

## **DEVELOPMENT CONTROL COMMITTEE – 23 August 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 HEAD OF PLANNING SERVICES**

#### **1. Planning Applications**

#### **2. Appeals**

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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.



23/08/2005

**Item** 1.1**Reg. No.** 9/2005/0391/U**Applicant:**

Mr D Crocker  
 Chapel Farm Wilne Lane  
 Shardlow  
 Derby  
 DE722HA

**Agent:**

Mr D Crocker  
 Chapel Farm Wilne Lane  
 Shardlow  
 Derby  
 DE722HA

**Proposal:** The change of use to form a basin to moor 24 boats at Chapel Farm Marina Wilne Lane Shardlow Derby

**Ward:** Aston

**Valid Date:** 29/03/2005

**Site Description**

The site lies adjacent to existing extensive moorings alongside the Trent and Mersey Canal conservation area and within the green belt. The Grade II listed Porters Bridge lies to the south-east about 16 metres from the proposed basin at its nearest point.

**Proposal**

The applicant seeks to form a canal basin to contain 24 narrow boats. The basin would be set about 13 metres back from the canal bank and would be connected by a narrow cut.

**Applicants' supporting information**

- a) The agreement of British Waterways has been secured for the use of a geo-textile mat to line the basin. This would obviate the need to import clay to form an impervious base.
- b) The total amount of material to be dug out would be about 2000 cubic metres.
- c) If all the material were to be removed this would involve a maximum 100 lorry movements over a six week period.
- d) On the basis of negotiation with Environment Agency it would be possible to retain most of the excavated material on site around the perimeter of the basin.

**Planning History**

Permission was granted for a 12-boat canal basin at the site in 2004 (9/2004/0422). This has not been constructed and the current proposal would be an alternative scheme.

A larger basin was granted permission in 1998 (9/1998/0360), which is in full use. That application was granted on the understanding that excavated sand and gravel would be taken to a nearby quarry by barge and clay imported by similar means. However when works were underway it became apparent that the material was being transported by road, and this generated

significant complaints for the duration of the works, on the basis of the associated lorry movements.

## Responses to Consultations

The Parish Council objects as follows:

- a) The plans do not show adjacent existing and permitted moorings.
- b) The proposal involves change of use from agriculture.
- c) If there were a change of use from storage to leisure then this would be significant.
- d) The disposal of excavated material on the land would result in significant raising of the levels of the surrounding area.
- e) There are no proposals for the parking of vehicles or access, including for emergency vehicles.
- f) The application provides no details of the means of extraction of material, effective means of disposal of material, transportation of clay to puddle the basin, site security or access for contractors' vehicles.
- g) Landscaping for the previous basin has not been started let alone completed.
- h) The stability of the adjacent Porters Bridge is not considered.
- i) If permission is granted the following conditions are recommended:
  - Materials to be imported and exported by water. There must be a restriction on any necessary lorry movements in Wilne Lane. A method statement is essential.
  - There should be no occupation of the site until the basin and landscaping are complete.
  - There should be no storage facilities on adjacent land (e.g. sheds).
  - A full landscape design must be produced.
  - Full details of parking, access and emergency plans must be provided.
  - Full details of refuse and sewage disposal at this site must be provided.
  - The Environment Agency and emergency services must be consulted.

The Environment Agency has no objection subject to conditions.

The Highway Authority, County Archaeologist, Environmental Protection Manager and British Waterways have no objection in principle.

The Design and Conservation Officer comments that the proposal would be sympathetic to the surrounding area and would not have an adverse effect on the setting of the listed canal bridge.

## Development Plan Policies

The relevant policies are:

RSS8: Policy 6

Joint Structure Plan: General Development Strategy Policy 7, Environment Policies 9 & 10 & Leisure and Tourism Policies 1,2 & 3.

Local Plan: Green Belt Policy 6, Environment Policies 12 & 13 and Recreation and Tourism Policy 1.

## Planning Considerations

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

- The principle
- Impact on the openness of the green belt and the countryside.
- Impact of the character and appearance of the conservation area and the setting of the listed building.
- Traffic.
- Flood risk.

## Planning Assessment

The acceptability of moorings in the green belt has been the subject of differing opinion on appeal decisions over the years. This Council has previously taken the view that canal basins adjacent to existing mooring facilities are, in principle, acceptable in the green belt, being extensions to outdoor recreational facilities. This approach is consistent with decisions elsewhere. On a recent appeal in respect of an amenity block at Shardlow Marina the Inspector considered the combined presence of buildings, caravans and moorings to significantly reduce the openness of that part of the green belt. However in the case of the subject proposal there are no significant permanent buildings and activity is confined to boat moorings only. Furthermore views of the site are only available on a level plane and intervening hedgerows and trees help the use to blend into the landscape. The moorings are generally only readily apparent when passing by on the canal or its towpath. This contrasts with Shardlow Marina, which is clearly visible from elevated vantage points. On the basis of its different circumstances, past decisions and the extant permission for a smaller basin on the site the proposal does not fall into conflict with the development plan.

For the reasons set out above the proposal would not materially harm the openness of the green belt or the general character of this part of the countryside.

On the advice of the Design and Conservation Officer the character of the conservation area would be preserved and no harm would result to the setting of the adjacent listed Porters Bridge.

On the advice of the Highway Authority the proposal would not harm highway safety interests. The lack of need to import clay and the agreement of the Environment Agency to allow some deposition of material on site would reduce the risk of significant vehicle movements in Wilne Lane. A condition could be imposed to ensure that the geo-textile lining be used instead of clay, along with a scheme for the deposition of material on site. There is existing provision for access and parking around the existing canal basin and there is no demonstrable need for additional facilities for the proposed use.

On the advice of the Environment Agency the flood risk is acceptable.

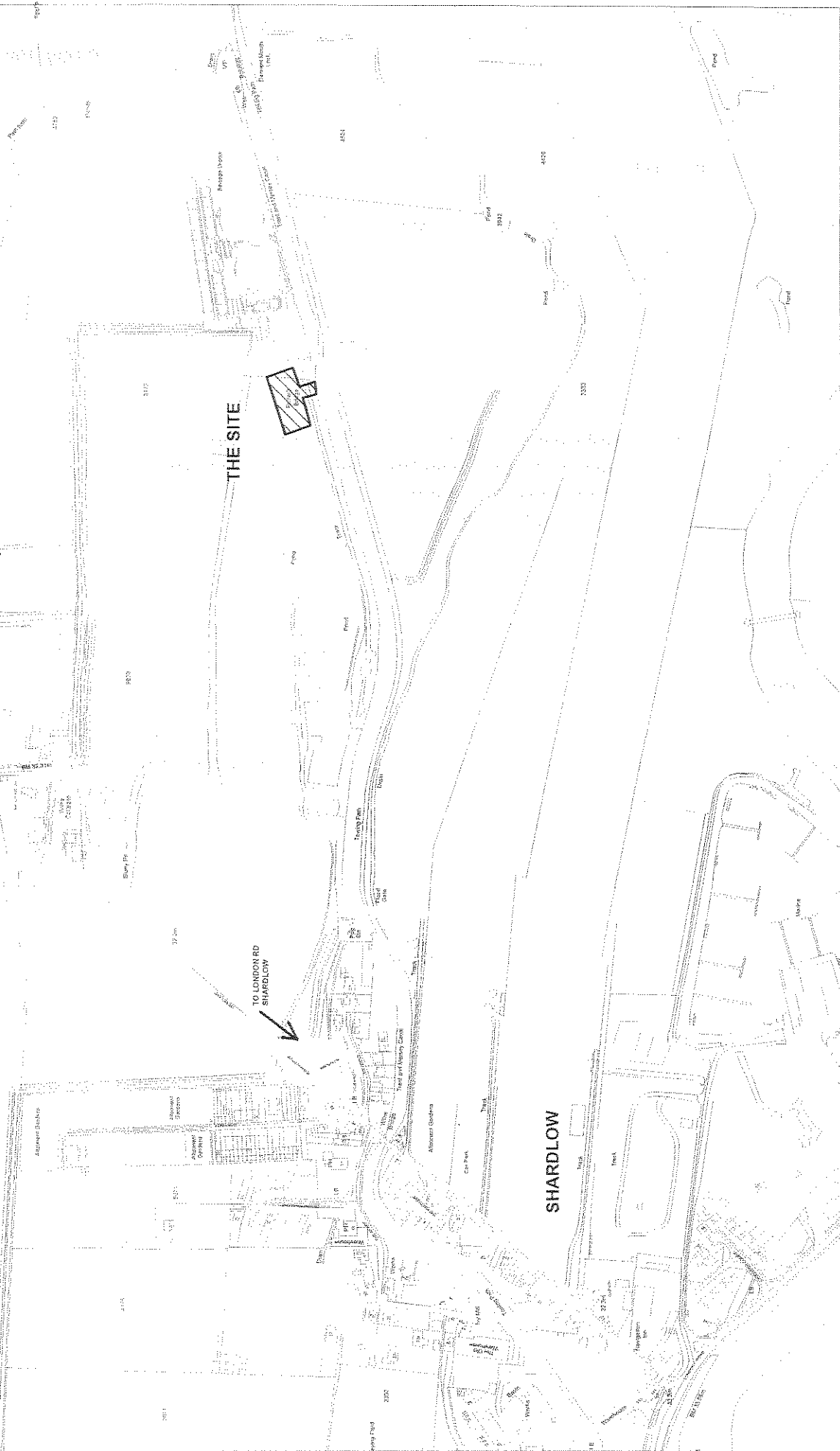
None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

## Recommendation

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

1. 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. Unless as may otherwise be agreed in writing with the Local Planning Authority excavations shall be no deeper than 2.3 metres below existing ground level.  
Reason: To minimise the need to dispose of excavated material off site in the interests of amenity.
3. Before development begins details of a scheme for the deposition of excavated material shall be submitted to and approved in writing by the Local Planning Authority. Deposition of the excavated material shall be undertaken in accordance with the approved scheme only.  
Reason: In the interests of flood control.
4. 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.
5. 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.
6. Unless otherwise agreed in writing by the local planning authority, any galvanised pilings will be covered with timber whaling boards so that the pilings are not visible above the water line of the canal.  
Reason: In the interests of the appearance of the area.
7. During the construction period any facilities for the storage of oils, fuels or chemicals, shall be sited on impervious bases and surrounded by impervious walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks plus 10%. All filling points, vents or gauges and site glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and be protected from accidental damage. All filling points and tank overflow pipe outlets shall be designed to discharge downwards into the bund. No rainwater contaminated with silt/oil from disturbed ground during construction shall be allowed to drain to surface water sewer or watercourse without sufficient settlement.  
Reason: In the interests of pollution control.

9/2005/0391/U Chapel Farm Marina  
Wilne Lane  
Shardlow



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Scale 1:5000  
Plot centred at 428536 325343

Date Plotted 11/8/2005  
9/2005/0391/U Chapel Farm Marina  
Wilne Lane  
Shardlow



23/08/2005

**Item** 1.2**Reg. No.** 9/2005/0408/M**Applicant:**

Derby Hospitals NHS Foundation Trust  
 Derby City General Hospital  
 Uttoxeter Road  
 Derby  
 DE22 3NE

**Agent:**

Alf Plumb  
 D P D S  
 Gleneagles House  
 Derby  
 DE1 1UP

**Proposal:** Outline application (all matter to be reserved except for means of access) for the demolition of the existing hospital and proposed residential development at The Grove Hospital London Road Shardlow Derby

**Ward:** Aston

**Valid Date:** 31/03/2005

**Site Description**

The site is located at the western edge of the village, set between a residential estate at Glenn Way and commercial development at Manor Farm. The existing hospital buildings on the site comprise a mixture of one and two storey structures in two distinct blocks. The buildings frame an undulating grassed area fronting London Road. It is understood that until 1981 buildings occupied this open area. All but a small area of the site (a hard surfaced car parking area) lies within the confine of the village as defined in the adopted Local Plan. The existing access to the hospital is at the western extremity of the site frontage, where the A6 London Road has a bend.

**Proposal**

The proposal is in outline but the means of access is not a reserved matter. The proposed access would be located on the grassed area at the front of the site.

**Applicants' supporting information**

The applicant has provided a detailed statement in support of the proposal, the main points of which are as follows:

- a) The Local Plan supports the redevelopment of redundant health facilities in this village.
- b) The Grove Hospital site is entirely previously used land.
- c) National, strategic and local planning policy and guidance supports the re-use of previously developed land.
- d) The site is located at the western edge of Shardlow and is almost entirely within the defined boundary of the village.
- e) The site is no longer suitable for the requirements of the NHS who will be relocating this facility to new purpose built premises.



- f) The site is well related to the services and facilities available in Shardlow.
- g) This proximity allows the utilisation of walking, cycling and public transport as an alternative to car use.
- h) As a windfall previously developed site its development would reduce the overall need for greenfield development.
- i) The proposed access is at the only location acceptable to the Highway Authority. The existing access is not suitable for residential development.
- j) The open land at the front of the site does not possess important characteristics that give it high amenity value. Furthermore it is not suitable for recreational open space because of its proximity to the highway and access. There is land to the rear of the site that would be made available for public open space.
- k) There are surplus school spaces available at Shardlow County Primary School and secondary spaces at Long Eaton. Therefore there is no justification for education contributions in this instance.
- l) The site is a sustainable location because of its proximity to the range of services and facilities available in Shardlow.
- m) A noise report demonstrates that under current conditions the site falls into a zone where there is a positive indication that complaints are unlikely for both day and night time periods. The existing adjacent factory does not emit a high level of noise and this is negligible compared to the noise from the distant adjacent A50.
- n) An Odour Assessment concludes that odours from the adjacent factory would be faint, barely detectable, transient and not particularly offensive. Objective data indicates that there would thus be no significant risk to environmental amenity.
- o) Consultants' reports on traffic and flood risk conclude that these issues can be satisfactorily resolved.

### **Planning History**

None relevant to this application.

### **Responses to Consultations**

The Parish Council objects as follows:

- a) The 30 mph sign at the entrance to the village should be moved towards Elvaston.
- b) The Parish Council would wish to have sight of DCCs traffic calming proposals before making detailed comment.
- c) The applicant states that there is no known recreational need but the origin of this is not specified.
- d) Evidence of the lack of need for school places should be provided, along with nursery provision.
- e) A significant play facility would be needed by Section 106 agreement.
- f) The traffic survey is not representative.
- g) The flood risk assessment contains various factual statements that raise queries.
- h) The access should take better account of the Safepharm access and provide better access from farm vehicles.
- i) A roundabout may be preferable, or no right turns when approaching from the west.

The Highway Authority, the Environmental Protection Manager, the County Archaeologist, The Crime Prevention Design Adviser and Severn Trent Water Ltd have no objection in principle.

Following the submission of a revised flood risk assessment the Environment Agency is satisfied in this regard.

The County Education Officer and the Primary Care Trust have no requirements for education or healthcare contributions in this case.

The Housing Strategy Manager has advised that 6 – 10 affordable houses should be provided, depending on the density of the detailed scheme, current information indicating almost equal demand for 2 bed bungalows and houses for rent.

### **Responses to Publicity**

Five letters have been received from neighbours raising the following comments and objections:

- a) Access should be retained for the existing business premises next door and for farm vehicles.
- b) A mains gas supply to the adjacent premises passes through the site.
- c) There could be a security risk to the adjacent business premises. There should be landscaped buffer to preclude the use of the land adjacent to the business premises for recreation.
- d) The existing conifer hedge between the site and Glenn Way provides privacy for residents. Its removal would cause loss of privacy.
- e) There would be increased noise, light pollution and traffic
- f) The removal of the conifer hedge would result in the loss of wildlife habitat.
- g) Building work would cause noise, dust and increased traffic.
- h) The proposal would be detrimental to highway safety.
- i) The access would pass thorough an attractive green area to the detriment of the visual amenity of the area.
- j) Some of the existing buildings should be retained for historical interest.
- k) Affordable housing should be provided to meet local needs.
- l) A roundabout should be provided to enable better access to the site, to slow traffic and to discourage the use of London Road by HGVs.

### **Structure/Local Plan Policies**

The relevant policies are:

RSS8: Policy 3

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

Local Plan: Housing Policy 5, Recreation and Tourism Policy 4 and Community Facilities Policy 3.

### **Planning Considerations**

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

- The principle and sustainability.
- Impact on the character and appearance of the area.
- Residential amenity.
- Highway safety.

- Flood risk.
- Sewerage and drainage.
- Archaeology
- Affordable housing.
- Provision of community facilities.

### Planning Assessment

The site lies with the village confine except for a small area used as a car park. Given that this area of land is hard surfaced, small scale and directly adjacent to the village confine, there is no material conflict with policy in this particular case. Therefore the proposal is in conformity with the development plan. The village is well served by local facilities and provides opportunities for travel by means other than the private car. It is also previously used land. Therefore the proposal is in accord with the objectives of sustainable development.

The applicant has not offered to retain the existing buildings on the site. They are not listed and are not situated within a conservation area. Therefore there is no means to require their preservation in any new development. The application is in outline so matters of detailed design would be for later consideration. Government guidance in PPS1 provides a basis to ensure that this is in keeping with its surroundings. The other main implication for the visual impact of the development relates to the open land at the front of the site. This is mown grass and contains several ornamental trees. Its present amenity value derives from two factors. Firstly the land provides an open feature at the edge of the village providing an attractive transition from the built up area to the open countryside beyond. Secondly it is framed by the existing old buildings on the site and therefore makes a positive contribution to their setting. If, as is likely, the buildings were to be demolished then the second factor would no longer be applicable. Therefore the main value of the area of land is in softening the edge of the village. It is evident that the access would need to be formed across this land. If the land is retained in its entirety there would be pressure for it to be used as recreational space within the development. Its proximity to the highway would not be ideal for such usage. A narrower but more heavily landscaped strip would serve the purpose of providing a soft edge to the village as a visual amenity and would enable the public open space to be provided in a more functionally appropriate location on the applicant's land. A 15-metre wide strip would provide adequate space for significant landscaping works to be undertaken.

The site is capable of being developed in accordance with the relevant supplementary planning guidance. The principal access to the site would be set away from existing dwellings. Therefore the impact on residential amenity would be acceptable. The conifers between the exiting buildings and dwellings on Glenn Way are not worthy of a Tree Preservation Order and their retention is not necessary to protect residential amenity.

On the advice of the Highway Authority the application would not give rise to adverse traffic or highway safety conditions.

On the advice of the Environment Agency the development would be acceptable in terms of flood risk.

Archaeological and sewerage and drainage issues can be adequately safeguarded by conditions recommended by the County Archaeologist and Severn Trent Water Ltd respectively.

The applicant has agreed to provide 20% affordable housing, which is a reasonable proportion of the development.

No demonstrable need for education or health facilities has been identified. Public open space could be secured in accordance with policy.

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 providing a unilateral undertaking, or entering into an agreement with the Council, under Section 106 of the Town and Country Planning Act 1990 to secure the provision of a commuted sum for maintenance of the public open space and the provision of 20% affordable housing, **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 siting, design and external appearance of the building(s) 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. The landscaping details required pursuant to Condition 2 above shall include a 15 metre wide planted strip across the site frontage (excluding the land required for access and visibility splays).

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

4. 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.

5. Playing and incidental open spaces, excluding areas of incidental landscaping and highway verges, shall be provided to a standard of 2.4 hectares per 1,000 population on the following basis:

4 bed dwelling - 3.5 persons

3 bed dwelling - 3 persons

2 bed dwelling - 2 persons

1 bed dwelling - 1 person.

Reason: To ensure an adequate standard of provision, in the interests of amenity.

6. No work shall take place on the site until details of a scheme for the disposal of surface water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall consider the use of Sustainable Drainage Techniques and shall not result in an increase in the rate of surface water discharge to the local land drainage system. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use or in accordance with an agreed timetable.

Reason: In the interests of flood protection.

7. Unless as may otherwise be approved in writing by the Local Planning Authority floor levels shall be set at least 34.60 metres above Ordnance Datum.

Reason: In the interests of flood protection.

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

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

9. No work shall take place on the site until details of a scheme for the disposal of 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 pollution control.

10. 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: 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. Before any other operations are commenced, a new estate street junction shall be formed onto London Road in accordance with BSP Drawing 04216/002 Revision C and constructed complete with the visibility splays, in accordance with specifications that shall have previously been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

12. Prior to the first use of the development hereby permitted, the land in advance of the visibility splays required by Condition 11 above shall be cleared and thereafter retained free of all obstructions to visibility over a height of 1 metre above the adjoining carriageway level.

Reason: In the interests of highway safety.

13. Before development begins a scheme for the disposal of highway surface water via a positive gravity fed system discharging to an outfall in public sewer, highway drain or water course shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with a timetable which shall have previously been agreed in writing with the Local Planning Authority.

Reason: In the interests of highway safety.

#### Informatives:

The London Road frontage to the site is affected by Prescribed Building Line Number 48B, which may need to be locally rescinded if affecting proposed building works.

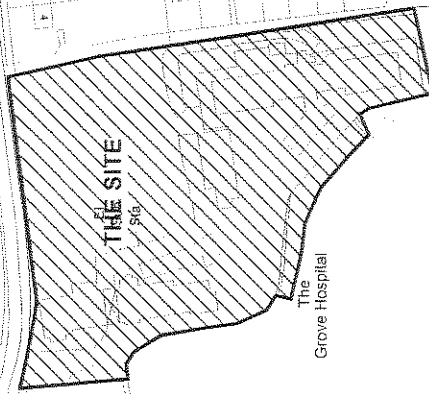
9/2005/0408/M The Grove Hospital

London Rd

Shardlow Moor

Shardlow

# SHARDLOW



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Scale 1:2500

Plot centred at 428536 325343

Date Plotted 11/8/2005

9/2005/0408/M The Grove Hospital  
London Rd  
Shardlow

23/08/2005

**Item** 1.3**Reg. No.** 9/2005/0410/O**Applicant:**

Hamlet New Homes  
 278 Uttoxeter New Road  
 Derby  
 DE22 3LN

**Agent:**

John Church Planning Consultancy Limited  
 Victoria Buildings 117 High Street  
 Clay Cross  
 Chesterfield  
 Derbyshire  
 S45 9DZ

**Proposal:** Outline application (all matters to be reserved except for means of access) for residential development at Grotto Farm Main Street Overseal Swadlincote

**Ward:** Seales

**Valid Date:** 31/03/2005

**Site Description**

The land has been used as a garden centre and for HGV parking.

**Proposal**

No details other than the access arrangements have been submitted.

**Applicants' supporting information**

A justification for the application dealing with matters raised below has been submitted. A report from an arboriculturist advises that the two sycamore trees that would be removed to form the access are healthy and of good/average amenity value. These would need to be felled but two new cherry and two new oak trees are suggested in their place.

A Unilateral undertaking under S106 has been submitted covering issues below.

**Planning History**

Outline permission for residential was refused in 2003 and upheld on appeal.

A Certificate of Lawful Established Use and Development has been issued establishing that the site was used for a garden centre, storage, light industry and HGV storage.

**Responses to Consultations**

The County Highway Authority has no objection subject to clarification of the area within the applicant's control and conditions.



Subject to satisfactory drainage works STW has no objection.

The Parish Council supports the application. The Parish Council owns land adjoining and suggests that it could be used for garaging for residents of Moira Road and/or public open space subject to a S106 Agreement.

The LEA has no requirement for a contribution to education provision.

The PCT asks for the usual contribution to local health care provision.

The Pollution Control Officer requests a condition to cover possible ground contamination.

### **Responses to Publicity**

Two letters, one signed by 4 residents, object to the application because:

- Moira Road is only 6.0m wide and is used for parking for householders with no off-road provision. A road junction opposite would make such parking illegal and cause hazards were parking to occur. The convenience and security of parking outside the houses would be lost
- Moira Road is now a major route to the National forest visitor centres and Ashby and needs traffic calming because of congestion and highway safety issues
- A previous application was rejected for this reason
- Vehicles using the new access would cause disturbance at all hours with lights and noise
- Loss of property value

### **Development Plan Policies**

The relevant policies are:

RSS8: Policy 2, 3 and 4

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

Local Plan: Housing Policy 5

### **Planning Considerations**

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

- Compliance with policy
- Highway access
- Affect on amenity and trees

### **Planning Assessment**

Refusal of permission on this site in 2003 was based on three reasons:

- The site was Greenfield and therefore development would be contrary to PPG3 and the Emerging Local Plan
- The number of dwellings proposed was too low and would be contrary to PPG3
- Insufficient space was provided for the proposed junction.

On appeal the inspector concurred.

The current application is on a different footing:

- The CLUED has established that the site is brown field
- The number of dwellings is not specified and left to submission of details
- A satisfactory access incorporating land from adjoining property owners has been submitted

Accordingly the proposal is in conformity with the Development Plan.

Negotiations have proceeded to secure the necessary health contribution and contributions to on- and offsite open space/facilities in lieu of onsite provision and a Unilateral Undertaking has been submitted to secure this.

The County Highway Authority is satisfied that the access can be accommodated to comply with standards for adoption and the Parish Council is in support of the application and willing to facilitate open space provision/National Forest planting.

The access has been modified to save as many trees as possible and replacement planting is feasible.

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 providing a unilateral undertaking, or entering into an agreement with the Council, under Section 106 of the Town and Country Planning Act 1990 to secure the provision of the Healthcare Contribution, the Public Open Space and the National Forest Planting **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 siting, design and external appearance of the building(s) and 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. 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: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

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

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

5. Unless otherwise agreed no development shall be commenced until the junction has been constructed to Moira Road in accordance with submitted drawing SD02C with the exception that the footway on the eastern side shall be extended as shown red on the attached extract from the plan. The carriageway shall be surfaced with a solid bound material for a minimum distance of 15m from the Moira Road highway boundary and the land shown cross hatched on drawing number SD02C shall be cleared and thereafter maintained free, of all obstructions above ground level.

Reason: In the interests of highway safety.

6. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. SD02 C

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

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 be commenced, excluding the construction of the access to Moira Road, until space has been provided within the curtilage for site accommodation, plant and materials storage, lorry loading/unloading, parking and manoeuvring space, and employee/visitor parking and manoeuvring space in accordance with a scheme first submitted to and approved by the Local Planning Authority. The approved facilities shall be maintained available throughout the construction period.

Reason: In the interests of highway safety.

10. No development shall be commenced until the access to Main Street has been permanently closed in accordance with a scheme first submitted and approved by the Local Planning Authority.  
Reason: In the interests of highway safety.
11. No development shall be commenced, excluding the construction of the access to Moira Road, until the eastern access to Eaton House Farm has been permanently closed and an alternative access to the new estate street provided in accordance with details first submitted to and approved by the Local Planning Authority.  
Reason: In the interests of highway safety.
12. The proposed access from the new estate street to the rear of 12 Moira Road shall be constructed and maintained in accordance with details first submitted to and approved by the Local Planning Authority.  
Reason: In the interests of highway safety.
13. Prior to the first occupation of any dwelling on the site the areas shown crosshatched on submitted drawing number SD02C shall be constructed as footway and the new estate street carriageway and footways shall be surfaced to minimum binder course level.  
Reason: In the interests of public and highway safety
14. The internal road layout shall accord with the County Council's Roads in Housing policy document or such other criteria as may be agreed.  
Reason: In the interests of Highway safety
15. Highway surface water drainage shall be disposed of via a positive gravity-fed system to an approved outfall (public sewer, highway drain or watercourse sanctioned by the Water Company, Highway Authority or Environmental Agency respectively).  
Reason: In the interests of Highway safety.
16. All details of the internal layout including garaging and off-street parking provision shall be reserved for subsequent approval.  
Reason: In the interests of highway safety.

9/2005/0410/O Grotto Farm

Main St

Overseal

OVERSEAL



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Scale 1:1600 Date Plotted 11/8/2005

Plot centred at 428536 325343

9/2005/0410/O Grotto Farm  
Main St  
Overseal



23/08/2005

**Item** 1.4**Reg. No.** 9/2005/0411/O**Applicant:**

Hamlet New Homes  
 278 Uttoxeter New Road  
 Derby  
 DE22 3LN

**Agent:**

John Church Planning Consultancy Limited  
 Victoria Buildings 117 High Street  
 Clay Cross  
 Chesterfield  
 Derbyshire  
 S45 9DZ

**Proposal:** Outline application (all matters to be reserved except for means of access) for a residential development at Grotto Farm Main Street Overseal Swadlincote

**Ward:** Seales

**Valid Date:** 31/03/2005

Councillor Atkin has instructed that this application be brought before the Committee.

**Site Description**

The site is the other half of the same unit as for 9/2005/0410.

**Proposal**

The proposal is similar to 9/2005/0410 in all respects.

**Responses to Publicity**

Four letters of objection have been received for the following reasons in addition to those summarised under 9/2005/0410:

- Traffic congestion arising from the visitor attractions and general growth that already causes tailbacks and use of footways by vehicles would be increased by the new development to the detriment of all road users, including pedestrians
- Trees and wildlife would be lost
- Construction would cause nuisance
- The development would overlook adjoining dwellings and gardens

In all other respects the consideration of this application mirrors that of 9/2005/0410.

**Recommendation.**

Subject to the applicant providing a unilateral undertaking, or entering into an agreement with the Council, under Section 106 of the Town and Country Planning Act 1990 to secure the provision of the Healthcare Contribution, the Public Open Space and the National Forest Planting 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 siting, design and external appearance of the building(s) the means of access thereto and 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. 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: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

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

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

5. Unless otherwise agreed no development shall be commenced until the junction has been constructed to Moira Road in accordance with submitted drawing SD02C with the exception that the footway on the eastern side shall be extended as shown red on the attached extract from the plan. The carriageway shall be surfaced with a solid bound material for a minimum distance of 15m from the Moira Road highway boundary and the land shown cross hatched on drawing number SD02C shall be cleared and thereafter maintained free, of all obstructions above ground level.

Reason: In the interests of highway safety.

6. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. SD02 C

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

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 be commenced, excluding the construction of the access to Moira Road, until space has been provided within the curtilage for site accommodation, plant and materials storage, lorry loading/unloading, parking and manoeuvring space, and employee/visitor parking and manoeuvring space in accordance with a scheme first submitted to and approved by the Local Planning Authority. The approved facilities shall be maintained available throughout the construction period.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

11. No development shall be commenced, excluding the construction of the access to Moira Road, until the eastern access to Eaton House Farm has been permanently closed and an alternative access to the new estate street provided in accordance with details first submitted to and approved by the Local Planning Authority.

Reason: In the interests of highway safety.

12. The proposed access from the new estate street to the rear of 12 Moira Road shall be constructed and maintained in accordance with details first submitted to and approved by the Local Planning Authority.

Reason: In the interests of highway safety.

13. Prior to the first occupation of any dwelling on the site the areas shown crosshatched on submitted drawing number SD02C shall be constructed as footway and the new estate street carriageway and footways shall be surfaced to minimum binder course level.

Reason: In the interests of highway safety.

14. The internal road layout shall accord with the County Council's Roads in Housing policy document or such other criteria as may be agreed.

Reason: In the interests of highway safety.



15. Highway surface water drainage shall be disposed of via a positive gravity-fed system to an approved outfall (public sewer, highway drain or watercourse sanctioned by the Water Company, Highway Authority or Environmental Agency respectively).

Reason: In the interests of highway safety.

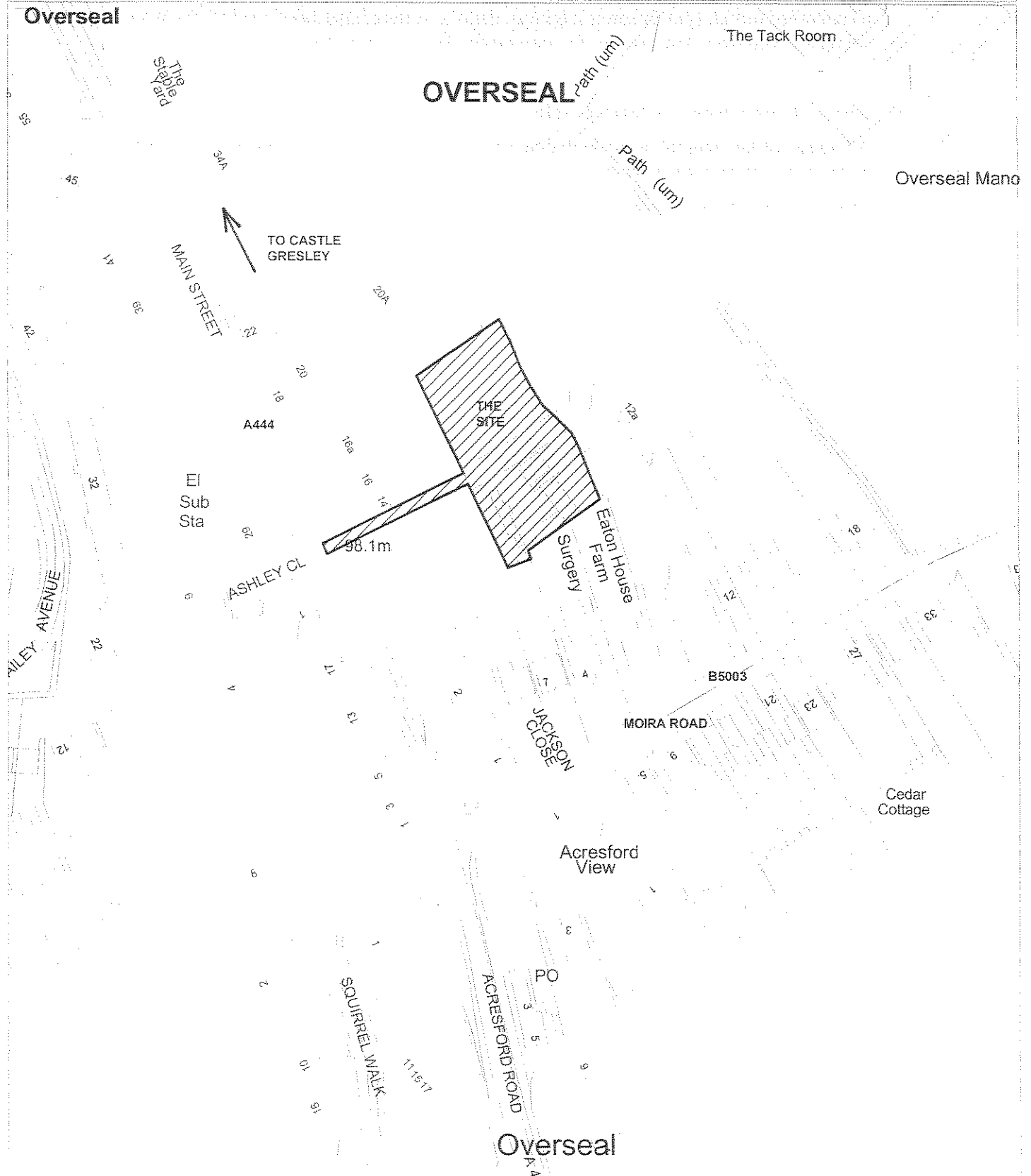
16. All details of the internal layout including garaging and off-street parking provision shall be reserved for subsequent approval.

Reason: In the interests of highway safety.

9/2005/0411/O Grotto Farm

Main St

Overseal



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Scale 1:1600 Date Plotted 11/8/2005

Plot centred at 428536 325343

9/2005/0411/O Grotto Farm  
Main St  
Overseal



23/08/2005

**Item 1.5****Reg. No.** 9/2005/0710/R**Applicant:**

Cranberry Foods Ltd  
 Holly Bank Farm  
 Scropton  
 Derby  
 DE65 5PS

**Agent:**

ARM Ltd  
 Rydal House  
 Colton Road  
 Rugeley  
 Staffordshire  
 WS15 3HF

**Proposal:** The variation of condition 1 of planning permission 9/2004/0859/R for the extension of time for the retention of a water detention pond, sump and soakaway until end of May 2006 to enable construction of new effluent treatment plant at Holly Bank Farm Scropton Derby

**Ward:** North West

**Valid Date:** 14/06/2005

**Site Description**

The site comprises an existing lagoon enclosed by mounding. It lies in open countryside to the southeast of the existing Cranberry Foods factory site. The site is located immediately to the south of the railway line.

The site lies within the flood plain of the River Dove.

**Proposal**

The application is as described above.

**Applicants' supporting information**

The company acknowledges that odours from the lagoons have been a source of complaint. It has devised a strategy to remove odours from the current lagoons and is investing £1000/week on temporary measures to ensure that smells are minimised.

In order to implement the effluent treatment plant and commission it the company needs to continue to produce product and it has requested that the second lagoon be retained pending the construction and commissioning of that plant as it has been advised by the Environment Agency that this is the best way to treat the company's effluent to a standard that would be capable of discharge directly into the River Dove.

The installation of the plant will take some months and the works will not be completed until after the expiry of the current temporary permission in September this year. Accordingly the company has requested a further extension of the permission until May 2006.

Since submission the company has been asked to consider the alternatives to the retention of the lagoon should the authority be minded to refuse permission, it has commented as follows:

It emphasises the importance of maintaining production whilst the new treatment plant is installed. From its point of view the retention of the second lagoon is the preferred option and the company has invested considerable funds to make sure it works effectively and to reduce odours. The firm intention is that this lagoon be returned to the floodplain without delay. The alternative to this is for the company to use tankers to remove the effluent from the site. This would be a very expensive solution and in the company's opinion would result in nuisance to the residents of Scropton.

In normal operation conditions there would need to be 6-8 tanker movements per hour Monday to Saturday in the morning period, 2-4 movements per hour after midday into the small hours of the morning. In December there would be 24hr/7 day per week operation of the plant. 6-8 movements would occur for 14 hours each day and 2-4 movements throughout the night. It is also the view of the company that the odours from the holding tank on the site would be increased as the effluent was transferred to the lorries.

The company has also stated in the statement that its ultimate intention would be to restore the original lagoon to the floodplain and has promised to submit a unilateral undertaking to achieve this.

### **Planning History**

The site has evolved into a major turkey processing plant over the years, with a significant number of buildings now in place. In terms of effluent treatment, an unauthorised lagoon was constructed in 1990 by the previous proprietor, and when it came to light in 2001, it was immune from enforcement action.

In 2001 a second lagoon was formed and temporary permission to retain it was granted permission. At the same time an effluent screening plant was permitted together with an above ground housing. The aim of this was to remove most of the solid material from the discharge by passing it through a reed bed on the site of the first lagoon before discharging the run off to the gravel beds to the River Dove. The previous proprietor installed the effluent screening plant but the reed bed was not created.

The company that obtained the permission in 2001 went into liquidation and the current applicants, Cranberry Foods, bought the business in 2003 and then sought permission to retain the lagoon for a further 2 years to give it time to implement an effluent treatment process that would meet the requirements of the Environment Agency. The Committee granted permission for a 12-month period.

The Committee granted permission for the installation of an effluent treatment plant at its last meeting.

## Responses to Consultations

Foston and Scropton Parish Council object most strongly to the retention of this lagoon. The Local Planning Authority took the objections to the last application to retain the lagoon very seriously and limited the time to 1 year so that the company would take urgent steps to address the problem and deal with the odour problem. Any difficulty that the company now finds itself in is solely their fault, as they have not taken the warning implicit in the last decision. Although the company claims to be spending monies to reduce odour, they continue to return most notably in June this year when residents and businesses were adversely affected. The Environmental Protection Manager has served a statutory nuisance notice on the company.

The applicants must not be allowed to disregard the outcome of last year's deliberations, the lagoon has now been in place for 5 years and any decision other than refusal would give the company what it wanted in the first place and it is hoped that the Local Planning Authority will not sanction this abuse of the planning system.

The Environment Agency has no objection to the proposed extension of time as submitted.

The Environmental Protection Manager has no objection to this extension of time provided it is the last one and that the company continue to monitor odours from the lagoons and deal with them as they have been doing since the service of an abatement notice on the company earlier this year. It is felt that the imposition of the condition would encourage the company to ensure that the new effluent treatment plant is installed in the shortest possible time.

Network Rail has no objection subject to its comments about the rail infrastructure being taken into account.

## Responses to Publicity

21 letters have been received the objections are as follows:

- a) Villagers have had to put up with the stench from the factory for long enough and the company has not honoured its commitment to install the equipment at the time they previously stated of September this year. The lagoons should be removed as soon as possible. It is disappointing that the applicant is now seeking a variation from the previously agreed application. Nothing has been done to remove the lagoons since 2001.
- b) It is the company's own action in dredging the lagoons that causes the smells with material being spread onto fields or on the existing banks. This could also cause pollution of the river.
- c) The lagoons are above natural ground level and act as soak aways; this disturbs the natural water table and potentially impact on the operation of other drainage systems.
- d) There is concern about what impact the smells are having on the health of residents.
- e) Support for the views of the Parish Council are also expressed in the letters and draw particular attention to the abatement notice served on the company.
- f) It is a fear that the company do not know what to do with the lagoons and will continue to make applications for further temporary periods to retain the lagoon and this would be

intolerable. It is suggested that a limit of one month following the completion of the effluent plant would be plenty to allow for the removal of the lagoon.

- g) The smells are impacting on a local business with the smells being so bad that workers are sent home early and the business is losing revenue.
- h) The owners of the business are not able to enjoy the amenity of their home because of the smells and people have had to adjust their lifestyle because of the smells, closing windows. This is viewed as an infringement of their human rights. Residents are fed up with being told that this is definitely the last time and extension of time would be granted.
- i) It is stated that environmental health officers had indicated that the lagoon would not be used beyond September 2005.

### **Development Plan Policies**

The relevant policies are:

RSS8: Policies 1, 33, 34

Joint Structure Plan: None

Local Plan: Environment Policy 2

### **Planning Considerations**

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

- The Development Plan.
- The Unilateral Undertaking
- The removal of the lagoons.
- The impact on the area.
- The objections received.
- The effluent treatment plant in the factory.

### **Planning Assessment**

The removal of the lagoons would be in accord with the above-mentioned Development Plan policies, as land would ultimately be returned to the Rive Dove flood plain. The applicants have indicated that it is their intention to remove both lagoons in recognition of the commissioning of the effluent treatment plant and have promised to submit a unilateral undertaking to this effect. The second lagoon would be removed first in accordance with the condition recommended below. The original lagoon would be removed in accordance with the program set out in the unilateral undertaking.

The unilateral undertaking would commit the Company to remove the original lagoon from the land and to restore it to floodplain level in the year following the commissioning of the effluent treatment plant i.e. by the end of May 2007. This represents a potential benefit to the local community as previously the company had indicated that it would wish to retain this lagoon. In addition there would be a benefit arising from an increase in the available flood plain to levels that existed prior to the creation of the original lagoon.

Weighed against the above is the smells that are said to emanate from the lagoons and the factory. It is lagoons that give rise to the majority of the smells according to the objectors. However, the Environmental Protection Manager has stated that the smells come from the original lagoon and it is against this lagoon that the abatement order has been served, not the second lagoon which functions effectively.

There has clearly been a problem and it is understandable that the community is frustrated that the company is applying for a further extension of time to allow the retention of the second lagoon. However, against the desire to see the lagoon removed is the impact of the potential traffic generation and smells that would arise if permission were refused.

The Environmental Protection Manager has confirmed that the majority of the smells emanating from the lagoons arise when the sediment at the bottom of the original lagoon is disturbed. It is likely that the water to be taken from the site by lorry would be pumped into the lorries from this lagoon. It is likely that the sediment would be disturbed during pumping operations and the resultant smells would have an impact on the community. The company has set out above (Applicant's Supporting Information) the anticipated lorry movements that would arise from the normal operation of the site and in the run up to Christmas.

The issue is whether it would be preferable to have the early removal of the second lagoon and the company start to remove excess effluent from the site by lorry, or to retain the lagoon until May 2006 to allow for the commissioning of the effluent treatment plant and then have both lagoons removed in the year following that commissioning date. Given the advice from the Environmental Protection Manager and the Environment Agency the view is that the retention of the lagoon for a further period is preferable to its early removal and the potential adverse impact that would arise.

In terms of the smells, the Environmental Protection Manager has confirmed that an abatement notice has been served on the Company relating to the original lagoon and that so far the measures that have been put in place appear to be working.

An undertaking has been promised that would secure the removal of the original lagoon and this would be enforceable through the courts if its terms were to be breached by the company. The undertaking indicates that the original lagoon would start to be removed at the latest by 31 May 2007.

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 providing a unilateral undertaking, or entering into an agreement with the Council, under Section 106 of the Town and Country Planning Act 1990 to secure the removal of the original lagoon, planning permission be **GRANTED** subject to the following conditions:

1. This permission, with regard to the lagoon and its associated embankments, shall be for a limited time period only, expiring on 31 May 2006 on or before which date the lagoon and all associated works including the embankments, shall be removed from the land and the site reinstated in accord with a scheme of works that shall be first submitted to and approved in writing by the Local Planning Authority. Within three months of the date of

the full implementation of the IPPC Permit, the lagoon and all associated works including the embankments shall be removed and the land restored in accordance with that scheme, unless, prior to that date, an application has been made and permission has been granted for an extended period.

Reason: To allow the implementation of IPPC permit measures and in order to achieve the full restoration of the land to the floodplain.

2. Within three months of the date of this permission a method statement for the work and precise timetable of events for the removal of the lagoon and its associated embankments (including measures to remove odorous material from the lagoons shall be submitted to and approved in writing by the Local Planning Authority. The work shall then only progress in accord with the approved scheme.

Reason: To ensure that the work is carried out to an acceptable standard in the interests of minimising the impact of the removal of materials from the site on the amenity of residents of the area.

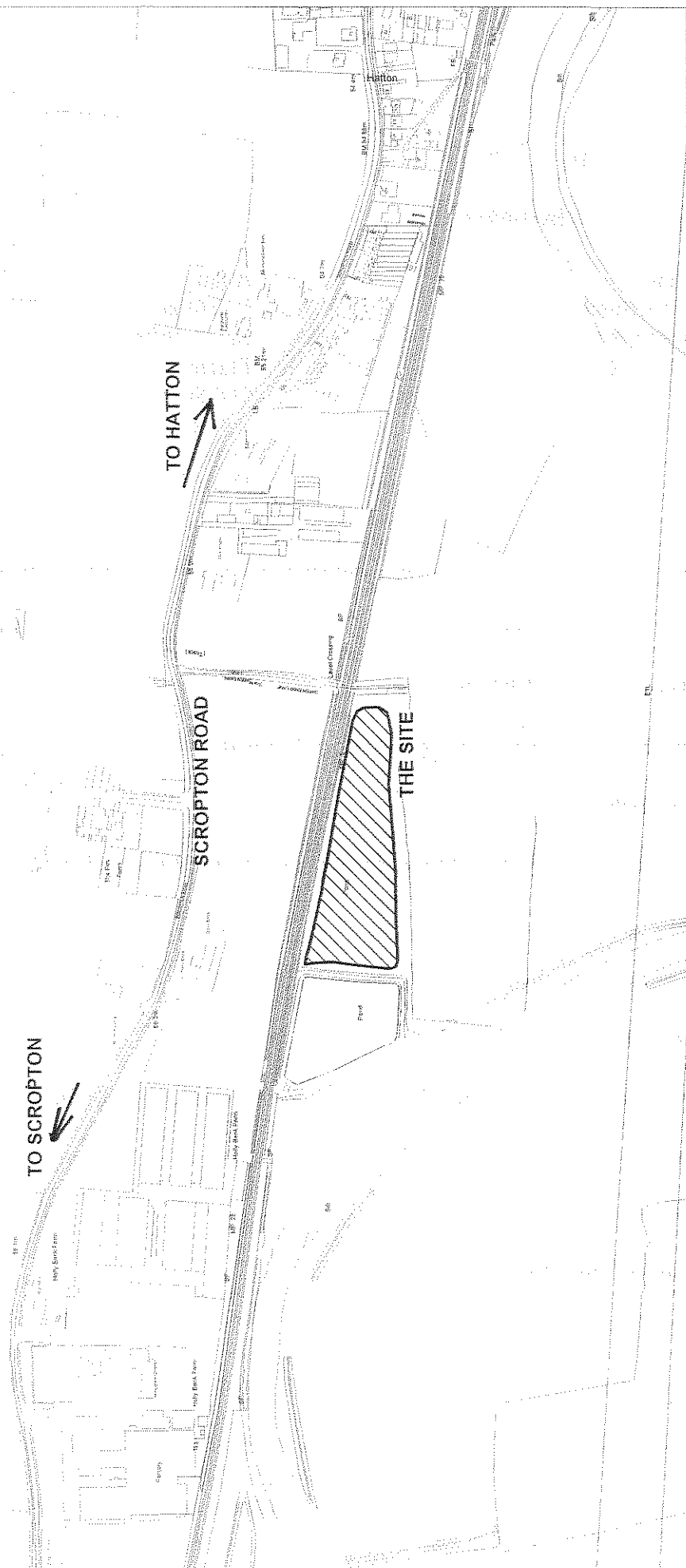
3. The Local Planning Authority shall be notified of the commencement of the implementation of the works to achieve an IPPC Permit within 14 days of the works being commenced. Thereafter, the Company shall submit progress reports on a 3-monthly basis to the Local Planning Authority to show how the IPPC requirements are being implemented.

Reason: To provide the Local Planning Authority with evidence that the IPPC works are being implemented in accordance with the program specified in the application leading to the removal of the lagoon.



9/2005/0710/R Holly Bank Farm

Scropton



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Scale 1:5000

Plot centred at 428536 325343

Date Plotted 11/8/2005

9/2005/0710/R Holly Bank  
Scropton



23/08/2005

**Item** 1.6**Reg. No.** 9/2005/0814/FH**Applicant:**

Mr Mrs J Lemmon  
16 Lawn Avenue  
Etwall  
Derby  
DE656JB

**Agent:**

P. Billham  
Mr. P. Billham  
Planning  
Old School Lodge  
Aston On Trent  
Derbyshire  
DE72 2AF

**Proposal:** The erection of extensions at 16 Lawn Avenue Etwall Derby**Ward:** Etwall**Valid Date:** 11/07/2005

This application has been made on behalf of Councillor Lemmon.

**Site Description**

The site consists of the front garden and drive of the existing dwelling.

**Proposal**

The proposal is to extend the dining room, porch and garage forward of the existing.

**Planning History**

Three permissions have previously been granted to extend the dwelling.

**Responses to Consultations**

The Parish Council has no objection.

**Development Plan Policies**

The relevant policies are:

Local Plan: Housing Policy 13

**Planning Considerations**

The main issue central to the determination of this application is the effect on the street scene and neighbouring properties.

**Planning Assessment**

The design is in keeping with the house to be extended and the street scene.

There would be no infringement of the Supplementary Planning Guidance for extending dwellings because the proposal is single storey only and the stagger between the neighbouring houses works to the advantage of the application.

**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. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless otherwise agreed in writing by the Local Planning Authority.

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

9/2005/0814/FH 16 Lawn Ave

Etwall



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Scale 1:2500

Plot centred at 428536 325343

Date Plotted 11/8/2005

9/2005/0814/FH 16 Lawn Ave  
Etwall

23/08/2005

**Item** 2.1**Reg. No.** 9/2005/0799/U**Applicant:**

Mrs J Wileman  
 Seale Pastures Farm  
 Acresford  
 Swadlincote  
 Derbyshire  
 DE12 8AP

**Agent:**

ASP Consulting (Melbourne) Ltd  
 Unit 1 Castle Lane Industrial Estate  
 Castle Street  
 Melbourne  
 Derbyshire  
 DE73 1DY

**Proposal:** The change of use of kennel building to residential at Seale Pastures Farm & Boarding Kennels Burton Road Acresford Swadlincote

**Ward:** Seales

**Valid Date:** 15/07/2005

Councillor Shaw has instructed that this application be brought before the Committee.

**Site Description**

Seale Pastures Farm lies within a group of four properties on the A444 in a countryside location outside the village centre. The other three properties in the group are Seale Lodge Farm, Seale Barn and Seale Pastures House which is a residential home. Seale Pastures Farm lies to the rear of these properties and comprises a modern two storey dwelling together with separate kennels and office that are used for cat and dog boarding. Approach is via a long driveway beyond a gated access. The application site is one of the kennel buildings.

There is open countryside to the north and east.

**Proposal**

The existing dog boarding kennels was granted permission in 1989. It is a single storey building constructed of concrete block and timber on a concrete base with a shallow pitched sheeted roof and is divided into individual pens with walkways between them. It is proposed to redevelop this building to form a single dwelling.

**Supporting information by the Applicant/Agent**

The agent has submitted a supporting statement that is summarised as follows:

- It is proposed to alter the dog boarding kennels that has a capacity for 20 dogs to form a dwelling of similar size



- It would result in a reduction of traffic turning into the site off the A444 that has a speed limit of 40mph
- Average vehicle movements are 5 per day rising to 20 per day during peak holiday periods
- It would result in the reduction in noise/disturbance to neighbours and reduced waste.
- Visual improvement arising from the replacement of the existing building that is constructed of breeze block with steel roofing sheets
- The surrounding properties would not be overlooked by the proposed construction.

### **Planning History**

9/593/163/F – Erection of chalet bungalow and kennels – Permitted. The history file shows that the kennel building the subject of this planning application was in place at the time that the application for additional kennels and staff accommodation (in the form of the chalet bungalow) was submitted. At that time the applicants lived in one of the two residential properties that adjoin the application site (the other being the residential care home and Seal Lodge Farmhouse had not been constructed). The current applicant is the same now as then and in 1993 made a special case for the need for additional staff accommodation based on the need to expand and supervise their established business of 26 years of breeding German Shepherd dogs and animal boarding. The approval of the staff accommodation was restricted in terms of its occupation by Condition 9 of permission 9/593/0163/F that linked the residential accommodation to the kennels. Whilst the residential accommodation has been constructed, the additional kennels that were also part of the proposal have not been constructed save for two concrete bases that are in place and appear to conflict with the detail of the permission.

9/2001/0379/R – Retention of a portable building – Permitted (Temporary permission expiring 2001)

9/197/0802/F – Retention of a portable building – Permitted (Temporary permission expiring 2006)

### **Responses to Consultations**

The County Highways Authority has no comments

The Environment Agency objects to the proposed use of a septic tank to deal with foul drainage as the site is located on a major aquifer and the proposed method of drainage may present an unacceptable threat to ground water.

The Head of Environmental Health comments that there is a possibility of contaminants and recommends that an appropriate condition be attached in the event that planning permission is granted.

### **Responses to Publicity**

Three neighbours were consulted on 8 August 2005

Two site notices were posted on 26 July 2005

No response to this publicity has been received.

### **Development Plan Policies**

The relevant policies are:

RSS8: Policy 2

Joint Structure Plan: Strategy Policies 1, 2, 4; Housing Policy 6; Transport Policy 4; Environment Policy 6

Local Plan: Housing Policies 7 and 8; Transport Policy 6; Employment Policy 4

## **Planning Considerations**

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

- The Development Plan
- Amenity
- Highway Safety

## **Planning Assessment**

### The Development Plan

This site comprises previously developed land insofar as the footprint of the building comprising the application site is concerned. Beyond the building it appears to be part 'greenfield' and part previously developed land. The site lies in an isolated location outside of the village centre where there is a presumption against new development unless it can be justified in support of the rural economy.

In terms of Policy H8 – New Housing in the Countryside – no justification for a new dwelling has been submitted. In terms of Policy H7 – Residential Conversion – the proposal is not accompanied by a structural report nor any details as to how the proposed conversion would be effected. From inspection it appears that the existing building would not lend itself to conversion by reason of the materials and method of construction and it would require extensive alteration/rebuild that in turn would be likely to affect the character of the area.

Environment Policy 6 in the Structure Plan – Water Resources – states that development will not be permitted that would be likely to lead to a deterioration in the quality and quantity of ground water. The proposal seeks to deal with foul drainage by a septic tank. Whilst the Environment Agency has stated that it may be possible to deal with foul drainage by a package treatment plan, this method has not been evaluated and in absence of acceptable means of drainage the proposal is contrary to Environment Policy 6 of the Structure Plan.

### Amenity

The site is well screened from neighbouring properties to the west by existing trees and hedges and the existing building is screened by fencing to the south and east. In terms of visual amenity the existing building is well assimilated into its surroundings. As to the impact on occupants of neighbouring properties, whilst the applicants state that a dwelling in place of kennels would be likely to reduce noise and disturbance, there was no record of complaints concerning noise nuisance from the existing use at the time of the permission being granted for additional kennels in 1993 and there have been no complaints since.

### Highway Safety

The existing access is some 5m wide at the carriageway and the gate is set back within the site. The County Highways Authority is satisfied with the arrangements.

### Conclusions

There is no evidence that the existing use is not viable, indeed the premises are well maintained and appear to be well used. Its rural location is appropriate for the current use being well connected in terms of the highway network and the existing building is well related to the group of buildings within which it lies. Conversion of the dog kennel building to residential use would



result in the loss of a business this is best suited to a rural location close to the built up area whilst at the same time introducing a new dwelling without justification into an area where policies for the protection of the countryside apply. No land is identified in the application to provide parking and amenity space for the proposed dwelling but it is considered that it is likely that domestic cultivation of land beyond the kennel building would be likely to intrude into the countryside.

Whilst the application relates specifically to an existing dog boarding kennel, there is no information concerning the future of the separate timber kennel building located elsewhere within the land that the applicant controls nor the additional boarding kennel building approved in 1993 (the permission for which appears to be extant). Neither is there any submitted information relating to the cat boarding element of the business. Whilst the applicants have stated that it is their intention to cease cat boarding, this part of the business together with the remaining kennels, lies outside of the application site. Therefore the case in support of the application that has been put forward by the applicant, (i.e. that the conversion of the dog boarding kennel would be likely to lessen traffic to the site) would not necessarily bring about the cessation of the entire use of the site for cat/dog boarding.

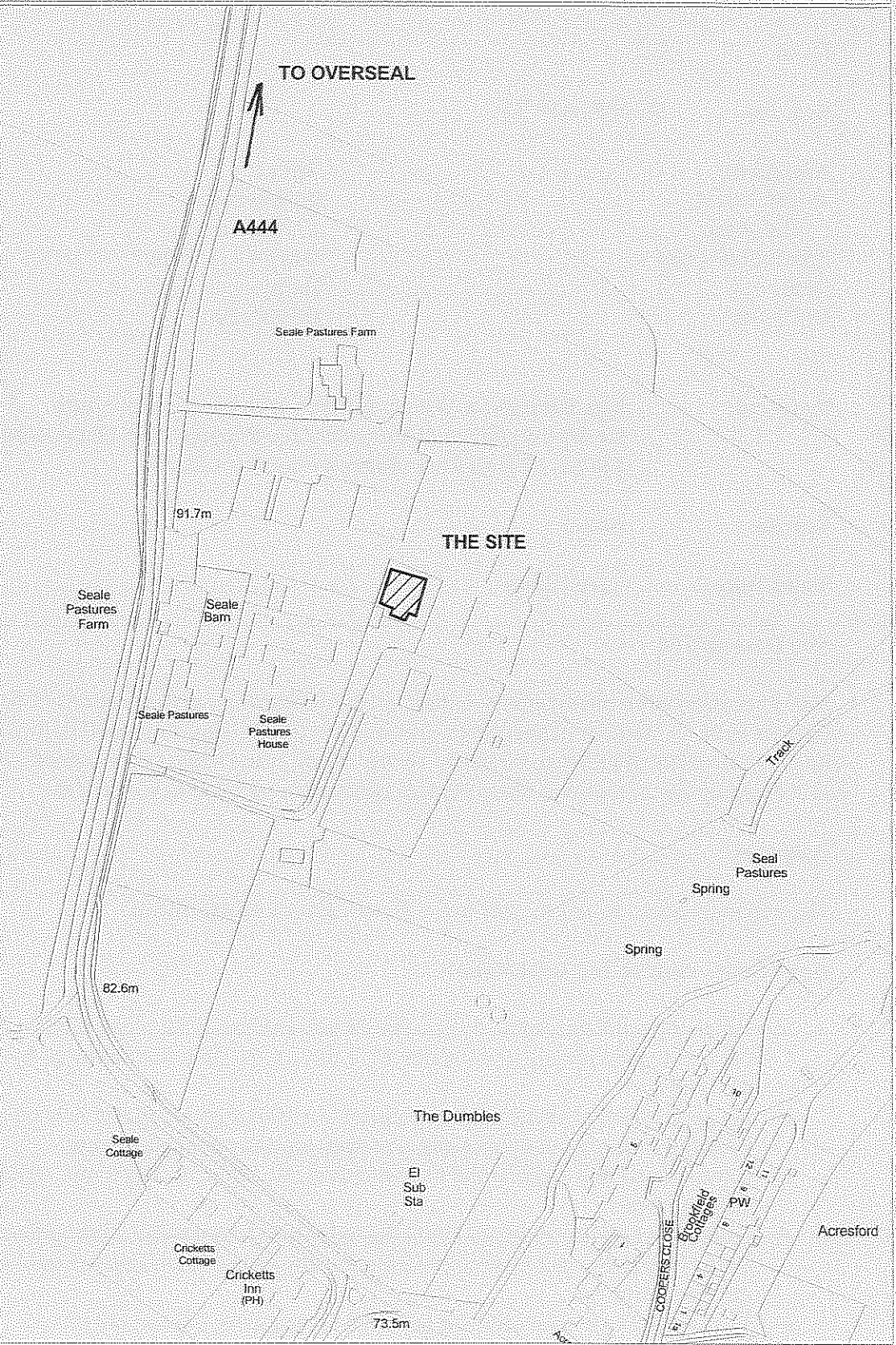
None of the other matters raised through the publicity and the consultation process amount to material considerations outweighing the assessment of the main issues set out above.

### **Recommendation**

- A** That the Committee delegate power to the Head of Planning Services to deal with any material planning comments made within the period for representations (i.e. until 29 August).
- B** **REFUSE** permission for the following reasons:
  1. Policies H7 and H8 in the South Derbyshire Local Plan seek to protect the countryside from unwarranted development. These policies reflect Housing Policy 6 in the Structure Plan and, together with Strategic Policies 1, 2 and 4 in the Structure Plan and National Guidance in RSS8, they direct new dwellings to sustainable locations. The proposal is unsupported by any evidence of need for a new house outside limits to development as defined in the South Derbyshire Local Plan and therefore to permit the proposal would be contrary to Local and National Policies.
  2. Environment Policy 6 in the Derby and Derbyshire Joint Structure Plan (Water Resources) states that development will not be permitted that would be likely to lead to a deterioration in the quality and quantity of ground water. The application site is located on a major aquifer and it is proposed to deal with foul drainage resulting from the new dwelling by means of a septic tank. Insufficient information has been submitted to establish that this method of drainage would not present an unacceptable threat to groundwater and in the absence of a satisfactory means of drainage the proposal would be contrary to Environment Policy 6.



9/2005/0799/U Seal Pastures Farm & Kennels  
 Burton Rd  
 Acresford



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Scale 1:2500 Date Plotted 12/8/2005

Plot centred at 428536 325343

9/2005/0799/U Seal Pastures Farm & Kennels  
 Burton Rd  
 Acresford



23/08/2005

**Item** 2.2**Reg. No.** 9/2005/0819/TP**Applicant:**

Mr Ian Lucas  
 17 Hall Park  
 Barrow-on-Trent  
 Derby  
 DE731HD

**Agent:**

Mr Ian Lucas  
 17 Hall Park  
 Barrow-on-Trent  
 Derby  
 DE731HD

**Proposal:** The felling of a Weeping Birch tree covered by South  
 Derbyshire District Council Tree Preservation Order number  
 244 at 17 Hall Park Barrow-on-Trent Derby

**Ward:** Aston**Valid Date:** 11/07/2005**Site Description**

Hall Park is an open plan cul-de-sac built about 40 years ago in the grounds of the former Barrow Hall. A number of properties have mature trees dating from well before the housing was built. Most of the mature trees already benefit from Tree Preservation Orders. The subject tree is a Weeping Birch that was likely planted concurrent with the development.

**Proposal**

The applicant seeks to fell the tree and offers to plant a replacement.

**Applicants' supporting information**

- a) When the applicant applied for a two-storey extension the plans showed the removal of the tree to provide off street parking for three cars. This was followed by the making of the Order.
- b) An application to prune the tree was made as it has grown out of hand, blocking light into the front of the property and also overhanging the public pavement.
- c) It was hoped that pruning the tree would enable block paving to undertaken to form the parking area.
- d) Excavation works associated with the extension have revealed that the roots of the tree are very shallow and it is believed that block paving would cause excessive damage to the tree roots.
- e) Without the extended drive there would be space for one car only.
- f) The applicant's family own two cars and considers it unsafe to remove children from car seats in the highway. On street parking is a known problem in Hall Park.
- g) A suitable tree would be replanted.



- h) The Parish Council has expressed surprise that a TPO had been placed on a tree so close to a house (3.2 metres to the trunk), commenting that the tree is oversized for the area and a smaller replacement would be more fitting and would not affect off road parking.
- i) Another resident in Hall Park was advised that a fir tree was not protected and that it could be felled. It is not understood why the applicant's tree should be the subject of an Order
- j) Crown raising the tree would not be adequate to deal with the main concern, which is its width.
- k) Covering the tree roots would reduce the availability of water and the tree is towards the end of its life span. This would put the applicant's and the neighbouring dwelling at more risk.
- l) The raised height of paving over the root system would be of concern to the neighbours at 15 Hall Park.
- m) The tree is too large for the frontage.
- n) The tree could cause damage to two properties.

### **Planning History**

An application for a two-storey extension (9/2005/0504/FH) was submitted in April 2005. Three letters were received from local residents expressing concern that the proposal for paving the front of the property (which included the removal of the tree) would be out of character with the ornamental frontages to dwellings in Hall Park. The Parish Council asked for neighbours' opinions to be taken into account and queried whether the frontage design would create a precedent.

In response to the representations the tree was inspected and as a matter of balanced judgement the Order was made, on the basis that the tree has amenity value contributing to the character of the area, in the context of the ornamental frontages to the dwellings in the cul-de-sac.

An application to prune the tree (crown raising to 2.5 metres) was permitted on 28 July 2005.

### **Responses to Consultations**

The Parish Council expresses surprise that a TPO has been made on a tree so close to the house. It supports the removal of the tree on the condition that it is replaced by another more suitable tree on the available frontage so as not to interfere with proposed parking area.

The Council's consultant arboriculturist comments that the tree should be carefully retained by blinding the roots with sand and block paving over the sand.

### **Responses to Publicity**

A petition of support has been received, subject to the planting of a suitable sapling and increased off street parking provided, signed by 26 of the 29 households in Hall Park and two further signatories from Brookfield and Twyford Road. Two of the signatories raised concerns about the application for the two-storey extension (9/2005/0504/FH) but support the current proposals on the above basis.

### **Development Plan Policies**

The relevant policy is Joint Structure Plan: Environment Policy 16.

## **Planning Considerations**

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

- Procedural matters.
- The amenity value of the tree.
- The potential for nuisance
- The potential for damage to structures.
- The impact on development aspirations.

## **Planning Assessment**

The Order was made as a matter of urgency because the application for the two-storey extension had highlighted the likelihood that it would be felled. In the normal course of events any objections to an Order would be reported to Committee in advance of confirmation, before the expiry of a six-month period. In effect the applicant has brought the issues forward and members are able to consider the views of local residents and the parish council in respect of this particular tree. If the Committee were minded to grant consent it would be entitled under the provisions of the Order to require a replacement tree (as proposed by the applicant) to be planted in its place. An Order could then be made in respect of the replacement tree if necessary.

Whilst the decision to make the Order was quite finely balanced it is nevertheless felt by officers that the tree has visual amenity value.

The proximity of the tree to the applicant's front window would tend to lead to applications, at least, for pruning to ensure reasonable levels of light at the window. Neighbours would have less cause to sustain objection in this regard.

The roots of the Birch would be unlikely to cause structural damage to either the applicant's or neighbouring property. However in the event of faults in existing structures (e.g. a fractured drain) roots could invade. However in such cases it would be expected that necessary repairs would remedy any such problem.

The position of the tree would restrict the amount of hardstanding capable of being constructed as permitted development, but limited enlargement could take place following the principles recommended by the consultant arboriculturist. This would result in raised ground levels over the root system.

The applicant's proposal to replace the tree would likely result in a satisfactory visual amenity in due course. Whilst the issues are finely balanced a refusal of consent would enable the current amenity value of the tree to be protected.

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



**Recommendation**

**REFUSE** consent for the following reason:

1. Hall Park is a residential cul-de-sac with several properties having ornamental frontages. The tree to the front of 17 Hall Park is clearly visible within the cul-de-sac and is considered to have a visual amenity value, which contributes to the character of the local area. The circumstances of the application do not warrant its felling.

9/2005/0819/TP 17 Hall Park  
Barrow-on-Trent



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Scale 1:1500      Date Plotted 11/8/2005

Plot centred at 428536 325343

9/2005/0819/TP 17 Hall Park  
Barrow-on-Trent



## APPEAL DISMISSED

### Appeal by Williams

The retention of a new kitchen window at 52 High Street, Melbourne, Derby (9/2004/0856)

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

*1. The window is harmful to the character and appearance of the designated Melbourne Conservation because it does not respect traditional joinery patterns in the locality, contrary to the following development plan policies:*

*Derby and Derbyshire Joint Structure Plan Environment Policy 9;*

*South Derbyshire Local Plan Environment Policy 12; and*

*Emerging South Derbyshire Local Plan Policy ENV20.*

### Main Issues.

The appeal site is within Melbourne Conservation area and Article 4 area. The Inspector views that many of the windows in the surrounding area are of a traditional style, which enhances the special character and appearance of the area. Modern patterns would detract from this.

The appeal site is considered by the Inspector to make a valuable contribution to the special interests of the area. The Inspector believes that the wide sections of timber and the asymmetrical subdivision of the replacement window make it unsympathetic to the prevailing character of the area. It is considered to be significantly more intrusive than the existing windows and it adds to the harm caused by inappropriate windows nearby.

It is therefore concluded by the Inspector that the proposed development would neither preserve nor enhance the special architectural and historic character or appearance of the Melbourne Conservation area, contrary to Local Planning Policies.

