

# **REPORT OF THE HEAD OF COMMUNITY AND 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).

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## **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.**

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
<b>9/2011/0438</b>	<b>1.1</b>	<b>Netherseal</b>	<b>Seales</b>	<b>1</b>
<b>9/2011/0510</b>	<b>1.2</b>	<b>Swadlincote</b>	<b>Swadlincote</b>	<b>5</b>
<b>9/2011/0804</b>	<b>1.3</b>	<b>Linton</b>	<b>Linton</b>	<b>16</b>
<b>9/2011/0848</b>	<b>1.4</b>	<b>Aston</b>	<b>Aston</b>	<b>21</b>

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 Community and 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 Community and 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.

13/12/2011

**Item** 1.1

**Reg. No.** 9/2011/0438/NO

**Applicant:**  
MR S & MRS S & MS CHIPMAN

**Agent:**  
MR A THOMAS  
THOMAS TAYLOR PLANNING LTD  
CASTLE HOUSE  
SOUTH STREET  
ASHBY DE LA ZOUCH

**Proposal:** ERECTION OF NEW INDOOR RIDING SCHOOL,  
PROVISION OF REPLACEMENT OUTDOOR MANEGE,  
TOGETHER WITH ASSOCIATED ACCESS AND  
PARKING ARRANGEMENTS AT WOODSIDE FARM  
GRANGEWOOD GRANGEWOOD SWADLINCOTE

**Ward:** SEALES

**Valid Date:** 26/05/2011

#### **UPDATE REPORT**

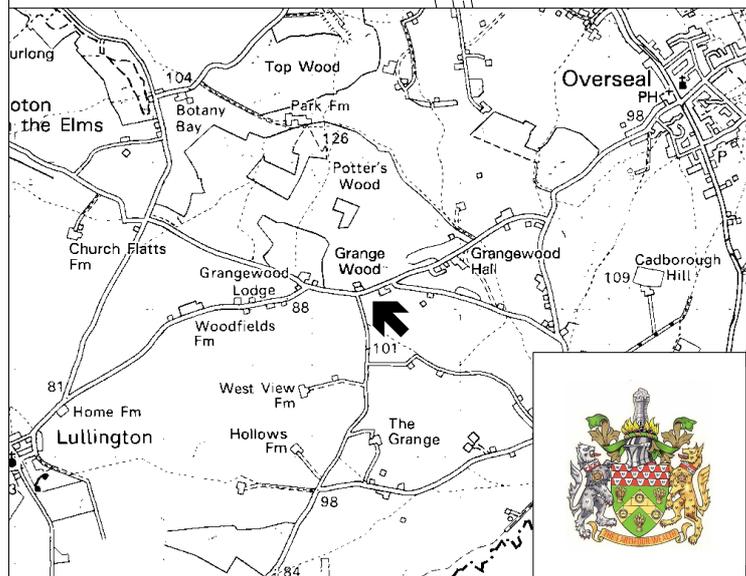
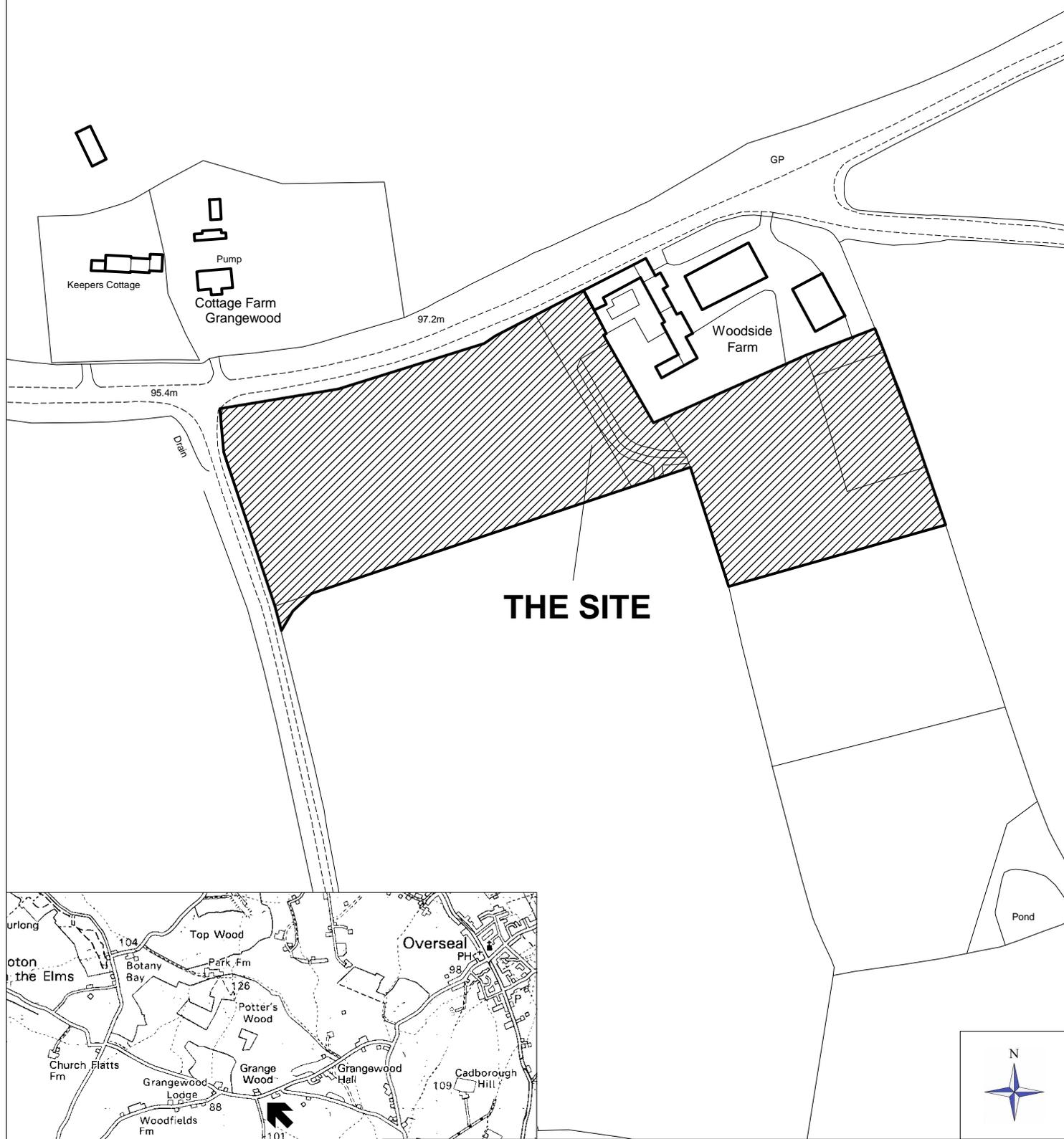
This application was originally brought to planning committee on 11 October 2011 but was deferred for a site visit. The application was then brought back to planning committee on 01 November 2011 and members visited the site (the previous report is attached and should be read in conjunction with this albeit the comments relating to access and highway safety are updated here).

Concern was expressed at the November planning committee meeting regarding the proposed access onto Clifton Road (Sandy Lane) and accordingly the application was deferred for amended plans to be submitted. It was the view of members that the optimum position of a new access on to Grangewood should be found, with the implication that permission could then be granted.

The applicants submitted revised plans on 9 November 2011 and the County Highway Authority, Parish Council and neighbours were reconsulted.

The County Highway Authority advises that the most recent drawing (2011.007-001B) submitted on 9 November 2011 in respect of the application, indicates an access onto Grangewood. Where the forward visibility available to a driver approaching behind a vehicle waiting to turn right into the site is significantly below that recommended for a road subject only to the national speed limit. Accordingly the Authority recommends refusal of the application on highway safety grounds. However, the Authority has advised that if the committee are minded to approve the proposal, conditions should be included in any consent in order to minimise the potential detriment to highway safety

**9/2011/0438 - Woodside Farm, Grangewood, Grangewood,  
Swadlincote DE12 8BG**



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and the previous conditions presented to planning committee on 1 November 2011 have been amended accordingly to reflect those suggested by the Authority.

Notwithstanding the recommendation of the County Highway Authority, given the views expressed by members at the committee of 1 November 2011, it is assumed that members will be minded to grant permission. As such the following conditions are recommended:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the cladding sheets 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. The work shall be carried out in accordance with the approved details.  
Reason: To safeguard the appearance of the existing building and the locality generally.
3. Notwithstanding the particulars of the application, revised details of the proposed roller shutter door and external access doors on the indoor riding school 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.
4. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no's 2011.007-003B, 2011.007-001B amended 09 November 2011, 2011.007-004B and 2011.007-002B.  
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
5. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.  
Reason: In the interests of flood protecting and pollution control.
6. Prior to any other works commencing, the new access shall be formed to Grangewood. The access shall be laid out in accordance with the revised application drawing (2011.007-0001B), have a minimum width of 5.5m, provided with 10m radii and visibility sightlines of 2.4m x 215m in the westerly direction and 2.4m to the extent of the site frontage abutting the highway boundary to the east, the area forward of the sightlines shall be cleared and maintained clear of any obstruction exceeding 600mm in height relative to the nearside carriageway edge.  
Reason: In the interest of highway safety.
7. Prior to any other works commencing (excluding condition 6 above), the existing vehicular access onto Grangewood shall be permanently closed with a physical

barrier and the vehicular crossover reinstated as grass verge, all in accordance with a scheme first submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interest of highway safety.

8. The gradient of the new access shall not exceed 1 in 14 for the first 15m into the site from the highway boundary.

Reason: In the interest of highway safety.

9. Any gates shall be set back at least 15m from the highway boundary and open inwards only.

Reason: In the interest of highway safety.

10. 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.

11. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.

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

12. A detailed survey of the presence of protected species (namely badgers) shall be submitted for approval in writing by the Local Planning Authority prior to commencement of removing any hedgerows on site.

Reason: The presence of disused badgers set entrances have been found and the District Council require a survey as to the potential for protected species to be on site.

13. No external lighting shall be installed without the prior permission of the Local Planning Authority given on an application made in that regard.

Reason: In the interests of preserving the amenity of the countryside from unwanted visual intrusion through urbanising features.

14. Prior to the use commencing facilities for roosting bats and bird nest boxes shall be provided at the indoor riding school in accordance with details, which shall have been submitted previously to, and approved in writing by, the Local Planning Authority.

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

15. Prior to the premises being taken into use, the car parking and manoeuvring space shall be laid out in accordance with the application drawings (2011.007-001B) and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interest of highway safety.

Informatives:

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months prior notification shall be given to the Environmental Services Department at County Hall, Matlock (tel: 01629 538595) before any works commence on the vehicular access within highway limits.

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

The Highway Authority recommends that the first 10m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

The developer should contact the Commercial Section on all matters relating to health and safety or Licensing Section relating to Horse Riding Establishments licensing.

The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com) 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.

01/11/2011

**Item** 1.1

**Reg. No.** 9/2011/0438/NO

**Applicant:**  
MR S & MRS S & MS CHIPMAN

**Agent:**  
MR A THOMAS  
THOMAS TAYLOR PLANNING LTD  
CASTLE HOUSE  
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**Proposal:** ERECTION OF NEW INDOOR RIDING SCHOOL,  
PROVISION OF REPLACEMENT OUTDOOR MANEGE,  
TOGETHER WITH ASSOCIATED ACCESS AND  
PARKING ARRANGEMENTS AT WOODSIDE FARM  
GRANGEWOOD GRANGEWOOD SWADLINCOTE

**Ward:** SEALES

**Valid Date:** 26/05/2011

**Reason for committee determination**

Members will recall this application was presented at planning committee on 11 October 2011 but was deferred for a site visit. No updates or further responses have been received since then therefore the original report is presented again below.

This application is brought before this committee following a request by Councillor Hall advising that local concern has been expressed about a particular issue.

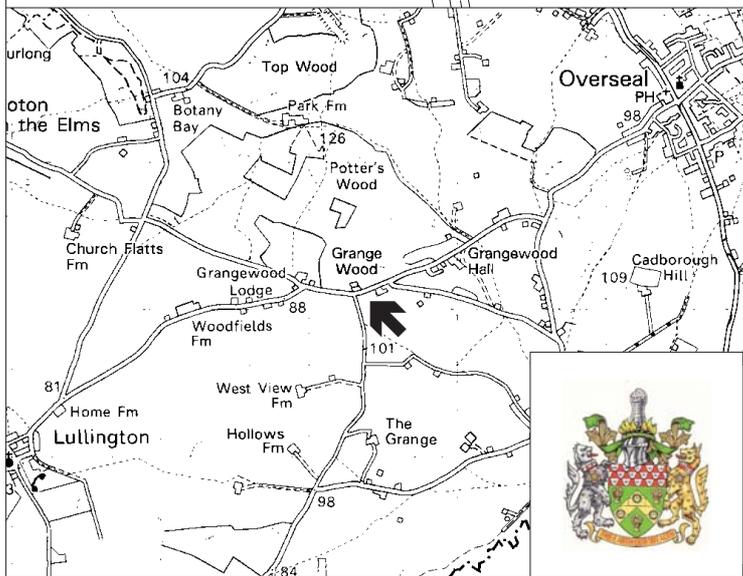
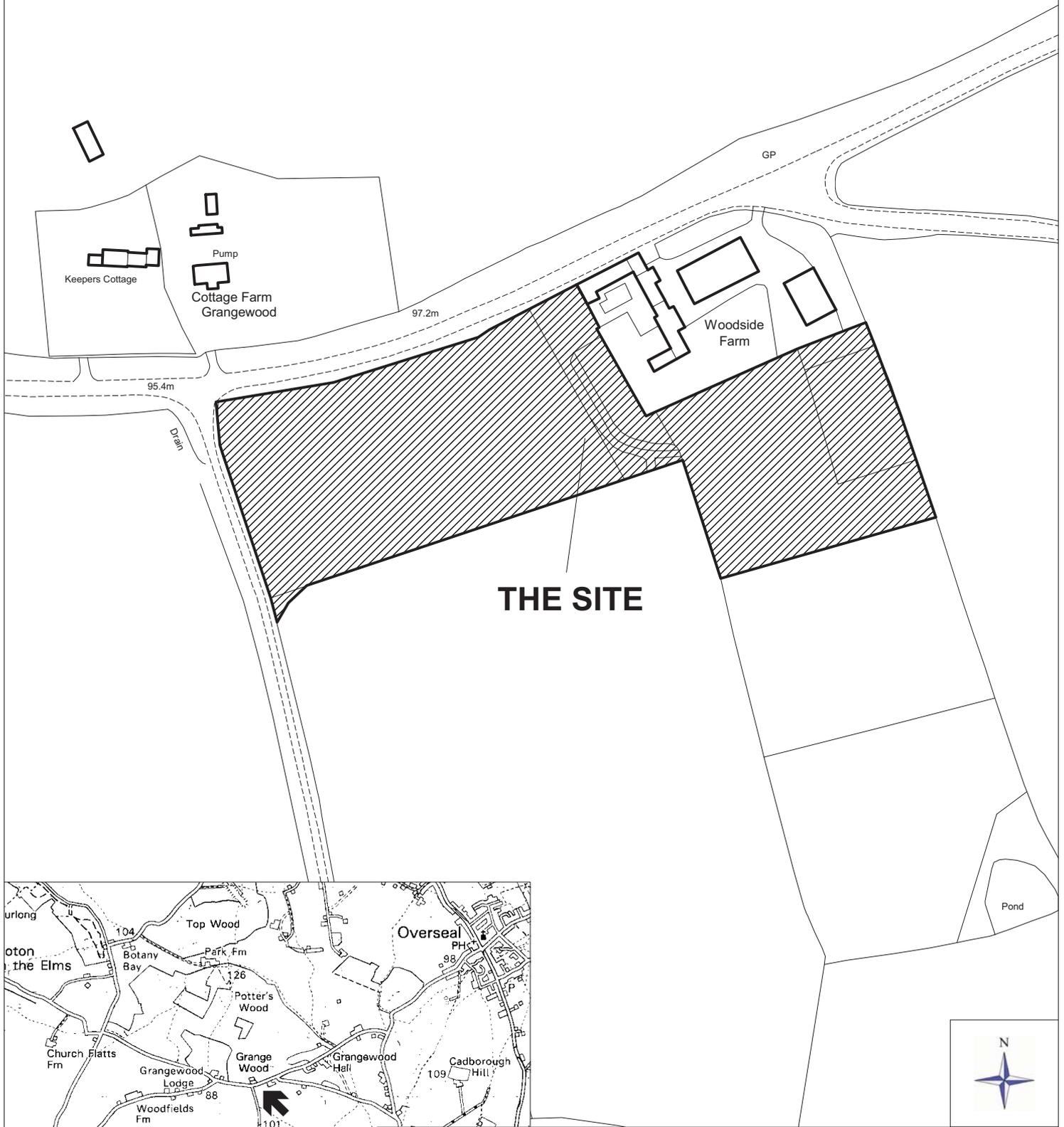
**Site Description**

The application site is part of a farm, which is located within the open countryside, between the villages of Overseal and Netherseal. The site is part of Woodside Farm and is located within the catchment area of the River Mease Special Area of Conservation (SAC). The farm over the years has diversified and now concentrates on equestrian usage although not currently at a commercial level. There are few residential properties in the area, the nearest being Cottage Farm on the opposite side of the road.

**Proposal**

The proposal is to:

**9/2011/0438 - Woodside Farm, Grangewood, Grangewood,  
Swadlincote DE12 8BG**



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**South Derbyshire District Council. LA 100019461. 2010**



- Erect a new indoor riding school to the south of Woodside Farm on the site of the existing outdoor ménage, to the south west of Lodge Road measuring approximately 21m in width x 40m in length x 5.7m in height (4.7m to the eaves)
- Erect an outdoor manege to replace the existing manege to the east of Woodside Farm adjacent to Grangewood measuring approximately 58m x 19m
- Close an existing access onto Grangewood and construct a new vehicular access on Clifton Road to serve the development
- Create an area of car parking

### **Applicants' supporting information**

A Design and Access Statement has been submitted with the application which includes the following details:

- The proposal involves a recreational development of the type supported by Recreation and Tourism Policy 1. The applicants live at Woodside Farm and have existing equestrian facilities there (comprising of an outdoor ménage, grazing land and stables)
- The indoor school is essential to further the career and training of the applicants daughter and to allow training during poor weather and in the evenings
- The indoor school would be used in conjunction with the existing facilities and replacement indoor ménage will improve facilities for wider leisure and tourism uses beyond private use.
- It is essential to have the indoor riding school close to the ménage, stables and grazing land where the applicant's horses are stabled.
- The location of the proposed indoor riding school/ménage has been chosen after much discussion with planning officers and consideration of alternatives. The building would be 'dug-in' to rising ground behind the existing buildings so that views of the building would be screened as far as possible and seen against either a foreground or backdrop provided by the existing building.
- Views of the building from Lodge Road would be limited due to the siting of the building at a lower level and a mixture of the existing mature boundary hedge and the proposed tree planting.
- The outdoor ménage would be largely hidden by a new landscaped earth bank, which would screen the surface and fencing.
- No floodlighting is to be provided and there would be scope to provide significant woodland tree planting being designed to have as little impact as practicable on the countryside.
- The proposal is well related visually and physically to the existing complex of buildings at Woodside Farm and would preserve the landscape character in the area, which would remain one of essentially open fields and scattered woodland and copse punctuated by isolated farms and houses.
- A safe means of access/egress will be provided together with off-road manoeuvring and parking space for vehicles associated with the proposal.

The application site lies within the catchment area of the River Mease SAC/SSSI and therefore has been accompanied with a Habitats Regulations Assessment. This concludes that the proposal would not have any significant effect upon the River Mease SAC and would not undermine its conservation objectives.

Following concerns expressed by the Planning Authority regarding the proposed access driveway on Clifton Road and its location, an amendment plan was received which is in accordance with the recommendations of the planning officer and highway officer. This includes:

- Moving the access closer to Clifton Road.
- Providing a large landscaping buffer to the access road, screening it from Grangewood

The local Ward Member and the Parish Council expressed concerns regarding localised flooding and accordingly e-mail correspondence was received during the application process clarifying this issue. The applicant has provided the following comments:

- There are two other vehicular accesses to the site available through the “host” property at Woodside Farm and they are not intended for day-to-day use. However they could be used for emergency use as an alternative dry access route if necessary
- As far as surface water drainage is concerned on-site soakaways would serve the proposal and a planning condition to ensure a suitable system of drainage is acceptable to the applicants.
- There will not be any likelihood of the current proposal increasing the risk of surface water flooding in the area and any nearby flooding problems experienced previously are associated with matters unconnected to the current proposal.

### **Responses to Consultations**

The Environment Agency has no comment.

The Environmental Protection Team (Environmental Health) does not raise any objections to the development as proposed and advises that the developer should contact the Commercial Section on all matters relating to health and safety or the Licensing Section relating to Horse Riding Establishments licensing.

Natural England does not raise any objections, advising that the scale of the proposal and terms and conditions of the application and submitted plans take account of the impact on designated sites and that the application may provide opportunities to incorporate features into the design which are beneficial to wildlife.

Derbyshire Wildlife Trust does not raise any objections to the development as proposed and advises that the hedgerow that is shown to be removed on Clifton Road comprising of at least 80% native species, meets the definition of a UK BAP priority habitat, therefore replanting using a mix of native species is required. Additionally the mature hedgerow alongside the existing outdoor ménage should be retained, banks should be regraded using a wildflower seed mix in preference to mass tree planting and also a check for badger setts should be carried out prior to any works commencing on the hedgerows.

Drainage Officer does not raise any objections to the development as proposed and advises that the District Council does not have any record of flooding at this location. As no surface water drainage proposals are included in the application a condition requiring details to be submitted prior to commencement is proposed.

Netherseal Parish Council advise that they are concerned regarding the siting of the proposed access to serve the development, the lane being virtually single track and is prone to flooding. In addition there is lighting to the existing manege.

County Highway Authority does not raise any objections to the development as proposed following the amended plans received on 1 September showing a revised access being located approximately 30m to the north of the original proposed access submitted in May. Conditions relating to the access and parking and manoeuvring details are required.

### **Responses to Publicity**

Three letters have been received from the same residents in a neighbouring property. Whilst supporting the application as submitted the neighbours advise that they object to the application unless the following points are conditioned i.e.:

- The plans are inconsistent with relation to the size of the outdoor ménage
- No external lighting or PA system should be permitted
- The access road from Clifton Road should be graded so that the finished level is not less than one metre below the existing ground level
- Increased bunding running parallel to the northern boundary of the track should be provided
- The proposed landscaping should be increased in depth and mature locally native trees and evergreen species should be used along the northern edge of the track and also around the outdoor ménage.

### **National Guidance**

PPS 1, 4 and 9  
PPG 13

### **Development Plan Policies**

The relevant policies are:

Saved Policies from the Local Plan: Environment Policies 1 and 10, Recreation and Tourism Policies 1 and 9 and Transport Policy 6.

### **Planning Considerations**

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

- Development plan policy and national guidance and advice
- The impact of the proposal on neighbours and highway safety.

### **Planning Assessment**

The proposed indoor riding school and replacement outdoor ménage have been the result of extensive pre application discussions at the site for over five years. The current proposal is for an indoor riding school to be sited to the south of the existing buildings at Woodside Farm, where the current outdoor ménage is located, and sunk down into the ground by 1.8m to reduce its visibility from Lodge Road with extensive tree planting proposed to all boundaries on the east, west and south being approximately 10m in depth. A replacement outdoor ménage would be located running parallel to

Grangewood but located 1.6m away from the highway with a landscaping buffer proposed to the north, south and west of the ménage. The proposal would require the creation of a new access driveway from Clifton Road to run to the rear of the proposed outdoor ménage and this would also involve the closure of an existing access onto Grangewood. This area would then become a parking area for 9 cars.

With regards to whether the development proposed is in line with national guidance and development plan policy, Planning Policy Statement 1 and Planning Policy Statement 4 support the development of tourism, equine enterprises and diversification. In this regard Policy EC6 of Planning Policy Statement 4 advises that where appropriate, local planning authorities should support equine enterprises, providing for a range of suitably located recreational and leisure facilities and the needs for training and breeding businesses that maintain environmental quality and countryside character. The proposal being sunk into the ground and being surrounded by landscaping buffers of up to 10m in depth would provide an equine enterprise which would also maintain the environmental quality and character of the countryside where the proposal is to be sited, being fully in accordance with Planning Policy Statements 1 and 9.

The most relevant development plan policies are Environment Policy 1 and Recreation and Tourism Policies 1 and 9. Environment Policy 1 advises that new development will not be permitted unless it is essential to a rural based activity, or unavoidable in the countryside and the character of the countryside, landscape quality, wildlife and historic features are safeguarded and protected. The proposed indoor riding school cannot readily be accommodated elsewhere other than in the countryside and would be unobtrusive by it's siting behind the existing buildings at Woodside Farm, being sunk into the ground and screened by existing hedgerows and proposed new landscaping. It would provide a recreational facility in the area where car parking and manoeuvring is provided, with safe access off Clifton Road. There would be very little impact from the outdoor manege on the two neighbouring properties opposite and due to the development being screened with a landscaping buffer, whilst being easily viewed from the highway of Grangewood - it would maintain an open aspect with post and rail fencing.

The materials have been designed to be in keeping with the area and its surroundings and the colour proposed to clad the indoor ménage can be conditioned. The keeping of horses is a rural based activity that is acceptable in the countryside and there would be no further impact on the landscape, wildlife or countryside.

With regards to Recreation and Tourism Policies 1 and 9, these advise that the development should not cause disturbance to local amenity by virtue of noise or traffic generation. Adequate access, parking, servicing, screening and landscaping should be provided together with developments being sited in close proximity to existing buildings and provision should be made for the safe movement of horses and riders.

The County Highway Authority is satisfied that subject to conditions there are no highway safety concerns and adequate access, parking and servicing is proposed.

Both Derbyshire Wildlife Trust and Natural England are satisfied subject to conditions that there are no environmental concerns and that the proposal has taken account of its siting within the catchment area of the River Mease SAC.

The neighbour's and Netherseal Parish Council's concerns are noted and have been addressed above, with the exception of floodlighting and localised flooding. With regards to localised flooding the Council's Land Drainage Officer advises that there are no records of flooding at this location, and a suitably worded condition can control this. The agent has also been contacted during the application process with regards to this concern and advises that:

*..." there are two other vehicular accesses to the site available through the "host" property (Woodside Farm). There is one located alongside the main group of buildings and another behind the gates onto Lodge Road. It is not intended to use either of these for day-to-day use of the proposed development (which is why a new access drive is being proposed) although the submitted plans allow an existing gate between the "host" property and the application site to permit "through-access" (and then to either of these two alternative access points) for emergency purposes only (see application drawing 2011.007-001B). I suggest that either of these would be sufficient to provide an alternative dry access route if necessary"*

Whilst no floodlighting is proposed a condition is considered appropriate as floodlighting can lead to an urbanising feature in the countryside if it is not controlled adequately.

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

### **Recommendation**

**GRANT** permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the cladding sheets 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. The work shall be carried out in accordance with the approved details.  
Reason: To safeguard the appearance of the existing building and the locality generally.
3. Notwithstanding the particulars of the application, revised details of the proposed roller shutter door and external access doors on the indoor riding school 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.
4. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no's 2011.007-003B, 2011.007-001B, 2011.007-004B and 2011.007-002B.  
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
5. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local

Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

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

6. Before any other operations are commenced, a new vehicular access shall be created to Clifton Road, all in accordance with the application drawing 2011.007-001B, laid out, constructed and provided with visibility splays extending from a point 2.4m from the carriageway edge, measured along the centreline of the access, for a distance of 80m in the northerly direction and 65m in the southerly direction, measured along the nearside carriageway edge. The land in advance of the visibility splays shall be maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

Reason: In the interest of highway safety.

7. Before any other operations are commenced (excluding creation of the new access, the subject of Condition 6), the existing vehicular access to Grangewood shall be permanently closed with a physical barrier and the existing vehicle crossover reinstated as verge in a manner to be agreed in writing with the Local Planning Authority in consultation with the County Highway Authority.

Reason: In the interest of highway safety.

8. The proposed access drive to Clifton Road shall be no steeper than 1 in 14 for the first 15m from the nearside highway boundary and 1 in 10 thereafter.

Reason: In the interest of highway safety.

9. The premises, the subject of the application, shall not be taken into use until space has been provided within the application site in accordance with application drawing 2011.007-001B for the parking and manoeuvring of visitors and service/delivery vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interest of highway safety.

10. 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.

11. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.

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

12. A detailed survey of the presence of protected species (namely badgers) shall be submitted for approval in writing by the Local Planning Authority prior to commencement of removing any hedgerows on site.

Reason: The presence of disused badgers set entrances have been found and the District Council require a survey as to the potential for protected species to be on site.

13. No external lighting shall be installed without the prior permission of the Local Planning Authority given on an application made in that regard.

Reason: In the interests of preserving the amenity of the countryside from unwanted visual intrusion through urbanising features.

14. Prior to the use commencing facilities for roosting bats and bird nest boxes shall be provided at the indoor riding school in accordance with details, which shall have been submitted previously to, and approved in writing by, the Local Planning Authority.

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

#### Informatives:

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months prior notification shall be given to the Environmental Services Department at County Hall, Matlock (tel: 01629 538595) before any works commence on the vehicular access within highway limits.

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

The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

The developer should contact the Commercial Section on all matters relating to health and safety or Licensing Section relating to Horse Riding Establishments licensing.

The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

13/12/2011

**Item** 1.2

**Reg. No.** 9/2011/0510/SGO

**Applicant:**  
B M LOGISTICS  
C/O 202 WOODVILLE ROAD  
HARTSHORNE  
SWADLINCOTE

**Agent:**  
MR STEPHEN GREAVES  
S G DESIGN STUDIOS LTD  
202 WOODVILLE ROAD  
HARTSHORNE  
SWADLINCOTE

**Proposal:** **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS AND LAYOUT TO BE RESERVED) FOR THE REDEVELOPMENT OF EXISTING SITE FOR B1, B2 & B8 USE AT B M LOGISTICS BOARDMAN INDUSTRIAL ESTATE BOARDMAN ROAD SWADLINCOTE**

**Ward:** SWADLINCOTE

**Valid Date:** 05/07/2011

**Reason for committee determination**

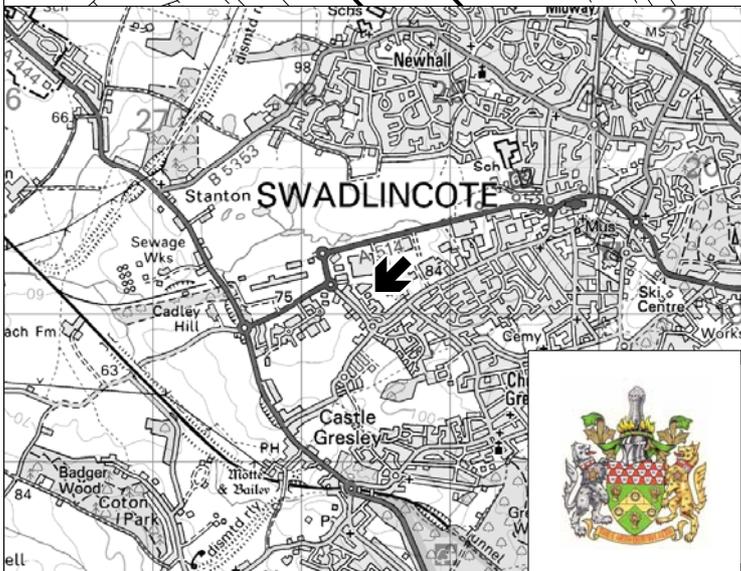
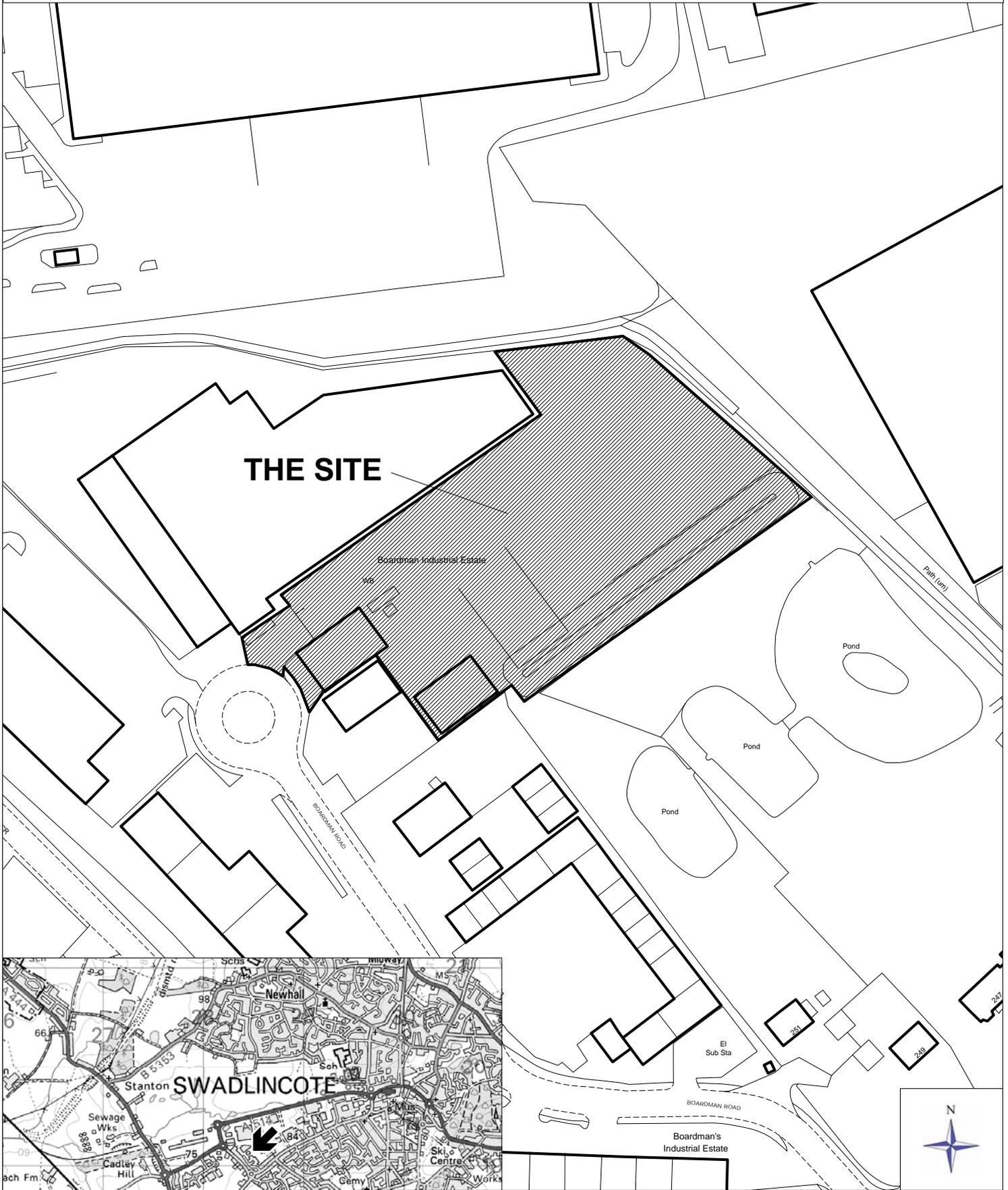
The application is brought to Committee as it is a major application with more than two objections.

**Site Description**

The application site is approximately 8,643m<sup>2</sup> in area and situated within the Swadlincote Urban Area in the northeastern corner of the Boardman Industrial estate. To the southeast of the site, beyond a tree-lined bund, lies the extensive garden of No. 247 Hearthcote Road beyond which are situated further residential properties and a public house. The bund is some 2m in height with a row of conifers on the application site side and poplar trees along the neighbouring residential boundary. Swadlincote Footpath 42 extends along the eastern and northern boundary. To the northwest and southwest are industrial units. The trees on the neighbouring boundary of No. 247 are protected by an area TPO No. 213. With the exception of the bund, which extends along the northeastern boundary, the site is relatively flat.

The site is currently used as a haulage yard and occupied by two existing units, which would be demolished under the proposed scheme. A large area of hardstanding covers the remainder of the site with an area of rough scrubland and demolition rubble in the northeastern corner.

**9/2011/0510 - B M Logistics, Boardman Industrial Estate, Boardman Road, Swadlincote DE11 9DL**



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**South Derbyshire District Council. LA 100019461. 2010**

## **Proposal**

The application is in outline with access and layout for consideration only and proposes the erection of 12 two-storey units combining B1 (Business), B2 (General Industry) and B8 (Storage and Distribution) uses with proposed floor areas consisting of a minimum of 186m<sup>2</sup> and a maximum of 664m<sup>2</sup>. A permission would allow any of the units to be occupied for any uses in these classes although the assessment of noise etc. has assumed the possibility that all could be B2.

The scheme has been amended, following discussions with Environmental Health, to include a 3m high acoustic timber fence along the southeastern boundary of the bund with No. 247 Hearthcote Road.

## **Applicants' supporting information**

A Design and Access Statement has been submitted with the application which includes the following details:

- The proposal is to provide high quality, affordable units, including starter units, for B1, B2 and B8 uses, which are flexible for alteration/expansion where occupants can expand into neighbouring units.
- Individual units will be provided with adjacent parking with overflow parking, if required, and secure cycle storage.
- A footpath link to the neighbouring public footpath to the east is included.
- The proposal is for a total of twelve units, although flexibility is included for this number to be reduced, creating larger units.
- The use of additional landscaping will serve to enhance the visual appearance of the area.
- The buildings would be of mainly traditional brick and tiled roof construction with powder coated aluminium windows and doors, feature corner windows and panels possibly constructed in cedar cladding.

A Phase 1 Ecology Survey Report has been submitted in relation to concerns regarding a known historical presence of Smooth Newt, Grass Snake and the potential for Great Crested Newts on the adjacent residential site to the southeast at 247 Hearthcote Road which has three large ponds situated within the garden. The report acknowledges that the trees and hedgerows on site have potential as nesting areas and any works that may disturb these areas should be carried out outside of the bird-breeding season. No buildings or mature trees provide suitable habitat for roosting bats. A Great Crested Newt Survey may be required in relation to the potential for newts to be present in the ponds on the adjacent site however no other signs of protected species were found during the survey.

## **Planning History**

There is no relevant planning history.

## **Responses to Consultations**

Environmental Health has no objection following the receipt of amended plans showing the provision of a 3m high noise attenuation fence along the boundary with 247

Hearthcote Road and subject to conditions requiring limited working hours, no outdoor working, restricting noise levels of vehicle reversing alarms to vehicles for loading/unloading outdoors and restricting internal noise levels and the storage of materials outdoors.

The County Highway Authority has no objection subject to conditions relating to site storage and vehicle manoeuvring/accommodation during construction and the provision of parking and manoeuvring space prior to occupation in accordance with the submitted details.

The Contaminated Land Officer has advised that the site has potential for contamination from previous uses and activities and has no objection subject to a condition requiring the submission and implementation as required of a scheme to identify and control contamination prior to commencement of development.

The County Development Control Archaeologist is satisfied that there are no archaeological impacts.

Derbyshire Wildlife Trust (DWT), following the submission of a Phase 1 Ecological Survey Report, has no objection. The adjacent land at 247 Hearthcote Road has historically supported a population of Smooth Newt and Grass Snake and has the potential for Great Crested Newts to be present as well. An area of demolition rubble is located in the northeastern corner of the application site which represents a potentially suitable refuge for hibernating amphibians and reptiles. DWT recommend that a precautionary approach be taken with any clearance of the pile of demolition rubble which should take place during the period April-October inclusive when any reptiles and amphibians or reptiles will have left their winter refuge.

The County Footpaths Officer has no objection.

The Coal Authority has no objection subject to a condition requiring that site investigation works be carried out prior to commencement in accordance with the submitted Coal Mining Risk Assessment and remedial works carried out as required.

### **Responses to Publicity**

Seven letters of objection have been received from three objectors commenting as follows:

- a) Danger of lorries turning into and out of Boardman's Estate.
- b) Noise and vibration during day and night seven days a week will increase greatly with proposed development.
- c) Noise of lorries.
- d) Design of junction with Boardman's Estate from Hearthcote Road is not suitable for increase in number of lorries and cars proposed.
- e) The Council should consider the requirement of a link road from the roundabout on Boardman Road to either the existing Cadley Hill roundabout or Dennis Barsby Close, thus relieving HGV and light vehicle traffic on Hearthcote Road, reducing danger of accident at Boardman's Road/Hearthcote Road junction and improving quality of living of surrounding residencies.
- f) Increased traffic and increased danger of accident at Boardman's Road/Hearthcote Road.

- g) Currently this estate has both HGV and LGV's operating on a 24 hour, 7 days per week basis causing disturbance to surrounding and adjoining residencies.
- h) The plans show that they will be eating onto a neighbours land and sound bund.
- i) The increased noise will spoil the ambience and enjoyment of the gardens which we will look potentially to at some stage apply for planning for detached properties.
- j) The development will de-value land and property and cause financial blight.
- k) This will be a 24hr site so noise nuisance and pollution will increase significantly as well as lighting.
- l) Soakaways are not an option.

### **Development Plan Policies**

The relevant policies are:

East Midlands Regional Plan: Policy 1 & Policy 18

Local Plan: Employment Policy 3, Transport Policy 6

### **National Guidance**

PPS4, PPS9, PPG24 & PPG13

### **Planning Considerations**

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

- Principle of development
- Noise
- Highways
- Ecology
- Drainage
- Other issues

### **Planning Assessment**

#### Principle of development

PPS4 advises that Local Planning Authorities should adopt a positive and constructive approach towards planning applications for economic development that secures sustainable economic growth. All planning applications for economic development should be assessed against limiting impacts on climate change, accessibility by varied means of transport, securing high quality and inclusive design and the impact on economic and physical regeneration of the area. Employment Policy 3 of the Local Plan allows for new industrial and business development in Swadlincote providing that the proposal is not detrimental to the amenity and character of the locality on environmental and traffic grounds.

The site is a brownfield with an existing employment use as a haulage yard located within an industrial site within the urban area. The site has good access to the surrounding road networks and is within close proximity to bus stops located nearby on Hearthcote Road with cycle storage also proposed on site providing alternative means of transport for employees.

There is a recognised shortage of small and "grow-on" workspace in the District. This is identified as a weakness in the South Derbyshire Economic Development Strategy 2008-2012. The shortfall in accommodation for smaller businesses is also identified in the Derby Housing Market Area Employment Land Review (March 2008). The intensification of employment use on the site would assist in increasing the provision of good quality employment units within the District to meet this outstanding need.

Details of design and appearance would be dealt at reserved matters stage.

The principle of employment use is considered acceptable subject to their being no detrimental impact on amenity or on environmental and traffic grounds.

### Noise Issues

The nearest residential property, No 251 Hearthcote Road, is situated approximately 116m from the edge of the application site to the southeast with the extensive garden of No. 247 Hearthcote Road adjoining the length of the southeastern boundary of the site and the dwelling of No. 247 itself situated approximately 140m away.

Following consultation with Environmental Health the scheme has been amended to include a 3m acoustic timber fence along the southeastern boundary to be situated on a 1.8m high retaining wall on the application site side of the existing landscaped bund in order to mitigate any potential significant adverse noise impacts on these adjacent residential properties to the southeast.

Further conditions as recommended by Environmental Health to control potential noise emanating from the site would assist in mitigating any significant adverse impacts on adjacent residential amenity. The amended scheme, subject to the conditions proposed, is considered to comply with the requirements of PPG24 and Employment Policy 3.

### Highways

The site would be served by the existing access from Boardman Road with on-site parking and manoeuvring space provided. The Highway Authority has no objection subject to the conditions outlined above and the proposal is considered to be in accordance with the requirements of PPG13 and Transport Policy 6.

The Highway Authority incident records have been checked and the Traffic Team has not highlighted the junction of Boardman Road and Hearthcote Road as a 'problem' junction.

### Ecology

PPS9 seeks to ensure that protected species are protected from adverse impacts of development. The Phase 1 Ecology Survey Report submitted in relation to concerns regarding a known historical presence of Smooth Newt, Grass Snake and the potential for Great Crested Newts on the adjacent residential site to the southeast at 247 Hearthcote Road which has three large ponds situated within the garden has shown no evidence of any protected species. Derbyshire Wildlife Trust recommends a

precautionary approach to the removal of demolition rubble on site and subject to this condition the proposal is in accordance with the requirements of PPS9.

### Drainage

Drainage details would be required by condition. The development if built would be subject to Building Regulation Approval whereby the suitability of a use of a soakaway would be assessed.

### Other Issues

The adjacent landowner at 247 Hearthcote Road has queried the extent of land ownership along the southeastern boundary. The applicant's solicitor has submitted information which demonstrates that the application site is under his ownership. Any further dispute of land ownership is a civil matter between the parties involved.

### Conclusion

The application site is an existing employment site within the urban area. Whilst the application proposes an intensification of employment use it is considered that the proposed conditions would assist in mitigating any significant adverse impacts on the amenity of adjacent residential properties. The proposal complies with both national, regional and local policy requirements as outlined above and is considered acceptable.

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

### **Recommendation**

**GRANT** permission subject to the following conditions:

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.  
(b) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.  
Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.
2. Approval of the details of the scale, appearance and the landscaping shall be obtained from the Local Planning Authority in writing before any development is commenced.  
Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.
3. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos. 211\_07.01 received 27 July 2011 and 211-07.02 revision A received 1 September 2011 and 211\_07.04 rev A received 27 September 2011.  
Reason: For the avoidance of doubt, the original submission being considered unacceptable.

4. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

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

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

6. 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.

7. 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.

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

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

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

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

10. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and

until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.

B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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

11. 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.

12. The development shall be implemented in accordance with the recommendations of the submitted Coal Mining Risk Assessment, in particular with regard to intrusive site investigation works (which shall be undertaken prior to the commencement of any other development) and any resultant remedial works identified by the site investigation.

Reason: To ensure the stability and safety of the development, having regard to the Coal Mining Risk Assessment undertaken.

13. Before any other operations are commenced (excluding demolition/site clearance), space shall be provided within the site curtilage for storage of plant and materials/ site accommodation/ loading and unloading of goods vehicles/ parking and manoeuvring of site operatives and visitors' vehicles, laid out and constructed in accordance with detailed designs to be submitted in advance to the Local Planning authority for written approval and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

Reason: In the interests of highway safety.

14. The premises, the subject of the application, shall not be taken into use until space has been provided within the application site in accordance with the application drawings for the parking and manoeuvring of visitors/ staff/ customers/ service and delivery vehicles (including a secure cycle parking bay), 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.

15. There shall be no gates or barriers within 15m of the nearside highway boundary and any gates shall open inwards only.

Reason: In the interests of highway safety.

16. There shall be no working outdoors with the exception of vehicle movements. Vehicle loading/unloading outdoors should be undertaken with vehicles with broadband type audible reversing alarms or by other non-audible methods and shall be between the hours of 7am-7pm Monday to Friday and 8am-5pm Sundays, Bank Holidays and Public Holidays only.

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

17. Windows and doors opening onto any internal areas which generate noise levels which would be in excess of the background L90 noise level at the site boundary, to be agreed in writing with Environmental Health, must be kept closed except for access and egress.

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

18. Internal noise levels shall not exceed a limit of 85 db(A) leq (5mins) and the structure designed to mitigate these noise levels so that it is 10 db(A) below background L90 levels at the boundary of the nearest noise sensitive premises the details of which shall be submitted to and approved in writing by the Local Planning Authority prior to occupation of the development hereby permitted. The development shall be carried out in accordance with the agreed scheme and maintained in perpetuity.

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

19. All fixed plant and equipment including externally mounted fans, exhaust or compressors shall be suitably attenuated so that they are at or below the agreed background L90 noise level at the boundary of the nearest noise sensitive premises.

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

20. There shall be no storage of materials outdoors.

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

21. Prior to the first occupation of the development hereby permitted, details of the 3m acoustic timber fence as shown on the amended plan 211-07.02 rev A and 211-07.04 shall be submitted to and approved in writing by the Local Planning

Authority. The fence shall be erected in accordance with the approved details prior to the occupation of the development and shall be maintained in perpetuity.

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

22. No machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: 7am to 7pm Monday to Friday, 8am to 5pm Saturday, Sunday and public holidays.

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

#### Informatives:

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 [http://www.south-derbys.gov.uk/business/pollution/contaminated\\_land/default.asp](http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp) 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](mailto:pollution.control@south-derbys.gov.uk). Where development is proposed over areas of coal and past coal workings at shallow depth, The Coal Authority is of the opinion that applicants should consider wherever possible removing the remnant shallow coal. This will enable the land to be stabilised and treated by a more sustainable method; rather than by attempting to grout fill any voids and consequently unnecessarily sterilising the nation's asset.

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from the Coal Authority's website at: [www.coal.gov.uk/services/permissions/index.cfm](http://www.coal.gov.uk/services/permissions/index.cfm). The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

Swadlincote Public Footpath No 42 is situated outside the application site along the northeastern boundary. The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or

after development works take place. Further advice can be obtained by calling 08456 058 058 and asking for the Rights of Way Duty Officer.

With regard to Condition 17, to contact Environmental Health on 01238 595903 to agree the background L90 noise level.

The existence of demolition rubble in the northeastern corner of the application site represents a suitable refuge for hibernating amphibians and reptiles which have historically been present on the adjacent site to the southeast, which potentially include protected species. You are advised that it is an offence to harm protected species and any clearance of this demolition rubble should take place during the period April-October inclusive when any hibernating amphibians or reptiles will have left their winter refuge.

That the trees/hedgerows on the application site may contain nesting birds. It is an offence under the Wildlife and Countryside Act 1981 to intentionally kill, injure or take any wild British breeding bird or its eggs or damage its nest whilst in use or being built. The nesting season normally encompasses the months March to July inclusive. If you are in doubt as to requirements of the law in this regard you should contact English Nature, Peak District and Derbyshire Team, Manor Barn, Over Haddon, Bakewell, Derbyshire, DE4 1JE.

Notwithstanding the layout drawing, this permission allows for the occupation of any unit by uses classes B1, B2, B8.

13/12/2011

**Item** 1.3

**Reg. No.** 9/2011/0804/U

**Applicant:**  
MRS KARIE MUSSON  
1 HIGH STREET  
LINTON  
SWADLINCOTE

**Agent:**  
MRS KARIE MUSSON  
1 LINTON HOUSE  
LINTON  
HIGH STREET  
SWADLINCOTE

**Proposal:** RETROSPECTIVE APPLICATION FOR RETENTION OF CHANGE OF USE FROM A DWELLING (C3) AND BUSINESS USE (B1) TO A MIXED USE OF BUSINESS (B1) AND HOUSE IN MULTIPLE OCCUPATION - MAXIMUM OF 10 PEOPLE AT LINTON HOUSE 1 HIGH STREET LINTON SWADLINCOTE

**Ward:** LINTON

**Valid Date:** 02/11/2011

**Reason for committee determination**

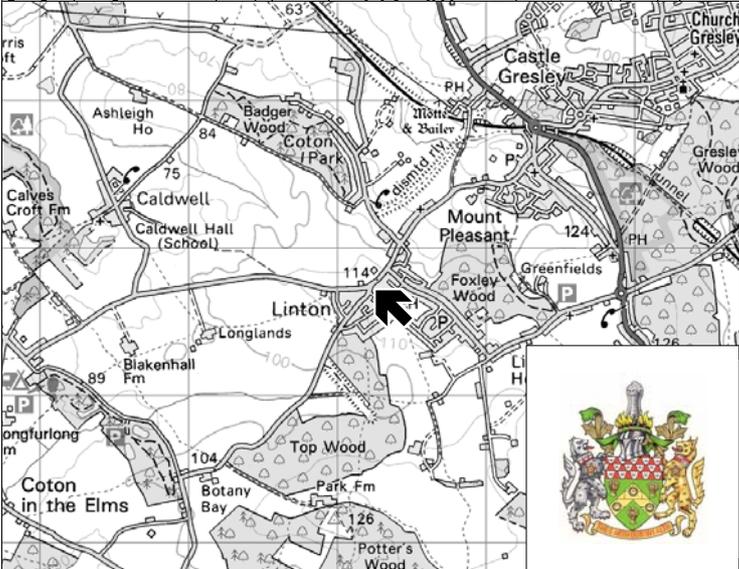
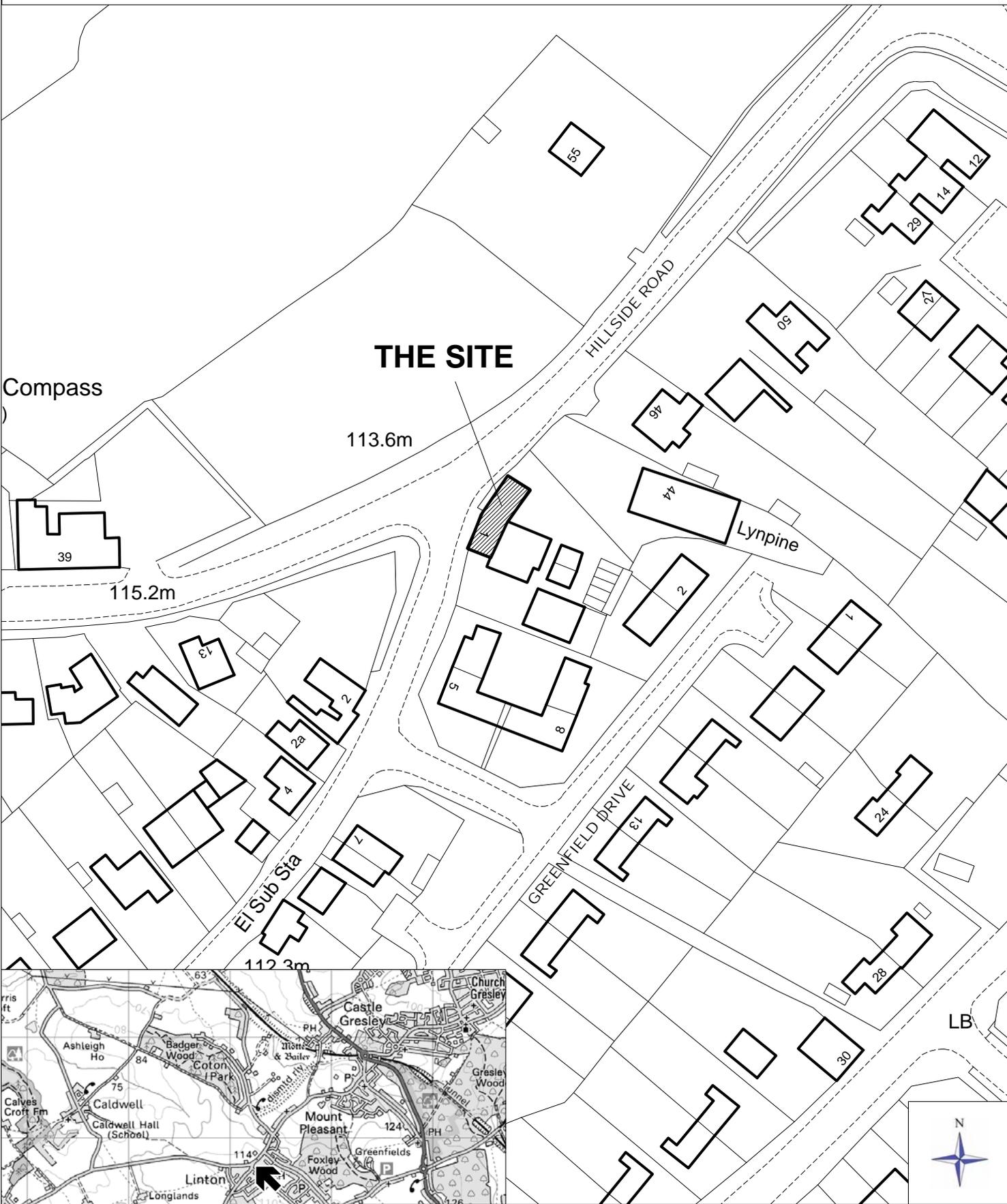
The application has been brought to committee at the request of Councillor Wheeler (ward member) as local concern has been expressed about a particular issue.

**Site Description**

The application site is an existing building which fronts High Street and abuts the pavement, being attached to the main dwelling of 1 High Street, Linton, at the rear. It was a former retail shop and off-street car parking to the side and rear has been identified for 8 vehicles. The site is on a prominent corner position on the brow of a hill leaving Linton on the junction of High Street and Hillside Road. The area is residential in use and consists of two storey dwellings on Hillside Road and bungalows to the south on High Street.

**Proposal**

The application has been submitted to retain the change of use of the premises from a dwelling and business use to a mixed use of business and house in multiple occupation. The applicant has shown that the ground floor of the premises would consist of a living area, leading to a kitchen with a door to a double shower room and a further door off the kitchen to a further sanitary facilities area. A staircase is situated within the living area and this leads to two bedrooms upstairs, one being accessed through the other via a small passageway. The proposal is to retain the use for a maximum of 10 people and



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the applicant has verbally informed the area planning officer that should 10 people occupy the premises then a bunk bed could be accommodated in the living area as currently only 8 beds are in existence in the bedrooms upstairs.

### **Planning History**

9/2003/1498 - Change of use from A1 retail to B1 business use – refused 06 February 2004

9/2004/0604 - Change of use from A1 retail to B1 business use – approved 07 July 2004

### **Responses to Consultations**

Private Sector Housing Officer does not raise any objections to the application as submitted but advises that the premises will require inspection and approval from their department and will require building regulation approval.

The County Highway Authority advises that the applicant has permission (9/2004/0604) for an unrestricted business use on the site already. It is considered, therefore, that the B1 use element of the application will be unlikely to result in any material change to existing highway conditions. With regard to the change of use from a dwelling to a house in multiple occupancy, it advises that it should be borne in mind that the size of a family occupying a dwelling cannot be controlled and that multiple occupancy accommodation is generally associated with very low vehicle ownership. Notwithstanding this, the Highway Authority is aware of some concerns regarding parking issues at the site but in view of the extant uses on the site and the availability of parking space on adjacent land in the applicant's control, it is not considered that material detriment arising from the proposed use could be demonstrated and an objection on such grounds sustained. Accordingly a condition is recommended that car parking and manoeuvring be maintained throughout the life of the development.

The Pollution Control Officer does not raise any objections to the application as submitted.

Severn Trent Water does not raise any objections to the application as submitted.

The Contaminated Land Officer does not raise any objections to the application as submitted.

The Crime Reduction Officer advises that there have been complaints regarding parking and the close proximity of the premises to Hillside Road and High Street and the owners of the company were advised of these concerns. The officer recommends that the owners ensure that there is adequate off road parking and spaces for the type and amount of vehicles to be associated with the theatre production company that need to park at the multi occupancy building.

Linton Parish Council objects to the application as submitted advising that:

- Neighbours were not advised of the application at the time of submission
- The application is retrospective and problems at the site have been ongoing for some time

- Parking of mini buses, coaches, lorries and cars on a dangerous corner on the brow of a hill is causing a traffic safety issue and the police have been informed regularly
- The children school drop off and pick up point is also located opposite the proposed development
- Distress is being caused to elderly neighbours through vehicles parking on the footpath, affecting access by disabled scooters, double pushchairs and blocking of pedestrian access forces people to cross the road in unsafe places
- Electrical cables are being left across the footpath from the property to vehicles causing trip hazards
- Parking is to be unchanged and this is clearly not acceptable
- Proposal is for a maximum of 10 people and up to 25 have been seen at the property
- Residents have been seen at windows in only their underwear
- Smoking eating and littering the area with rubbish and cigarette butts is intimidating for neighbours
- Noise associated with large groups of people and lorries, coaches is unacceptable;
- No windows, ventilation and small living conditions and bedrooms proposed
- Personal washing facilities appear inadequate for the amount of people the application is proposed for

### **Responses to Publicity**

Thirteen neighbour letters of objection have been received. The concerns noted are:

- The building has been used previously as lodgings
- Crowds of people stand outside the building which is intimidating to the local bungalows
- Increase in traffic from the coaches that transport the occupiers of the premise
- Business runs from the premises already creating a lot of traffic
- Parking of vehicles close to junction is a traffic hazard to local traffic and emergency vehicles
- Loss of light to residents properties through large vehicles parked outside their dwellings
- Obstruction of pavements by vehicles parking on the pavement and unloading and loading of occupiers
- Application advises 10 people maximum but over 20 males and 14 females have been seen at the premises on occasions
- No extra toilet or washing facilities are being provided
- Rubbish left on streets from occupiers
- Substandard accommodation, bedrooms do not appear to have a means of escape, windows or ventilation
- Occupiers regularly come and go in the early hours of the morning disturbing neighbours who are elderly through noise and vehicle headlights shining
- Washing hung out of windows and on fences and dustbins left on the pavement for long periods of time
- Inadequate drainage as washing machine deposits water on the main highway and pavement
- Parties and loud music from the premises disturbing existing residents

## **Development Plan Policies**

The relevant policies are:

Saved Local Plan: Housing Policy 5 and Transport Policy 6

EMRP: Policy 3

## **National Guidance**

PPS 3

Circular 08/2010: changes to planning regulations for dwelling houses and houses in multiple occupation

## **Planning Considerations**

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

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

## **Planning Assessment**

The application is for the retention of the premises as a house of multiple occupation and an office. The use of the premises for residential use is in line with planning policy. The site is located within the confines of Linton where Saved Housing Policy 5 advises that new housing development will be restricted to that which can be accommodated within the village confines and the development will be required to be in keeping with the scale and character of the settlement. The premises themselves are in keeping with the scale and character and no proposal to extend or alter the building externally are required.

Circular 08/2010 issued in November 2010 altered the use classes order to cover houses in multiple occupation and as part of the consultation document leading to the publication of the Circular it was stated that *'Houses in multiple occupation can make a valuable contribution to private rented sector stock and provide an essential housing tenure for predominately young and single people and those on low incomes'*. It is understood that with regards to this proposal the current occupiers are using the premises only whilst in the UK for employment reasons in association with a theatre company that is based at Linton and their requirement for housing is due to their low income and need to be in close proximity to the company that they work for. It would therefore be appropriate to state that the requirements of the Circular are being met and the proposal is in line with government policy in providing much needed housing in a residential area.

The only other development plan policy which is of relevance is Saved Transport Policy 6 which states that all proposals for development should incorporate adequate provision for access, (including public transport where appropriate), parking, manoeuvring and off street servicing. On the advice of the County Highway Authority, although acknowledging local concerns regarding parking issues at the site it sees no scope for objection. As such it cannot be argued that there would be a valid reason for refusal under Transport Policy 6. Concerns regarding the 'dangerous' parking of large vehicles on the highway are a matter for police enforcement.

The proposal whilst causing significant distress to neighbours, which is evident from the objections received, does not require any extensions to be built. The application is a change of use only and planning legislation does not cover some of the issues raised by neighbours. However, the Environmental Protection Team, Building Control and Private Sector Housing Officer have all been consulted and no objections have been raised to the change of use being retained although some further regularisation under their relevant legislation is still required.

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. Notwithstanding the plans submitted, detailed drawings shall be submitted within 2 months of the date of the permission showing the designated car parking and manoeuvring space within the site which shall be retained thereafter throughout the life of the development free of any impediment to its designated use.

Reason: in the interest of highway safety.

13/12/2011

**Item**            1.4

**Reg. No.**        9/2011/0848/B

**Applicant:**  
MR DAVID LANGSDALE  
40 HOLDEN AVENUE  
ASTON ON TRENT

**Agent:**  
MR DAVID LANGSDALE  
ASTON ON TRENT  
DERBY

**Proposal:**        **THE VARIATION OF CONDITION THREE OF PLANNING  
PERMISSION 9/2008/0261 AT 40 HOLDEN AVENUE  
ASTON ON TRENT**

**Ward:**            **ASTON**

**Valid Date:**     **24/10/2011**

**Reason for committee determination**

This application is brought to committee at the request of Councillor Watson (ward member), due to local concern about a particular issue and unusual site circumstances.

**Site Description**

The existing annex, the subject of the application is located in the southeast corner of the property adjacent to the highway. The applicant's house is in the opposite corner. The annex and 40 Holden Avenue share an access (from Chellaston Lane) and car parking spaces. There is lay-by parking in front of the annex, and a public footpath runs northeast of the application site.

**Proposal**

In 2008 planning permission was granted for the conversion of a garage into a granny annex at 40 Holden Avenue. Condition 3 of planning permission 9/2008/0261 states "*The living accommodation hereby permitted shall be occupied solely by members of the household of 40 Holden Avenue, Weston-on-Trent or by domestic staff, and shall not be severed from the main house as a separate and unconnected dwelling.*" This application is for the variation of condition 3, to allow a third party tenant to occupy the existing annex. A previous application for the removal of condition 3 was refused earlier in the year on highway safety grounds.

**Applicants' supporting information**

The applicant has submitted supporting details on how access viability at 40 Holden Avenue could be improved. The applicant proposes to remove the existing gateposts,

**THE SITE**

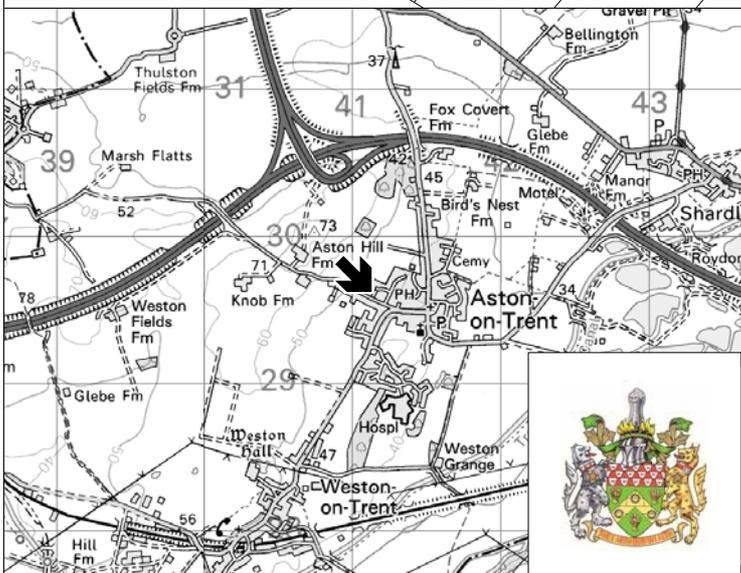
EI  
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HOLDEN AVENUE

CHELLASTON LANE

44.2m

42.1m



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**South Derbyshire District Council. LA 100019461. 2010**

and cut the hedge bordering Chellaston Lane down to 600mm, to give a 2.4m x 43m visibility splay to comply with the County Highway Authority's requirements.

### **Planning History**

9/2011/0413: Application for the variation of condition three of planning permission 9/2011/0413– Refused on highways grounds. County Highways considered visibility to be substandard at the site access onto Chellaston Lane, and an increase in vehicle movement generated by occupation of the premises, other than by household members of 40 Holden Avenue or by domestic staff, would lead to the intensification of the substandard access, contrary to the best interests of highway safety.

9/2008/0261 – Application for the conversion of the existing garage into a granny annex – Granted.

9/2004/0790 – Application for the erection of a two-storey side, single storey front extension and a detached double garage – Granted.

### **Responses to Consultations**

The Parish Council registers their strongest objection to this proposal. The enlarged entrance to the two properties would reduce parking for residents who have nowhere else to park and would increase congestion, which the Parish Council has sought to reduce. It is felt that there has been flagrant abuse of the planning process; the first a large garage was constructed which was subsequently converted into a dwelling for "family members", and is now being "let out" to a private resident. The Council feel that this "stealth" approach should not enable residents to construct properties in front gardens. Neighbouring residents have voiced their objections and have pointed out the property has been privately let for some time.

The County Highway Authority comments that visibility at the site access onto Chellaston Lane is considered substandard due to the boundary hedge. However, it considers that there is scope to improve visibility by reducing the height of the hedge to the left when exiting the site, to an extent that would achieve an acceptable visibility splay. Therefore, it considers that the removal of condition 3 to allow third party occupation of the annexe would not have a detrimental highway impact, subject to the inclusion of a condition being included on any consent granted. It has no concerns regarding on site parking and considers that at this location an increase in roadside parking would be more of an inconvenience and not necessarily a road safety hazard.

### **Responses to Publicity**

There has been three neighbour objections to this proposal, their concerns are:

- It is not clear how the visibility for any vehicle exiting 40 Holden Avenue onto Chellaston Lane would be improved by lowering the hedge. It is whatever is parked in the parking area that stops any view of traffic coming up the lane from the village. From the opposite direction the view is restricted by the fact that the end of the drive/entrance is recessed back from the line of the road and the hedge along the field restricts the view.
- If planning permission is granted it would make travelling along Chellaston Lane more dangerous

- The increase in vehicle movement generated by the occupant of the bungalow/annex (other than by members of the household of 40 Holden Avenue) has already intensified, causing problems for the residents of Holden Avenue and Chellaston Lane. Many of the houses on Holden Avenue have no vehicle access to their properties so have to rely on lay-by parking.
- Parking spaces here are already limited, and the problem of parking would be exacerbated especially for people who have no access to their house to park.
- The windows installed in the annex face a neighbours dwelling.
- 40 Holden Avenue have been in breach of planning consent by renting out to at least two separate tenants since the conversion of the garage. The Council appears to be turning a 'blind eye' to this. If condition three was removed it would start a precedent in the locality, and it would not be long before it is inundated with planning applications to build bungalows in people's gardens.

### **Development Plan Policies**

The relevant policies are:

Local Plan: Transport Policy 6 and Housing Policy 5.

### **National Guidance**

PPG 13 and PPS3

### **Planning Considerations**

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

- The introduction of a self-contained dwelling on the site
- Highways safety implications

### **Planning Assessment**

The whole property is within the village confine of Aston on Trent, therefore the principle of a new dwelling within this location is acceptable under Housing Policy 5.

The annex is already established, and is not detrimental to neighbouring dwellings in terms of amenity, overlooking and overshadowing, and is not harmful to the street scene. The introduction of the annexe as a self-contained dwelling would not alter any of this situation. The main issue is whether allowing third party occupation of the annex would cause any highway safety issues.

Objectors are concerned about the parking situation along Chellaston Lane causing a danger to road users. However, given that 2 - 4 vehicles can park on the drive of 40 Holden Avenue and there is lay-by parking south of the annex, and on the advice of the County Highways Authority, reducing the hedge facing Chellaston Lane would achieve an acceptable visibility splay. Therefore the removal of condition 3 would have no detrimental highway safety impacts.

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. Before first occupation of the annex, the subject of the application, the existing access to Chellaston Lane shall be modified in accordance with the letter/drawing submitted as part of the application and provided with a visibility splay extending from a point 2.4m from the carriageway edge in the south eastern direction, measured along the centreline of the access, for a distance of 43m in each direction, measured along the nearside carriageway edge. The area in advance of the sightlines shall be cleared and permanently maintained clear of any object greater than 1m in height (0.6, in the case of vegetation) relative to adjoining nearside carriageway channel level. The hedge boundary to the right of the access, in the northwestern direction, shall be permanently maintained at a height no greater than 600mm, relative to the nearside carriageway channel level.

Reason: In the interests of highway safety.

2. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

3. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, the dwelling hereby permitted shall not be enlarged or extended without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.

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

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, the existing parking space shall not be used other than for the above stated purpose except with the prior permission of the Local Planning Authority granted on an application made in that regard.

Reason: To ensure that adequate parking provision is available.