

DEVELOPMENT CONTROL COMMITTEE – 21 June 2005

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).

REPORT OF THE PLANNING SERVICES MANAGER

1. Planning Applications

2. Appeals

INDEX TO PLANNING APPLICATIONS

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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 Planning Services Manager's 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 Planning Services Manager, 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.

21/06/2005

Item 1.1**Reg. No.** 9/2004/1495/F**Applicant:**

Mascotta Properties Ltd
1(B) Derby Road
Borrowash
Derbyshire
DE72 3JW

Agent:

G. Markwell
Graham Markwell Associates
1B Derby Road
Borrowash
Derbyshire
DE72 3JW

Proposal: The demolition of the existing shop and premises and the erection of six new dwellings at 109 Swadlincote Road Woodville Swadlincote

Ward: Woodville

Valid Date: 12/11/2004

The following application was deferred from last Committee in order to seek clarification on the access arrangements. A further survey drawing has been submitted which confirms that the required access width of 4.1m can be achieved and the Highway Authority has confirmed that this is now acceptable (subject to conditions). Although not strictly a planning issue, the fire officer has confirmed that whilst a fire appliance could not reach the proposed houses at the back of the site, other means of fire-fighting are available to the developer to comply with the Building Regulations (such as domestic sprinkler systems).

This application is brought to committee on the instruction of Councillors Taylor and Isham.

Site Description

This former shop and premises, now demolished, is on the north side of Swadlincote Road between terraced houses. The width of the front of the site between the existing houses is some 9.4m, which widens at the rear to 24.4m. The depth of the site is some 68m.

Proposal

It is proposed to erect six houses, two detached and four semi-detached. A dwelling is proposed to fill the gap at the front of the site with a covered passage running through it to give vehicular access to the five dwellings proposed at the rear.

Planning History

Outline permission was granted on smaller area of land within the site in July 2003.

9/2004/1495/F 109 Swadlincote Road
Woodville



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Scale 1:1250

Plot centred at 428536 325343

Date Plotted 10/6/2005

9/2004/1495/F 109 Swadlincote Road
Woodville



Responses to Consultations

The Education Authority requires a contribution to local school facilities of £7,884.

The Primary Care Trust requires a contribution to local medical facilities of £444 per dwelling.

The Environmental Health Manager comments that the land has been used as a shop and the land to the rear may have been used for light industrial usage and considers there is a possibility that contaminants may be present in the soil. He recommends that the site is investigated to determine whether the land is contaminated and any remedial works undertaken before development commences.

Responses to Publicity

One letter has been received from the neighbouring resident objecting on the grounds of the narrowness of the access, increased disturbance from the new access, inadequate visibility and loss of privacy due to the close proximity of the access. The neighbours gable wall was left exposed and potentially unstable following the demolition works, however, this appears to have been rectified with the erection of new a secondary gable wall.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Housing Policy 3 and 4

Local Plan: Housing Policy 5 and 11

Planning Considerations

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

- Highway safety
- Affect on the amenity for neighbouring residents due to increased disturbance and overlooking.

Planning Assessment

Concerns previously expressed by the County Highway Authority about the width of the access have been overcome by the submission of scale surveyed drawings.

The proposal complies with the Councils housing layout guidelines and therefore adequate amenity would be safeguarded for existing residents with regards to privacy and overbearance. Vehicle movements are likely to be relatively low and therefore would not cause undue disturbance to the neighbouring property. Further mitigation could be provided with suitable boundary treatment, preferably a brick wall.

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

Subject to the applicant entering into a legal agreement or offering a unilateral undertaking under Section 106 of the Town and Country Planning Act to secure the payment of medical and school contributions, then **GRANT** permission subject to the following conditions:

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.

2. This permission shall relate to the amended drawings, nos 04 GM 08/35 10 Rev. B, 04 GM 08/35 11 Rev. A, 04 GM 08/35 15 Rev. A, 04 GM 08/35 17 received on 8th, 30th March 2005.

Reason: In the interests of highway safety and in the interests of the appearance of the building and the streetscene.

3. No development shall commence on site in connection with this approval until samples of materials for the external elevations of the development have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved materials.

Reason: To ensure the materials are appropriate to safeguard the appearance of the area.

4. Notwithstanding any details submitted, precise details of the type and size of the proposed rooflight on the front elevation of plot 1, which shall be a conservation type, shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflight shall be fitted such that its outer face is flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.

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

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

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

6. Notwithstanding any details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected, which shall where necessary include boundary walls. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

Reason: In the interests of the appearance of the area and to safeguard the amenities of neighbouring residents.

7. Standard contamination condition.

8. Space shall be provided within the curtilage for site accommodation, plant and materials storage, lorry loading/unloading parking and maneuvering space, and employee/visitor car parking and maneuvering space in accordance with a scheme first submitted to and approved by the Local Planning Authority. The facilities shall be maintained throughout the construction period.

Reason: In the interests of highway safety

9. No development shall be commenced until the vehicular access to Swadlincote Road has been constructed at a minimum width of 4.1m wide. Thereafter it shall be maintained at that width for at least 10m from the Swadlincote Road highway boundary.

Reason: In the interests of highway safety

10. Access to the site shall be via a vehicular footway crossing. The access shall be surfaced with a solid bound material for a distance of 10m from the Swadlincote Road highway boundary and shall be so maintained thereafter.

Reason: In the interests of highway safety

11. No development shall be commenced until access to the site from Bernard Street has been permanently closed in accordance with a scheme first submitted to and approved by the Local Planning Authority.

Reason: In the interests of highway safety

12. The area between the dwelling on Plot 1 and Swadlincote Road shall be permanently maintained free of obstructions exceeding 600mm in height for a distance of 2m from the highway boundary. The parking of vehicles shall be prevented by physical means in accordance with a scheme first submitted to and approved by the Local Planning Authority. The scheme shall be implemented prior to the first occupation of the dwelling and maintained thereafter.

Reason: In the interests of highway safety

13. The garaging, car parking and maneuvering facilities shall be provided prior to the first occupation of the dwelling and thereafter maintained free of any impediment to their designated use.

Reason: In the interests of highway safety

Informatives:

1. Standard Coal Authority
2. Contamination advice.
3. The applicant should contact DCC (ext 7595) at least 6 weeks in advance of the intention to commence access works within highway limits

21/06/2005

Item 1.2**Reg. No.** 9/2005/0115/FH**Applicant:**

Mr T Green
25 St John Street
Wirksworth
Derbyshire
DE44DR

Agent:

Mrs Allison
Quorn Plan Services
26 Northage Close
Quorn
Loughborough
Leicestershire
LE128AT

Proposal: Extension and alterations and change of use from a workshop to a dwelling at 4 Canal Bank Shardlow Derby

Ward: Aston

Valid Date: 07/02/2005

The application is brought to Committee on the instruction of Councillor Atkin

Site Description

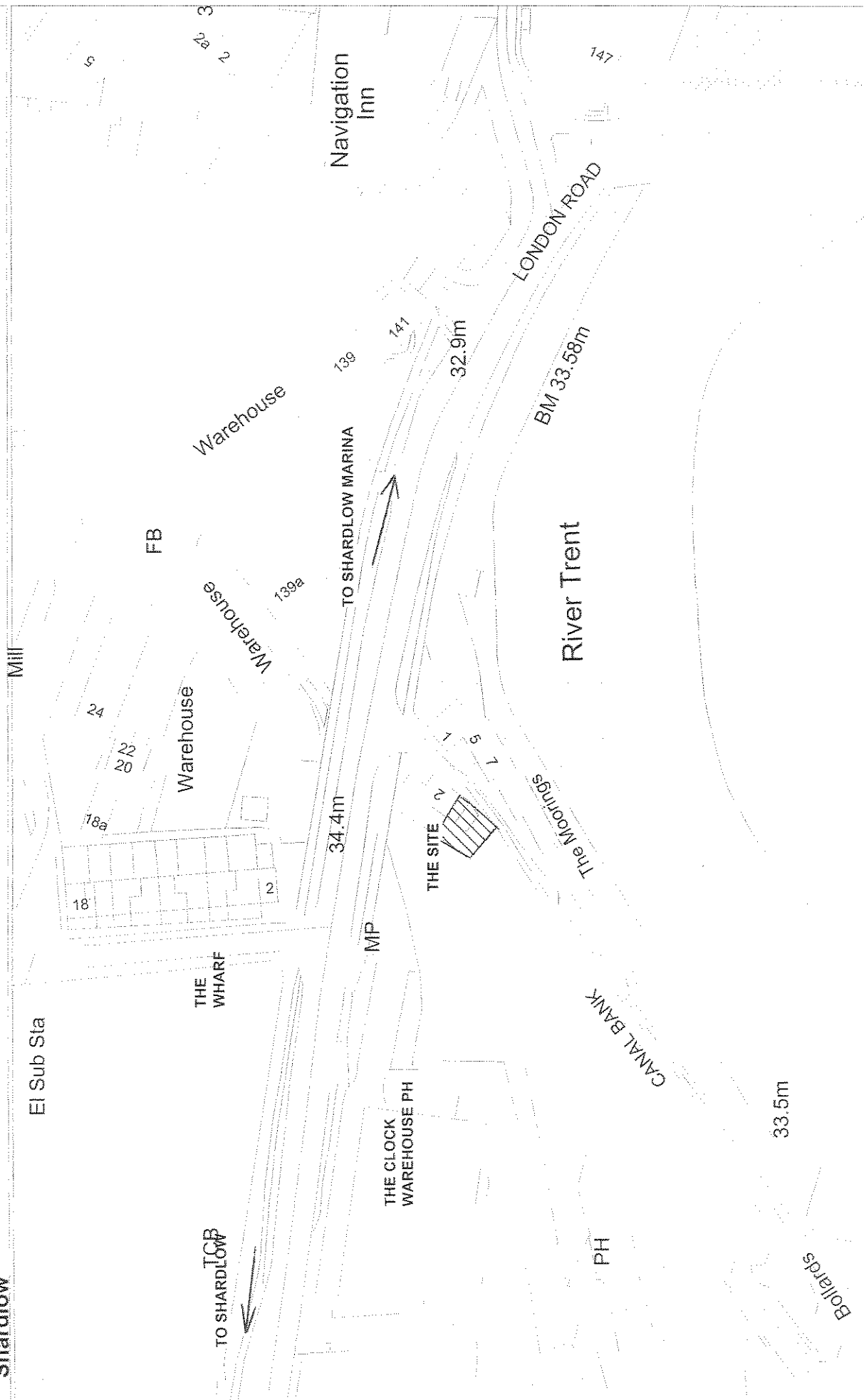
The site is almost fully occupied by the existing building, which is Grade II listed. Part of the building is a lean-to structure, of no architectural or historic merit. It is understood that the building was last used for small-scale industrial purposes. Access is gained via the unmade Canal Bank.

Proposal

The applicant proposes to replace the lean-to with a single storey pitched roof extension. The alterations and extension would form a small dwelling of some 60 sq m floor space. Because of the lack of curtilage there would be no room to park a vehicle on the site.

Applicants' supporting information

- a) As far as is known the applicant owns the application site.
- b) The applicant intends to avoid parking in Canal Bank, as this would block the road.
- c) The applicant intends to live alone in the house and will only require one car.
- d) It is intended to negotiate a parking space with the management of the nearby public house, failing which the vehicle would be parked in one of the adjacent streets without obstructing any other residents or vehicles.



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Scale 1:1250

Plot centred at 428536 325343

Date Plotted 10/6/2005

9/2005/0115/FH 4 Canal Bank
Shardlow



Responses to Consultations

The Parish Council objects for the following reasons:

- a) It is impossible to judge the scale of the extension in relation to surrounding buildings, in the context of the conservation area.
- b) The applicant may not own the whole site.
- c) A site visit should be made.
- d) There is no objection to the change of use provided that it is contained within the existing building.
- e) Parking must be provided within the curtilage.
- f) The towpath, a public footpath, must not be impeded.

The Highway Authority and British Waterways have no objection in principle.

The Conservation Officer has no objection to the proposed extension and alterations.

Responses to Publicity

Letters have been received from three local households objecting as follows:

- a) The site is affected by a right of way.
- b) The extension would be too large, in particular with regard to its height. It would be detrimental to the setting of the Salt Warehouse and the Clock Warehouse in a sensitive part of the conservation area. The group of which the site forms a part is a central feature of the area and its character should not be eroded.
- c) No provision is made for the parking of vehicles. The existing garage space would be lost to the extension. There could be problems for householders and pedestrians. There could be parking on the grass adjacent to the building.
- d) The property has never been in residential use and an alternative should be sought.
- e) The proposed roofing materials would be inappropriate.
- f) The attractive old retaining wall on the canal side should be kept.
- g) The loft space could be used.
- h) The fenestration pattern would be out of keeping. [Comment: This detail has been amended].
- i) The provision of services to the property could cause disruption in Canal Bank.
- j) The applicant may not own the whole site.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policies 1 & 3, Housing Policy 5 and Environment Policies 9 & 10

Local Plan: Housing Policy 5 and Environment Policies 12 & 13

Planning Considerations

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

- The principle.
- Impact on the listed building and conservation area.
- Parking and highway safety.
- Residential amenity.

Planning Assessment

The site lies within the confine of the village as defined in the adopted Local Plan. Furthermore Shardlow was identified in the emerging local plan as a serviced settlement, being a location that reasonably met the sustainability objectives of PPG3. The Local Plan inspector concurred with that assessment. Furthermore the development would re-use an existing and valuable historic building. Therefore the use of the property as a dwelling is acceptable in principle.

The proposed extension would replace an existing structure of no architectural or historic interest. Its design follows the principles set out in 'Historic South Derbyshire' (SPG), being designed to be subordinate to the building to which it would be attached. In particular its roofline would be lower than that of the host building and it would be narrower in width. Subject to appropriate control over detail the development would preserve the character and appearance of the conservation area and would be in keeping with listed building.

The use of the building would generate a certain amount of traffic whether in business or residential use. Therefore the proposal is considered acceptable in terms of parking and highway safety.

The proposal would meet the tests in the supplementary planning guidance for the house design and layout. Therefore there would be no demonstrable harm to the amenities of the occupiers of nearby dwellings.

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

Recommendation

GRANT permission subject to the following conditions

1. The development permitted shall be begun before the expiration of five years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. R/4066/L(0-)02B received 14 March 2005.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials, including a 1sq.m sample panel of the render, to be used in the construction of the external walls and roof of the buildings have been submitted to and approved in writing by the Local Planning Authority.
Reason: To safeguard the appearance of the existing building and the locality generally.

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

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

5. All external materials used in the development to which this permission relates shall match those used in the existing building in colour and texture unless as may otherwise agreed in writing with the Local Planning Authority.

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

6. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority.

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

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

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

8. Windows shall be single glazed unless otherwise agreed in writing with the Local Planning Authority.

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

21/06/2005

Item 1.3**Reg. No.** 9/2005/0116/L**Applicant:**

Mr T Green
 25 St John Street
 Wirksworth
 Derbyshire
 DE44DR

Agent:

Mrs Allison
 Quorn Plan Services
 26 Northage Close
 Quorn
 Loughborough
 Leicestershire
 LE128AT

Proposal: Extension and alterations including the demolition of a shed underpinning and repositioning of doorway at 4 Canal Bank Shardlow Derby

Ward: Aston

Valid Date: 07/02/2005

See report 9/2005/0115/F on this agenda.

Recommendation

GRANT Listed Building Consent subject to the following conditions:

1. The works to which this consent relates shall be begun before the expiration of five years from the date of this consent.

Reason: To conform with Section 18(1) of the Planning and Listed Buildings and Conservation Area Act 1990.

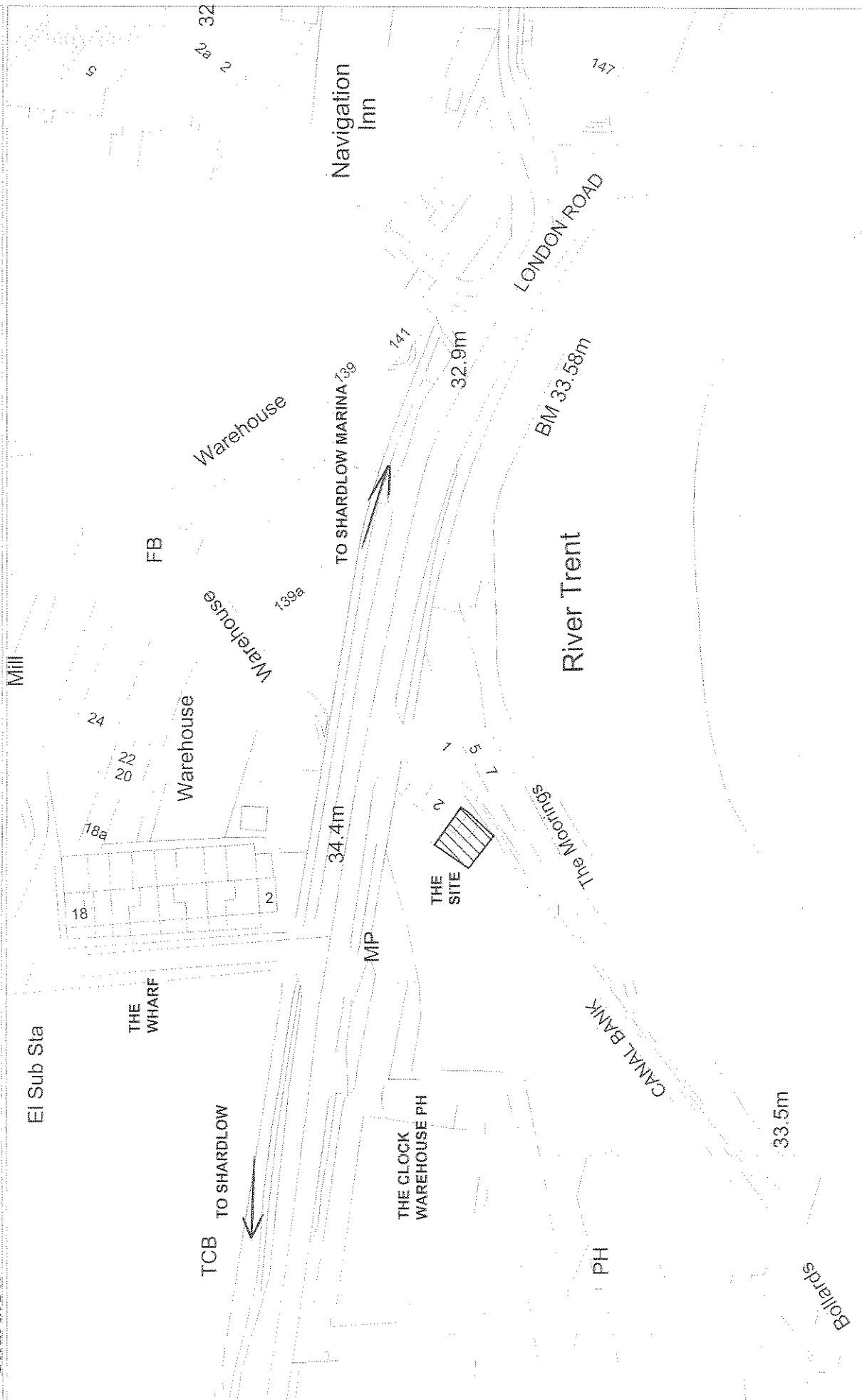
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. R/4066/L(0-)02 B received 14 March 2005.

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

3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials, including a 1sq.m sample panel of the render, to be used in the construction of the external walls and roof of the building 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.

9/2005/0116/L 4 Canal Bank
Shardlow



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

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

5. All external materials used in the development to which this permission relates shall match those used in the existing building in colour 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.

6. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority.

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

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

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

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

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

9. Windows shall be single glazed unless otherwise agreed in writing with the Local Planning Authority.

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

21/06/2005

Item 1.4**Reg. No. 9/2005/0371/O****Applicant:**

Mr Mrs S N Garwood
1 The Green
Weston-on-trent
Derby
DE72 2BJ

Agent:

Mr Mrs S N Garwood
1 The Green
Weston-on-trent
Derby
DE72 2BJ

Proposal: Outline application (all matters except siting to be reserved)
for the residential development of Part Of Gardens At 1 And
2 The Green Weston-on-trent Derby

Ward: Aston

Valid Date: 04/04/2005

The application is brought to Committee on the instruction of Councillor Atkin.

Site Description

The site lies at the edge of the village between No 1 The Green, a traditional cottage set close to the edge of the highway, and No 1A, which is set well back from the road. The site is presently part of the rear garden to Nos 1 & 2, which are in the ownership of the applicant.

Proposal

The application is in outline but matters of siting and access are for consideration now. The access would be to the side of No 1. The existing garage would be demolished and new garaging/parking for No 1 and the proposed dwelling would be provided by a shared drive. An amended plan has been submitted, adjusting the position of the proposed dwelling relative to 1A The Green.

Applicants' supporting information

- a) The revised drawing complies with supplementary planning guidance.
- b) Both 1A and 1 The Green have a common boundary with The Green and this forms a built up frontage. The proposed dwelling would also have a frontage to the Green. Therefore the proposal would fill a gap in an otherwise built up frontage.
- c) With regard to the process of defining village boundaries, the proposal would preserve the overall alignment defined by adjoining properties and is therefore within the boundary where development should take place.
- d) The visual impact of the proposal would be no greater than if it were located closer to the road.

Weston-on-Trent



- e) Permission granted at Little London Cottage displayed a degree of flexibility in the application of policy, which should be exercised here too.
- f) The access is as proposed at appeal and which the inspector found to be acceptable.

Planning History

Permission was refused for the erection of two dwellings on the site in 2004 (9/2003/1550/O). The subsequent appeal was dismissed because the inspector felt the dwellings, being set one behind the other would not be infill and would be visually harmful when approaching the site from Aston on Trent.

Responses to Consultations

The Parish Council objects for the following reasons:

- a) The development at Little London was allowed only because it would be sited precisely between the houses either side and not on any other part of the site.
- b) 1A The Green is not in line with other houses fronting The Green and the application therefore does not represent infill.
- c) A dangerous precedent would be set if this application were to be permitted.

The Highway Authority has no objection in principle, based on the previous appeal decision.

Severn Trent Water Ltd has no objection in principle.

Responses to Publicity

The adjoining neighbour objects as follows:

- a) The proposal does not accord with policy.
- b) Village facilities and services are inadequate.
- c) There would be more pollution, noise and disturbance to the neighbour because of the additional cars.
- d) The proposed access and parking area would be inadequate.
- e) There would be loss of light and privacy to the neighbouring dwelling, exacerbated by the higher ground level of the application site.
- f) The development would be out of keeping with the area. No other building on The Green has one dwelling sited directly behind another.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: General Development Strategy Policies 1 & 3 and Housing Policy 5

Local Plan: Housing Policy 5

Planning Considerations

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

- The principle

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

Planning Assessment

The site lies in the confine of the village as defined in the adopted Local Plan. However in the light of PPG3 the village was identified in the emerging local plan as 'other village', wherein only infill development on a brownfield site would be permitted, to meet the sustainability objectives of PPG3 whilst allowing limited development. The Local Plan inspector concurred with that assessment. In this case the dwelling would not fit neatly within a uniform line of existing dwellings. Nevertheless it would have a frontage to The Green as do the properties either side of it and it would be set less far back into the site, relative to the frontage, than 1A The Green. Furthermore the site is previously developed land (garden). Therefore the proposal can reasonably be regarded as infill for the purposes of the principles set out above.

When approaching the site from Aston on Trent the rear face of the proposed dwelling would be set further away from the boundaries of dwellings with open countryside than 1A The Green. Therefore the soft edge of the village would be preserved to a reasonable degree and the visual impact of the dwelling would not be demonstrably harmful. Viewed from The Green the proposal would be visually acceptable subject to appropriate design.

The development is capable of meeting the tests of the supplementary planning guidance for house design and layout. Therefore the impact on neighbours would be acceptable.

On the advice of the Highway Authority and on the basis of the previous appeal decision there would be no demonstrable harm to highway safety interests.

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

Recommendation

GRANT permission subject to the following conditions

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
(b) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

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

2. Approval of the details of the design and external appearance of the buildings the landscaping and means of enclosure of the site shall be obtained from the Local Planning Authority in writing before any development is commenced.

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

3. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing received 18 May 2005 showing revised siting of the dwelling.

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

4. The access shall be minimum 5m wide with a 2m x 2m x 45° splay on each side. The land in advance of the splays shall be maintained free of obstructions exceeding 600mm in height relative to road level.

Reason: In the interests of highway safety.

5. The first 5m of the access, measured from the highway boundary, shall be surfaced with a solid bound material and measures implemented as necessary to prevent surface water draining from the site onto the highway.

Reason: In the interests of highway safety.

6. The dwelling shall not be occupied until the garaging, parking and manoeuvring space associated with the new dwelling and Nos 1 and 2 The Green has been provided in accordance with a scheme first submitted to and approved by the Local Planning Authority. Thereafter the facilities shall be retained free of any impediment to their designated use.

Reason: In the interests of highway safety.

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

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

21/06/2005

Item 1.5**Reg. No.** 9/2005/0517/F**Applicant:**

Colin Jackson
 20 Hastings Close
 Breedon On The Hill
 Derbyshire
 DE73 1BN

Agent:

Colin Jackson
 20 Hastings Close
 Breedon On The Hill
 Derbyshire
 DE73 1BN

Proposal: The siting of a mobile home and the erection of a glasshouse at
 Land At Station Road Melbourne Derby

Ward: Melbourne

Valid Date: 27/04/2005

Site Description

The site is a low-lying field in open countryside close to the district boundary. It is visible from Station Road, which is at a higher level. The land is used for horticulture. The applicant's land ownership extends to some 3.64 ha (9 acres) of which 0.8 ha (2 acres) is associated with the applicant's nursery business.

Proposal

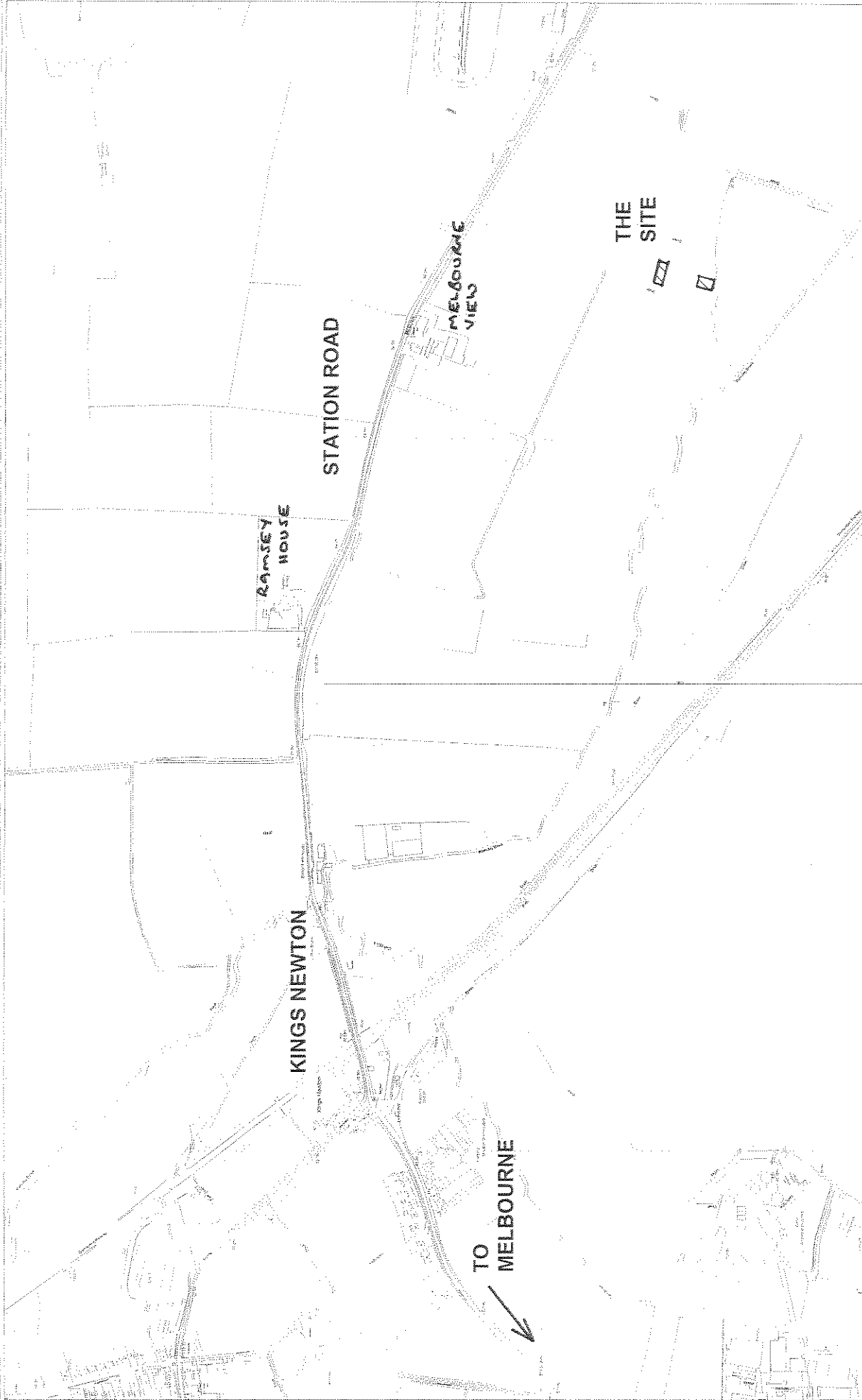
The applicant seeks to erect a glasshouse and also to site a mobile home for a worker.

Applicants' supporting information

The applicant has supplied an agricultural consultant's report, which is summarised as follows:

- a) The applicant used to run a farm business from the mid 1980s. In 1992 the farmstead at Melbourne View was converted to an hotel, in the ownership of the applicant and his brother. That business was run until 1999, following which it was sold and the applicant set up the current business.
- b) The applicant uses 2 acres and the remaining 7 acres are let out to a local farmer.
- c) Half of the site is cultivated and cropped with courgettes and pumpkins and the remainder is used for the plant production activities.
- d) The nursery is primarily involved in the production of hardy plants and shrubs. However the intention is to develop and expand the plant range to include ornamental plants.
- e) As the nursery develops and grows the land let out will be brought into use for that business.
- f) The buildings and fixed equipment include polytunnels and a general storage building. Permission is also sought for a propagation greenhouse.

9/2005/0517/F Land at Station Road
Melbourne



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Scale 1:7500

Plot centred at 428536 325343

Date Plotted 10/6/2005

9/2005/0517/F Land at Station Road
Melbourne



- g) The applicant is currently investigating the provision of mains services at the site, the absence of which is a restricting factor regarding development of the site and the provision of workers' facilities.
- h) The nursery will establish 30000 container plants in 2005.
- i) Cuttings are taken and planted in October- December. The previous years cuttings are transferred to pots in January and February. In March the second year plants are transferred to 3 litre pots, which then become the plants for sale.
- j) The intention is to propagate an annual supply of bedding plants. These would be retained in the polytunnels with heating until the risk of frost has passed.
- k) With the present system there would be £60000 –£70000 of plants at the height of the spring season, being stock for sale and growing-on for the following year.
- l) As the business has become established a greater range of plants has become essential and there is a need to ensure guaranteed quality of the product.
- m) By producing for a pre-ordered market the applicant is able to plan the production programme and take investment decisions.
- n) Current accounts are supplied which show a developing business providing a profit.
- o) The applicant provides the full time labour for the nursery and employs part time seasonal workers. Once the business has developed it is intended to employ a full time worker.
- p) The applicant has been able to develop the business to its present level without on site accommodation. With planned investment in further buildings and services to the site and the expansion of the business into ornamental plants, on site accommodation is needed to meet the functional needs of the business. Without on site presence the plants and nursery operations are very vulnerable.
- q) Continual supervision of the propagation house is necessary to prevent failure of the heating system, which would destroy crops of plugs and seedlings. Continual supervision of the establishing bedding plants in the polytunnels would be needed from March to July to ensure that heating and ventilation is maintained to meet the specific requirements of the plants.
- r) Watering and feeding of standing out plants needs to be undertaken at the optimum time, usually in the evening to prevent scorching.
- s) To date the applicant has not been able to insure the buildings equipments and produce at the site. This is because of the vulnerability of the site and the absence of a dwelling. As the investment increases it will be essential to obtain insurance cover.
- t) The functional requirements of the business satisfy the tests in PPS7 in respect of need for on site supervision.
- u) There is clear evidence of an intention to develop the business.
- v) The accounts demonstrate that the business has been planned on a sound financial basis and is profitable. The planned additional investment demonstrates the applicant's commitment to the business. All other normal planning requirements would be satisfied by the proposed location of the living accommodation. Therefore the proposal satisfies the PPS7 tests for a mobile home.

Planning History

9/2002/0210/F - two polytunnels

9/2004/0286/F - general storage building.

Responses to Consultations

The Parish Council objects as follows:

- a) The mobile home is not necessary.
- b) There are no animals to look after.
- c) This is a 'backdoor approach to an application for a dwelling'.
- d) A precedent would be set the same as Springwood Fisheries.
- e) The site is outside the Structure Plan.

Melbourne Civic Society objects for the following reasons:

- a) The need for a new dwelling has only arisen because the applicant sold off the farmhouse at Melbourne View.
- b) The site is in a remote low lying position, very prominent in the landscape between Isley Walton and Melbourne.
- c) The Society is not convinced that this sort of business, which relies on polytunnels and glasshouses, should be encouraged to develop in such a prominent location.

The Environmental Protection Manager and Highway Authority have no objection in principle.

Development Plan Policies

The relevant policies are:

RSS8

Joint Structure Plan: General Development Strategy Policies 1 & 4 and Housing Policy 6

Local Plan: Environment Policy 1 & Housing Policy 8.

Planning Considerations

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

- The principle.
- Visual impact.
- Highway safety.

Planning Assessment

Development for agricultural purposes is acceptable in principle in the countryside. The mobile home would only be acceptable if it were shown to necessary to the operation of a rural based activity. Whilst the business occupies relatively little land PPS7 acknowledges that it may be necessary of worker to live on site to deal quickly with emergencies that could otherwise cause serious loss of crops or products, for example, by frost damage or the failure of automatic systems. The guidance also suggests that investigation of the history of the holding be undertaken to establish whether any recent sales of dwellings have occurred. In this case there is no such evidence. Melbourne View Hotel was jointly owned by the applicant and his brother and was sold as a going concern in 1999. The consultant's report provides a systematic appraisal of the PPS7 tests, which appear to be satisfied. As such the mobile home would be justified in the terms of the relevant policies. A time limit on its occupation would enable the Local

Planning Authority to assess whether the business establishes itself as a long-term viable enterprise and therefore continuing justification for living accommodation at the site.

There is little that can be done to screen the site from public view, but isolated farmsteads are not inherently out of keeping in the countryside and many are clearly visible. The visual impact of the mobile home would be transitory. Either it would be removed after the time limit or it would be supplanted with a dwelling of appropriate design and scale.

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

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

Recommendation

GRANT permission subject to the following conditions.

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990, and to ensure that, having regard to the changing needs of agriculture and the general policy of the approved Structure Plan to restrict development in the countryside, the number and life of planning permissions for agricultural workers' dwellings in being at any one time is limited.

2. With regard to the mobile home this permission shall be for a limited period only, expiring on 30 June 2008 on or before which date the use shall be discontinued and the site reinstated to the satisfaction of the Local Planning Authority unless, prior to that date, an application has been made and permission has been granted for an extended period.

To enable the Local Planning Authority to assess the viability of the holding and therefore the justification for living accommodation at the site, at that time.

3. The occupation of the dwelling shall be limited to the family and/or dependents of a person employed, or last employed, wholly or mainly, in agriculture, as defined in Section 336 of the Town and Country Planning Act 1990, or in forestry.

Reason: The site is within open countryside where the Development Plan provides that development shall be confined within the limits of an existing town or village, except where the needs of agriculture or other overriding reasons justify a departure from that policy. The Local Planning Authority is concerned to ensure that agricultural workers' dwellings are maintained available to meet the needs of the locality and to avoid proliferation of dwellings in the countryside.

21/06/2005

Item 1.6**Reg. No.** 9/2005/0545/F**Applicant:**

Mr W Grainger
97 Woodville Road
Hartshorne
Swadlincote
Derbyshire

Agent:

Mike Hardy
15 Wheeler Gate
Nottingham
NG1 2NH

Proposal: The erection of a dwelling at Land Adjacent To 11 Heron Drive Woodville Swadlincote

Ward: Woodville

Valid Date: 28/04/2005

This application is brought to committee on the instruction of Councillors Taylor and Isham.

Site Description

The proposal forms part of the side and rear garden to 11 Heron Drive which is an end terrace house on the east side of the road.

Proposal

It is proposed to erect a two-storey, two bedroom dwelling attached to the end of the terraced row. The garden would be 13m long and there would be sufficient space for one car in front of the house.

Planning History

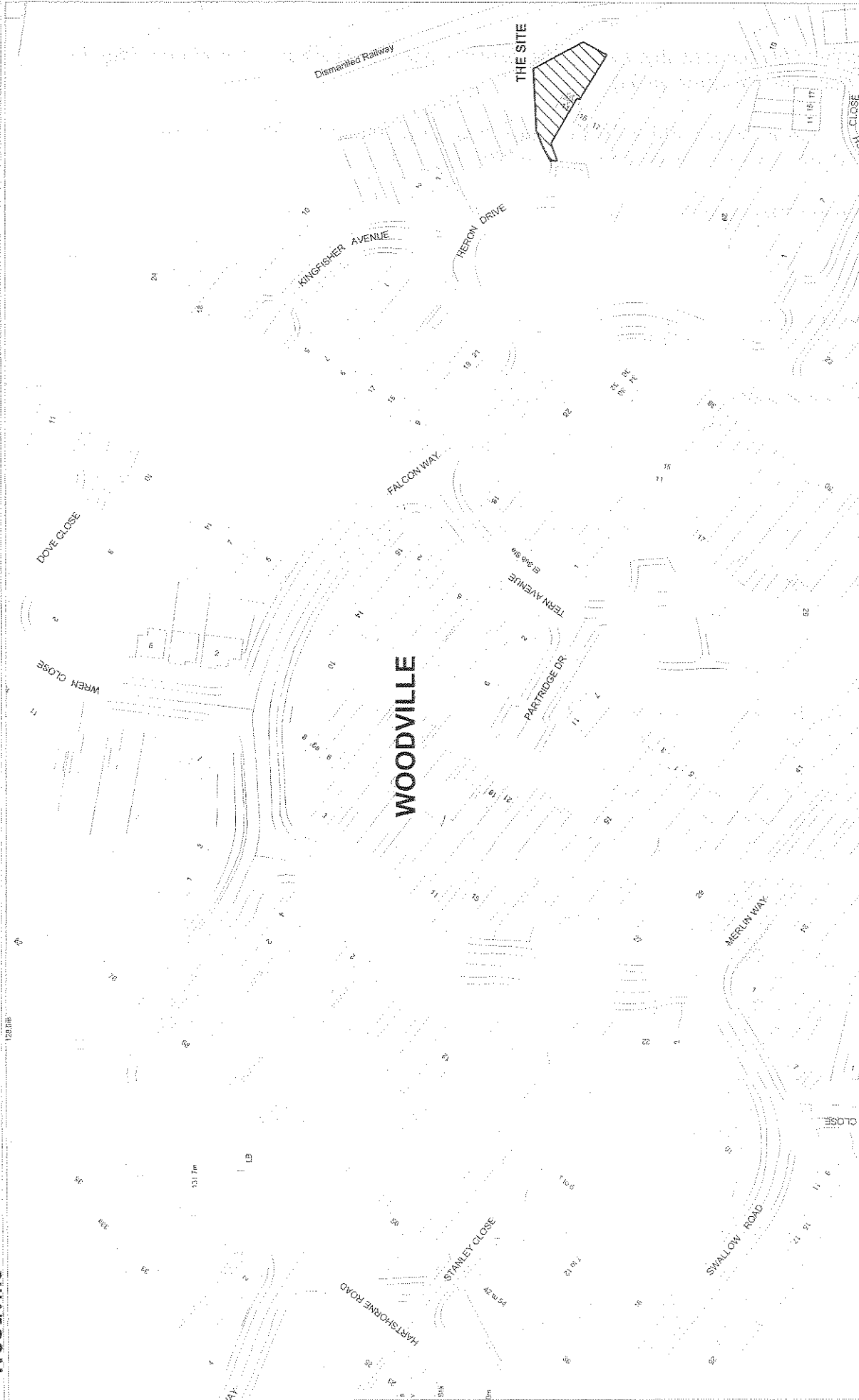
A detached dwelling was recently refused permission on grounds that it would result in an overdevelopment of the site detrimental to the streetscene and overbearing on the occupiers of the adjoining property to the north. The case is now at appeal.

Responses to Consultations

The Highway Authority comments that whilst the proposal would result in a reduction in parking spaces overall, in view of the current thinking on sustainable transport, including the change from minimum to maximum standards, refusal on such grounds would be difficult to sustain and based on the cul-de-sac location, it is not anticipated that approval of the proposal would compromise highway safety.

The Environmental Protection Manager comments that there is evidence showing that land has been used for mining and quarrying and a possibility that contaminants may be present in the

9/2005/0545/F Land adj to 11 Heron Drive
Woodville



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soil. He therefore requests that a soil investigation is undertaken and any remediation completed prior to development commencing.

Woodville Parish Council objects to the proposal as filling in another space and impacting on the amenity of the footpath, which is part of a recognised wildlife area.

Development Plan Policies

The relevant policies are:

Joint Structure Plan: Housing Policy 3 and 4

Local Plan: Housing Policy 4 and 11.

Planning Considerations

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

- Adequate space about dwellings to safeguard the amenities of neighbouring residents
- The appearance of the development within the streetscene.

Planning Assessment

This is previously developed land within the Swadlincote development boundary and therefore the proposal is acceptable in principle.

The proposal has been considered against the Council's supplementary planning guidance for housing layouts and is acceptable in this regard.

This is an appropriate use of surplus garden land and amounts to the infilling of a gap in an otherwise built up frontage with a dwelling that would be similar in appearance to neighbouring properties. The proposal would integrate satisfactorily with the streetscene.

The land to the rear is a site on the Derbyshire Wildlife sites register, contains trees protected by a Tree Preservation Order and is the line of the former railway line. However, this land is not part of the application site and it is not understood how it could impact upon it.

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

Recommendation

GRANT permission subject to the following conditions:

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990.

2. No development shall commence on site in connection with this proposal until samples of materials for the external elevations of the development have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved materials.

Reason: To ensure the materials are appropriate to safeguard the appearance of the area.

3. The new dwelling shall not be occupied until the entire site frontage has been constructed as a vehicle hardstanding.

Reason: To maximise off-street parking associated with both the new and existing dwellings.

4. No development shall take place until a site investigation to determine whether the land is contaminated and any associated remedial works have been carried out to the satisfaction of the Local Planning Authority. This will include:

1. A desktop study of the area of the proposed development.
2. An intrusive site investigation, its scope to be confirmed with the Local Planning Authority, prior to its commencement. The report should contain recommendations for any remedial or further works at the site.
3. A remediation method statement, to be agreed with the Local Planning Authority, prior to its commencement at site.
4. A remediation validation report along with a signed copy of the attached certificate. This should be supplied prior to the occupation of any buildings at site.

Reason: There is historical evidence showing that land has been used for mining and quarrying. There is the possibility therefore that contaminants may be present in the soil.

5. No development shall commence on site in connection with this approval until drainage works for the disposal of both surface water and foul sewage have been carried out in accordance with details that have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

Informatives:

Standard contamination advice

21/06/2005

Item 2.1**Reg. No.** 9/2004/1640/U**Applicant:**

Mr G T Boulton
 Coton Lane, Botany Bay
 Coton-in-the-Elms
 Swadlincote
 Derbyshire

Agent:

Mrs Siobhan Spencer
 Office 3 Derbyshire Gypsy Liason Group
 Eeneest Bailey Community Centre
 New Street, Matlock
 Derbyshire
 DE4 3FE

Proposal: The change of use to enlarge gypsy caravan site and variation of condition 3 of planning permission 9/1087/0544 to increase the number of caravans from two to Eight at Caravan Site Coal Pit Lane Coton-in-the-Elms Swadlincote

Ward: Seales**Valid Date:** 13/01/2005

The application is brought to Committee on the instruction of Councillor Southern.

Site Description

The site lies in the countryside approximately 1.25 km by road to the east of Coton-in-the-Elms. It is bounded along its southern (roadside) edge by a high mature hedge. To the remaining boundaries, the site is separated from open agricultural fields by a low close boarded fence a section of which is in a poor state of repair. The site has already been extended and is being used by additional caravans and the application is therefore retrospective. The site also contains buildings including what appears to be a permanent bungalow with a separate 'day room'. It appears that the bungalow may have 'evolved' from an original caravan.

Proposal

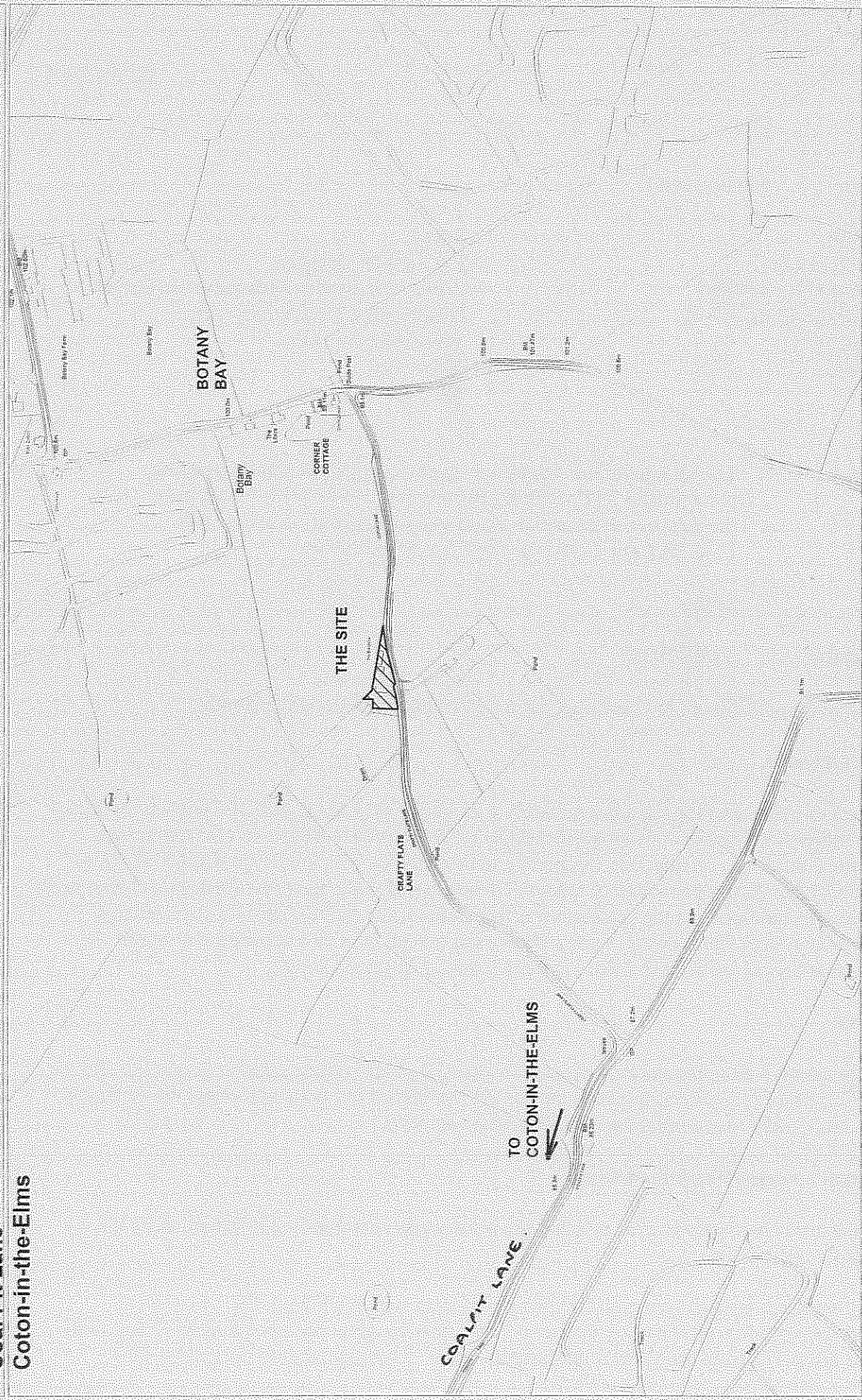
The application seeks permission to amend condition 3 of an existing consent granted in 1987 to allow 8 caravans to be accommodated on site (an increase of 6). It also proposes the extension of the site in order to accommodate the additional caravans.

Applicant's supporting information

The application has been delayed pending the submission of supporting information by the applicant's agent as follows:

Mr Boulton has a married son with 5 children, daughter with 6 children, two of whom are married and who have children of their own. The other daughter has two children, 2 boys both of these are at Coton-in-the-Elms school aged 5 and 8. There is therefore a need for this

9/2004/1640/U Caravan Site
 Coal Pit Lane
 Coton-in-the-Elms



Date Plotted 10/6/2005
 9/2004/1640/U Caravan Site
 Coal Pit Lane
 Coton-in-the-Elms

Scale 1:5000
 Plot centred at 428536 325343

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provision. Mr Boulton only wants to provide for his own immediate family. This will not cause undue harm to the Greenbelt as the area used to have old sheds where the new plots are envisaged.

We are at an important change where Gypsy planning is concerned as follows:

- 1. The District Council will have to make an assessment of need regarding Gypsy and Traveller families and the guidance is now out concerning the Housing Needs Assessment. Cambridgeshire is undergoing quite an extensive survey and DGLG (Derbyshire Gypsy Liaison Group) think it would be beneficial to copy the model that they use if successful.*
- 2. Mr Boulton is a local Gypsy man who has been on this site for a number of years now. South Derbyshire could start here really with the need; his family have grown up and some of them are having children of their own.*
- 3. The new planning circular that is intended to replace the 1/94 comes into effect immediately and states its intention is to increase the number of Gypsy and traveller sites with planning permission and also states: Para 33 Sites in Rural Areas and the Countryside: criteria based policies in LDD for the location of Gypsy sites should not impose a total, blanket ban on the establishment of such sites in the Green Belt. It goes on to say that each case should be judged on its merits.*
- 4. The site is already here we are not looking at a new site within the Greenbelt we are just looking for a change of condition on the land these new pitches are placed where the old unused sheds used to be.*
- 5. We are in desperate need of sites and we are at a time when there will have to be some passed at the committee stage. We cannot keep going forward with appeal, after appeal as in the present climate. South Derbyshire must take this on board and I would ask this be passed at the Committee meeting.*

The applicant's agent advises that she was unable to speak to the applicant's wife and daughters but hopes that disclosure to Committee of personal health issues will not be necessary. It is stated that 'special circumstance' considerations should not apply on this site as only a change of condition is being sought. Mr Boulton has already proved his need to have a base here; it is just that his family has expanded. The applicant's agent has also supplied a copy of a publication produced by Derbyshire Gypsy Liaison Group "A Better Road – An Information Booklet for Health Care and Other Professionals". This document aims to help health care staff and other professionals understand the Gypsy/Traveller culture and help foster a more positive attitude in the provision of services.

In a subsequent fax dated 2 June 2005 the applicant's agent draws attention to:

- (a) a proposal by a local authority in Somerset to extend an existing gypsy site apparently in the Green Belt.
- (b) a summary of the outcome of an appeal in Somerset where the Secretary of State overruled his Inspector's recommendation to allow the appeal – preferring instead to grant a temporary permission in view of the isolation of that site from local facilities.
- (c) the fact that the South Derbyshire Revised Deposit Draft Local Plan envisages up to 39% of new development being on greenfield sites. It is noted that land such as Highfields Farm, Heatherton, could house 250 homes. Greenfield sites around Church Gresley allocated for 1,000 new houses, open spaces, primary school.

Planning History

A personal planning permission was granted to the applicant to site two gypsy caravans and other associated development in 1987 on the basis of his family circumstances. At the time, these were considered to override objections to intrusion into the countryside.

A subsequent application for a bungalow on the site was refused permission in 1993, and this decision was upheld at appeal.

Responses to Consultation:

Rosliston Parish Council has objected on grounds of likely increase in the volume of traffic using the narrow lane both in access to and egress from the site. If permission is granted, the Parish Council asks that a condition be imposed restricting the site to family use only.

Coton-in-the-Elms Parish Council has objected for the following reasons:

- (a) there is limited turning space at the entrance to the site;
- (b) the road is single width;
- (c) over intensification of use of the site – excessive number of caravans;
- (d) there would appear to be substantial expansion into a greenfield site.

The County Highways Authority recommends refusal of the application on the following grounds:

- (a) Approval of the proposal would result in an increase in the number of turning movements at an access where visibility is severely substandard contrary to the best interests of highway safety.
- (b) Approval of the proposal would set a precedent for further development on Coton Lane, a road which has a single width carriageway, is unlit and is not considered suitable to serve additional development – any such development would be detrimental to highway safety.

The County Council Strategic Planning Authority objects for the following reasons:

- (a) Whilst the proposed development accords with the majority of the criteria in adopted Derby and Derbyshire Joint Structure Plan Housing Policy 8: Gypsies and Travellers, these are negated by the concerns of the County Highway Authority on detriment to highway safety. As such, the proposed development does not accord with criterion no. 4 which requires good access to the main road network without causing unacceptable traffic or road safety problems.
- (b) In view of the above, the proposed development also does not accord with adopted Joint Structure Plan Transport Policy 4: Land Use and Transport which states that provision will be made for safe and convenient access.

The County Planning Authority also recommends a suitable condition with respect to the boundary treatment and sympathetic assimilation of the site into the surrounding countryside in the event of planning permission being granted.

The Head of Environmental Health has raised concerns about the existing arrangements for foul waste as the capacity of the cesspit currently installed is insufficient for the proposed development. Accordingly it recommends a condition be attached to require improvements.

Responses to Publicity

None received.

RSS/Structure/Local Plan policies

The relevant policies are:

Derby and Derbyshire Joint Structure Plan: General development Strategy Policy 4, Housing Policy 8, Transport Policy 4

Adopted Local Plan Environment Policy 1, Housing Policy 8, Housing Policy 15.

Planning Considerations

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

- The need for additional gypsy caravan pitches in the area
- Conformity with the Development Plan including access to day to day facilities and intrusion into the countryside.
- Access and highway safety

Planning Assessment

The application site lies in the countryside within which PPS7 and Development Plan policies seek to strictly control new building away from settlements. [Contrary to the apparent understanding of the applicant, the site does not lie in the Green Belt].

However, a draft replacement of Circular 1/94 was published in December 2004 which specifically seeks to increase the supply in the provision of sites for Gypsies and Travellers to address a national shortfall - including in rural areas. Whilst the guidance is still in draft form only, it may be a material consideration in determining planning applications and appeals.

Under the revised guidance, local authorities will be required to rigorously assess the accommodation needs of Gypsies and Travellers and make site specific allocations for new public and private sites in development plans.

In dealing with planning applications in the meantime, local planning authorities will necessarily have to rely upon existing criteria-based policies and estimate "need" on the basis of existing data suggested in the draft Circular. These include incidents of unauthorised encampments, the status of existing authorised private sites, the number and outcomes of planning applications, the levels of occupancy on private and public sites and the twice yearly caravan counts undertaken on behalf of ODPM. Local planning authorities will be expected to demonstrate that they have considered such information before any decision to refuse an application and provide it as part of any appeal documentation.

To summarise, therefore, the development or extension of gypsy sites in the countryside such as the current application is inappropriate unless, firstly, available data demonstrates that a need for such accommodation exists which cannot be met on any existing sites, and secondly the proposal is acceptable in other planning respects. These considerations are examined in detail below:

Need

In common with most other parts of the country, there has been no comprehensive needs assessment undertaken in South Derbyshire although initial work to undertake such a study on a County-wide basis is underway. However, this Council already maintains reasonable records on much of the information specified in the draft Circular as follows.

- A report was commissioned from KGS in 2004 which sought to establish the welfare needs of Gypsies and Travellers who are already based in South Derbyshire. It identified that they were generally satisfied with their sites but also established that the site at Park Road, Overseal is not available to the travelling community. It also showed that the turnover at the well-established sites was very small because, once based in the area, its attractiveness, low crime rates and other factors make staying in South Derbyshire a priority. The respondents generally had no conflict with the resident community and the majority had been in their existing site in excess of one year, 35% having been in residence for over 5 years.
- Caravan counts undertaken by this Council on behalf of ODPM show that unauthorised encampments in South Derbyshire are skewed towards the northern part of the District – particularly the Hilton and Hatton areas. However, three incidents involving a total of 10 caravans have occurred over the period March 2004 – 05 in the Swadlincote and Linton areas. It appears that overall, the number of unauthorised encampments has reduced in recent years.
- Existing public sites at Church Broughton and Lullington continue to be generally fully occupied with turnover of plots being relatively rare. Although the latter is close to the application site, it offers short stay accommodation only and is in any case full.
- Planning permissions for small private sites have been granted recently at Walton on Trent and Overseal.

In conclusion on the issue of need, whilst there is no overwhelming pressure, there appears to be some degree of unmet demand in this part of the District. Moreover, the applicant has described a specific need in this case arising from his immediate family, two members of whom are established at the nearby primary school. There are no alternative sites – either public or private – in this part of the district where any additional need can currently be met.

Other Planning Considerations

Adopted Local Plan Housing Policy H15 reflects Structure Plan guidance and forms the main basis for assessing the application. It requires that new gypsy sites be in an area already frequented by gypsies, satisfactorily located in relation to other development, acceptable in environmental terms, reasonably accessible to community services and facilities, capable of sympathetic assimilation into the landscape and acceptable in terms of vehicular and pedestrian access.

Taking these in turn, this is an area already frequented by Gypsies both on the application site and nearby at Lullington Crossroads and there are no neighbouring land uses which would be adversely affected.

In environmental and landscape terms, the site lies in largely undeveloped open countryside although it extends the existing authorised site into an area apparently previously partly occupied

by metal sheds which have since been demolished. The caravans which were observed to be already on site are relatively unobtrusive being largely screened from viewpoints on Crafty Flats Lane. This screening could be safeguarded via an appropriate condition. The local topography is such that the site is visible from elevated sections of Coalpit Lane and the road north of Lullington Crossroads, but the overall visual impact is limited and this can similarly be safeguarded through landscaping conditions. In this regard, the application site is distinct from adjacent land which is more exposed and sensitive to long distance views from the west in particular. The County Council have indicated that they consider the proposal could be acceptable in landscape terms subject to conditions requiring appropriate fencing to be painted a sympathetic colour and this would appear to be reasonable.

As a site lying outside Coton-in-the-Elms, there are few day-to-day facilities within easy reach of the site, including public transport. The nearest Post Office and other shops are at Rosliston, with medical and secondary school provision further afield in Overseal and Swadlincote. The site is therefore not very well related to essential facilities. However, as noted above, two members of the applicant's family are established in the local primary school. Furthermore, the draft Circular advises that local authorities should be realistic about the availability of alternatives to the car in accessing local services in rural areas. Given the overall scale of the proposal therefore, it would be difficult to sustain a refusal on the basis of accessibility to services.

In terms of highway access and egress, the County Highway Authority has raised objections and the planning application needs to be refused on this basis.

As regards the examples of recent decisions on gypsy sites elsewhere in the country provided by the applicant's agent, the precise details of those cases are not known and they do not appear to raise any new issues which are not taken into account in the planning assessment provided above. Similarly, the references to the allocation of greenfield land for housing in the draft Local Plan (which has now been withdrawn) are not relevant to the determination of this application.

In conclusion, a family need appears to exist in this particular case which, subject to sensitive landscaping and screening, is capable of being acceptably accommodated as an extension to the established site. The Highway Authority's concerns remain, however and the application should be refused on that basis.

Recommendation

REFUSE permission for the following reasons:

1. Approval of the proposal would result in an increase in the number of turning movements at an access where visibility is severely substandard contrary to the best interests of highway safety. The proposal therefore conflicts with adopted Derby and Derbyshire Joint Structure Plan Housing Policy 8 criterion no. 4 which requires good access to the main road network without causing unacceptable traffic or road safety problems and Transport Policy 4 which requires the provision of safe and convenient access.
2. Approval of the proposal would set a precedent for further development on Coton Lane, a road which has a single width carriageway, is unlit and is not considered suitable to serve additional development - any such development would be detrimental to highway safety.

21/06/2005

Item 2.2**Reg. No.** 9/2005/0161/U**Applicant:**

Boughton Turf Management
 Telford Way
 Telford Way Industrial Estate
 Kettering
 Northants
 NN16 8UN

Agent:

Steedman Planning And Land
 Tournament Way
 Ashby De La Zouch
 Leicestershire
 LE65 2UU

Proposal: The change of use of agricultural buildings to the storage of plant equipment and materials at Poplars Farm Twyford Road Barrow-on-Trent Derby

Ward: Aston

Valid Date: 09/02/2005

The Committee deferred the application at the last meeting, for clarification of the current permission. This is set out under 'Planning History' below.

Site Description

The site is a modern steel framed agricultural building situated about 80 m to the south of the nearest of a group of converted buildings in residential use. Access to the site is via a private way set to the west of the residential group, some 45 m away from the nearest dwelling.

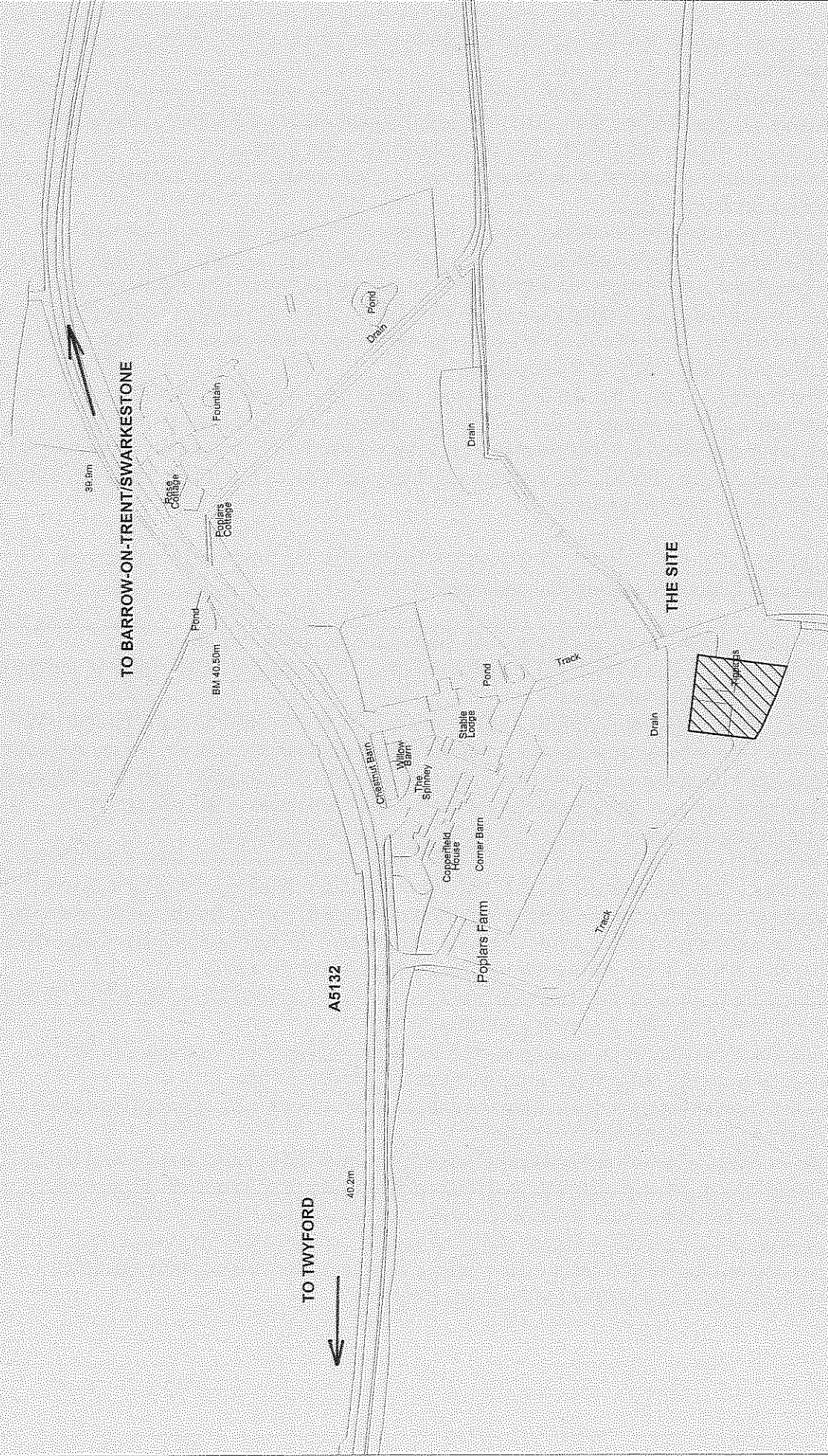
Proposal

The applicant seeks to continue usage of the building as a depot for the storage of plant, materials and equipment used in the business for the improvement of turf.

Applicants' supporting information

- a) No work other than the light maintenance of equipment is carried on at the premises. It is essentially used as a store.
- b) The applicant carries out various turf improvement operations, involving the use of specialist equipment to carry out seeding, draining, aeration and fertilisation. The work is carried out over a wide area and tends to be related to sports fields, golf courses and other fine turf areas. Recently the firm was engaged to renovate and repair lawns at Buckingham Palace. Work is about to start at Wimbledon for the LTA and the firm also has a contract to renovate and repair a number of football pitches including Pride Park. For this reason the equipment used is agricultural in nature and the various implements tend to be permanently affixed to small tractor units. Between the 6 employees there are

9/2005/0161/U Poplars Farm
 Twyford Road
 Barrow-on-Trent



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- 11 small tractors and 4 larger ones (although these are small by current agricultural standards).
- c) The usual daily routine involves employees arriving from home in company pick-up trucks to which trailers are affixed. In addition two small rigid lorries are kept at the site overnight, which are used to carry equipment for larger contracts.
 - d) Maintenance of equipment at the site is not of a heavy nature involving mostly cleaning with a pressure washer.
 - e) The employees live in the local area at Repton, Willington, Barrow, Aston and Mickleover. They have all previously been engaged in agriculture. The sharp decline in agricultural employment has forced them to seek related work. The nature of the business would not command an urban rent for the size of depot required. Several years ago the farm itself, when operating as a mixed arable and livestock enterprise, would have employed nearly as many people.
 - f) The proposal is for a building of less than 1000 sq m and therefore fulfils the criteria in Structure Plan Economy Policy 5. The buildings are a useful economic resource and could be used, without modification, for a range of activities that would contribute the economy of the rural area. Similar cases have been allowed elsewhere within the district – 9/2002/1108 is commensurate.

A noise consultant's report has been submitted, which makes the following observations following investigation of a complaint about noise:

- a) No angle grinder or other similar noisy powered equipment was noted.
- b) There is no pressure washing facility at the site. The washing of equipment is carried out using a mains pressure hose.
- c) A small diesel powered forklift truck is retained on site for loading fertiliser and other stores. The vehicle is modern and appears compliant with the relevant noise regulations.
- d) Periodic maintenance of powered equipment is undertaken which can result in occasional testing of engines. No allegations appear to have been made in this regard. All equipment appears to comply with the relevant noise regulations.
- e) The metal entrance gates are of metal tube, secured with a hooped closure device and padlock. The operation of the gate did not result in discernible noise above daytime ambient background. Noise tests were thus undertaken during the arrival and departure of the employees and vehicles during the early hours. Monitors were placed adjacent to the entrance gate and close to the garage of the adjacent dwelling.
- f) The noise of the gate being opened and closed was not audible above the idling speeds of the 3 inward bound a 3 outward-bound vehicles.
- g) Activity at the buildings could be perceived as low background engine noise but no change was registered in the ambient noise at the entrance gate.
- h) Noise from vehicles is derived almost entirely from the engines, as speeds are low, resulting in no tyre noise component.
- i) No evidence of untoward audible effects arising from the opening and closing of the entrance gate, an angle grinder, or pressure washer has been adduced. There would appear to be no basis for an action in respect of nuisance at Poplars Farm.
- j) Persons other than the applicant company use the access gates. To avoid effects from possible misuse or accidental release of the closure device it is recommended that resilient material be applied to the contact surface.

Following officer advice of objection to the scheme the applicant's agent makes the following comments:

- a) A refusal of permission would ultimately displace the employment of several people.
- b) The business could not operate with a restriction on hours of working.
- c) Given that the business is not of sufficient viability to operate from an industrial unit, the question is posed, because of the nature of the operation, whether there are any other locations more desirable than this one.
- d) The business was operating without complaint until the new farm building was erected.
- e) The farming operation at the site could cause just as much nuisance.

Planning History

Permission was granted to use the building for B1 business purposes in March 2005 (9/2004/1566/U), subject to a condition limiting the hours of use to 0800 hrs – 1800 hrs Monday to Friday, 0800 hrs – 1300 hrs Saturday and at no time on Sundays or Bank Holidays. That application was originally submitted as a composite application, for the use subject to the current application (*sui generis*), and for B1 purposes. Following issues of noise arising from the current use the applicant altered the description to B1 only. On that basis permission was granted, subject to the hours limit. The permission has not been implemented, as the current user does not operate within it. Therefore the current applicant is not presently subject to the hours limit. The agent has advised that the applicant would not be able to operate within similar hours of operation and would not wish to have such a limit imposed.

An agricultural building was permitted in January 2005 (9/2004/1565/F).

Responses to Consultations

The Highway Authority and Environment Agency have no objection in principle.

The Environmental Protection Manager objects on the grounds that activities on the site, particularly in the early hours of the morning, have the potential to cause significant disturbance to nearby residences. The noise report does not consider this in sufficient detail and has not considered a worst-case scenario. The single site visit undertaken during the winter is insufficient to draw meaningful conclusions. If permission is to be granted then several conditions are recommended including a limitation on hours of operation.

Responses to Publicity

Objections have been received from 5 local households as follows:

- a) There is noise and disturbance from vehicles arriving very early in the morning.
- b) The local characteristics of the site mean that noise is amplified at residential properties.
- c) There is noise from maintenance work undertaken at weekends.
- d) Residents are presently experiencing disturbed sleep from early morning noise generated by the applicants.
- e) There would be incremental industrial development at the site.
- f) The land is still farmed so the proposal would result in an increase in traffic.
- g) Larger vehicles have been observed at the site.
- h) It is not necessary for the applicant to be located at Poplars Farm.

Structure/Local Plan Policies

The relevant policies are:

Joint Structure Plan: Economy Policy 5

Local Plan: Employment Policy 4

Planning Considerations

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

- The principle.
- Highway safety.
- Residential amenity.

Planning Assessment

In principle the use of the building for business purposes is capable of satisfying the provisions of the development plan. However the policies also have regard to the impact on the environment and local amenities.

The use has already generated objection on the grounds of disturbance. The extant permission for B1 usage restricts the hours of operation to normal working hours. On the advice of the Environmental Protection Manager the proposal would be demonstrably harmful to the amenities of the occupiers of the nearby dwellings. Whilst Circular 11/95 encourages local planning authorities to grant permission with conditions rather than to refuse, in this case it is apparent that the applicant's business relies on the ability to commence work early in the morning. Therefore the imposition of a condition preventing this early start would not be appropriate in this instance.

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: REFUSE permission for the following reason:

Because of the incidence of vehicle movements and associated activity during the early morning the development would cause unacceptable disturbance to the occupiers of nearby dwelling houses, to the detriment of their aural amenities, thereby contrary to the following development plan policies: Derby and Derbyshire Structure Plan Economy Policy 5; South Derbyshire Local Plan Employment 4.

B: To authorise the Head of Planning and Head of Legal and Democratic Services to pursue all necessary enforcement action to secure the cessation of the unauthorised use.

APPEAL DISMISSED

Appeal by Mr Mrs Billinge

The erection of a bungalow to the rear at 90 Egginton Road Etwall Derby (9/2004/0672)

The application was refused permission for the following reason(s):

1. *The site occupies the rear garden of the dwelling within the confines of the serviced village of Etwall. New housing development is normally acceptable in these villages provided the development is of a scale and character in keeping with the village. The relevant policies are found in Housing Policy 5 of the adopted South Derbyshire Local Plan and Policy H1 and ENV 21 of the replacement South Derbyshire Local Plan. The proposal represents the introduction of a form of development that is not found in the area in a location to the rear of the remaining property fronting Egginton Road. This would be development that is out of character with the rest of the street and as a result be contrary to the above policies. Whilst the bungalow has been designed to minimise overlooking of adjacent properties, it would have the effect of introducing permanent views of the rear of the applicant and other adjacent dwellings that would be detrimental to the residential amenity of the occupiers of those dwellings.*
2. *Approval of the proposal would result in an increase in the use of an access onto a classified road that is substandard in terms of visibility and pedestrian intervisibility contrary to the best interests of highway safety.*
3. *Approval of the proposal would result in the loss of off-street parking associated with the existing dwelling resulting in vehicles being parked on the classified highway to the detriment of highway safety.*

The proposed bungalow would be to the rear of 90 Egginton Road, an extended semi-detached property. In the Inspectors opinion a bungalow in this location would be out of character with existing development. Nos 90 to 104 are all similar in character and it was considered that the siting of a bungalow in this context would be incongruous and alien to the pattern of development.

Fields Cottage, which lies to the north of the site and is related to an earlier building on the site, or any other developments to which the Inspector was referred, is not considered to set a clear precedent for the appeal proposal. The Inspector considered the proposal would conflict with relevant policies of the adopted and emerging plans. The proposal whilst representing an increase in density would not be sympathetic to the character of existing development in the locality.

The access to the appeal site would be alongside the existing dwelling. A wall to the side of the proposed access obstructs visibility to the north. The Inspector considered visibility for drivers leaving the site would be very restricted and intensification of use would result in harm to highway safety. In the event of highway safety issues being overcome, it would not outweigh the Inspector's concerns over the harmful effect of the proposal on the character of the area.

The Inspector accepted that the bungalow could be designed as to prevent overlooking but it would still be prominent in the outlook of existing dwellings, which would be harmful to resident's amenities.

The personal circumstances of the appellant and his wife were acknowledged but the Inspector did not consider them to outweigh the more general planning considerations.

In consideration of the above matters the appeal was dismissed.

APPEAL DISMISSED

Appeal by Coal Ltd

Outline application (all matters to be reserved) for a residential development at Land Between 93 And 107 Mount Pleasant Road Castle Gresley Swadlincote (9/2004/0518)

The application was refused for the following reason(s):

1. *The proposal would constitute development of a greenfield site for which no justification exists in housing land supply terms and which is therefore contrary to guidance in PPG3, General Development Strategy Policies 1 and 2 of the Structure Plan, Housing Policy 4 of the South Derbyshire Local Plan and Policy H1 of the Revised Deposit Draft South Derbyshire Local Plan.*
2. *The proposal would involve the loss of an open space which contributes to the character and visual amenity of the area, the scheme is therefore contrary to the provisions of Housing Policy 4 of the South Derbyshire Local Plan and Policy ENV 8 of the Revised Deposit Draft South Derbyshire Local Plan.*

The Inspector viewed that the appeal site is greenfield land, which lies to the north-eastern side of Mount Pleasant Road. The application site lies outside the built up area of Castle Gresley defined in the Adopted South Derbyshire Local Plan. The Inspector noted the existing ribbon of development extending along this side of Mount Pleasant Road but considered that the appeal site marks a clear break in development which was an attractive site with substantial hedge and other vegetation that contributes positively to the visual character of the area. It is considered by the Inspector to be part of a broad swathe of open land to the north-east of Mount Pleasant Road which, though now bisected by High Cross by-pass is clearly part of the countryside. It was noted that the development to the south-east of the appeal site is excluded from the defined built up area.

The Inspector noted the requirements of Housing Policy 4 of the adopted Local Plan which permits new housing development within the fringes of the built up area of Castle Gresley, provided that the site is substantially surrounded by development and does not result in a prominent intrusion into the rural landscape outside of the built up area, and does not constitute ribbon development.

The contents of the emerging Local Plan were noted, in particular the Local Plan Inspector's recommendation to delete Policy H1.B to confirm that no windfall development should be permitted on greenfield sites.

It was noted that the Local Plan Inspector, in response to an objection seeking the extension of the development boundary south-eastwards on both sides of Mount Pleasant Road, concluded that in visual terms the ribbons of development are within the countryside rather than the urban area, and should not be within the development boundary.

The Inspector acknowledged that the site was reasonably well located to existing services however added that it would not score highly in sequential testing designed to prioritise brownfield sites.

The Inspector concluded that the appeal site does not accord with Housing Policy 4 of the adopted Local Plan in that it is not substantially surrounded by development, would intrude into the countryside and would consolidate the existing ribbons of development on Mount Pleasant Road. Weight was also attached to Policy H1 of the emerging Local Plan which resists windfall development except on brownfield land.

In consideration of the above matters the appeal was dismissed.

APPEAL DISMISSED

Appeal by Mr Thompson

The erection of a bungalow and detached garage at Farm Buildings At Cedar Farm Dalbury Lees Ashbourne (9/2004/0048)

The application was refused permission for the following reason(s):

The land comprises a Greenfield site as defined by Planning Policy Guidance Note 3 and for which no allowance should be made when considering the contribution towards meeting housing supply that can be met from windfall sites. Policy H1 of the emerging new South Derbyshire Local Plan reflects the guidance. The site lies within a settlement that does not have sufficient services and facilities to cater for more than very limited development and for this reason part A (III) of Policy H1 restricts development to the filling of small frontage gaps for up to two dwellings. The proposed development is therefore contrary to Part A (III) of Policy H1 because not only is it a Greenfield site but it would result in a third dwelling adjacent to a Brownfield site for which two dwellings have already been permitted.

The Inspector considered the main issue to be the implications of the proposal in relation to national and local planning policies that seek to promote sustainable development in the countryside.

Housing policy 5 of the structure plan indicates that in villages, new housing development will be restricted to the built framework or wider confines as defined in local plans of the villages and must be in keeping with the scale and character of the village.

The Inspector noted the contents of Housing Policy 5 of the adopted Local Plan which indicates that new housing development for villages such as Lees will be restricted to the village confines as indicated on the Local Plan proposals map. He considered it significant the appeal site is not wholly within the defined boundary of the village as indicated and that the site's backland position and the proposal would result in development in depth rather than infill. The village is mainly characterised by narrow bands of frontage development and the view was taken that the proposed dwelling would appear as an outward expansion of the residential village form not broadly consistent with the adopted Local Plan.

The Inspector did not consider the site in Lees to rate well in terms of sustainability for new housing due to lack of essential facilities and the appeal site being a greenfield site.

The Inspector understands that whilst one dwelling would make little difference in terms of sustainability, a repetition of this type of development would have a larger impact and no justification had been received as to why this Greenfield site should be released for housing contrary to local plan policies.

It was also accepted by the Inspector that there would be some visual benefits in the removal of the existing agricultural buildings. Structures such as the existing buildings are common in the countryside and the proposal would change the character of the land use. The requirement for housing in rural areas was recognised and it would assist in sustaining economic activity and the viability of village communities, however, the Inspector considered the proposal would result in a limited contribution which does not outweigh the serious harm identified.

The Inspector concluded that the proposal was in conflict with General Development Strategy 1 of the Structure Plan, the emerging Local Plan and PPG3.

With regards to access the Inspector considered that a suitably worded condition would adequately protect highway safety interests and prevent vehicular access along the existing inadequate access next to Swallow Cottage.

It was accepted that the proposed bungalow would be sited closer to the adjacent cottages than the existing agricultural buildings however it was not considered that there would be significant reduction in adjacent resident's light and levels of privacy.

In consideration of the above matters the Inspector concluded that the appeal be dismissed.