

# **REPORT OF THE HEAD OF PLANNING SERVICES**

## **SECTION 1: Planning Applications**

## **SECTION 2: Appeals**

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 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>
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When moving that a site visit be held, Members will be expected to consider and propose one or more of the following reasons:

1. The issues of fact raised by the Head of Planning Services' report or offered in explanation at the Committee meeting require further clarification by a demonstration of condition of site.
1. Further issues of principle, other than those specified in the report of the Head of Planning Services, arise from a Member's personal knowledge of circumstances on the ground that lead to the need for clarification that may be achieved by a site visit.
2. Implications that may be demonstrated on site arise for consistency of decision making in other similar cases.

**Item**            1.1

**Reg. No.**        9/2007/0325/M

**Applicant:**

Dove Valley Park Limited  
Victoria Street  
Derby  
DE11ES

**Agent:**

Boyer Planning Limited  
Church Road  
Windlesham  
Surrey  
GU20 6BT

**Proposal:**        **Outline application (all matters reserved except for access and layout) for a truck stop facility including lorry parking, refuelling and drivers' facilities and associated landscaping Land at A50/A511 junction Dove Valley Park Foston Derby**

**Ward:**            **North West**

**Valid Date:**      **20/03/2007**

**Reason for committee determination**

This is a major application that has implications for Development Plan policy.

**Site Description**

The site lies adjacent to a borrow pit that was formed to construct the A50 (TR). The land lies to the west of the lake and is bounded by the A50 to the north and the A511 wraps around the site along the western and southern boundaries. There is a hedgerow adjacent to the drive to Cromwell House Farm that lies to the east of the site and is in use as holiday accommodation.

**Proposal**

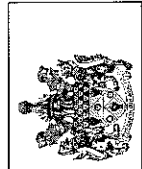
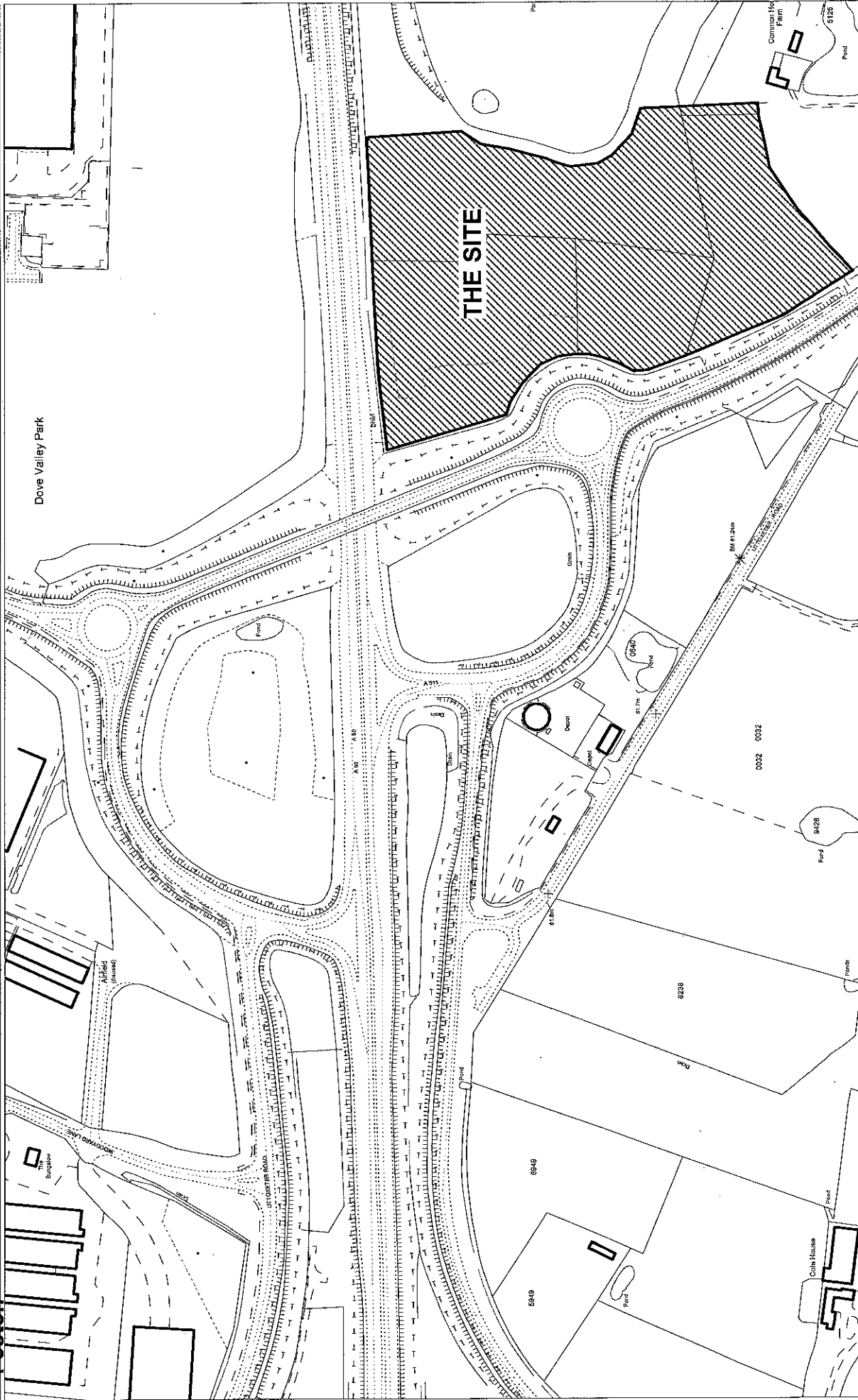
This is an outline planning application with access and layout to be determined as part of this application but other all matters reserved for subsequent approval.

Access to the site would be from the A511 at the existing field access to the land. The access would be widened to accommodate the development and there would be a 7 metre wide road into the site with a footway either side.

A full petrol filling station would be sited to the east of the road and a café and drivers facilities to the west of the access. Most of the rest of the site would be taken up with 188 HGV parking bays and 18 LGV parking bays.

# 9/2007/0325/M Land at A50/A511 Junction Dove Valley Park

Foston



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CIVIC WAY  
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The indicative layout also shows landscaping along part of the east boundary and also along the south boundary. Existing landscaping exists along the west and north boundaries associated with the A50/A511 roads.

### **Applicants' supporting information**

The applicants argue that the site is well related to the Trunk Road network, it would provide an opportunity for drivers to take a rest to comply with European legislation and DOT requirements for drivers as well as providing secure overnight parking. The site area is some 5.5ha compared to an overall ownership of 12.6ha. The developers wish to ensure that the lake and its immediate environs are untouched.

The justification for the location is that there is no provision for trucks on the A50 and there is support for this type of provision from national and local transport companies. The built facilities would include café and drivers' restaurant, toilets and showers, first aid and staff rest room. The petrol filling station would include a shop that would be subservient to the filling station, air and water refilling facilities. All storage tanks would be located beneath the ground and the facility would provide respite parking for police vehicles and their drivers.

The layout has been selected to ensure easy access to the site, ensure that facilities are located close to the entrance to the site whilst enabling supervision of the lorry parking area and to minimise impact on the water environment.

It is anticipated that all buildings on the site would be single storey and would be substantially screened by existing and proposed tree planting. The proposed planting on the southern boundary is intended to achieve this.

Lighting would be the subject of a separate application but it is anticipated it would be designed to minimise impact on the wider area.

The application is accompanied by a several documents that cover the following issues:

1. A transport report for consideration by the Highways Agency and the County Highway Authority.
2. A habitat and preliminary protected species survey for consideration by Natural England and the Derbyshire Wildlife Trust.
3. A Flood Risk Assessment for consideration by the Environment Agency.

These documents are available for inspection on the file and the consultee responses are set out below.

In response to the suggestion that the lorry park be located on the north side of the A50 on land adjacent to the existing business park, the following responses have been received.

1. Dove Valley Park is a prestigious business park providing an important regional and sub-regional function – it requires a significant frontage to the A50 and this would be compromised by the presence of a truck stop on the frontage of the site.

2. The access to the truck stop would be tortuous and pass through the business park adding to the traffic to the detriment of existing users.
3. The two sites are of equal status as they both fall within the area of the original outline planning application and as such there is no difference between the site on the north of the A50 and the application site.
4. The site is self-contained with no prospect of further expansion and is less prominent than the land to the north of the A50.
5. The land north of the A50 represents a valuable site for further expansion of the Business Park should more employment land be required.
6. The truck stop is not an employment use; it is a facility to support and enhance existing economic activity.

The applicants have also examined alternative sites in the region: They are aware of a proposal near to Uttoxeter on the A50 but that site has scope for a limited truck stop in a location that is not as convenient for users of the Trunk Road. It is also understood by these applicants that there are land ownership issues and even if granted there is no guarantee that the site would be developed. The applicant is also aware of limited facilities for trucks at the new service are currently under construction at Willington. Only 11 spaces are proposed, these are not proposed to be secure and would be part of a wider service area facility. The strong view of the applicants is that the application site at Foston would provide a bespoke facility to meet the needs of the distribution and logistics industry at a prime location on the trunk road network where environmental considerations have been fully considered.

## **Planning History**

The applicants assert that the land formed part of the original application for the development of Dove Valley Park. This is correct but the limit of built development is set out in a legally binding Agreement and development is located solely on the north side of the A50. The application site has had no recent applications save for the excavation of the borrow pit to facilitate the construction of the A50 (TR).

## **Responses to Consultations**

Foston and Scropton Parish Council has the following comments on the application:-

- a) There would be a considerable area of tarmac, and this may affect drainage towards Watery Lane and Scropton village.
- b) In return for planning permission, the remaining land/lake should be a nature reserve with limited public access. Access to the lake is required for maintenance.
- c) Water flowing from the Truck Wash may pollute the lake.
- d) Avoid light pollution with minimum lighting.
- e) A weight limit through Foston village is recommended, otherwise traffic may turn off the A50 through the village.
- f) Further care and thought should be given to the access and exit, particularly as long articulated lorries will cross the road.
- g) Semi mature trees should be planted, preferably on a bund, to provide screening for adjacent properties from the development.
- h) If S106 monies were available then it should be allocated to flood defences in Scropton and Foston village.

After careful consideration, the Highways Agency has no objection to the development subject to the imposition of conditions.

The County Highway Authority has no objection subject to conditions.

The Environment Agency has no objection subject to the imposition of several conditions controlling the development and in particular the disposal of foul water. It considers that the contamination issue be investigated prior to the commencement of development. The Environment Agency also wishes to see the biodiversity of the site increased through the imposition of conditions.

Severn Trent Water has no objection subject to conditions

The Environmental Protection Manager has concerns about the noise impact on Common House Farm and requests a noise report be prepared prior to the grant of planning permission. There is contaminated land in the vicinity of the site but the evidence is that there should be no direct contamination. However this issue should be investigated prior to the full commencement of the development and a condition to that effect is recommended.

Natural England has considered the submitted information and accepted that it is likely that no newts are present within the site. Subject to conditions, Natural England has no objection to the development.

The Derbyshire Wildlife Trust has concerns about the survey and requests that a further survey work be undertaken in the spring when newts are more active. The biodiversity of the adjacent pond should be increased in accordance with a scheme to be submitted

The County Archaeologist has noted that there is a strong possibility of archaeological remains on the site. A condition is recommended to ensure that there is proper investigation of the potential for remains to be investigated prior to the full commencement of the development.

## **Responses to Publicity**

Three letters from local businesses have been received in support of the application and a message from the Freight Transport Association that comments on the lack of truck facilities on the A50 corridor and notes a recent increase in lorry theft/crime that could be addressed by the provision of secure lorry parking.

Two letters have been received objecting to the development. One from the operator of the Salt Box café states that the site is located in the open countryside where the aim of policy is to prevent unnecessary development. It is not an appropriate form of diversification, there would be a significant intrusion into the countryside and significant noise and traffic impacts would occur. All this is contrary to the environment, transport and employment policies in the Local Plan. On the question of need, a local facility operates nearby. The operator of the Salt Box site has identified that there is a strong probability that business would split between the two areas and neither would operate to full capacity and as such there is no need for the development.

The other letter is from a local resident that suggests that village of Foston is likely to suffer increased lorry traffic passing through the village as lorries tend to use the 'old'

road to access Dove Valley Park, rather than the main road a 'stones throw' away. It is suggested that if Section 106 monies were to be provided, then they should be allocated to shutting the access/egress to the A50 to ensure that lorries do not pass through the village where the number of children has risen by three.

### **Development Plan Policies**

The relevant policies are:

RSS8: Policies 2,3, 4 , 6, 42

Retained Local Plan Policies: Environment Policy 1, 2

### **Planning Considerations**

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

- The Development Plan – presence of alternative sites
- Impact on the Countryside and ecology – limiting the use
- The nature of the development
- The Parish Council comments
- Section 106 considerations – flood bank protection, closure of the A50 Junction to Foston Village.

### **Planning Assessment**

There is no provision for the formation of a Truck Stop in the Development Plan albeit one of the criteria in Policy 42 of RSS 8 seeks to improve inter-regional links. It is not clear that this element of the policy relates to the provision of roadside services. The Structure Plan policies were deleted in September together with Transport Policy 10 of the adopted Local Plan. The retained policies that are relevant relate to the protection of the Countryside and locational policies in both the RSS 8 and the Local Plan.

The locational policies and countryside protection policies require that for development to be permitted in the countryside it should be necessary in that location and if necessary be so designed, located and landscaped so that its impact on the area is minimised. Functional access without detriment to highway safety is also a primary requirement. This assessment primarily considers whether the development is necessary (i.e. a need has been established) and if so whether the site is suitable in planning policy terms.

The site is located at a junction of the A50 and A511. To the north is Dove Valley Business Park that is now the location for several major employers. The location is essentially rural but with significant urbanising features in the immediate vicinity that count against this being described as a totally rural. Through the consultation process it has been suggested that the truck stop would be better located on land to the north of the A50 between the current boundary of Dove Valley Park and the A50. The applicant's comments on this suggestion are set out in the *Applicant's Supporting Information* above.

On balance the applicant's comments are accepted. The suggested site is difficult to access from the A50 involving a complicated route through the Business Park. In addition the appearance of the business park would be compromised to some degree



by the presence of what is a parking area with few buildings, on a prestigious frontage to the A50.

Given that the alternative site has been considered, it is necessary to look at the impact of the development on the wider area. The bulk of the site would be viewed against the background of the A50 interchange from the A50 itself and the approach along the A511 from Hatton. The site would be very visible from the over bridge to the A50 and little could be done in the short-term to screen that view. However, as mentioned above, the A50 itself, the business park and other employment sites to the north of the A50 already compromise the openness of the countryside. With regard to ecology, there is clearly a conflict in the advice on the newt issue. However, Natural England is the statutory body charged with the protection of the species. Provided a further study is required by condition to confirm the presence or otherwise of the newts, then it is considered that the protected species issue is properly addressed. Enforcement provisions would also be available under the Wildlife and Countryside Act.

Whilst there would be a loss of countryside (albeit former airfield land), it is considered that on balance the establishment of a truck stop on this important interchange on the A50 would be acceptable. It is understood that there is a current problem of trucks stopping on the A50 and A38 to rest, which is unsatisfactory from a highway safety point of view and the safety of drivers and their cargo.

Currently the police have no secure alternative site where they can send the lorries. This site would provide that suitable place where the lorries can safely stop with the assurance that their cargo is in a reasonably safe location. Indeed, numerous businesses have written in support of the proposals.

Mitigation measures in the form of landscaping would be an essential element of any permission. Conditions are also recommended to ensure that the nature conservation issues and contamination issues identified are covered. This may not meet the requirements of all consultees but the essential requirements of the legislation will be covered by the recommended conditions. Other conditions to meet the requirements of the consultees are also recommended. The control of lighting is also essential and a suitable condition is recommended. However, with regards to noise: given that the site is so close to the A50 where the background noise level is already relatively high and that the closest building is a holiday let only (not a permanent dwelling), it is considered that requiring a noise report prior to determining the application would not be useful and therefore cannot be justified.

The Parish Council has requested that any monies for this development should be allocated to improving flood defences in Foston and Scropton. At this time, whilst there is an acknowledged need to improve defences in Foston and Scropton the Environment Agency has no firm proposals in place and in any event are unrelated to this development proposal.

The closure of the A50 entrance to Foston Village is a matter for the Highway Authorities under separate legislation. It is not a matter that can be achieved through the mechanism of a Section 106 Agreement and has not been alluded to in any response from either authority.

## Conclusion

The issues here are finely balanced. Under the policy a need must be demonstrated and even then the impact of the site must also be assessed. Generally, development on the south side of the A50 in the vicinity would usually be resisted because provision for development has been made on the north side and an intrusion into the countryside should be avoided. Notwithstanding the foregoing assessment, it is considered that there is sufficient merit in the applicant's case to justify an exception being made for this specialist development on this site. However, the case is not clear-cut and members should consider whether the weight has been correctly apportioned to the various relevant material considerations set out.

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. 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.
4. 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.

5. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.
- B) Prior to occupation of the development (or parts thereof) an independent verification report must be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- C) In the event that it is proposed to import soil onto site in connection with the development, this should be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
- D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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

6. 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. The submitted surface water scheme shall include surface water limitation measures to ensure that flows from the developed site do not exceed those of the site in its existing state. The submitted surface water drainage scheme shall also demonstrate that the scheme has been designed to take account of any contamination that has been encountered following the site investigation works required by Condition 5 above and set out measures to ensure that there is no infiltration of contaminated surface waters to controlled waters.

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

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

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

8. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor, designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: In the interests of pollution control.

9. The development shall not be commenced until precise details of the intensity, angling and shielding, and the area of spread of the lights have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity with them. The submitted scheme shall comply with the Institute of Lighting Engineers "Guidance notes for the Reduction of Light Pollution" (2000).

Reason: To preserve amenity and/or prevent danger to road users.

10. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) and Article 3 and Part 3 of the Town and Country Planning (General Permitted Development) Order 1995, this permission shall relate to the use of the premises as a truck stop as described in your application and for no other purpose.

Reason: In order that the Local Planning Authority may retain control over the future use of the premises and in the interests of the amenity of the area.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any order revoking or re-enacting that Order, no tank for the storage of oils, fuels or chemicals shall be erected unless it is sited on an impervious base and surrounded by impervious bund walls. The bunded compound should be at least equivalent to the capacity of the tank plus 10%. All filling points gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any water course, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage.

Reason: In the interests of pollution control.

12. 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.

13. Prior to the first occupation of the development hereby permitted, measures to minimise the risk of crime to meet the specific security needs of the application site and the development shall be implemented in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.

Reason: In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions; to promote the well-being of the area pursuant to the

Council's powers under Section 2 of the Local Government Act 2000 and to reflect government guidance set out in PPS1.

14. 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.

15. 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.

16. The proposed junction onto the A511 shall be laid out, constructed and brought onto use in accordance with a detailed scheme based on the layout as submitted, before the commencement of construction works within the site, all such details to be approved in writing by the LPA.

Reason: In the interests of highway safety.

17. 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, all laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority, and maintained throughout the construction period in accordance with the approved designs free from any impediment to its designated use.

Reason: In order to ensure that such activities are located within the site boundary in the interests of highway safety.

18. Before development is commenced a reptile survey identified in Section 5.3 of the Ecology Report shall be undertaken in accordance with a detailed methodology submitted to and agreed in writing by the Local Planning Authority. The survey results shall be submitted to the Local Planning Authority following the completion of the survey and no works shall be commenced on the site unless and until any necessary mitigation measures identified following the survey work to reduce the impact of the development have been agreed and implemented to the satisfaction of the Local Planning Authority in consultation with Natural England.

Reason: In order to ensure that any reptile activity is identified and mitigation measures implemented in order to minimise the impact of the development on reptiles.

19. The full structural details of the installation, including the tank, its surround, associated pipework and monitoring system shall be submitted to and approved

in writing by the Local Planning Authority prior to the commencement of work on the site.

Reason: To protect ground water quality in the area.

20. There shall be no run off from the jet wash to the surface water sewer. The area shall be sealed in a recycling system or be discharged to foul sewer after treatment. An alternative to catch contaminated waters in a sealed pit and dispose of offsite to an authorised site.

Reason: To prevent pollution of the water environment.

Informatives:

The phased risk assessment (condition4) should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

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

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

For the avoidance of doubt and further to condition 10 the premises hereby permitted may not be open to members of the travelling public using private motor cars.

A note is required to inform the developer that the junction works to be carried out, must be subject to an Agreement with the Highway Authority under Section 278 Highways Act. No works may commence within existing Highway areas before the S 278 Agreement has been signed and completed.

In submitting the landscaping details required in conditions 2 and 14 above particular attention shall be had to enhancing the biodiversity interest of the application site and on any land in the ownership of the applicant that adjoins the site.

The Environment Agency has recommended the following informatives to aid the development of the site:- The oil storage facilities on site must comply with the Control of Pollution (Oil Storage) (England) Regulations 2001, by complying with all of the following general requirements: Oil should be stored in a container of sufficient strength and structural integrity.

The container should be situated within a secondary containment system either bunded to not less than 110% of the container's total storage capacity or 25% of the aggregate storage capacity, whichever is greatest. The container must have an impermeable base and walls. Tanks and associated pipe work containing substances included in List I of the EC Groundwater Directive (80/68/EC) should be of double skinned construction and be provided with intermediate leak detection equipment.

The Environment Agency is charged with contributing towards the achievement of sustainable development and Sustainable Drainage Systems (SuDS) have a major role to play in this.

SuDS techniques aim to control surface water runoff as close to its origin as possible, often mimicking the natural processes that exist for undeveloped land, including recharge of groundwater. The objective is to minimise impact on Quantity, Quality and Amenity of the receiving water body.

Common techniques include source controls, porous pavements, infiltration trenches and basins, attenuation filter drains, swales and filter strips, retention basins, ponds and constructed wetlands.

Limitation of the flows may be achieved by:

i. A suitable 'Best Management Practice' which may include soakaways in the case of small developments (Examples are given in the Agency's "Guide to Sustainable Urban Drainage" and CIRIA's report 156 "Infiltration Drainage, manual of Good Practice").

NOTE: This will require the Local Authority building control department's approval, and/or ii. On site storage with only a restricted flow being discharged.

Whichever regulation method is adopted, it is essential the developer enter into a suitable legal agreement to ensure satisfactory long-term maintenance and renewal when wanted.

Looking at the existing site and your desire to lower water levels within the existing pond; it would appear to make sense to use the borrow pit as an attenuation facility which should offer large volumes at low expense to the developer. Surface water could be drained by gravity straight to the pit, with oil interceptors at the end of the runs. This would negate the need for underground storage. The size of the discharge pipe from the pit to the watercourse will decide the attenuation capacity of the pond. Planting the pit with reeds might also offer some water treatment capacity too.

If you have any enquiries/concerns about the above comments on flooding issues, please contact Dave Hughes on (01543) 404899.

**Item**            **1.2**

**Reg. No.**        **9/2007/1030/MR**

**Applicant:**

J S Bloor (Measham) Ltd  
Ashby De La Zouch  
Leicestershire  
LE65 1BQ

**Agent:**

Armstrong Burton Architects  
Milford House  
Sutton Coldfield  
West Midlands  
B74 2UH

**Proposal:**        **The erection of a residential development of 24 dwellings and new access road together with a new community building, car park and engineering work to re-grade sports pitches on Land At The Recreation Grounds Chestnut Avenue Midway Swadlincote**

**Ward:**            **Midway**

**Valid Date:**      **06/09/2007**

**Reason for committee determination**

This is a major development that has attracted more than two letters of objection. The Council is the landowner.

**Site Description**

This grassed rectangular site, some 140m long by 60m wide is Public Open Space (POS) on the west side of the recreation grounds on Chestnut Avenue and is separated from it by a high hedge and ditch course. A gap in the hedge at the northern end and two plank bridges across the ditch provide access between the two spaces. There is an opening in the western boundary, which allows pedestrian access to the POS from Claymar Drive. Residential development bounds the site on its north, west and south sides.

**Proposal**

It is proposed to erect 24, two storey detached dwellings served from a single spine road that would take access from Wellwood Road opposite to the junction of Chestnut Avenue and Wellwood Road. It is proposed to retain a pedestrian link from Claymar Drive for the benefit of existing and future residents.



**Chestnut Avenue**



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Date Plotted 30/11/2007  
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## **Responses to Consultations**

Severn Trent Water Ltd raises no objections subject to satisfactory foul and surface water drainage and that public sewers crossing the site are not affected by the development.

The Police Liaison Officer recommends that better security should be provided along the rear of proposed dwellings adjoining the open space, with gaps to allow greater surveillance, which would also serve to provide protection against stray footballs. She warns that the proposed houses are going to be adjacent to the football pitches and playground area and youths shelter, which has historically had problems of anti social behaviour. This may impact on new house purchasers.

The Pollution Control Manager comments that investigations should be made for any land contamination with appropriate remediation. He raises no objections subject to there being no artificial illumination of the football pitches.

The Primary Care Trust recommends a payment of £444 per dwelling for local medical provision.

The Housing Strategy Manager recommends that 33% of the housing be affordable and available for rent, with a mix of 2 to 4 bed properties and preferably not apartments.

The County Education Authority recommends a contribution of £46,155 for education provision.

The Open Space Development Officer raises no objection to the amended layout.

The County Highway Authority considers that the layout is acceptable subject to minor amendments to the layout [now complete].

## **Responses to Publicity**

Eight letters of objection have been received, expressing concern about the following:

- Overlooking and loss of light
- Adequate fencing should be provided
- Balls being kicked into neighbouring gardens
- Loss of green space and assurance at time of purchase that Public Open Space would not be developed – there is little enough green space in the area
- Finished levels
- There may be mining and foundation problems

Four further letters of objection were received in response to the amended scheme, and are summarised as follows:

- The retention of the pedestrian link from Claymar Drive would encourage anti-social activity and reduce security
- With the introduction of the new road junction, on-street parking would be hazardous for existing residents and for the safe passage of busses. Accidents have already occurred.

## **Development Plan Policies**

The relevant policies are:

Local Plan: H4, H11, T6, RT5

## **Planning Considerations**

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

- Local and National Policy and the loss of public open space
- Impact on neighbouring residents
- Design and layout
- Retention of the pedestrian link
- Setting aside affordable housing and financial contributions for medical and education provision.

## **Planning Assessment**

Housing Policy 4 of the South Derbyshire Local Plan allows residential development within Midway provided it does not involve the development of open spaces, which make a valuable contribution to the character or the environmental quality of the area. This needs to be weighed against Recreation and Tourism Policy 4 which resists the redevelopment of existing recreational facilities unless, amongst other things, alternative provision of equivalent community benefit is made, or sports and recreation facilities can best be retained and enhanced through the redevelopment of a small part of the site. Similarly, PPG17 seeks to ensure that planning permission for developments using existing playing fields should not be allowed unless: the proposed development is ancillary to the use of the site as a playing field (e.g. new changing rooms) and does not adversely affect the quantity or quality of pitches and their use; the proposed development only affects land which is incapable of forming a playing pitch (or part of one); the playing fields that would be lost as a result of the proposed development would be replaced by a playing field or fields of equivalent or better quantity and quality and in a suitable location; or the proposed development is for an outdoor or indoor sports facility of sufficient benefit to the development of sport to outweigh the loss of the playing field.

The open space that is proposed for development forms part of the adjoining residential development, and there is likely to be an expectation from those residents that it would be safeguarded for their benefit. However, the estate is relatively well served with open space and the pedestrian link to the football pitches would remain giving residents access to a larger runabout area. In addition, there is a demand in the community for better football facilities, which the proceeds of the uplift in land value from planning permission could provide including a new community building which has been designed to give a much needed focal point for the local community.

On this point, a net public benefit is likely to arise from the development and therefore it complies with Policy RT4 and PPG17.

The Council's Housing Layout and Design Guidance (SPG) has been applied to the scheme and adequate separation between existing and proposed dwellings would be provided, subject to one small amendment. One resident objects to the loss of light to

his kitchen caused by the close proximity of a proposed dwelling. The kitchen window however is a side window and the Councils guidelines indicate that generally, such windows will not be protected. Another window on the other side of the kitchen is also a mitigating factor.

The site is elevated above the residential development to the west and therefore finished levels will need to be agreed to overcome any problems of overbearance and loss of privacy. Any planning permission could be made the subject of a levels condition to ensure that finished slab levels are similar to neighbouring levels wherever possible.

It would appear that a problem with footballs being kicked into neighbouring gardens already occurs on occasion. However, the use of the land for recreation including football is not for consideration as this is already established. The Council (as recreation facility provider) could choose to provide further mitigating measures should it see fit to do so.

In terms of quality of design and layout: the proposed new clubhouse represents a strong modern and striking design which would give the area a much needed visual boost. The housing scheme is largely a continuation of the existing housing in the area but designed to a higher standard, in that it reflects more recent design advice and local distinctiveness. It would therefore blend in well.

The pedestrian link from Claymar Drive to the Recreation Ground already exists. The presence of new housing overlooking the link will improve surveillance, which would act as a significant deterrent to anti-social activity. The link should be retained; otherwise the pedestrian route to the Recreation Ground would be significantly longer for residents. It will also allow the new residents easy access to the open space off Claymar Drive.

As is usual in proposals concerning residential development of sites of 15 or more dwellings, the affordable housing provision as required by Housing Policy 9 is recommended for inclusion in a Section 106 agreement below, along with the other contributions as requested. Members, however, may decide that the greater public interest would be served by delivering 'other capital projects'. Should this be the case, under the requirements of the Town and Country Planning (Development Plans and Consultation) (Departures) Directions 1999, Circular 07/99 advises that the Local Planning Authority may be required to refer such a case to the Secretary of State. Separate legal advice on this issue was being sought at the time of writing.

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

## **Recommendation**

- A. Subject to the completion of a satisfactory agreement under Section 106 of the Town and Country Planning Act 1990 to secure the timely upgrade of the adjoining recreation facilities (including the completion of the clubhouse hereby permitted), affordable housing, education and healthcare contributions, then:
- B. **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 development shall commence on site in connection with this approval until samples of materials for the external elevations of the development have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved materials. The roof covering shall be a plain tile or similar.

Reason: To ensure the proposed materials enhance the appearance of the area.

3. All rainwater goods and any fascias, soffits and barge boards shall be in black unless otherwise agreed in writing by the Local Planning Authority.

Reason: To enhance the appearance of the area and to soften the appearance of the development adjacent to the Public Open Space.

4. Unless otherwise agreed in writing by the Local Planning Authority this permission shall relate to the amended drawings and specifications: Specification for football pitch construction received on 8th November 2007, TN\_319\_02B (not including the housing layout) received on 8th November 2007, 07105/PO5 Rev. B received on 8th November 2007, 07105/PO3 Rev. A received on 8th November 2007, house types 06.4215, 06.4217, 06.4209, 07105/PO2 Rev. G received on 29th November 2007.

Reason: For the avoidance of doubt.

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

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

6. Notwithstanding the submitted details 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.

7. Further to condition 6 above, soft landscape details shall include planting plans; written specifications including cultivation and other operations associated with plant and grass establishment; schedules of plants (noting species, plant sizes and proposed numbers/densities where appropriate) and the implementation programme.

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. 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. The scheme shall include measures to secure the boundary of plots 16-24 with the adjoining land.

Reason: The details submitted are inadequate to determine whether the boundary treatment proposal are acceptable.

10. 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.

11. No development shall commence on site in connection with this approval until a scheme for disposal of highway surface water via a positive gravity fed system, discharging to an outfall in public sewer, highway drain or water course has been submitted to and approved in writing by the Local Planning Authority and the scheme shall be carried out in accordance with the approved details before the development is first brought into use unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

12. No development shall commence on site in connection with this approval until the new estate street junction onto Wellwood Road has been laid out in accordance with the approved drawing, and constructed to base course level for a distance of at least 30m from the highway boundary.

Reason: In the interests of highway safety.

13. No construction works shall commence on site in connection with this approval, until space has been provided within the site curtilage for site accommodation, storage of plant and materials, parking and manoeuvring for site operatives and visitors' vehicles, loading and unloading of goods vehicles, all in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. The facilities are to be maintained available throughout the course of the construction works.

Reason: In the interests of highway safety.

14. Before any operations commence involving the movement of materials in bulk to or from the site, facilities shall be provided in accordance with a scheme first

submitted to and approved in writing by the Local Planning Authority, and used to prevent the deposition of mud or other extraneous material on the public highway.

Reason: In the interests of highway safety.

15. The dwellings hereby approved shall not be occupied until the proposed estate street has been laid out in accordance with the application drawings and constructed at least to base course level, including footways, drainage and lighting, in accordance with the County Council's specification for housing development roads.

Reason: In the interests of highway safety.

16. Prior to the first occupation of the development hereby permitted, measures to minimise the risk of crime to meet the specific security needs of the application site and the development shall be implemented in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.

Reason: In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions; to promote the well-being of the area pursuant to the Council's powers under Section 2 of the Local Government Act 2000 and to reflect government guidance set out in PPS1.

17. 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.

Reason: The land has historically been subject to use, namely infilling of former pits or quarries with materials of unknown origin, which may have resulted in it becoming contaminated.

18. 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'.

Reason: The land has historically been subject to use, namely infilling of former pits or quarries with materials of unknown origin, which may have resulted in it becoming contaminated.

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

Reason: The land has historically been subject to use, namely infilling of former pits or quarries with materials of unknown origin, which may have resulted in it becoming contaminated.

20. If required by the conceptual site model, no development shall take place until monitoring at the site for the presence of ground 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: The land has historically been subject to use, namely infilling of former pits or quarries with materials of unknown origin, which may have resulted in it becoming contaminated.

21. 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 to the satisfaction of the LPA.

Reason: In the interests of safeguarding human health.

22. The pedestrian link from Claymar Drive on the south side of 54 Claymar Drive shall remain open and without obstruction for public use at all times unless otherwise agreed in writing by the Local planning Authority.

Reason: To ensure the link remains open for the benefit of pedestrians.

#### Informatives:

Severn Trent Water Ltd advises that there are public sewers, which cross the site. No building should be erected or trees planted within 5m of the 450mm public surface water sewer, and within 2.5m of the 225mm surface water sewer, 225mm foul sewer and 150mm foul sewer. The applicant may wish to apply to Severn Trent Water to divert the sewer in accordance with Section 185 of the Water Industry Act 1991.

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



**Item**            **1.3**

**Reg. No.**        **9/2007/1239/TC**

**Applicant:**

South Derbyshire District Council  
Civic Offices  
Civic Way  
Swadlincote  
Derbyshire  
DE11 0AH

**Agent:**

Property Services  
SDDC  
Civic Way  
Swadlincote  
Derbyshire  
DE11 0AH

**Proposal:**        **The reduction in height of six conifers at South Derbyshire Snooker Centre 42-44 Grove Street Swadlincote**

**Ward:**            **Swadlincote**

**Valid Date:**        **02/11/2007**

**Reason for committee determination**

The Council is the applicant.

**Site Description**

Land in the vicinity of the application site slopes steeply upwards from north to south. The premises comprise a flat roofed building separated from a car park to the north by extensive shrub planting and several trees, including the row of conifers the subject of this application.

The site lies within the Swadlincote Conservation Area.

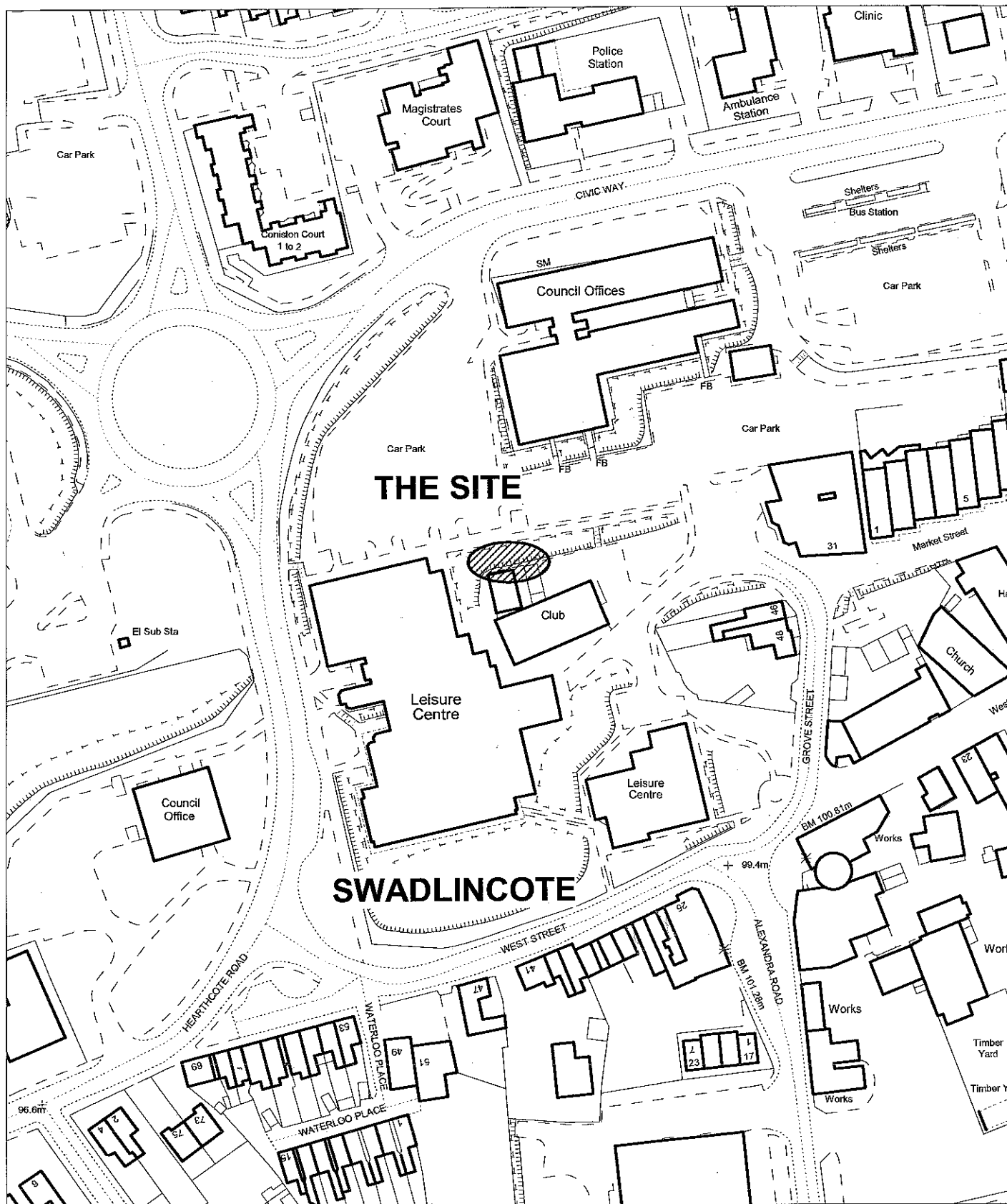
**Proposal**

It is proposed to reduce six conifers from approximately 8m in height to a height just below the roof level of the adjacent building.

**Applicants' supporting information**

The applicant says that there are 6 conifers approximately 8m in height close to the snooker hall annex. Four conifers are very close to the annex and the other two are set further apart. Those close to the building have bent over in high winds and damaged the flat roof of the building. These four need to be cut back to below the roof level and for aesthetic reasons it is proposed to reduce the height of all six.

A bat survey accompanies the proposal as there is evidence of bats within the adjacent building.



South Derbyshire  
District Council  
Civic Offices  
Civic Way  
Swadlincote  
DE11 0AH

9/2007/1239/TC South Derbyshire Snooker Centre  
42-44 Grove Street  
Swadlincote

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Date Plotted 30/11/2007

Plot centred at 429743 319633

NORTH ↑

Scale 1:1500

## **Planning History**

There is no relevant planning history

## **Responses to Consultations**

The Council's Arboricultural Officer supports the proposal but points out that bats are a protected species and works should not compromise them.

## **Responses to Publicity**

There has been no response to publicity

## **Development Plan Policies**

The relevant policies are:

RSS8: N/A

Joint Structure Plan: N/A

Saved Local Plan: EV9, EV12.

## **Planning Considerations**

The main issue central to the determination of this application is the amenity value of the trees and their contribution to the Swadlincote Conservation Area.

## **Planning Assessment**

These fast growing conifers are inappropriate species. Nevertheless they do contribute to the amenity of the locality by adding bulk to the shrub planting and other deciduous trees in the locality. The works, however, are necessary to effect repairs to the roof of the Snooker Annex building and are supported by the Arboriculturalist.

The ecological survey that accompanies the proposal concludes, amongst other things, that work to the trees will not require a Natural England EPS Bats) Licence.

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 work hereby approved shall be carried out within two years of the date of this consent.  
Reason: To ensure that the works hereby approved are carried out within a specified time period.
2. The work shall be carried out in accordance with BS3998: 1989 - Tree Work.  
Reason: To safeguard the health of the trees.

**Item**            **1.4**

**Reg. No.**        **9/2007/1278/F**

**Applicant:**

Mr C Mason  
South Derbyshire District Council  
Civic Offices  
Civic Way  
Swadlincote  
Derbyshire  
DE11 0AH

**Agent:**

Mr Mike Elliott  
Groundwork Derby & Derbyshire  
43 Cromford Road  
Langley Mill  
Derbyshire  
NG16 4EF

**Proposal:**        **The installation of floodlighting and erection of additional fencing and gates to the existing Multi User Games Area at Maurice Lee Memorial Park York Road Church Gresley Swadlincote**

**Ward:**            **Gresley**

**Valid Date:**      **16/11/2007**

**Reason for committee determination**

The Council is the applicant.

**Site Description**

The site comprises a long established formal park laid out with various recreational facilities. It lies within the urban area and has housing adjoining one side albeit separated from the park by a road (Market Street).

**Proposal**

It is proposed to erect four 8m high lighting columns around the edge of the existing Multi Use Games Area in order to extend the hours that it is available for use. Each lighting column would have two lamp heads set to minimise light pollution outside the site. In addition the lights would be linked to a timer to switch on at dusk and off no later than 21.30 hrs.

The information submitted with this proposal also shows that additional security fencing is to be erected within the site. This fencing would not require planning permission.

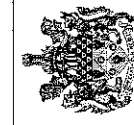
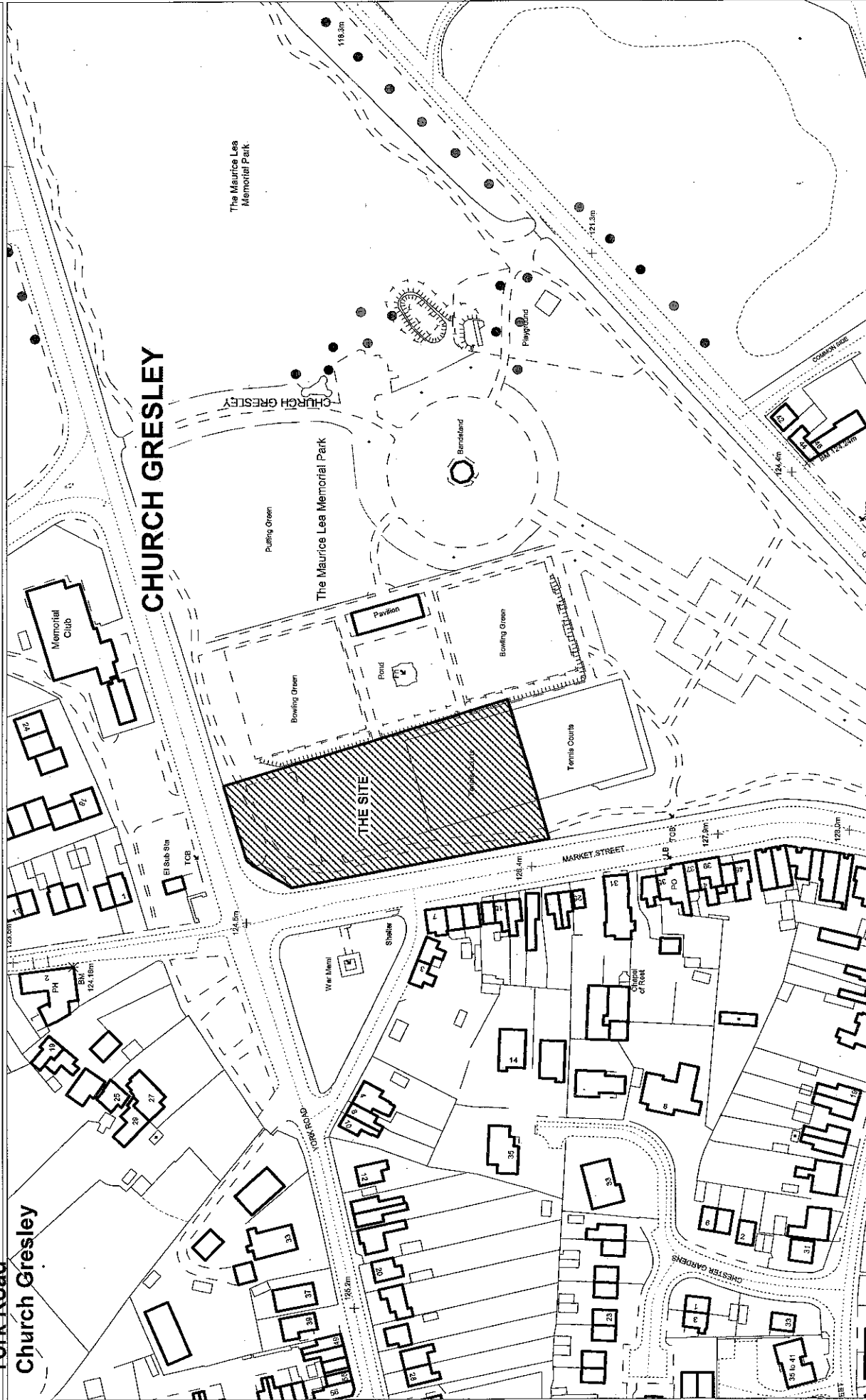
**Applicants' supporting information**

The agents state that the lighting is to allow greater use of the area through the darker winter month evenings. As the park is currently locked at night, additional internal fencing will help secure the wider park while allowing access to the ball court. Due to

9/2007/1278/F Maurice Lee Memorial Park

York Road

Church Gresley



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CIVIC WAY  
SWADLINCOTE DE11 0AH

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the residential properties opposite and surrounding roads, extra care has been required to ensure that the floodlighting is confined to the court (specialist lighting engineers have been commissioned for this), thereby reducing significant spill and glare; this will be assisted by the existing mature trees and hedge line. Socially, this is currently only one of two youth facilities of its type in Swadlincote and the fact that it is unplayable and locked away for a significant portion of the year due to the darker winter nights, must be disappointing and frustrating to local youth.

### **Planning History**

There is no relevant planning history.

### **Responses to Consultations**

The Pollution Control manager has no objection to the scheme.

### **Responses to Publicity**

There has been no response to publicity.

### **Development Plan Policies**

The relevant policies are:

RSS8: N/A

Saved Local Plan: Recreation and Tourism Policy 1.

### **Planning Considerations**

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

- The impact on amenity from the structure
- The potential for noise as a result of increased hours of use
- Light pollution

### **Planning Assessment**

Generally, the development plan policy seeks to ensure (among other things) that recreation facilities do not cause disturbance to local amenity and that such facilities are well integrated into their surroundings.

There is no objection to the principle of works to enhance the quality or availability of public facilities in the Park, neither from those who live around it nor from the Pollution Control Manager.

In terms of the lighting columns themselves, these are to be coloured grey and would not be unduly prominent given the backdrop of mature trees in the locality, many of which exceed 8m in height.

Information submitted with the application indicates the angle of the lamp heads and the extent of the area illuminated. It is considered that there would not be undue light

spillage in a locality that already has street lighting. Furthermore the timers would ensure that the lights do not remain on unnecessarily.

The proposal is therefore 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. 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. Notwithstanding the originally submitted details, this permission shall relate to amended drawing no. (MCJ) 1900/MLM/01.  
Reason: For the avoidance of doubt.
3. The lights hereby permitted shall always be switch off between 2130 hrs and 0700 hrs  
Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.
4. The maximum wattage of bulbs in the lamp heads shall be no higher than 400 watts unless otherwise agreed in writing with the Local Planning Authority.  
Reason: To preserve amenity.
5. Notwithstanding the submitted information, lamp heads shall be permanently angled so as to be parallel with the ground unless otherwise agreed in writing with the Local Planning Authority.  
Reason: To protect the locality from light pollution.

Informatives:

With regard to condition 5, a tolerance of 15 degrees may be acceptable subject to justification from a member of the Institute of Lighting Engineers.

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

**Item**            **1.5**

**Reg. No.**        **9/2007/1281/TP**

**Applicant:**

Andrew Winson  
Property Inspector - Housing  
South Derbyshire District Council  
Darklands Road  
Swadlincote  
Derbyshire  
DE11 0PQ

**Agent:**

Andrew Winson  
Property Inspector - Housing  
South Derbyshire District Council  
Darklands Road  
Swadlincote  
Derbyshire  
DE11 0PQ

**Proposal:**        **The pruning of a Lime Tree covered by South Derbyshire District Council Tree Preservation Order Number 195 at 77 George Street Church Gresley Swadlincote**

**Ward:**            **Gresley**

**Valid Date:**     **02/11/2007**

**Reason for committee determination**

The Council is the applicant.

**Site Description**

This mature Lime tree is one of several similar trees within the front gardens of dwellings in the locality. It has a prominent position in the street.

**Proposal**

It is proposed to crown raise the tree to a maximum height of 5m above ground level.

**Applicants' supporting information**

The applicant states that works are necessary because complaints have been received from occupants of the neighbouring dwelling concerning loss of light and interference with TV reception. Some branches are also interfering with telephone lines.

**Planning History**

There is no relevant planning history.





## **Responses to Consultations**

The Council's consultant arboriculturist advises that it is acceptable to crown lift the tree to a height of 5m without causing harm.

## **Responses to Publicity**

There has been no response to publicity.

## **Development Plan Policies**

The relevant policies are:

RSS8: N/A

Joint Structure Plan: N/A

Saved Local Plan: EV9

## **Planning Considerations**

The main issue central to the determination of this application is the impact of the proposal on visual amenity.

## **Planning Assessment**

The locality is characterised by two storey dwellings which benefit from the softening afforded by many mature trees in the area. The Lime tree the subject of this application has significant amenity value within the streetscape and the works proposed are acceptable and would not compromise this.

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** consent subject to the following conditions:

1. The work hereby approved shall be carried out within two years of the date of this consent.  
Reason: To ensure that the works are timely.
2. The work shall be carried out in accordance with BS3998: 1989 - Tree Work.  
Reason: To ensure good practice in the interests of the health of the trees.

**Item**            **2.1**

**Reg. No.**        **9/2007/1292/F**

**Applicant:**

Mr & Mrs P McDermott  
Dalston Road  
Newhall  
Swadlincote  
Derbyshire  
DE11 0QG

**Agent:**

C A Collins  
14 Sunnyside  
Newhall  
Swadlincote  
Derbyshire  
DE11 0TJ

**Proposal:**        **The erection of a detached dwelling on the Garden of 16 Dalston Road Newhall Swadlincote**

**Ward:**            **Newhall**

**Valid Date:**        **05/11/2007**

**Reason for committee determination**

Councillor Richards has requested that the application is brought before the Committee for the following reasons: the Committee should debate the issues in this case which are very finely balanced; the original application was refused with incorrect information and reasons.

**Site Description**

The site is the main garden area to 16 Dalston Road and is located to the front of the dwelling across a narrow private drive which carries the route of a public footpath. The garden is bounded by a wall to the front, a fence to the public footpath which runs down the side of the site, a wall to the adjoining dwelling and a fence to the dwellings to the rear. The garden has several sheds and a greenhouse to one side and a planting area to the other and measures between 7 and 10 metres in width and 22 metres in length.

**Proposal**

The application proposes the construction of a detached two-bedroom house on the garden. A small area of the garden measuring approximately 3 to 3.5 metres in width by 7 metres in length has been shown on the plan as being retained by 16 Dalston Road. The proposed dwelling will have a driveway of 5 metres in length leading to an integral single garage. The proposed dwelling has been designed without any principle windows on the front elevation in order to comply with space about dwellings standards with respect to 16 Dalston Road. The dwelling has also been designed with no first floor windows on the rear elevation; the bedrooms are lit by roof lights only. The kitchen and lounge/dining room are located at the rear of the dwelling and therefore the main windows are located at ground floor level facing the dwellings to the rear.

9/2007/1292/F Garden of 16 Dalston Road

Newhall



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South Derbyshire District Council  
OS Licence No. LA 100019461. 2006

Date Plotted 30/11/2007  
Scale 1:1250  
Licence No LA 079375

## **Applicants' supporting information**

A design and access statement submitted with the application provides information in support of the following points:

- The site is within the existing Newhall settlement boundary and is not allocated for an alternative use
- The development complies with the density requirements of PPG3
- The development has no effect on the access, parking or amenity space arrangements of any existing dwellings
- A safe access can be constructed to the plot for the proposed dwelling that is acceptable to the highway authority, and the access itself would not harm neighbours
- A dedicated access can be provided to the proposed dwelling and can be constructed to achieve the requirements of the highway authority
- There is no realistic prospect of forming a larger development site
- The site is not on the edge of the settlement and forms an infill to the existing settlement
- The proposed design would not be out of character and the design has been considered such that it would not cause a loss of privacy to adjacent properties
- The design and layout respect the character of the streetscene
- In considering the layout attention has been given to crime issues, SPG on 'Crime Reduction through Environmental Design' has been taken into account
- Local facilities are located within walking distance and there is good public transport provision in the locality
- The design has been considered to make the dwelling compliant with housing suitable for disabled people

## **Planning History**

9/2007/0980/F was refused under delegated powers in October of this year on three grounds. Firstly, highway safety due to the inadequate width of the access resulting in inadequate parking and turning areas being provided. Secondly, loss of garden area for the existing dwelling and thirdly the siting of the dwelling resulting in a loss of privacy for existing neighbouring occupiers.

## **Responses to Consultations**

The County Highway Authority object to the development on the grounds that the 'Manual for Streets' requires that adequate parking be provided for residential development and whilst parking is shown on the plan, the site would be impossible to access with a vehicle, due to the width of Dalston Road where it fronts the site. Furthermore, due to the lack of turning space, any driver attempting to access the site would need to reverse along the full length of Dalston Road, resulting in potential conflict with other vehicles and particularly pedestrians and be likely to manoeuvre within High Street in order to reverse to or from the junction. Such manoeuvres and the increase in on street parking would be detrimental to highway safety.

Severn Trent Water has no objection to the proposal.

## **Responses to Publicity**

No responses received.

## **Development Plan Policies**

The relevant policies are:

Saved Local Plan: Transport Policy 6 and Housing Policy 11

## **Planning Considerations**

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

- the principle of development;
- highway and pedestrian safety,
- loss of garden area for No 16 Dalston Road and
- the potential adverse impact on the privacy of the occupiers of adjoining dwellings as a result of overlooking.

## **Planning Assessment**

The site lies on previously developed land (garden) within the urban area and therefore the principle of development is acceptable in policy terms.

The access to the site is inadequate as stated above in the consultation response from the Highway Authority. Dalston Road is a narrow private street which carries a public right of way with a public footpath extending along the full length of the road and along the side of the application site. Dalston Road is very narrow at the point where it meets the application site and although additional land exists to the front of the existing dwelling it is located at a lower level than the road/ footpath and separated from the road by a fence so could not form part of the access. The width of the available access would be such that manoeuvring into and out of the driveway and garage would be impossible, particularly in view of the garden land being retained for use by 16 Dalston Road. In addition there would be no means of turning vehicle within Dalston Road except on private land outside the control of the applicant and any vehicle accessing the site may therefore have to reverse along the road resulting in potential conflict with other vehicles and pedestrians using the public footpath.

Most of the garden to 16 Dalston Road would be given over to the proposed development. The dwelling is two bedroom but nevertheless is considered one that would be appropriate for family accommodation and the loss of its garden would not be in the interests of good housing design as advised in PPS 3 and Housing Policy 11 and the SPG on Housing Design and Layout.

The proposed dwelling has been designed so that all the main windows are located on the rear elevation, at ground floor level. There is an existing fence on the rear boundary which measures approximately 1.5 metres in height but the dwellings to the rear are elevated above the site and despite the height of the fence there are clear views between the site and the main living room windows of the dwellings to the rear of the site. The floor level of the proposed house would be above the existing level of the site and any standard height boundary treatment would be inadequate in protecting the privacy of existing occupiers. The distance between the proposed kitchen and living

room windows and the existing living room windows of the dwellings to the rear of the site is only 16 to 19 metres which is below the space about dwellings standards set out in the SPG on Housing Design and Layout. Although in many circumstances the distances between main ground floor windows can be reduced as a result of providing adequate boundary treatment, in this case the difference in levels between the site and the houses at the rear means that the existing dwellings would be overlooked and privacy would be compromised.

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** permission for the following reasons:

1. The Manual for Streets requires that adequate parking be provided for residential development and whilst the submitted drawing indicates an integral garage with a parking space in front, the site would be impossible to access with a vehicle due to the width (approximately 2m) of Dalston Road where it fronts the site. Furthermore, due to the lack of turning space, any driver attempting to access the site would need to reverse along the full length of Dalston Road, resulting in potential conflict with other vehicles and particularly pedestrians and be likely to manoeuvre within High Street in order to reverse to or from the junction. Such manoeuvres and the increase in on street parking which would result from the construction of the proposed dwelling would be detrimental to highway safety. The proposal would therefore be detrimental to highway safety contrary to Transport Policy 6 of the South Derbyshire Local Plan.
2. Most of the garden to 16 Dalston Road would be given over to the proposed development. The dwelling is one that is appropriate for family accommodation, and the loss of its garden would not be in the interests of good housing design as advised in PPS3 and Housing Policy 11 of the South Derbyshire Local Plan and Supplementary Planning Guidance - Housing Design and Layout.
3. Due to the siting of the proposed development and issues of overlooking, a reasonable level of privacy would not be maintained for existing neighbouring occupiers contrary to Housing Policy 11 of the South Derbyshire Local Plan and Supplementary Planning Guidance - Housing Design and Layout.

## 2. PLANNING AND OTHER APPEALS

Reference	Place	Ward	Result	Cttee/delegated
9/2007/0076	Barrow-on-Trent	Stenson	Dismissed	Delegated
9/2006/1215	Mickleover	Etwall	Allowed	Delegated





# Appeal Decision

Site visit made on 29 October 2007

**by P M Brannan** BSc CEng MICE MIHT  
MIHIE

an Inspector appointed by the Secretary of State  
for Communities and Local Government

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

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**Decision date:**  
**14 November 2007**

**Appeal Ref: APP/F1040/A/07/2046425**

**The Hill Lodge, Deep Dale Lane, Barrow-on-Trent, Derby, DE73 7NH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Addsafe Ltd against the decision of South Derbyshire District Council.
- The application Ref 9/2007/0076/F, dated 17 January 2007 and received by the Council on 18 January 2007, was refused by notice dated 14 March 2007.
- The development proposed is the erection of an extension to an existing office and additional car parking.

## Decision

1. I dismiss the appeal.

## Main Issues

2. The main issues are first, whether the proposal would have an unacceptable visual impact in a countryside location and second whether the proposal would result in increased vehicular movements for work related journeys in conflict with the principles of sustainable development.

## Reasons

3. The appeal site lies within a compound that lies adjacent to a residential property at The Hill Lodge. The property is sited at the entrance to the drive that serves a substantial house known as The Hill some distance to the north of the appeal site. The Hill lies in open countryside some distance to the north of the settlement of Barrow-on-Trent.
4. Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7), contains national policy advice for development outside settlements including in the open countryside. One of the key principles of the guidance is to protect the countryside for the sake of its intrinsic character and beauty by strictly controlling new building development in the open countryside. Policy Environment Policy 1 of the South Derbyshire Local Plan adopted in May 1998 LP repeats the intention to control new development in the countryside and it states that new development will not be permitted unless it is essential to a rural based economy or unavoidable in the countryside and that the landscape quality must be safeguarded. Employment Policy 4 of the Local Plan refers to the reuse or adaptation of existing buildings where it would benefit the rural economy, but not new buildings.

5. The proposed development would not be essential in the rural economy in any way since the business is associated with the construction industry. Moreover, the construction of an extension onto the existing building would have a marginally harmful visual impact and that would aggravate the policy objection inherent in Environment Policy 1. Although the development can only be seen from a few vantage points it would present an intrusion into the landscape from points on the lower stretches of the access road to The Hill and from some locations on the surrounding highway network, albeit slight. So the development would not accord with the requirements of Environment Policy 1 of the development plan.
6. Turning to consider the second issue Planning Policy Statement 1: Delivering Sustainable Development sets out the elements that contribute towards the delivery of sustainable development. The key principles include the encouragement of patterns of development which reduce the need to travel by private car. Strategy Policy 1 of the Derby and Derbyshire Joint Structure Plan adopted in January 2001 also infers that the principles of sustainable development are well served by minimising the overall need to travel by ensuring convenient access between homes and places of work and also by encouraging the increased use of public transport by developing in locations that are well served by a public transport network.
7. The proposed development is remote from the main part of the settlement of Barrow-on-Trent and any public transport facility. The proposal would at the least almost double the available office floor area at the site which could accommodate additional office staff. Therefore, it is highly likely that more people would travel to the site by car. Indeed the application for planning permission included additional car parking facilities at the site. Consequently, it is my view that the proposal would be in direct conflict with the principles of sustainable development.
8. From the above I conclude that the proposal is unacceptable because it is in direct conflict with both local and national policy and so I have no alternative but to reject this appeal.

*P M Brannan*

Inspector

Mr K J Sutherns  
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Mickleover  
Derby  
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Our Ref: EMP 1040/147/9

Date: 3 October 2007

Dear Mr Sutherns

**TOWN AND COUNTRY PLANNING ACT 1990  
THE SOUTH DERBYSHIRE DISTRICT (LAND AT PASTURES HOSPITAL,  
MICKLEOVER) TREE PRESERVATION ORDER No.132 (1996)  
APPEAL AGAINST COUNCIL'S REFUSAL OF CONSENT TO FELL ONE WILLOW  
TREE ON LAND AT 128 MERLIN WAY, MICKLEOVER**

1. I am directed by the Secretary of State for Communities and Local Government to refer to your appeal under the Third Schedule of The South Derbyshire District (Land at Pastures Hospital, Mickleover) Tree Preservation Order No. 132 (1996), against the decision of South Derbyshire District Council to refuse consent to fell one willow tree denoted as T36 in the First Schedule of the above Tree Preservation Order and on land at 128 Merlin Way, Mickleover.
2. The Secretary of State has taken into account all of the written representations made by you together with those of South Derbyshire District Council and interested third parties. She has considered the reasons given in support of the appeal proposal and whether it is justified in the light of the tree's contribution to the amenity of the local area.
3. An Inspecting Officer visited the site on 23 July 2007 and inspected the tree in question. A copy of his report is appended to this letter.
4. The Secretary of State accepts the Inspecting Officer's conclusions that although the appeal tree is a healthy, semi-mature specimen, it dominates the rear of your property and significantly reduces the rear garden private amenity value. She also notes that the tree is not fully grown and is expected to increase in size over the next decade. The Secretary of State therefore agrees with the Inspecting Officer that the extent of crown reduction pruning required to enable the tree to remain in its current position would significantly diminish any public amenity value and is unsustainable in the long term. On balance, she believes that the proposal to fell the tree is justified.

5. Therefore, for the reason given above, the Secretary of State hereby allows your appeal and grants consent to fell one willow tree denoted as T36 in the First Schedule of the above Tree Preservation Order and on land at 128 Merlin Way, Mickleover, subject to the following conditions:

i) that you plant a replacement tree, such as rowan (*Sorbus aucuparia*), whitebeam (*Sorbus aria*), or a smaller-statured birch species or variety (*Betula spp*), the exact species, size, location and timing of planting to be agreed in advance with the local planning authority. If within a period of two years from the date of planting, any tree (or any other tree planted in replacement for it) is removed, uprooted or destroyed or dies, another tree of the same size and species shall be planted at the same place as soon as reasonably practicable;

ii) works for which consent to fell is hereby granted shall be implemented within two years of the date of this letter,

and this letter constitutes her decision to that effect.

6. A separate note is enclosed setting out the circumstances in which the validity of the Secretary of State's decision may be challenged in the High Court within 6 weeks of the date of this letter.

7. I am sending a copy of this letter to South Derbyshire District Council and interested third parties.

Yours sincerely

Lesley Flint (Mrs)  
Authorised by the Secretary of State  
for Communities and Local Government  
to sign in that behalf

Mr K J Sutherns  
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Mickleover  
Derby  
DE3 0UJ

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