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REPORT TO:	Development Control Committee	AGENDA ITEM: 7
DATE OF MEETING:	28 May 2002	CATEGORY: DELEGATED
REPORT FROM:	DEPUTY CHIEF EXECUTIVE	OPEN PARAGRAPH NO:
MEMBERS' CONTACT POINT:	Tony Burdett	DOC:
SUBJECT:	OS Field 3932 Derby Road Stanton by Bridge	REF:
WARD(S) AFFECTED:	Ticknall	TERMS OF REFERENCE:

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### 1.0 Recommendations

- 1.1 That no action be taken, subject to monitoring

### 2.0 Purpose of Report

- 21 To consider a breach of Condition 7 of planning permission 9/2001/0298/F granted in respect of the repositioning of a field access and the erection of a stable block.

### 3.0 Detail

- 3.1 Permission was granted for the above-mentioned development in June 2001. The two elements of the development are mutually exclusive. There is no requirement for the new access to be provided prior to the stables being brought into use, nor any sustainable safety reason why this should be the case. Condition 6 requires the existing access to be sealed up prior to the new access being brought into use. However Condition 7 requires a Hawthorn hedge to be planted along the line of the existing access on completion of the stable block. It would have been more appropriate to link the planting of the hedge with the formation of the new access, as it is this that provides a basis to close the existing access. The stable has been built but the new access has not been formed.
- 3.2 A complaint has been received from neighbour about the non-compliance with Condition 7. Thus Condition 7 if applied would be a de facto means of sealing the existing access even if the new one is not formed. This would be manifestly unreasonable and the result would be that existing parking and access to the field would be lost and the only place for vehicles to park would be in the highway. Having regard to the alignment of the highway at this point such a situation would be most hazardous.
- 3.3 If the new access is subsequently formed it would then be reasonable to enforce Conditions 6 & 7 concurrently.

### 4.0 Financial Implications

- 4.1 An appeal against an enforcement notice would inevitably make the Council vulnerable to a claim for costs on the grounds of unreasonableness.

## **5.0 Corporate Implications**

5.1

## **6.0 Community Implications**

6.1

## **7.0 Conclusions**

- 71 That no action be taken at the present time but that the site be monitored in order that the condition can be enforced if the new access is formed.

## **8.0 Background Papers**

- 8.1 Planning application file 9/2001/0298/F.