fencing to reduce dust dispersion and restrict public access.

Any final comments from The Environmental Protection Manager in this regard will be reported to the committee.

3. Noise and Vibration

PPG24 (Planning and Noise) advises that noise-sensitive developments should, wherever practicable, be separated from major sources of noise (such as road, rail and air transport and certain types of industrial development). Where this is not possible, mitigation measures should be considered.

A noise survey was undertaken in August/September 2008 and the baseline noise measurements revealed the existing site noise levels are low but influenced by road traffic from the local highway network. No off site sources other than road traffic were detected. In the early stage of construction boundary screening of the site would reduce noise levels but the highway improvements at Rosliston Road and Walton Road would be likely to affect residents. Measures to mitigate and control noise and vibration would be implemented. The predicted modelling shows that for the majority of local roads, on-site noise impacts would be very slight and unlikely to be noticeable, the predicted increase would occur gradually over a 13 year period as phased development is completed. Due to this being gradual the increase in traffic noise would be unlikely to give rise to disturbance. Assessment of noise from the Employment Park could impact during night time only if it were to operate on a 24-hour basis. Noise from the school playground could impact on nearby properties but confined to very short periods in the day. The ES indicated that any potential noise impacts could be dealt with by way of planning conditions and design. All of these claims have been considered by the Environmental Protection Manager and subject to the safeguards he has outlined he concludes that the development would be acceptable in this regard.

4. Ground Conditions and Contamination

The Environmental Assessment identifies that soil and groundwater contamination has existed on the site but when the power stations were demolished work was undertaken to remove underground structures, backfill and re-level ground. There is potential to disturb contamination, which could harm human health, damage buildings and pollute local streams/rivers and groundwater (contrary to PPS23). However a ground investigation will be undertaken prior to construction. A remediation strategy may be required but subject to that, it seems that the environmental impacts and risks associated with ground conditions and contamination arising from the construction and occupation of the proposed development would be insignificant.

On the advice of the Council's Contaminated Land Officer it is suggested that a standard condition be applied with regards to investigations as there is probably made ground and potential for contamination on the site.

5. Water Resources

PPS25 (Development and Flood Risk) aims to ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas at highest risk.

The works undertaken in the ES demonstrate that flood-levels from an extreme flood event would have no significant impact on the proposed development due to its height above the predicted River Trent flood level and the location for development away from the areas of the Darklands Brook. The ES states that the adoption of a sustainable form of surface water drainage will ensure the rates and volume of surface water would be

reduced in comparison to the existing conditions. Furthermore the District Council has sequentially tested the site (under the rules set out in PPS25) and found that there were no reasonable alternative sites at lower probability of flooding that are available to accommodate the proposed development and this was agreed as being acceptable in flood risk terms by the Environment Agency in June 2010.

The South Staffordshire Water Resources Management Plan indicates that water supply can meet the demand to 2035 including any likely new development and upgrades to the existing sewerage system in the locality would be implemented to ensure capacity to serve the proposed development.

Severn Trent Water has not raised any objections to the development proposed and has not expressed concern regarding surface water or sewerage capacity. Furthermore the Environment Agency is in agreement with the measures proposed by the applicants subject to standard conditions being applied and the removal of one culvert and retention of the other.

6. Ecology

The ES concludes that the development has been designed to retain the majority of the valued habitats and new habitats would be created that are either currently not present within the site or which improve nature conservation by increasing the area of habitat available and by creating interconnected networks of wildlife habitats to enable movement of species within the site and beyond. Some loss of habitats initially will be experienced but the impacts would be mitigated by habitat creation, including recreating wasteland habitats on new building roofs-representing best practice in biodiversity. At least seven species of bats are currently on site and all bat roosts would be retained and a strategy has been devised to inform future detailed design ensuring that the bat population would not be adversely affected.

An Ecological Management Plan will be developed and supported through S106 contributions, which aims to maximise the biodiversity potential of retained and newly created habitats alike, together with a programme of monitoring to ensure the objectives are delivered.

Following a response from Natural England the District Council undertook an assessment under the Habitats Directive, as implemented by the conservation (Natural Habitats Etc) Regulations 1994 (as amended), which contains three “derogation tests”, which must be applied when deciding whether to grant a license to a person carrying out activity which would harm a European Protected Species (EPS). Bats are a European Protected Species (EPS) and are protected under UK and European Law. The three tests are that:

- The activity to which the license is required must be for imperative reasons of overriding public interest or for public health and safety;
- There must be no satisfactory alternative and
- Favourable conservation status of the species must be maintained.

Bats as stated previously are protected species and have been found roosting and emerging from the stables and Lilac Cottage. The stables are to be renovated as part of this proposal. The survey work undertaken indicated that the stable block is of particular importance as a spring and summer roost for bats of four species and also has a high potential to support hibernation roosting. The stables and cottages are recorded on the Derbyshire Buildings at risk register and securing the beneficial reuse

of the site could substantially improve the condition of the listed building and further could also secure the long term future of any bat species using the stables as a roost. The applicants are seeking to maintain the future conservation of the species by the bat mitigation strategy which states that the cottage and stable block would be retained, any works affecting these roosts would be avoided by working during less sensitive periods in the bat year, existing well used habitat linkages would be retained, lighting would be directed away from known roosts, bat roosts will be monitored and if necessary the mitigation strategy will be adjusted and important habitats and features for bats will be managed in accordance with the Ecological Management Plan for the site.

It is considered that Natural England would be likely to grant a license. Given this and that it is in the public interest that the permission can be implemented, the LPA can discharge its duty under Reg 3(4) of the Natural Habitats Regulations 1994 (as amended).

Derbyshire Wildlife Trust and Natural England have not objected to the proposal subject to standard conditions being applied especially with regards to the requirements of the Ecological Management Plan. This can be secured through a S106 agreement and has been suggested by the applicants as part of the submission.

Given the forgoing it is considered that the impact of the development on ecology would be acceptable.

7. Landscape and Visual Amenity

Saved Local Plan Environment Policies 9 and 10 seek to protect existing trees and woodland and promote new planting particularly in the National Forest area.

The ES identifies that landscape character would be impacted during the construction phase particularly the residential areas of Burton Upon Trent, the open areas along the northern floodplain of the River Trent and the nearby areas of rolling countryside to the southeast of the site. Fields, trees and hedgerows in the north of the site would be lost together with some individual trees for widening of the entrances and a small area of woodland in the centre of the site. However it is argued that on completion when new areas of tree and woodland planting have become established, these adverse impacts would be largely reversed with the removal of detracting industrial influences and the development would create improved public access through the site and into Stapenhill, providing new open spaces especially along the northern banks of the River Trent. The extent of new planting would result in a net gain in the amount of woodland across the site in line with National Forest objectives and the restoration of the sunken gardens associated with the former Drakelow Hall would also make a positive contribution to landscape and views within and to the site.

The Council has evaluated the site through its landscape arboricultural consultant/landscape architect and its Open Space and Facilities Manager who were initially concerned at the loss of 4 hectares of mature woodland. However it is noted that the site when fully developed would produce a net gain of 2.26 hectares of woodland. The National Forest confirms that the proposal would provide an overall proportion of 36% Green Infrastructure (GI) (the requirement being 30% for developments over 10ha within the forest area). It advises that some GI aspects could be improved i.e. loss of habitat features including 4.05ha of woodland, 2.69ha of semi improved grassland and 393 metres of hedgerows and it does question whether more

can be done to retain other features. Notwithstanding the shortcomings of the masterplan and extensive attempts at reworking the layout, it is considered that overall and in the long term, the site would be better planned out as proposed rather than the status quo remaining and the result would be an improved landscape with considerably better public access especially to the waterside area which is currently inaccessible other than to specialist users of the river. All of the on-site recreation and public open space facilities would be managed and maintained by a separate management company. A contribution to built facilities in the area (as per the usual formula set out in the Council's SPG) can be secured through the S106 agreement along with changing rooms at the new sports pitch area.

8. Archaeology and Cultural Heritage

The assessments carried out found that there was limited potential for remains of prehistoric, Roman and medieval data on the site and it was agreed with archaeological advisors at DCC and SCC that standard archaeological conditions could be imposed. In the event that any archaeological deposits are found they would be adequately investigated and recorded in line with PPS5 (Planning for the Historic Environment) and saved Local Plan Environment Policy 14.

The ES advises that the restoration and refurbishment of the Grade II Stable Block and other structures will substantially improve their condition and the incorporation of listed buildings into the main local centre within the development will be beneficial to the setting of the structures, providing for their long-term preservation.

It is considered that these findings are correct and the proposal presents an opportunity to bring the listed structures back to life and give them a secure future through new uses in line with PPS5 and saved Local Plan Environment Policy 13. Conditions or legal agreements need to be in place to ensure the proper repair of the listed structures (and also the conversion of the stable block) in line with the listed building consent granted last year.

The design and layout of the proposal

High quality design plays a central role in *'Making South Derbyshire a better place to live, work and visit'*, which forms the overall vision for the Council (Corporate Plan 2009 –2014). This reflects the need for good design established in saved Local Plan Housing Policies 11 and 14. The Council has also recently published guidance to encourage improved applications and therefore better designed developments as advocated by PPS1 (para.33). The guidance sets out the methodology necessary to achieve a high quality 'product' and utilises the Building for Life scheme advocated by CABE for the objective assessment of schemes. The application was prepared prior to this guidance being published but nevertheless the scheme has been assessed using these criteria.

The application being only outline with all matters reserved can be altered at reserved matters stage and therefore the design and layout cannot be set in detail at this stage of the application process. However the applicants have produced a master plan and the design and access statement is fully supportive of the land uses shown, with the transport issues, implications, travel plan, environmental assessments and flood risk findings being based upon the master plan layout shown. Indicative layouts are shown in the design and access statement with indications as to expected heights of buildings, street scene elevations and colour pallets that are expected to be used on the site. An

appraisal of the local villages in both South Derbyshire and East Staffordshire has been undertaken and the design and layout indicated at this stage of the application, the impact of the development is considered acceptable. The housing densities proposed and employment densities proposed are acceptable and conditions can be applied to ensure that the development is carried out in accordance with the master plan and also with principles set out in the design and access statement submitted.

An initial Building for Life (BfL) assessment of the scheme has been undertaken by the Design Excellence Officer. Out of the 20 possible, the scheme scored 11 in its current form. The assessment at this stage is made from the information supplied in the Design and Access Statement (DAS) given that nothing exists on the ground. The role of the DAS at the outline stage is to try to ensure that the proposals for the detailed design stage are of a high enough quality and include a certain style of architecture specific to the scheme which sets the scene for the detailed stages. In this respect, the DAS fails to ensure high quality design when it comes to architectural details that have a distinctive character specific to the scheme. The scheme could also improve with a stronger link with the neighbouring community and town centre beyond. Given the scale of development, the proposals could go further to make the site really feel like part of Burton on Trent - truly knitted together although the site does clearly identify its own focal points. However some design points are lost due to the application being at an outline stage but many of the key master planning elements have been successfully achieved. Whilst it would be perfectly possible, for example, for the BfL score *not* to go up from the 11 points at a later date, the scheme certainly has the potential to score more highly at the detailed design stage when these issues and opportunities can be addressed.

Access, highway and transport issues

Saved Local Plan Transport Policy 6 among other things seeks to ensure that all development is properly accessed; is serviced by public transport where appropriate and meets the cost of any necessary improvements to the highway network. Transport policies 7 and 8 similarly seek provision for pedestrians, people with disabilities and cyclists. Recreation and Tourism Policy 8 seeks to safeguard the existing network of footpaths and bridleways. PPG13 seeks to: promote more sustainable transport choices for both people and for moving freight; promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling, and reduce the need to travel, especially by car.

The success of the site in terms of its sustainability credentials relies on links to the nearest urban area where its population can access main services. From the beginning, it has been recognised that although the site appears to be in a location very close to the main urban area of Burton-upon-Trent, it is separated by the River Trent and a railway line. The land on the other side of the River is mainly occupied by a private golf course (Branston) and as such has little fundamental functional role to play in the future of the site. Nevertheless, an application to bridge the river to access the course was originally submitted alongside the main application but was subsequently withdrawn (it is understood, on grounds of security concerns). The part of the town closest to the site is separated by a railway line which runs at varying levels along the site's north-eastern boundary over which is the residential area of Stapenhill and a public footpath route to the town centre. Currently there are three means of connecting to Stapenhill from the vicinity of the site. A road and footway bridge at the eastern extremity of the site would be the main means of vehicular access to the town. An iron

footbridge containing a public footpath is in a rather poor state crossing the railway further to the west and is only accessible by steps. This is considered to be a secondary link and given its poor connections on the other side, not worthy of improvement. The third via a rough track (Waterside Road) that runs beneath the railway on the northern most point of the site where the railway is at its highest running over a viaduct, presents the site's best opportunity and as such the layout of the master plan relies on this. An uninterrupted connection to the public highway network to the town centre via Stapenhill would be required and this would be a strong positive element to site access. Securing this access would need to be addressed in the Section 106 agreement.

Of major concern to ESBC, the HA and SCC highways has been the impact the development would be likely to have on Burton and the A38. All parties were initially concerned that the building of the Walton by-pass and bridge could jeopardise the potential of building a third, more strategic bridge over the Trent designed to serve land to the South of Burton and service future major housing allocations in that part of East Staffordshire. However, the HA and SCC appear to have been persuaded that the current application should not be prejudiced by plans on the other side of the river which are of an indeterminate timescale. The trips generated by the development have been extensively modelled and all highway authorities are now in agreement with the data and methodology employed by the applicant's consultants.

All data and conclusions drawn have now been examined and explored in depth by the HA, DCC and SCC Highways and all three authorities are now in agreement that subject to obligations being secured through S106 negotiations at the appropriate juncture (yet to be determined), and conditions, the transport implications can be mitigated and the site can be sustainable in highway terms provided the travel plan is adhered to. Should it fail in any way, mitigation measures (in the form of a further funding account that can be drawn upon) are suggested and these again have all been agreed between the relevant authorities and the developer. It remains for the applicants to meet these fully in accordance with the authorities' requirements.

The provision of community facilities

Community Facilities Policy 1 points out that major developments like this will not be permitted unless adequate provision has been made for community facilities, infrastructure and amenities made necessary by that development. A sufficient range of facilities is important in order that the development is sustainable and particularly that avoids the need for residents to travel off the site for everyday requirements as much as possible. Community Facilities Policy 1 and Housing Policy 14 seek to ensure that new facilities associated with residential areas are designed to respect the scale and character of the housing areas in which they lie and ensure that local amenity is protected. Shopping Policies 2 and 3 resist major out of town shopping but make clear that proposals for small local shops will be permitted (among other things) subject to adequate car parking acceptable impact on local amenity.

The proposal set out above states the community facilities that are to be provided on the site. The range of recreational facilities has been discussed in the landscape section above. Given the size of the population, the community and commercial facilities proposed are of a type and range that would create a valuable community focus for life on the development arranged in a central area. Moreover, most of the facilities would be provided in phase 1 of the development. The proximity of Burton also

offers good opportunity for reaching a wider range of services in the town by various modes of transport.

Impact of the development on the amenity of nearby residents

The site being an industrial site with RBL currently occupying it, has an extant permission for general industry and currently has a negative impact upon residents through its potential noise impacts, its visual industrial processes including the stockpiling of concrete pipes and associated manufactured goods and its urban like features in a countryside location on the edge of Stapenhill at Burton upon Trent. The redevelopment of this mainly Brownfield site, with housing, employment (which can be controlled), public open space, water bodies, recreational facilities, local centres, primary school and increased woodland planting will ensure that a high quality mixed use development would be provided. It would provide access to listed buildings and structures which would be brought back into use, provide public access to protected trees and enhance wildlife habitats and corridors. This could mark a net improvement to local residents and would provide nearby residents with the choice of being able to access new high quality local centres without having to travel to Burton and would provide the opportunity to access new housing on an affordable basis within South Derbyshire within a highly sustainable site.

Viability of development and planning obligations.

The applicant by way of their legal representatives submitted a viability assessment in November 2009 together with draft heads of terms for a section 106 agreement. The District Council responded to this by issuing a matrix which showed what requests had been submitted to the District Council by way of consultation and what contribution the developers were offering (if any) based on their viability assessment. The applicant's responded by advising on each element why their offer differed and this information was supplied to the individual consultees in response to gain their further comments.

The applicants have always made it commonly known that their offer is based on an overall viability appraisal and contributions could only be made to consultees at the expense of deducting contributions from others (i.e. there is an overall pot from which deductions would reduce the affordable housing contribution). They advised that the viability would be reassessed during the project and would be an upward only reassessment on three yearly intervals, future surpluses being allocated to an improved package of affordable housing, subject to a maximum to be agreed. In summary the developer's viability argument was that the proposal could only generate 10% affordable housing and that this would be based upon 50% shared equity and 50% social rented, along with some, but not all of the other infrastructure requirements.

The District Council had the viability assessment independently tested by the District Valuer's Office. In February 2010 the District Valuer supplied his appraisal of the site and the District Council were advised that the 'super profits' generated would allow for £104 million which equates to 883 (or 39.42%) affordable homes or some mix of further affordable housing and other infrastructure requirements.

As the difference between the applicant's viability assessment and the independent appraisal of the District Valuer were so vast and some figures had been assumed, because data was not available, further discussions took place as to how to reach agreement on the residual amount available and therefore the amount of affordable

housing and other infrastructure contributions that could be provided. The District Valuer re-ran his appraisal on 01 June 2010 following a request from the District Council and advised that the 'super profits' on the amended appraisal would equate to £63.2million which equates to 689 (or 30.77%) affordable homes or some mix of further affordable housing and other infrastructure requirements. The applicant still disagreed with this assessment. They re-ran their appraisal and responded that they will be prepared to provide 15% affordable homes on a 50% shared equity and 50% social rented basis, without further infrastructure funding.

The District Council reviewed these figures and continued to disagree with the developer given the findings of the District Valuer. Annexe A is a summary of the minimum that would be required to be provided by the scheme in order to assimilate the development into its location and for it to be considered a sustainable development. It is considered that these requirements are the minimum necessary to make the development acceptable in planning terms, are directly related to the development as required by Community Policy 1 of the Local Plan. They are fairly and reasonably related in scale and kind to the development. Absent these requirements, the development cannot be said to be sustainable nor comply with policy.

Of particular concern to the applicant has been the viability of the scheme and the requirement to meet 28% affordable housing across the site and the size of the contribution requested by the Local Education Authorities (the latter, in the opinion of the applicant, not being justified on the advice of their specialist consultants). However, as can now be seen from the attached annexe, in addition to the other provisions less contentious, the applicant has reluctantly agreed to comply with the requests as follows:

1. Affordable Housing will be supplied at a rate of 25% on a 60%/40% (social for rent/intermediate) tenure split subject to the following:
 - (a) A viability review to be triggered by either party at a minimum of 3 years from the date of the permission.
 - (b) A review of the need for AH on the Drakelow development within 3 years of the date of the permission which will determine the correct level of AH provision until the next review.
 - (c) The viability review can be an upwards and downwards review so that the actual amount of AH to be provided will be dependent upon that viability review subject to a minimum provision of AH of 20% should the needs study justify it.
 - (d) Following the first review, a five yearly review of both the needs assessment and viability assessment shall be undertaken and at each review a minimum of 20% AH must be provided should the needs study justify it.
 - (e) The developer shall finance all reviews/studies subject to maximum cost to be agreed.
2. Education provision
 - (a) Staffordshire County Council as secondary and post-16 providers in lieu of Derbyshire County Council (DCC): A contribution of £5.4m for secondary education (triggers to be agreed) subject to evidence that this is genuinely required to meet the educational needs arising from the development (subject to independent arbitration in the event of disagreement).

- (b) DCC as primary school providers: subject to the full agreement of DCC, the completion, at the developer's expense, of a 1-form entry school on a 2 ha site, prior to the commencement of phase 2 (as identified in the Phasing Strategy (drawing RBL001-109 rev G); and subject to justification (and subject to arbitration if necessary), the completion of a 2-form entry school at the developer's expense, at a point in time to be agreed with the DCC.

Section 106 agreements now stand to be tested under the criteria set out in regulation 122 of the recently published Community Infrastructure Levy Regulations 2010. This states that *'A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is—*

- (a) necessary to make the development acceptable in planning terms;*
- (b) directly related to the development; and*
- (c) fairly and reasonably related in scale and kind to the development.'*

The contributions/works required as set out comply with these criteria.

Conclusion

The above indicates that development at this location could be sustainable in a range of respects. Whilst there is no apparent current shortfall in housing land in the District, and the site is therefore not "needed" in terms of housing supply, it is in other respects sustainable. National planning policy in PPS 3 is clear that applications should not be refused solely on grounds of prematurity. It is therefore considered that a refusal on grounds of prematurity could not be sustained. The revocation of Regional Strategies also tends to weigh against the refusal of permission in this case. The proposal could therefore be acceptable in terms of the principles of planning policy. However without the vital services and facilities necessary to meet the needs of new occupiers and to reduce pressure on those that meet the needs of existing residents, the development itself would not be considered sustainable. Therefore it is imperative that appropriate contributions are secured through a S106 agreement to ensure the sustainability of this development and its deliverability. As these have now been agreed the development would present an attractive and sustainable addition to the area to be delivered over the next 15 years or so.

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

Recommendation

- A. That subject to the agreement of all of the foregoing, the Secretary of state be advised that the Local Planning Authority is minded to **GRANT permission** subject to the satisfactory conclusion of the S106 agreement to secure the provisions as stated at Annex A, and subject to conditions.
- B. That subject to no objection from the Secretary of State (A), the Head of Planning Services be authorised to negotiate the satisfactory detailed terms of the S106 agreement and further necessary conditions not already listed below.

1. The development hereby permitted within the land edged red, on Plan Ref: RBL001-101/Rev I (April 2008) shall be begun either before the expiration of 5 years from the date of this permission, or before the expiration of 3 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 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Application for approval of the reserved matters, namely: siting, design, external appearances, means of access and landscaping shall be made to the Local Planning Authority before the expiration of 20 years from the date of this permission. Such development shall be begun no later than 3 years from the approval of the last such matter to be approved.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.
3. Approval of the details of the layout, scale and appearance of any buildings, the means of access to and within the site and landscaping of the site (hereinafter called "the reserved matters") for each phase of the development shall be obtained from the Local Planning Authority in writing before any development is commenced in that phase. Plans and particulars of the reserved matters for each phase of the development shall be submitted in writing to the Local Planning Authority and the development of each phase shall be carried out as approved.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.
4. The reserved matters submitted in accordance with condition 3 and details submitted in accordance with any other condition of this planning permission shall accord with the Land Use Framework Plan (Plan ref: RBL001-102 rev K (August 2008) and the design principles outlined in the illustrative master plan (Plan Ref: RBL001-018 Rev N (April 2009)).

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.
5. Any other reasonable conditions relating to implementation.
6. No development shall commence until a phasing plan and programme in respect of the phased delivery of the development has been submitted to and agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with the phasing plan and programme unless otherwise varied with the written agreement of the Local Planning Authority.

Reason: For the avoidance of doubt.
7. For the purposes of this planning permission all references to a 'phase' shall be interpreted as being a reference to a 'phase' as defined on the phasing plan and programme approved pursuant to this Condition 5 unless otherwise agreed in writing with the Local Planning Authority.

Reason: For the avoidance of doubt.
8. Any other reasonable conditions relating to phasing.

9. No development of any phase shall take place until full details of both hard and soft landscape works in that phase have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved in accordance with the agreed phasing plan. These details shall include trees to be retained showing their species, spread and maturity; proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.); proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.); retained historic landscape features and proposals for restoration.

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

10. Soft landscape works shall include planting plans; written specifications; schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and implementation programme.

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

11. All hard and soft landscape works shall be carried out and finished not later than the first planting season following completion of the relevant phase of the development.

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

12. A landscape management plan, including phasing and implementation strategy, long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority as part of the reserved matters submission in accordance with conditions 2 and 7. The landscape management plan shall be implemented as approved.

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

13. Any tree or shrub within a phase which forms part of the approved landscaping scheme for that phase and which within a period of five years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved in writing by the Local Planning Authority.

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

14. None of the existing trees or hedgerows indicated as existing on the master plan drawing number E6484-103-GR-PPW-Existing March 2010 (as referred to in the more detailed ES plans 2155/11a (June 2008) and 2155/10b (June 2008)) shall be cut down, uprooted or destroyed, nor shall be topped or lopped without the prior written approval of the Local Planning Authority. If any of the existing trees or hedgerows to be retained are removed or, uprooted or destroyed or dies, a replacement shall be planted in the same place and that tree or hedge shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

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

15. No site clearance works or development of a phase shall take place until there has been submitted to the Local Planning Authority for their written approval a scheme showing the type, height and position of protective fencing to be erected around each tree or hedgerow to be retained in that phase. The scheme shall comply with BS 5837:2005.

Reason: In the interest of the health and safety of the trees.

16. No site clearance works or development of any phase shall be commenced in the vicinity of the protected tree or hedgerow until such a scheme is approved in writing by the Local Planning Authority and thereafter the development hereby permitted shall only be carried out in accordance with the approved scheme. The area surrounding each tree or hedgerow within the protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

- (i) There shall be no changes in ground levels;
- (ii) No material or plant shall be stored;
- (iii) No buildings or temporary buildings shall be erected or stationed;
- (iv) No materials or waste shall be burnt within 20 metres of any retained tree or hedgerow; and
- (v) No drain runs or other trenches shall be dug or otherwise created; without the prior written consent of the Local Planning Authority.

Reason: To protect the trees/landscape areas from undue disturbance

17. Any other reasonable conditions relating to landscaping.
18. No development of any phase shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected within that phase. The boundary treatment shall be completed in accordance with a timetable agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with the approved details.

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

19. Unless otherwise agreed in writing by the Local planning authority, prior to the commencement of development, details of a 1.8 metre high boundary fence to be provided adjacent to the existing railway boundary to a standard to mitigate the noise from the railway, shall be submitted to and approved in writing by the Local Planning Authority. The fence shall be provided in accordance with the approved details prior to the development of the site and subsequently maintained thereafter.

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

20. No development of any phase shall take place until details of the materials proposed to be used on the surfaces of the roads, footpaths, car parking areas and courtyards along with samples of the materials to be used on the external surfaces of the buildings within that phase have been submitted to and approved in writing by the Local Planning Authority. The development of each phase shall be carried out using the approved materials unless otherwise agreed in writing with the Local Planning Authority.

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

21. Any other reasonable conditions relating to materials.
22. No development within any phase shall take place until there has been submitted to, and approved in writing by the Local Planning Authority, an initial design stage assessment by an accredited assessor for The Code for Sustainable Homes and an accompanying interim certificate stating that the dwellings within the submitted phase achieve either Code Level 3 or the then-required Code Level rating, whichever is the higher. The development shall be carried out in accordance with the certificated design.

Reason: To comply with the guidance set out in PPS1, the Council's design guidance and in the interests of sustainability.
23. Any other reasonable condition relating to sustainability and renewable energy.
24. No development of a particular phase shall commence before details of the finished floor levels of each building within that phase have first been submitted to and approved in writing by the Local Planning Authority. The buildings within that phase shall be constructed in accordance with the approved details.

Reason: To protect the amenities of adjoining properties and the locality generally.
25. No development of any phase shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority that specifies the provision to be made for dust mitigation measures and the control of noise emanating from the site during the period of construction of the development. The approved measures shall be implemented throughout the construction period.

Reason: To protect the amenities of adjoining properties and the locality generally.
26. During the period of construction of any phase of the development which abuts any occupied dwelling within the site, no construction work shall take place outside the following times: 0730 - 1900 hours Monday to Friday and 0730 - 1330 hours on Saturdays and at any time on Sundays, Bank and Public Holidays.

Reason: To protect the amenities of adjoining properties and the locality generally.
27. Before use of the non-residential uses commence, a scheme designed to protect the living conditions of occupants of nearby buildings from noise, vibration and odours from fixed plant or equipment including the air ventilation and extraction system, including the methods of treatment of the emissions and the external ducting, shall be submitted to and approved in writing by the Local Planning Authority. Before the uses hereby commence, the measures approved under the scheme shall be installed and brought into use. Thereafter the approved measures shall be retained, operated and maintained in accordance with the manufacturer's specifications.

Reason: To protect the amenities of adjoining properties and the locality generally.
28. No deliveries shall be taken in or dispatched from the proposed local centre outside the following times: 0700 hours to 1900 hours Monday to Saturday and at any time on Sundays, Bank and Public Holidays, unless otherwise agreed in writing with the local planning authority.

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

29. Before use commences of any building for retail or commercial use (within Use Class A1-A5) or of the proposed community centre, details of all external lighting equipment associated with the proposed use of that building shall be submitted to and approved in writing by the Local Planning Authority and the development shall be implemented in accordance with the approved details. No other external lighting equipment may then be used on that building except with the approval in writing of the Local Planning Authority.

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

30. Any other reasonable conditions relating to noise and/or construction management.
31. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) Revision D, dated 9 November 2009, undertaken by THDA and the following mitigation measures detailed within the FRA:
- a) (Paragraph 9.6) Limiting the surface water run-off generated by all events up to the 100 year plus 20 % commercial (for climate change), 30% residential (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and 30% less than the existing Brownfield site, and not increase the risk of flooding off-site.
 - b) (Paragraph 9.1) Improvement/protection and maintenance of the existing Darklands Brook.
 - c) (Paragraph 8.5) Finished floor levels are set no lower than 600mm above the 100 year plus 20% for climate change flood level, or 150mm above proposed external ground levels or the adjacent highway (whichever is the greater) applicable to each phase of the site.
 - d) (Paragraph 9.11) no raising of ground levels within the 100 year flood plain of the Darklands Brook.
 - e) (Paragraph 7.14.4) Provision of suitable security/trash screens to both ends of the existing culverts.
 - f) (Paragraph 7.14.5) Provision of Structural repairs to Culvert 2, in accordance with the time scales detailed within the supplementary culvert report.

Reason: In the interests of flood protection.

32. Any other reasonable conditions relating to flooding or flood risk/pollution.
33. Development of each phase shall not begin until a surface water drainage scheme for that phase of the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. Each phase of development shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:

Limiting the surface water run-off generated by all events up to the 100 year plus 20 % commercial (for climate change), 30% residential (for climate change)

critical rain storm in accordance with paragraph 7.4 and tables 7.4, 7.7 and 7.9 of the approved FRA.

Provision of a minimum of surface water run-off attenuation storage on the site in accordance with paragraphs 7.8 and 7.9 and tables 7.7 and 7.9 of the approved FRA.

Details of how the scheme shall be maintained and managed after completion.

Reason: In the interests of flood protection.

34. The development hereby permitted shall not be commenced until such time as a detailed design of the Culvert 1 Replacement Scheme as outlined on Drawing No. 110 Revision B, has been submitted to, and approved in writing by, the local planning authority in consultation with the Environment Agency. Implementation of the Culvert 1 Replacement Scheme shall be undertaken during the ground works phase of the development, and be fully operational prior to the first occupation of new dwellings across the site.

Reason: In the interests of flood protection.

35. Prior to the commencement of development, a working method statement to cover all works involved in the construction of the Culvert 1 Replacement Scheme shall be submitted to and agreed in writing by the local planning authority in consultation with the Environment Agency. Thereafter the development shall be carried out in accordance with the approved designs and method statement for the Culvert 1 Replacement Scheme and any subsequent amendments shall be agreed in writing with the local planning authority in consultation with the Environment Agency.

The working method statement shall include details on the following:

- a. Time programme for the works
- b. Methods used for all channel and bank-side/water margin works
- c. Machinery to be used
- d. Location and storage of plant, materials and fuel
- e. Access routes to the works, access to the banks of the watercourses
- f. Method of protection of areas of ecological sensitivity and importance
- g. Site supervision
- h. location of site office, compounds and welfare facilities.

Reason: In the interests of flood protection.

36. Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

a) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

- b) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- c) The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

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.

- 37. Prior to commencement of development in each phase a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.

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.

- 38. The development of any phase or sub-phase shall not be commenced until a scheme has been submitted to and approved in writing by the local planning authority for disposal of foul and surface water from that phase, roof drainage, sealed at ground level. The development of each phase shall be carried out in accordance with the approved details for that phase unless otherwise agreed in writing with the Local Planning Authority.

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

- 39. The development of any phase shall not be commenced until a scheme has been submitted to and approved in writing by the local planning authority to install oil and petrol separators.

Reason: In the interests of pollution control.

- 40. Prior to the commencement of any phase of the development the developer shall submit a scheme highlighting details of the likely resultant noise levels from activities during the construction phase of that phase at the nearest noise sensitive premises. The investigation shall address the impact that the activities will have, in terms of noise, on nearby residential properties. This assessment and mitigation measures shall be submitted for the approval of the Local Planning Authority prior to commencement of the development of that phase.

Once agreed, all identified noise control measures shall be implemented and thereafter retained.

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

41. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage in each phase have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

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

42. a) No demolition/development shall commence in each phase until a Written Scheme of Investigation has been submitted to and approved by the Local Planning Authority in writing. The scheme shall include an assessment of significance and research questions; and
- The programme and methodology of site investigation and recording
 - The programme for post investigation assessment
 - Provision to be made for analysis of the site investigation and recording
 - Provision to be made for publication and dissemination of the analysis and records of the site investigation
 - Provision to be made for archive deposition of the analysis and records of the site investigation
 - Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation"
- b) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition ?."
- c) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (a) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.
- d) Any historic or archaeological features not previously identified which are revealed when carrying out the development hereby permitted shall be retained in-situ and reported to the Local Planning Authority in writing within two working days. Works shall be halted in the area/part of the building affected until provision has been made for the retention and/or recording in accordance with details submitted to and approved in writing by the Local Planning Authority.

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

43. 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.

44. 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) 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'.
- c) No development shall take place within each phase until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment for that phase 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.
45. 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.
46. Prior to the commencement of development in each phase details of a programme of further survey work relating to great crested newts, bats, breeding birds, slow worm, common lizard and grass snakes shall first be submitted to and approved in writing by the Local Planning Authority. Details of any required conservation measures and proposed habitats, including implementation, management and maintenance proposals shall be included in the report and the development of that phase implemented in accordance with the approved details.
- Reason: To ensure compliance with PPS9.
47. The Bat Mitigation Strategy shall be implemented in accordance with a programme to be submitted to and agreed in writing by the Local Planning Authority.
- Reason: To safeguard the European protected species.
48. As much as possible of the railway ballast habitat within the central area of open space shown on the Green Infrastructure Plan shall be retained and where this is

not possible, the habitat loss shall be compensated through the creation of brown roofs and/or wildlife garden, as described in the Ecological Management Plan.

Reason: To ensure that as much of the biodiversity of the site as possible is retained.

49. All measures set out in the Ecological management Plan shall be implemented in accordance with a programme submitted to and agreed in writing by the Local planning Authority.

Reason: To comply with the provisions of PPS9.

50. Any other reasonable conditions relating to ecology.

51. Before any other operations are commenced in each phase, a scheme shall be submitted to the Local Planning Authority for written approval indicating the proposed temporary means of construction access, site accommodation, storage of plant and materials, and areas for parking and manoeuvring of site operatives and visitors vehicles and loading, unloading and manoeuvring of goods vehicles.

Reason: In the interests of highway safety.

52. Before any other operations are commenced, excluding demolition and site clearance, the access and on-site facilities which are the subject of condition 51 above shall be laid out and constructed in accordance with the approved scheme and retained throughout the construction period free from any impediment to their designated use.

Reason: In the interests of highway safety.

53. Prior to the submission of full or reserved matters applications for each phase the developer shall submit a development masterplan for that phase for the written approval of the Local Planning Authority. The masterplan shall include -

- Detailed design concept for the site
- Details of phasing and construction of accesses to the existing highway network
- Details of road hierarchy
- Connections through the site and to the surrounding area
- Street layout and dimensions together with service vehicle access information
- Details of Public Transport Route Strategy together with infrastructure to be provided, including real time information, and timeframe for implementation
- Details of footpaths, cycleways and landscaping
- Details of locations of the school, retail centres and employment areas
- Details of parking strategies, including low parking areas and secure cycle storage facilities
- Details of means of disposal of surface water from proposed highway areas
- Details of land to be protected for future provision of rail halt

Applications for full permission or approval of reserved matters within that phase shall be in accordance with the approved masterplan for that phase unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

54. Notwithstanding the submitted information no development shall be commenced until details of the access(s) to Walton Road have been submitted to and approved by the Local Planning Authority in consultation with Derbyshire County Council as Local Highway Authority. The accesses shall be implemented in accordance with the approved design and with the phasing detail required as part of Condition ? below.

Reason: In the interests of highway safety.

55. Throughout the period of the development vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud or other extraneous material on the public highway.

Reason: In the interests of highway safety.

56. Prior to the first occupation of any development on the site a scheme for the following highway improvement schemes shall be submitted and approved. Works will be completed prior to the occupation of the 150th dwelling:

(a) The realignment of Walton Road and the change of priority at the junction of Walton Road and Rosliston Road South generally in accordance with drawing nos. 06-0297 111 and IPD-09-104-SK001 but more specifically in accordance with detailed designs submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority;

(b) The widening of the Walton Road carriageway to 6.75m minimum between the site and the proposed Walton on Trent Bypass generally in accordance with drawing no. 07-0297 100 but more specifically in accordance with detailed designs submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority.

Reason: In the interests of highway safety and to ensure that sufficient mitigation is in place to assimilate the development in to the the adjoining highway network.

57. No development or combination of development shall be occupied that would result in trip generation exceeding 426 vehicle trips in the AM peak or 380 vehicle trips in the PM peak (based on the trip rates set out below) unless and until road schemes broadly in accordance with Infrastructure Planning and Design Limited layout drawings IPaD - 09- 104-P-110 Revision D, IPaD - 09-104-P-111 Revision D, and IPaD - 09-104-P-112 Revision D have been implemented in full, open to traffic and approved by the Local Planning Authority in consultation with the Highways Agency. The vehicular trip rates to be applied are as follows:

Residential (per dwelling)	AM Peak 0.37, PM Peak 0.335
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Employment (per 100sqm)	AM Peak 0.87, PM Peak 0.76
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Reason: In the interests of highway safety and to ensure that sufficient mitigation is in place to assimilate the development in to the the adjoining highway network.

58. Any other reasonable conditions relating to highways and/or transportation issues recommended by any of the three highway bodies.
59. Any other reasonable conditions relating to the development not already covered above.

Informatives: Any relevant advisory note.