

REPORT OF THE HEAD OF COMMUNITY AND 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).

1. PLANNING APPLICATIONS

This section also includes reports on applications for: approvals of reserved matters, listed building consent, work to trees in tree preservation orders and conservation areas, conservation area consent, hedgerows work, advertisement consent, notices for permitted development under the General Permitted Development Order 1995 (as amended) and responses to County Matters.

Reference	Item	Place	Ward	Page
9/2010/1123	1.1	Stenson	Stenson	1
9/2011/0005	1.2	Thulston	Aston	5
9/2011/0006	1.3	Swadlincote	Swadlincote	8
9/2011/0054	1.4	Weston	Aston	19
9/2011/0269	1.5	Swadlincote	Swadlincote	23
9/2010/1163	2.1	Smisby	Hartshorne/Ticknall	26
9/2011/0137	2.2	Swadlincote	Swadlincote	32

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

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

Item 1.1

Reg. No. 9/2010/1123/NO

Applicant:
MS BEV ILOTT
WEST FARM
STENSON
BARROW-ON-TRENT
DERBY

Agent:
MS BEV ILOTT
WEST FARM
BARROW-ON-TRENT
STENSON
DERBY

Proposal: **THE ERECTION OF A DOG BOARDING FACILITY AT
WEST FARM STENSON DERBY**

Ward: **STENSON**

Valid Date: **31/01/2011**

Reason for committee determination

The matter is referred to Committee at the request of Councillor Shepherd because local concern has been expressed about a particular issue.

Site Description

The site comprises a farmhouse and paddocks. There is an existing cattery and some private stables on the land. Access is via a private drive, which also serves converted barns known as Glenfield House and Tiddyfrog Barn.

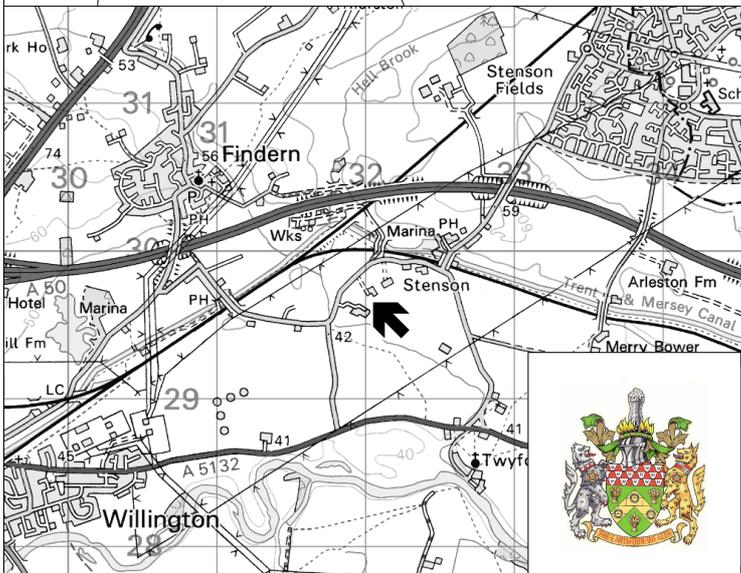
Proposal

The applicant seeks to build a block of boarding kennels immediately to the south of the existing cattery. Up to 15 dogs would be boarded.

Applicants' supporting information

- The applicant's income is generated from the land.
- There is a need for high quality dog boarding facilities in the locality.
- The area is not completely quiet and background noise sources include the railway, the A50, farm animals and dogs, nearby livery stables, aircraft and occasional motocross events and remote control cars.
- The units would be sited so as to avoid disturbance to the dogs.
- The kennels would be set a lower level behind an earth bank, which is a natural noise barrier.
- The solid walls and roof would attenuate noise.

9/2010/1123 - West Farm, Stenson, Derby DE73 7GB



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. South Derbyshire District Council. LA 100019461. 2010



- Dogs would not be able to see each other and would be closed in at night and other times as necessary.
- The units would be provided with a sonic anti-bark device.
- The units would face away from the neighbouring dwellings.
- Any noisy dogs would not be welcome to return.
- There is ample parking.
- The proposal would create employment and with the continuing decline in farming it represents constructive use of land in a semi-rural area.

Planning History

9/2006/0743 – Cattery – Permitted.

9/2007/1198 – Barn and stables – Permitted.

9/2008/1102 – Use of garage for cattery, new garage and stables – Permitted.

Responses to Consultations

The Highway Authority has no objection.

The Development Control Archaeologist has no objection.

The Environmental Health Officer has no objection in principle.

Responses to Publicity

A neighbouring household raises the following concerns:

- a) The main concern is noise. The plans do not specify the sound insulation qualities of the building and other means of minimising noise.
- b) The scale of the development increases the risk of noise.
- c) Noise from dogs at the site has been experienced in the past.
- d) Up to 30 dogs could be accommodated at the site.
- e) The means of waste disposal is not specified.
- f) Property values would be diminished.
- g) An escaping dog could injure nearby animals.
- h) The site access is shared with neighbouring dwellings, access to which has previously been blocked by cars belonging to visitors to the application site.

Development Plan Policies

The relevant policies are:

Local Plan: Environment Policy 4, Transport Policy 6 and Employment Policy 4.

National Guidance

PPS1 PPS4 PPG13

Planning Considerations

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

- The principle.

- Impact on the countryside.
- Residential amenity.
- Highway safety.

Planning Assessment

The proposal would be a development of the existing business carried on at the land, and represents an acceptable rural diversification proposal in principle.

The building would have little or no impact on the countryside when viewed from the public realm.

The main issue with the proposal is noise, in particular insofar as it may affect the neighbouring dwellings. Having regard to the applicant's proposed measures for noise attenuation, the Environmental Health officer has no objection in this regard. An appropriate condition would require precise specifications to be submitted and approved, to further minimise the risk of disturbance. Vehicles using the access may be noticed and heard by the neighbours. However if the land and buildings were to revert to agriculture a certain amount of activity would still be expected and traffic is unlikely to be materially harmful to the living conditions of the occupiers of the neighbouring dwellings.

The access was provided with visibility splays when permission was granted for the barn conversions and the cattery, which is adequate for the proposed development.

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 the amended drawing received 12 April 2011 showing the internal layout of the kennels.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.
Reason: To safeguard the appearance of the existing building and the locality generally.

4. Before development begins detail of measures to deal with animal waste shall be submitted to and approved in writing by the Local Planning Authority and the approved measures shall be implemented for the life of the development unless as may otherwise be agreed in writing with the Local Planning Authority.

Reason: In the interests of amenity and pollution control.

5. Before development begins a scheme and measures for protecting nearby noise-sensitive properties from noise from the dogs boarded at the kennels, including the times that dogs will be kept indoors, shall be submitted to and approved in writing by the local planning authority; and all works which form part of the scheme shall be completed before the development is brought into use and all approved noise management measures as approved shall be maintained throughout the life of the development unless as may otherwise be agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

Item 1.2

Reg. No. 9/2011/0005/FH

Applicant:

Mr Peter Green
26 Brook Road
Thulston
Derby

Agent:

Mr Fred Davidson
Fred Davidson Design
10 Lower Maples
Heanor
Shipley

Proposal: **Amended scheme of previously approved application
9/2009/0572 for the erection of extensions and
alterations at 26 Brook Road Thulston Derby**

Ward: **ASTON**

Valid Date: **05/01/2011**

Members will recall deferring a decision on this application pending a site visit by the Committee. The report that follows is unaltered from the last meeting.

Reason for Committee Determination

Councillor Mrs Coyle (ward member) has requested that the Planning Committee determine this application as local concern has been expressed about a particular issue.

Site Description

The property is a detached two-storey dwelling located at the northeastern corner of Brook Road. It has previously been extended (see planning history below). The plot affords both front and rear garden space; a detached brick built garage and a level of hard surfacing used for car parking. The site and surrounding land is flat.

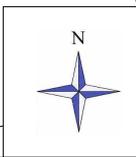
Proposal

The proposal is in three parts: a two-storey extension to the side, a first floor extension to the rear and a single storey extension to the front.

Applicants supporting information

None.

Planning History



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

South Derbyshire District Council. LA 100019461. 2010

9/497/01010F – two-storey extension to the front of the property.
There is also an extant permission here (9/2009/0572) for a single storey garage to side and first floor extension to rear. This application is seen as a replacement for that scheme.

Responses to Consultations

Objections have been received from Elvaston Parish Council and two neighbouring households. These objections are summarised as follows:

- a. Concern over proximity of build to No.24 making 'general property maintenance' difficult;
- b. the proposal makes the house look semi detached when it is in fact detached; the extension would have a detrimental effect on the appearance of the area; proposal causes a terracing effect;
- c. overbearance to bedroom window; loss of light to conservatory; concern over noise and risk of fire spread again due to proximity of build;
- d. loss of privacy;
- e. property value loss; applicant should be responsible for any damage caused to the adjacent property for a period of 25 years; lack of consideration towards residents.

Development Plan Policies

Local Plan Housing Policy13; Local Plan Green Belt Policy 3; Supplementary Planning Guidance (SPG): Extending Your Home.

Planning Considerations

The main issues central to determination of this application are:

- Design/Impact on the streetscene
- Residential amenity

Planning Assessment

Design/Impact on the streetscene

The property is a detached dwelling situated in a wholly residential cul-de-sac. Built in the mid 70's it has a modern but simple appearance.

SPG states that extensions should look like a smaller part of the main dwelling. The extensions as proposed achieve this by being narrower and/or shorter than the existing. By setting the ground floor and first floor elements back from the established building line, the proposal further attempts to lessen its visual impact and as such appears wholly subordinate.

The SPG also states that in cases where houses are set at regular intervals, care should be taken when extending to the side, to avoid a terracing effect although this can be relaxed for more modern estates where all houses are not the same. In this case, immediate properties are similar in design and set out at regular intervals. The wider cul-de-sac though is a mix of modern house types and styles and all houses are not the

same. Semi-detached dwellings (properties which you have to pass to access No24) do exist in the streetscene and are interspersed with detached dwellings without undue detriment. It is considered therefore that a 'terracing' argument is not sustainable.

Residential Amenity

Housing Policy 13 permits extensions that are not detrimental to the amenities of immediate properties.

By virtue that no neighbour primary windows are overlooked or overbared upon and light levels are not unduly affected, the proposal is seen to be acceptable in that regard. The 45 degree lines in respect of overbearance is not contravened. Light levels to the conservatory and first floor bedroom window at No24 will not be adversely reduced given its orientation. The first floor doors/juliet balcony are assessed as having no worse an impact than a large window. As primary windows already exist to the rear at first floor this new window is seen not to make any material difference.

Concerns raised in regards the proximity of the build and the physical works of such can and should be managed through the Party Walls Etc. Act 1996. Building Regulations approval would also provide a control with regards appropriate noise and fire protection.

Conclusion

The proposal is considered to be in keeping with the general mix of house types found in the locality and settlement generally. Although the side extension proposed would be in close proximity to its neighbour, attempts to limit its impact have been made and overall it would appear subordinate. Considered against the SPG, there is no case for overbearance or loss of privacy, and basic amenity levels are not unduly affected.

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. 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.

Informatives:

In the event that the flood mitigation measures submitted as part of the application are insufficient and floor levels are increased it is likely that a further planning permission would be required.

Item 1.3

Reg. No. 9/2011/0006/RSD

Applicant:

Hardwick Coleman & Whotton Ltd DSPS
Belmont Street
Swadlincote

Agent:

Mr David Swann
Montague Architects Ltd
9 Vernon Street
Derby

Proposal: **THE DEMOLITION OF EXISTING BUILDINGS AND THE
ERECTION OF 13 DWELLINGS WITH ASSOCIATED
ACCESS ROAD AND PARKING AT HARDWICK
COLEMAN & WHOTTON BELMONT STREET
SWADLINCOTE**

Ward: **SWADLINCOTE**

Valid Date: **07/01/2011**

Reason for committee determination

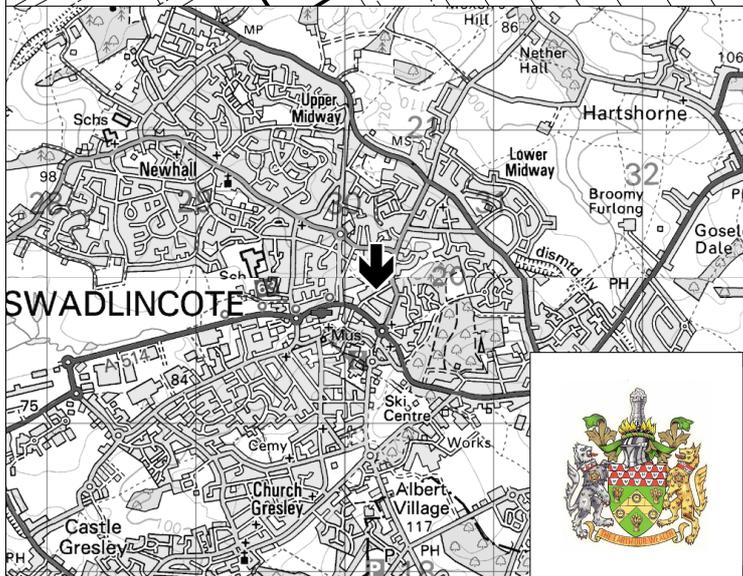
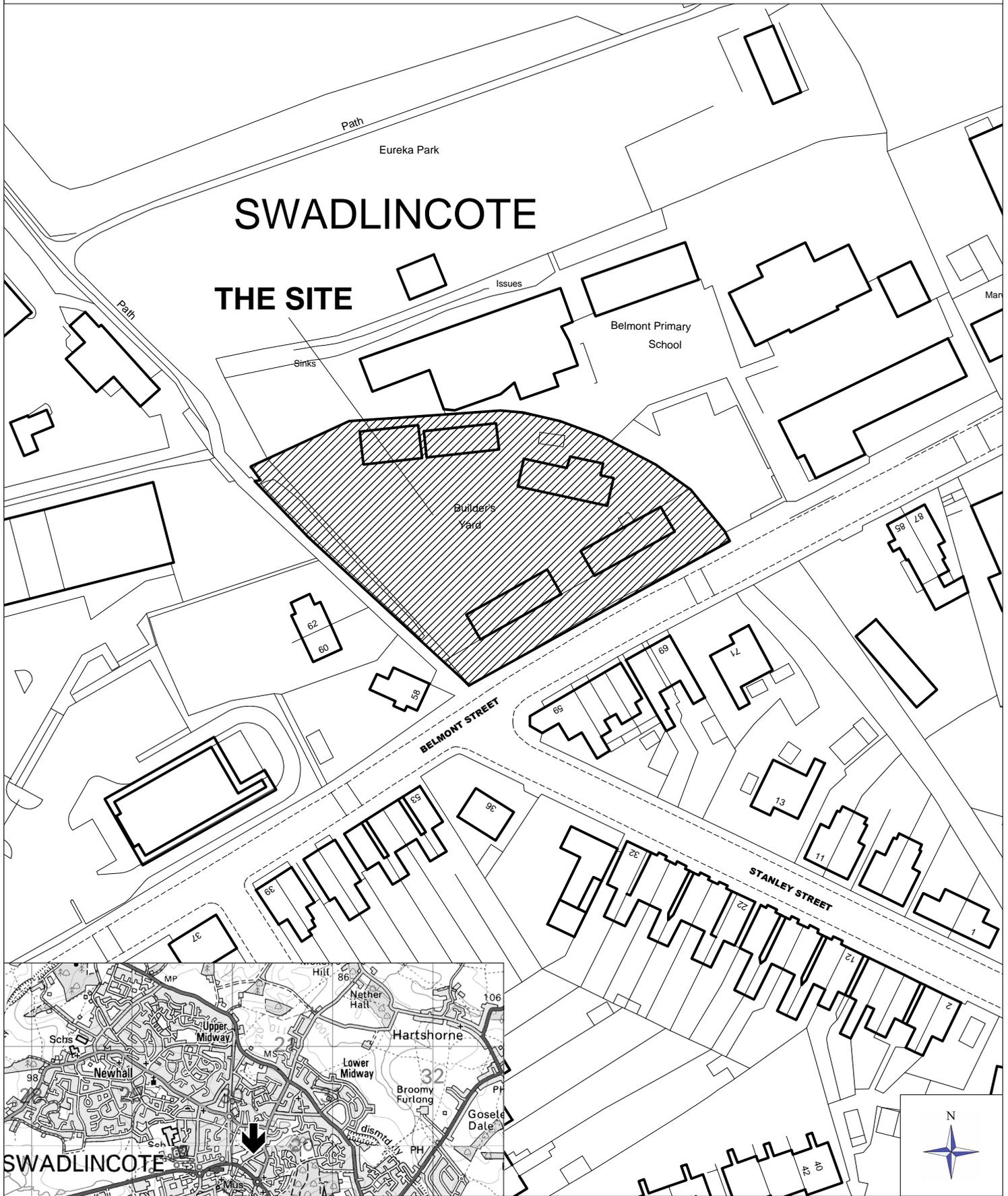
Councillor Tilley has requested that the application be brought to Committee, as there are unusual site circumstances particularly in relation to the increase in traffic in close proximity to the school that should be considered by the Committee.

Site Description

The application site on the north side of Belmont Street lies approximately 200m from the junction with Civic Way (A514) and approximately 400m from the town centre. Civic Way is well served by public transport and the site accordingly has good car-free access to the centre of the town.

There are five buildings on the site, one of which is used as a Reception and small suite of offices. Those remaining are used for the storage of machinery, plant and materials together with parking space for company vans etc.

Belmont Primary School is immediately adjacent to the north and east, of the application site. There is an existing footpath along the southwestern boundary with detached residential properties on the other side of the path; these are at a lower level than the application site by approximately 1.5 metres. Further along the path are the premises of HK Wentworth. On the opposite side of Belmont Street is a mixture of terraced, semis and detached dwellings. Beyond the school site is Eureka Park but there is no common boundary between the park and the application site.



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. South Derbyshire District Council. LA 100019461. 2010

Proposal

The scheme proposes the demolish of all the existing buildings on site, and erect 13 dwellings -comprising 4 detached houses on the Belmont Street frontage and one detached and 8 semi-detached following the curve of the site to the rear adjacent to the boundary with the school.

Each house would be designed to achieve level 3 under the Code for Sustainable Homes. The use of solar hot water panels would be used to take advantage of the largely south facing aspect. [No details have been provided.]

A new access to Belmont Street would be formed to provide a curved, landscaped private drive to serve the houses at the rear of the site. Fencing would enclose the site.

The above description of the development arises from the amended plans that have been submitted since the application was first received.

Applicants' supporting information

The applicant states that PPS3 encourages high quality housing, a mix of house types, making the best and most effective and efficient use of land, responding to market need, accessibility, good integration to the surrounding area, promotion of biodiversity and the creation of a distinctive character that relates well to the surrounding area. The proposal involves the provision of the houses at a density of 42 dwellings/hectare.

The applicant considers that the proposals make good and efficient use of this well situated brownfield site. They consist of four detached houses along the Belmont Street frontage, each with driveway and garages, accessed direct from the road. The remaining detached and 8 semi-detached dwellings form an arc following the profile of the site and served off a landscaped private drive. The architecture simply seeks to echo the traditional Edwardian dwellings along Belmont Street, with red bricks, tiled roofs and feature stone bay windows. Privacy distances would be maintained between habitable rooms.

The applicants have submitted information to justify a score under the criteria for 'Building For Life' (BFL). It is asserted that the site should score well under these criteria [see 'Planning Assessment' below].

The applicant concludes that the development makes good use of this brownfield site and reinstates the street frontage with a more cohesive identity. Existing access has been improved to reflect the greater number of dwellings. The new development can only be seen as a major improvement to this area of Belmont Street.

Following the submission of the application, the applicants have submitted a signed unilateral undertaking to make payments for the provision of public open space and health facilities. The health contribution is set out below and the open space contribution is £24,990. Both payments become payable upon occupation of the first four dwellings on the application site with 25% being received as each of these dwellings is occupied.

Planning History

The site has been used as a builders yard for many years but there is no recent relevant planning history.

Responses to Consultations

County Highway officers report that a site inspection of the locality has been undertaken and reached a decision not to object to the application (as amended) as its requirements have been met following careful consideration of highway safety issues. A condition tying any planning permission to the amended plan is recommended. The County Highways Authority had objected to the layout as originally submitted as it did not provide sufficient space for vehicles to reverse out of the parking spaces fronting plots 9 -13, that could have led to these spaces being under used and creating off site parking issues. As stated above the amended plan has addressed this issue.

The PCT has confirmed that the proposed development would have a direct impact on the number of patients registered with the Heartwood practice. The practice would see its list size increase above the recommended levels and as such a S106 contribution of £512.56 x 13 dwellings = £6,663.28 should be secured. A signed unilateral undertaking has been received to make this payment when the first building is occupied.

The Pollution Control Officer has no objections subject to conditions relating to noise during construction and a condition requiring a noise survey be undertaken prior to the commencement of the development to assess what measures if any are required to protect occupants from external noise sources following the completion of the development.

The contaminated land officer identifies a need for further investigation on the site prior to building works being undertaken and then supervision of works to ensure that contaminated land issues are properly addressed during the development.

The County Education Authority advises that the application site is within the normal area of the Belmont Primary School and the Granville Sports College. They anticipate that the 13 dwellings proposed would generate 3 primary age pupils and 2 secondary age pupils. This is calculated on the basis of a minimum of 20 primary places and 15 secondary places per 100 dwellings. Currently having analysed current pupil projections for the next 5 years at these schools, they could accommodate this number of pupils without the need for further building works and as such would not seek a S106 contribution.

The Coal Authority considers that the Coal Mining Risk Assessment submitted with the application is acceptable and recommends a site investigation condition together with an informative.

Severn Trent Water has no objection subject to a drainage condition.

Responses to Publicity

The Chair of the Governors for Belmont School has objected on behalf of the school. The grounds of objection are that upper floor windows of the houses bordering the school would overlook the playground areas of the school. It is asserted that no trees

are shown on the submitted plans to screen these views. Plots 5 – 13 should be modified to prevent views over the school grounds. Whilst the reuse of brownfield land is preferable, this site has been designed to get the maximum number of houses on it without regard to the impact of the development on the school. The Chair considers that the Design and Access Statement does not accurately reflect the development proposed in terms of it is not a well-designed scheme pedestrian routes are not overlooked. There is a strong objection to plots 1 and 5 – 13 because of their impact on the school premises.

Two objections have been received via the website and the concerns are summarised as follows:

- a) The proposal would generate 26 more cars on an already busy road.
- b) The development would generate more noise and dust.
- c) The dwellings would overlook and overshadow the school and its playing ground.
- d) Existing residents already have difficulty parking during peak times when school children are being dropped off or collected.
- e) Visitors to the dwellings would park anywhere.
- f) The proposed access would reduce parking provision on the street
- g) The site should be used to extend the school or provide school parking.
- h) Safety of school children is a concern as more traffic and refuse collections would result from the proposed development.

Development Plan Policies

The relevant policies are:

EMRP: Policies 2, 3, 12 & 48,

Saved Local Plan: Environment Policy 10, Housing Policies 4 & 11 and Transport Policy 6.

National Guidance

PPS1 – paragraphs relating to the general principle of development.

PPS3 – paragraphs relating to the location of development. References to brownfield land have been removed from the guidance.

PPS4 – Planning for Sustainable Economic growth.

PPG – 24 – Planning and Noise.

Local Guidance

Adopted SPG – Housing Design and Layout.

Adopted Guidance Note on Section 106 payments.

Planning Considerations

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

- The principle of development
- Housing Design and Layout Issues
- Building for Life Assessment – street scene issues.
- The impact on the school premises.

- Highway safety
- Section 106 Issues

Planning Assessment

The Principle of Development

The site lies within the built up area of Swadlincote as set out in Housing Policy 4 of the Local Plan and as such the principle of housing development within the urban area is acceptable. There are other policy considerations in respect of the detail of the development that are assessed in the next part of the report.

Housing Design and Layout Issues

Planning permission is sought for the erection of 13 dwellings on this established industrial site on Belmont Street. The site has a semi-circular shape and as such the proposed layout has used this to create a strong crescent feature to the development.

The architectural detailing which includes arched fanlights and bay windows betray traditional Victorian terrace features and adds interest. Distances between existing and proposed properties across Belmont Street range from 13.4 -13.8m. The development fronting Belmont Street in the main has a close relationship to the street and this is reflected in the proposed layout. The adopted Housing Design and Layout SPG makes provision for reduced separation distances if it is important to ensure that the essential character of the street is maintained and such is the case here.

The houses on the opposite side of the public footpath lie at a lower level than the application site and have main habitable rooms that look towards the site. These would look out towards the side gable of the proposed dwelling on Plot 4. The scheme has been amended to provide the minimum separation distances from the side elevation of the proposed dwelling on Plot 4 to the neighbouring house to achieve the distances required in SPG. The adjoining houses have been reconsulted and no further comments have been received.

Building for Life Assessment

The scheme has been assessed following the submission of the amended plan and due to those amendments the development would attract a score of 15 in the BLF matrix. The Council's objective is for housing schemes to score a minimum of 14 in the BFL assessment. It is considered that the development has the potential to considerably improve the street scene and to enhance the residential character of this part of Belmont Street by the removal of a non-conforming use.

Impact on the School

The existing use as a builder's yard and associated offices is not ideally located adjacent to a school and residential uses. It is not considered to be a good quality employment site for this reason. Its loss is therefore considered acceptable.

The main concern of the Chair of Governors is the potential overlooking of the playgrounds from the upper floor windows of the houses. Views from the ground floor

would be controlled by the provision of a substantial boundary fence comprising a low brick boundary wall with pillars to support wooden infill panels.

However, from a planning perspective, balanced against the school's concerns are the wider environmental improvements arising from the redevelopment of the builders yard in terms of a significant improvement to the street scene and the removal of potential sources of contamination from near the school boundary including a diesel tank and plant and machinery. The overlooking of the school grounds is not considered to be a ground in itself for refusing this planning application and any such refusal would be unreasonable.

Highway Considerations

The County Highway Authority has carefully assessed the redevelopment of the site and its reasons for concluding that the development would be acceptable from a highway safety point of view are set out above. It should also be borne in mind that the replacement of the existing builder's yard would remove the movement of heavy vehicles from the proximity of the school and the street which is otherwise predominantly residential. In the light of this assessment it is considered that refusing planning permission based on highway safety issues would be difficult on its own to sustain at appeal.

Section 106 Issues

The application is accompanied by a signed Unilateral Undertaking for the provision of open space and health facilities in the locality in accordance with the adopted Guidance Note on such contributions. In the light of the comments of the Education Authority, there are no grounds for seeking any additional monies for the provision of educational facilities.

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 compliance with the provisions of the signed unilateral undertaking dated 2 March 2011 to make provision for medical facilities and public open space provision, **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 the following drawings: 2007-02B & -05B received on 17 March 2011 and 2007-03A received with the original application.

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

3. Notwithstanding the provisions of Part 2 Class A of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) and notwithstanding the description of the boundary treatment to the Belmont School and before development is commenced detailed drawings of that boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. The approved boundary treatment shall thereafter be erected in accordance with the approved details and thereafter retained in place unless the Local Planning Authority has granted planning permission for an alternative boundary treatment in response to an application made in that regard.

Reason: The erection of houses on land adjoining the curtilage to the school requires a substantial boundary feature in the interests of the future occupiers of the dwellings hereby permitted. The Local Planning Authority seeks to ensure that the boundary is of an appropriate construction and is retained in place in perpetuity.

4. No part of the development shall be carried out until precise details and samples of the facing materials to be used in the construction of the external walls and roof of the buildings have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

5. 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.

6. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.
B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.
C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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

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

7. Prior to the first use of the development hereby permitted, the new access to Belmont Street shall be created in accordance with the details shown on Drawing N0 2007-02B and the land in advance of the sight lines measuring 2.4m measured along the centre line of the new access and 45m in each direction 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.

8. Upon the completion of the access required by Condition 7 above, the existing vehicular access to Belmont Street shall be permanently closed and the vehicle crossovers reinstated as footway in accordance with the details shown on Drawing 2007-02B.

Reason: In the interests of highway safety.

9. No dwelling shall be occupied unless or until parking manoeuvring space has been provided within the site in accordance with the details shown on Drawing No 2007-02B. The parking and manoeuvring space shall thereafter be surfaced and maintained throughout the life of the development without impediment to its designate3d use.

Reason: To ensure that adequate parking/garaging/manoeuvring provision is available.

10. Before any development is commenced site investigation works to establish the extent of any shallow coal mine working shall be undertaken as recommended in the Coal Mining Risk Assessment. If shallow coal mine workings are identified as a result of the site investigation then details shall be submitted of remedial works to treat areas of shallow coal mine workings to ensure the safety and stability of the proposed development. The approved remedial works shall be undertaken prior to building ovrks on the site being commenced in accordance with the approved remedial measures.

Reason: The Coal Risk Mining Assessment identified that there is a risk of coal deposits within the site and a site investigation is required to establish the extent or otherwise of such deposits.

11. Prior to the commencement of the development the developer shall submit a scheme highlighting details of the likely resultant noise levels from activities during the construction phase at the nearest noise sensitive premises. The investigation shall address the impact that the activities will have, in terms of noise, on nearby residential properties. This assessment and mitigation measures shall be submitted for the approval of Development Services prior to commencement of the development. Once agreed, all identified noise control measures shall be implemented and thereafter retained.

Reason: In order to ensure that the building operations do not cause disturbance.

12. Prior to the commencement of any building works on site, the applicant shall submit for written approval an assessment of noise likely to affect the application site. This assessment should follow PPG24 guidelines towards assessing the noise from the surrounding road network, and any other local noise sources that are deemed significant on the site. The assessment shall identify all noise attenuation measures that may be determined appropriate to reduce the impact of noise on the residential properties on the site and achieve the requirements of BS8233 for internal noise levels. Consideration shall also be given to achieving adequate summer cooling. If deemed necessary, alternative ventilation measures shall be identified and incorporated into the noise assessment report. This assessment and mitigation measures shall be submitted for the approval of the Local Planning Authority prior to commencement of the development. Once approved, all identified noise control measures shall be implemented and thereafter retained in place in perpetuity.

Reason: To minimise noise impacts on the future occupiers of the site.

13. 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.

14. Gutters and downpipes shall have a black finish and be fixed direct to the rafter feet on metal brackets. No fascia boards shall be used.

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

15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, none of the dwellings hereby permitted shall be enlarged or extended without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.

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

16. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping the frame work of which is indicated on Drawing 2007-2B.

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

17. 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.

18. 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.

Informatives:

Where development is proposed, the developer is responsible for ensuring that development is safe and suitable for use for the purpose for which it is intended. The developer is thus responsible for determining whether land is suitable for a particular development or can be made so by remedial action. In particular, the developer should carry out an adequate investigation to inform a risk assessment to determine:

- whether the land in question is already affected by contamination through source - pathway - receptor pollutant linkages and how those linkages are represented in a conceptual model;
- whether the development proposed will create new linkages, e.g. new pathways by which existing contaminants might reach existing or proposed receptors and whether it will introduce new vulnerable receptors; and
- what action is needed to break those linkages and avoid new ones, deal with any unacceptable risks and enable safe development and future occupancy of the site and neighbouring land.

A potential developer will need to satisfy the local authority that unacceptable risk from contamination will be successfully addressed through remediation without undue environmental impact during and following the development. In doing so, a developer should be aware that actions or omissions on his part could lead to liability being incurred under Part IIA, e.g. where development fails to address an existing unacceptable risk or creates such a risk by introducing a new receptor or pathway or, when it is implemented, under the Environmental Liability Directive (2004/35/EC). Where an agreed remediation scheme includes future monitoring and maintenance schemes, arrangements will need to be made to ensure that any subsequent owner is fully aware of these requirements and assumes ongoing responsibilities that run with the land.

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

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: pollution.control@south-derbys.gov.uk.

Pursuant to Section 149 and 151 of the Highways Act 1980, the applicant/developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's/developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months prior notification should be given to the Director of Environmental Services at County Hall, Matlock (telephone 01629 580000 and ask for the District Highway Care Manager on extension 7595) before any works commence on the vehicular access within highway limits.

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

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

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway, measures should be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dished channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

Where development is proposed over areas of coal and past coal workings at shallow depth, The Coal Authority is of the opinion that applicants should consider wherever possible removing the remnant shallow coal. This will enable the land to be stabilised and treated by a more sustainable method; rather than by attempting to grout fill any voids and consequently unnecessarily sterilising the nation's asset.

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from the Coal Authority's website at: www.coal.gov.uk/services/permissions/index.cfm.

This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990.

Item 1.4

Reg. No. 9/2011/0054/TP

Applicant:

MR MICHAEL WHITE
WHITE HOME
WESTONHILL MOBILE HOME PARK
BRIDGE LANE
WESTON ON TRENT
DERBY

Agent:

MR MICHAEL WHITE
WHITE HOME
WESTONHILL MOBILE HOME PARK
BRIDGE LANE
WESTON ON TRENT
DERBY

Proposal: **PROPOSED TREE WORKS AT WESTONHILL CHALET
PARK BRIDGE LANE WESTON ON TRENT DERBY**

Ward: **ASTON**

Valid Date: **28/01/2011**

Reason for committee determination

The application is reported to Committee at the request of Councillor Watson because local concern has been expressed about a particular issue.

Site Description

The site is located at the end of a long private drive and is a former quarry. It has a lawful development certificate for use as a caravan site.

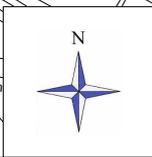
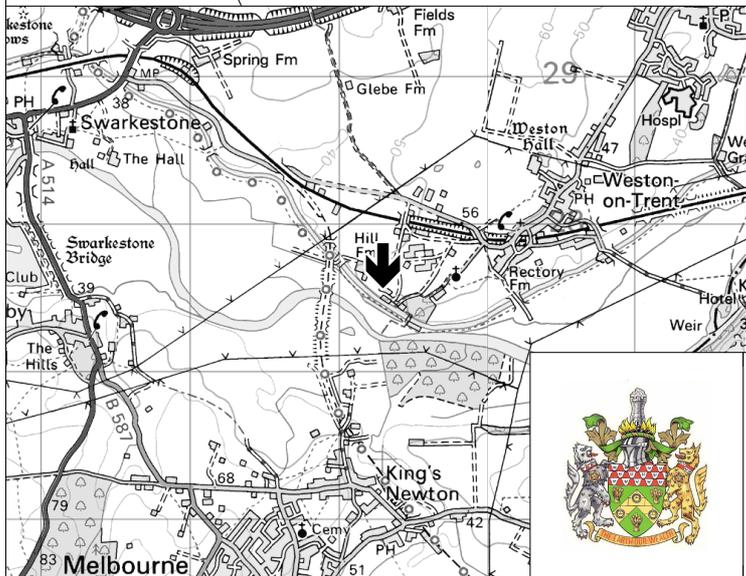
Proposal

The applicant seeks consent to carry out unspecified works up to and removing some of the trees on the site, which are protected by a Woodland Tree Preservation Order (TPO). Trees not affected by the application are marked as specimens and as an area on the submitted plan, which has been amended following a site appraisal by the Council's consultant arboriculturist.

Applicants' supporting information

The applicant states:

- A number of trees in residents' plots have already been pruned or felled without harming the overall amenity value of the area.
- The most important trees would be unaffected.



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. South Derbyshire District Council. LA 100019461. 2010

- The applicant needs to manage the site as and when necessary and there may be occasions when tree works are necessary. It would be onerous to apply every time work needed to be carried out to one of the less important trees.
- Tree works would only be carried when it is expedient to do so and wherever practicable trees will be left in situ.
- The fundamental amenity value of the site would be preserved whilst allowing the applicant to carry out works to the less valuable trees as and when necessary.

Planning History

9/0394/1082 -Application for the siting of 12 mobile homes for holiday purposes – granted but not implemented.

9/2008/1123 Application for certificate of lawfulness for use of The Paddock for the siting of caravans. The application was refused on the basis that there was insufficient evidence to support the applicant's contention that it had been used for such purpose for a period of more than 10 years.

9/2009/0466 Application for certificate of lawfulness for the existing chalet park site. This was granted and authorises the use of the existing site for caravans.

9/2009/0785 – 4-metre wide access drive. Granted.

9/2009/1033 – Use of land for caravan site for holiday use – withdrawn pending consideration of highways matters.

9/2010/0171 – Use of Paddock as holiday caravan site – Committee minded to grant subject to legal issue concerning access – not yet determined.

9/2010/0708 – 3 metre wide access road. Granted.

9/2010/1039 - the change of use of land to use as part of existing mobile home park. Granted.

The Tree Preservation Order was made in January 2008.

Responses to Consultations

The Parish Council objects as consent would give the applicant the right to do as he pleases with the trees. Each case should be assessed individually.

The Council's consultant arboriculturist notes that the trees affected by the application are in the main located within the gardens of individual plots, although there are trees in communal areas also, mainly semi-mature Birch and Sycamore. The trees not affected by the application are the ones that provide the main public amenity value, notably the larger specimen trees and a woodland area on the north rim of the site, which can be seen on the skyline from Swarkestone Road and also the public footpath to the east. He objected to the loss of a mature Oak, which can be seen from the public footpath, which the applicant has now agreed to retain.

Responses to Publicity

6 neighbours raise the following objections:

- a) No tree should be removed unless there is justification on health or safety grounds.
- b) All the trees on the site are fundamental to amenity.
- c) Many trees have already been felled.
- d) The objective of the application is solely to enable the applicant to site more caravans on the land.
- e) The site is a habitat for bats, which are protected. A habitat survey should be undertaken before any permission is granted as required by PPS9.

Reference is also made to various other historical and ongoing issues relating to the site, which are not directly relevant to this particular application.

Development Plan Policies

There are no relevant policies for TPO applications.

National Guidance

Tree Preservation Orders – A Guide to the Law and Practice

Planning Considerations

The main issue central to the determination of this application is the amenity value of the trees.

Planning Assessment

The Order was made in response to an urgent request at a time when trees were being felled. As it was not possible to undertake a detailed tree survey in the circumstances, a Woodland Order was made, which covers every tree on the site. In response to this application the Council's consultant arboriculturist has been able to assess individual trees and considers that those making a valuable contribution to public amenity would be retained.

The Good Practice Guide states that protected trees should provide a reasonable degree of public benefit. In the Secretary of State's view, TPOs should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public. The trees, or at least part of them, should therefore normally be visible from a public place, such as a road or footpath. While the trees are valued by the residents the whole site is private land and therefore the potential public views are available from the canal and towpath, Swarkestone Road and the public footpath to the east. From these vantage points, works to the affected trees, even if they were to be removed, would not have a demonstrably harmful impact on the overall public amenity value of the protected trees.

It is possible that the trees could provide a habitat for protected species. As this is an application for tree works, rather than a planning application the local planning authority cannot require a habitat survey. However the applicant will still have responsibilities under the Wildlife and Countryside Act, which applies even if a tree is dead or dying.

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

Informatives:

Bats have been reported at the site and trees are a potential bat habitat. It is an offence to kill or damage or disturb bats or their roosts. No tree works should be undertaken at any time unless they are not used by bats. If bats are found you are advised to inform Natural England, Block 7, Government Buildings, Chalfont Drive, Nottingham, NG8 3SN. Practical advice on how to protect/relocate any bats may be obtained from Malcolm Hopton, Derbyshire Bat Group, 9 Ashton Close, Mickleover, Derby, DE3 5QD, (Tel. 01332 511427).

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

Item 1.5

Reg. No. 9/2011/0269/NT

Applicant:
TELEFONICA O2 LTD/
VODAFONE LIMITED

Agent:
MR MATTHEW WAUGH
HIGHAM & CO
MANCHESTER

Proposal: **THE PROVISION OF A 14.8M HIGH STREETWORKS
TELECOMMUNICATIONS POLE WITH VODAFONE AND
O2 ANTENNAS LOCATED BEHIND A SHROUD
TOGETHER WITH 1 NO. SMALL SCALE EQUIPMENT
CABINET AND MINOR ANCILLARY WORKS ON SITE TO
WEST OF RINKWAY MOT & SERVICING BUILDING
UNIT 11 RINK DRIVE SWADLINCOTE**

Ward: **SWADLINCOTE**

Valid Date: **05/04/2011**

Reason for committee determination

The application has been brought to committee after a request by Councillor Tilley who has stated that there has been local concern expressed about a particular issue, the committee should debate the issues which are finely balanced and there are unusual site circumstances which need to be considered.

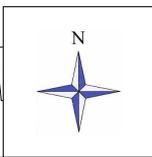
Site Description

The application site is to the west of the existing Rinkway MOT station and servicing building on Rink Drive at Swadlincote. The surrounding area is of a mixed use being predominantly industrial in appearance with light industry dominating the area in terms of small units providing printing services, MOT's and electrical sales. To the front of the proposed site is a public car parking area and a public footpath, which leads to the town centre. Beyond the application site some 60m away is a small cul de sac of residential properties at Lindsey Court.

Proposal

The proposal is to erect a 14.8m high Streetworks telecommunications pole with Vodafone and O2 antennas located with a small equipment cabinet and minor ancillary works associated with the proposal. The pole itself is slim line in design being only 300mm in width expanding to 500mm at the top. The equipment cabinet would measure approximately 2m in width x 1.6m in height and the pole would have the appearance of

9/2011/0269 - West of Rinkway MOT & Servicing Building, Unit 11 Rink Drive, Swadlincote DE11 8JL



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. South Derbyshire District Council. LA 100019461. 2010

a lamppost. The proposal would be sited to the rear of the existing MOT station which itself is 7.6m in height.

Applicants' supporting information

The applicant has included:

- Site specific supplementary information including evidence of pre application discussion, consultations with neighbours and Councillors and summary of other sites considered and their suitability
- Supporting statement
- General background for Telecommunications development
- Health and mobile phone base stations document
- ICNIP declaration and clarification certificate
- Developers Notice

Responses to Consultations

A request for the application to be determined by a Planning Committee has been received from Councillor Tilley advising that he is very concerned that the location is central to Swadlincote and it will affect residents in Lindsey Court who will over look the mast. He advises that it is wholly inappropriate to site the proposal next to a main gateway route (Rink Passage) into Swadlincote town centre.

Design and Conservation Officer advises that the proposal will not have a material impact on the setting of Swadlincote Conservation Area. It is located adjacent to but just outside the conservation area boundary. It is not in an area of high sensitivity, will be seen against the backdrop of an existing industrial building and will not be visually prominent.

Responses to Publicity

No responses have been received

Development Plan Policies

The relevant policies are:

Saved Local Plan: Community Facility Policy 4

East Midlands Regional Plan: Policies 2 and 3

National Guidance

PPG 8.

Planning Considerations

The main issues central to the determination of this application is siting and appearance of the proposal.

Planning Assessment

The application has been submitted under Part 24 of the GPDO and is subject to a 56-day prior approval procedure. The applicant was advised during the application process that prior approval of the Local Planning Authority is required and under this procedure the only issues that can be considered are siting and appearance of the proposal.

The applicant has submitted evidence to show that 7 other sites were considered in the area, which has been demonstrated to require coverage. The reasons that these sites were discounted range from:

- Location in a conservation area
- Future of site being uncertain therefore unavailable for development
- Prominent building that would detract from the conservation area
- Site being located too far north to meet the optimum coverage required
- Policy of shop owner to not allow telecommunications equipment to be installed on their premises
- Pitched roof of premises makes siting difficult for the apparatus
- Insufficient room on grass verge to accommodate the required Streetworks

Planning Policy Guidance 8 stresses that the Government's aim is to facilitate growth of new and existing telecommunications systems whilst keeping the environmental impact to a minimum. Councils can only consider siting and appearance of the proposal. The proposed telecommunications pole with the equipment cabinet would be 14.8m in height. It would mainly be visible from the rear of the existing industrial premises of the Rinkway MOT station, which fronts a public car parking area, a footpath and is mainly industrial in appearance. There are residential properties to the rear of the proposed site at Lindsey Court and these will have a view of the proposed structure, but only 7.2m of the pole and they are sited 60m away. The residents at these properties have not raised any concerns and the appearance of the pole is as the existing street furniture in the area and it has been sited to the rear of the premises where its location will have minimal impact upon these dwellings. The area itself has prominent buildings being up to 8m in height and the pole when viewed from Lindsey Court will be minimal when looking at the backdrop of Swadlincote town centre with the chimney structures in the distance.

Community Facilities Policy 4 advise that telecommunications development would be acceptable provided there are no satisfactory alternative means of telecommunications available and the siting of the development does not result in an unduly prominent intrusion in the countryside or damage the character of areas of local landscape value, conservation areas or the setting or fabric of listed buildings. The applicant has demonstrated that there are no satisfactory alternative sites available. The siting in a predominantly industrial area is acceptable and there character of the area would not be unduly damaged by the proposal. The conservation area of Swadlincote is located adjacent to the site but the Conservation Officer and Design Officer has advised that the proposal is located adjacent to but just outside the conservation area boundary. It is not in an area of high sensitivity and would be seen against the backdrop of an existing industrial building and would not be visually prominent; accordingly the application is in accordance with Saved Community Facility Policy 4.

Recommendation

Approve details as submitted.

Item 2.1

Reg. No. 9/2010/1163/NO

Applicant:

Mr & Mrs Peter & Sheila Heap
Mannocks Ltd
Cedar Lawns
Forties Lane
Smisby
Ashby De La Zouch

Agent:

Mr T Redfern
36 Pennine Way
Ashby de la Zouch

Proposal: **THE ERECTION OF TWO STOREY COMMERCIAL
BUILDING AT CEDAR LAWNS FORTIES LANE SMISBY
ASHBY DE LA ZOUC**

Ward: **HARTSHORNE & TICKNALL**

Valid Date: **06/01/2011**

Reason for committee determination

The application is brought to Committee at the request of Councillor Murray as there are special circumstances of the applicant which members should consider and unusual site circumstances should be considered by the committee.

Site Description

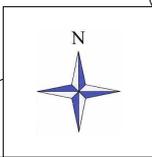
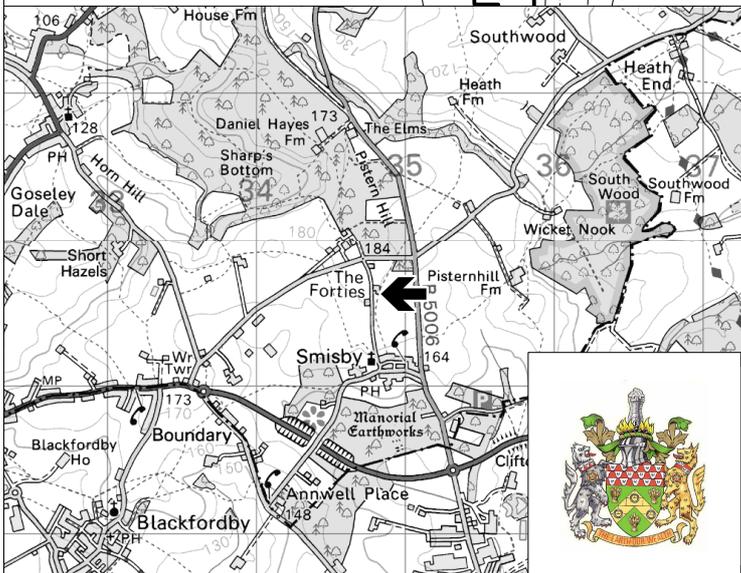
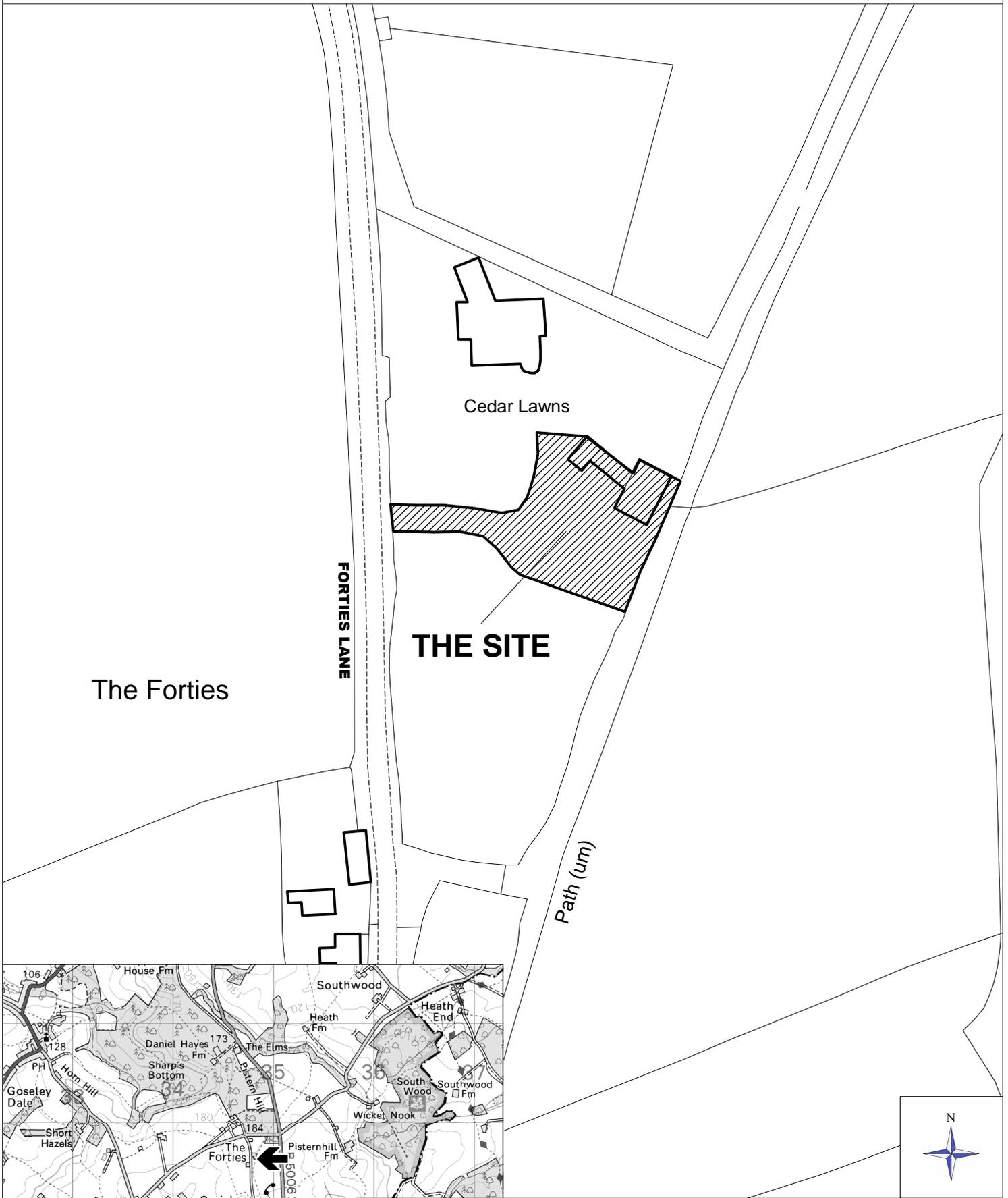
The application site is situated in open countryside and lies to the north of the village of Smisby. The site is situated within the curtilage of Cedar Lawns which comprises of a substantial bungalow and a range of single storey outbuildings converted to business use beyond which is a detached garage. The southern part of the site is an area of garden, predominantly lawned, which extends some 70m to the south. Forties Lane runs along the western boundary with the entire site bound by hedgerows with fields beyond. A small group of 3 cottages are situated further along Forties Lane to the southwest of the site and a single dwelling; Holmleigh is situated some distance to the north. A single access from Forties Lane currently serves both the bungalow and business units. A public footpath runs along the length of the eastern boundary on the field side.

Proposal

The application proposes the erection of a two-storey commercial building to allow for the expansion of the existing business use on site.

The proposed building would be sited adjacent to the existing workshops in place of the existing garage to be demolished. The building would measure 12.2m by 7.6m over

9/2010/1163 - Cedar Lawns, Forties Lane, Smisby, Ashby de la Zouch
LE65 2SN



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. South Derbyshire District Council. LA 100019461. 2010

two-storeys with storage at ground floor and office accommodation above together with a 5.5m x 2.5m entrance lobby with kitchen and toilet facilities at first floor level. The building would measure some 4.5m to the eaves with a ridge height of 7m and be constructed of brick and concrete tile.

A new access would be formed via an existing field gate which currently provides access to the garden and would provide access to the existing and proposed commercial buildings. The existing access would remain to serve the bungalow only.

The equivalent of 4.5 full time employees are currently employed on site including the applicant and his wife who live in the adjacent bungalow. The number of staff would increase by 1.5 under the current proposal.

Applicants' supporting information

The existing business uses consist of Mannocks Corporate Wear who provide branded Caterpillar workwear throughout the UK, the clothing itself being provided by a wholesaler and being sold on as branded goods by the company, and Mannocks Ltd, which provide non-Caterpillar branded clothing and also includes the former Prestex company which manufactures and services small-scale textile machinery. Both companies are owned and run by the applicant, his wife and his son. A further business, Carputorshop, is an internet-based business providing car audio adaptors with small-scale parts delivered to the workshop and posted out to customers, owned by the applicant's son.

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

- It is intended that 'Prestex' and Carputorshop will remain in the existing building and Mannocks corporate wear will move out into the new premises where they will be able to expand into a new range of own-brand garments. A major new contract is being negotiated to supply garments to one of the emergency services.
- The existing single storey building is now wholly inadequate to accommodate the expansion of the business.
- The proposed new building is to be situated on land which at present forms part of the large residential curtilage of 'Cedar Lawns', adjacent to the existing office, storage and workshop building. It will be associated visually and functionally with these other buildings and will not project into the countryside.
- Employment Policy 1 states that the Council wishes to encourage the expansion of existing firms as a means of improving the local economy.
- The long rear elevation is proposed to continue to the ridge line of the existing workshop. The style of the fenestration of 'holes punched in the wall' of this elevation reinforces the rural/commercial character of the building on this most public of the building's aspects.
- The reduced eaves height is intended to lessen the impact of the structure in the landscape.
- Although there is a significant amount of soft landscaping around the site already, further assimilation of the building into the landscape will be by means of additional tree planting close to its southern elevation.

- A new hard surfaced access drive will lead from the access to the joint curtilage of the new and existing commercial buildings. A row of conifers will be planted along the southern boundary of the new access drive to provide additional screening.

Planning History

Permission for the use of the outbuildings as an office and the erection of a 95 sq m building for the assembly of textile machinery with linking entrance lobby was granted as a temporary 5 year permission in 1985 (9/784/516). Subsequent temporary permissions for the continued use of the premises for light industry were granted with a further permanent permission (9/994/568) granted in 1994 which restricted the use to the design and assembly of textile machinery together with ancillary offices and storage space.

Responses to Consultations

The Highway Authority has advised that the required visibility splays are achievable subject to the setting back of a large proportion of the fronting hedge. There is no objection subject to conditions requiring the modification of the access and provision of adequate parking/loading/unloading and manoeuvring space as submitted.

Environmental Health has no objection.

The Environment Agency has no comment.

Smisby Parish Council objects commenting that the design of the building would be out of character with the surrounding rural area and the character of the village. The design, layout and appearance of the two-storey building would be a dominant feature alongside the single storey adjacent buildings.

Responses to Publicity

None.

Development Plan Policies

The relevant policies are:

Local Plan: Environment Policy 1 & Employment Policy 1.

National Guidance

PPS4, PPS7

Planning Considerations

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

- The principle of development.
- The impact on the character and appearance of the rural area.
- Potential of impact of the River Mease SAC.

Planning Assessment

Principle of development

Policy EC6.2 of PPS4, and PPS7 advise that economic development in open countryside away from existing settlements or outside areas located for development in development plans should be strictly controlled with the overall aim of protecting the intrinsic character, beauty and diversity of the rural landscape. Policy EC12.1 of PPS4 advises that small-scale economic development should be supported where it provides the most sustainable option in villages, or other locations, that are remote from local service centres, recognising that sites need not necessarily be accessible by public transport.

Employment Policy 1 allows for the expansion of industrial and business uses, on, or adjacent to, their existing sites provided the proposal would not be detrimental to the character of the locality or residential amenity and does not cause environmental or traffic problems.

'Planning for Growth', the Ministerial Statement released in March 2011, advises that the Government's main aim is to promote sustainable economic growth and jobs.

The application proposes the expansion of an established business use on a site located within open countryside. Whilst the proposal represents a new build development away from settlements and is not readily accessible by methods of transport other than the car the applicant has advised that there is unlikely to be an overall increase in vehicle movements to the site other than by the 1.5 additional employees proposed. Current vehicle deliveries are approximately 8 lorry/van loads per week with the different wholesale deliveries amalgamated into one delivery service. It is anticipated that size of deliveries would be larger rather than increase in number as a result of the intended expansion.

Sufficient access, visibility and manoeuvring space could be achieved on site albeit with the removal of a large section of roadside hedge. However, the hedge is unprotected by legislation and could be removed without consent.

The nearest residential properties are located some 60m to the southwest of the application site. The proposed business use is relatively low key and the principle of this use has previously been accepted in this location. The proposal is not considered to adversely impact the residential amenity of these properties and Environmental Health has no objection.

The acceptability of the appearance of the proposed development is discussed below.

Impact on the character and appearance of the area

PPS4 and PPS7 seek to protect the character of the countryside and appearance of the countryside. PPS7 advises that all development in rural areas should be well designed and in keeping and scale with its location, sensitive to the character of the countryside and local distinctiveness.

Environment Policy 1 advises that outside settlements new development will not be permitted unless it is unavoidable in the countryside and that it is designed and located so as to create minimal impact in the countryside.

Employment Policy 1 allows for business expansion providing the proposal is not detrimental to the character of the locality.

The existing buildings on site are all single storey. The proposed development would be a two-storey brick and concrete tile building with a floor area of 106 sq m. Whilst the proposed building would be sited adjacent to the existing commercial buildings the scale and form would relate poorly to the existing buildings and the adjacent bungalow on site appearing as an incongruous and dominant feature in this rural location. The proposed building would be clearly visible from the public footpath that runs along the eastern boundary of the site with further public views from Forties Lane. Whilst additional planting is proposed it is not considered that this would sufficiently minimise the adverse visual impact of the proposed development in this location. As such the proposal is considered contrary to the above policies.

Potential of impact on the River Mease SAC

The application site is situated within the catchment area of the River Mease Special Area of Conservation (SAC). Insufficient information has been provided with regard to foul and surface water drainage to allow the Authority to fully understand the potential impact on the River Mease SAC.

Recommendation

REFUSE permission for the following reason:

Policy EC6.2 of PPS4, and PPS7 advise that economic development in open countryside away from existing settlements or outside areas located for development in development plans should be strictly controlled with the overall aim of protecting the intrinsic character, beauty and diversity of the rural landscape. PPS7 advises that all development in rural areas should be well designed and in keeping and scale with its location, sensitive to the character of the countryside and local distinctiveness.

Environment Policy 1 of the South Derbyshire Local Plan advises that unavoidable new development should not be permitted in the countryside unless it is designed and located so as to create minimal impact. Employment Policy 1 allows for business expansion providing there is no detriment to the character of the locality.

The application site is situated in open countryside and is clearly visible within the surrounding area. The existing buildings on site are single storey and blend in with the existing landscaping within the curtilage of the property. The design and appearance of the proposed two-storey building would be out of scale and character with the existing buildings on site and appear as an incongruous and dominant feature in the rural landscape to the detriment of the character and appearance of the rural area and locality generally and therefore contrary to PPS4, PPS7 and Saved Environment Policy 1 and Employment Policy 7 of the South Derbyshire Local Plan.

Informatives:

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC).

As a result of survey work on the River Mease and its tributaries it is apparent that the phosphate levels within the watercourses are above the acceptable minimum set by Natural England. Furthermore it is necessary for a Habitat Regulations Assessment to be prepared by the competent authority (the District Council).

As such the Local Planning Authority are required to be satisfied beyond all reasonable doubt that the proposed development does not have the potential to significantly impact on the integrity of the River Mease Special Area of Conservation.

It should be noted that insufficient information has been submitted with the application with regard to the disposal of foul and surface water drainage to assess as to allow the Authority to fully understand the potential impact on the River Mease SAC.

Item 2.2

Reg. No. 9/2011/0137/FO

Applicant:
MR CHRIS FORRETT
95 LANSDOWNE ROAD
SWADLINCOTE

Agent:
MR CHRIS FORRETT
95 LANSDOWNE ROAD
SWADLINCOTE

Proposal: **OUTLINE APPLICATION (ALL MATTERS TO BE
RESERVED) FOR THE RESIDENTIAL DEVELOPMENT
OF 95 LANSDOWNE ROAD SWADLINCOTE**

Ward: **SWADLINCOTE**

Valid Date: **21/02/2011**

Reason for committee determination

Councillor Tilley has requested that the item be brought to committee due to local concern being expressed about a particular issue which committee should debate.

Site Description

The application site currently houses an end of terraced two storey dwelling with a large area of land to the side currently used for off street parking. It has a small front garden area, which is enclosed by a small boundary wall of approximately 1m in height and a large rear garden of approximately 65m in length. The area is predominantly residential with the majority of properties being two storey and terraced in design, with little or no off street parking provided. The land rises from Hearthcote Road to the north west of the site, rising up to Glebe Street in the east.

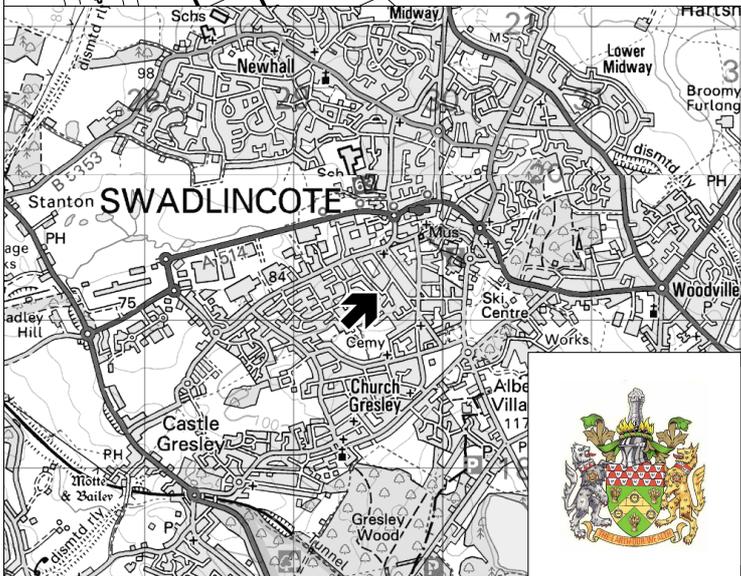
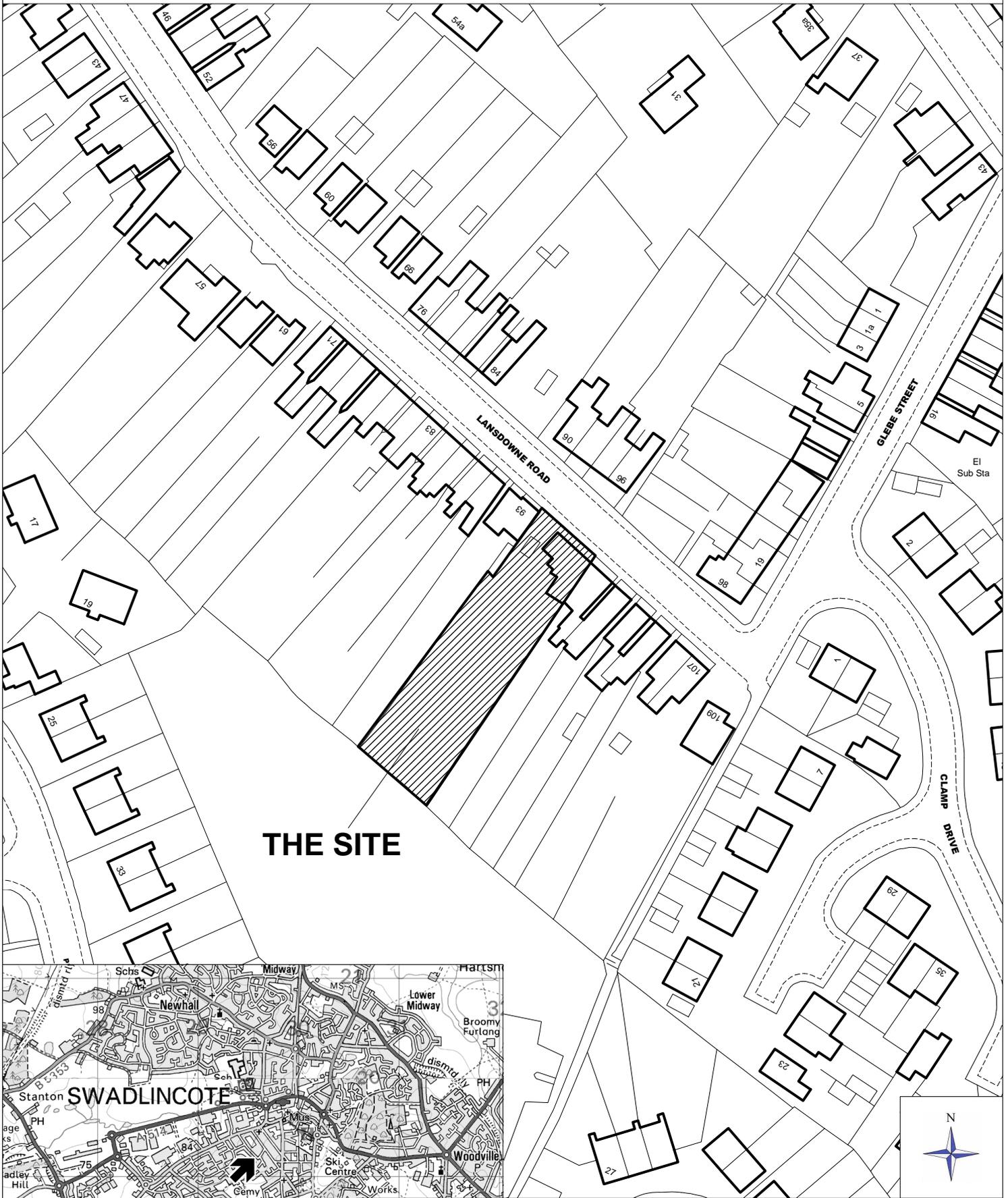
Proposal

The application has been submitted in outline form with all matters reserved. However, two indicative proposals have been submitted showing demolition of the existing property at 95 Lansdowne Road and replacement of the existing property with three terraced properties. The difference in the proposals is that one proposal (figure 1) does not provide off-street parking and the other (figure 2) would provide off street parking. The applicant has stated that the properties would probably be 3 bedroomed, two storey in design and would have garden lengths of approximately 46m in length.

Applicants' supporting information

The applicant has submitted:

- a) A Design and access statement



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. South Derbyshire District Council. LA 100019461. 2010

b) A Coal mining report

Planning History

9/2010/0683 – outline application (all matters to be reserved) for the residential development – refused 14 September 2010. Reasons for refusal:

“1. Saved Housing Policy 4 sets criteria against which proposals for housing development in the Swadlincote urban area will be judged. In addition Paragraph 41 of the recently revised PPS 3 (June 2010) removes the presumption that formerly stated that previously developed land is suitable for residential development. It further states that the whole of a residential curtilage should not be presumed as suitable for development. Housing Policy 4 and in particular Criterion (vi) of the adopted South Derbyshire Local Plan requires that development should be of a suitable scale and character should it satisfy the other criteria in that policy. The proposed development would urbanise the whole of the curtilage at 95 Lansdowne Road in a manner that would result in the urbanization of the large garden at the rear of the dwelling; it is this type of development that the provisions in PPS 3 seek to address and it is this type of development that Housing Policy 4 seeks to control when it states that development should be of a suitable scale and character. The dwellings on Lansdowne Road on its west side are characterised by dwellings fronting the highway with substantial rear gardens. Recent Government advice and the illustrative layout submitted with the application indicate that this development would be out of keeping with the scale and character of the locality. Accordingly the development would be contrary to the provisions of Housing Policy 4 of the adopted South Derbyshire Local Plan supported by the provisions of PPS 3 (June 2010) at Paragraph 41.

2. Saved Housing Policy 11 sets criteria against which the layout and design of development will be judged that include issues such as reasonable amenities for both existing and new dwellings. The passing and repassing of vehicles along the suggested access to the site would be potentially harmful to the amenity of the occupiers of the frontage properties by virtue of noise from vehicles accessing the site along what would be a sloping access and light into the rear of the houses from vehicle leaving the site during the hours of darkness. For these reasons the development is also considered to be contrary to the provisions of Housing Policy 11 of the adopted South Derbyshire Local Plan.

Currently an appeal has been received regarding this application but has not been determined yet (Reference APP/F1040/A/11/2149063/NWF).

Responses to Consultations

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

The County Highway Authority advises that it would object to the proposal to implement *figure 2*, which shows off street parking. It advises that this layout would require visibility splays of 2.4m x 33m for each individual space and this is not achievable without encroaching on to third party land, therefore it would recommend refusal of this proposal. It does not object however to the proposal for *figure 1* which does not include any off street parking. It advises that the proposal would result in an increase in on street parking which, whilst it is not ideal, it considers it would be more of an

inconvenience rather than a hazard to road safety and on that basis does not object to the proposal to provide no off-street parking.

The Coal Authority states that the coal mining report submitted does not fully address its fundamental concern raised. As identified by the Mining Report, the site is located within an area where historic unrecorded mine workings may be present beneath the application site. If present, these could lead to land instability and other public safety issues (including mine gas) which could affect the proposed development. The applicant has not considered this key issue. As such in the absence of further information from the applicant, the Coal Authority maintains that the LPA does not have sufficient information to determine the planning application and that a Coal Mining Risk Assessment should therefore be provided in line with PPG14 guidance.

Responses to Publicity

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

- Parking is a problem, as most houses do not have off street parking. The proposal would mean that the three extra properties would need to park on the street.
- If the figure, which includes parking, is approved it only shows one space for parking and this is not sufficient for a 3-bedroom dwelling.
- The properties proposed are close to a blind bend.
- Large vehicles cannot access the road due to on street parking problems.
- Severe disruption during demolition, building and construction works.
- If proposal 2 is approved then the properties will be set back and affect the sunlight entering the kitchen, bathroom and garden area of 93 Lansdowne Road.
- Overlooking from proposed bedroom windows of 93 Lansdowne Road.
- Damage could result from building works at the proposed site.
- No need for more housing in the area.

Development Plan Policies

The relevant saved policies are:

Local Plan: Housing Policies 4 and 11 and Transport Policy 6.

East Midlands Regional Plan 2009: Policies 2 and 3

Local Guidance

Adopted SPG – Housing Design and Layout.

National Guidance

Planning Policy Statements 1 and 3

Planning Policy Guidance 13 and 14.

Planning Considerations

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

- Development plan policy and national guidance and advice
- Impact of the proposal on the neighbours and future occupiers of the dwellings

- Impact on highway safety
- Coal mining legacy issues

Planning Assessment

The application as stated above is in outline form only and all matters are reserved. However two indicative layouts have been submitted. With regards to whether the development proposed is in line with national guidance and development plan policy the development itself (either figure) of housing in Swadlincote does comply with Planning Policy Statement 3 and saved Housing Policy 4 as it is within the defined built up area of Swadlincote and is substantially surrounded by development. The scale and character of either proposal cannot be fully assessed as it is an outline application however the design and access statement does show that the proposal would be built as the existing properties in the area which are terraced, two storey in design and have a very distinctive building line. The application again (either layout), whilst only in outline form does appear to accord to the Council's space about dwelling standards defined in the Housing and Design Layout Supplementary Planning Guidance. The principle therefore of three dwellings in this location is in accordance with national and local plan policies.

County Highways have advised that they would object to the application if the applicant chooses to implement *figure 2* which shows off street parking provided and therefore it is recommended that approval should only be given to a scheme that is produced in accordance with *figure 1* providing no off-street parking on site. This would also ensure that any reserved matters application would limit properties to be in line with the existing properties of 93 and 97 Lansdowne Road and would therefore ensure that the properties would be of a suitable scale and character.

Notwithstanding the foregoing, the Coal Authority remains concerned that the Council should not grant permission given the lack of information submitted hence the recommendation below.

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 reason:

The application site lies within a defined specific 'Coal Mining Development Referral Area'. This is an area, based upon Coal Authority records, where the potential land stability and other safety risks associated with former coal mining activities are likely to be greatest. The application is not accompanied by a Coal Mining Risk Assessment in accordance with Coal Authority Standing Advice and the Local Planning Authority is therefore unable to establish that instability can be satisfactorily overcome. In the absence of the Coal Mining Risk Assessment the proposal is therefore contrary to paragraph 42 of PPG14 because the information submitted with the application is insufficient to resolve the primary issue as to whether the development should proceed or not.

2. PLANNING AND OTHER APPEALS

Reference	Place	Ward	Result	Cttee/Delegated
9/2010/0987	Mickleover	Etwall	Allowed	Delegated



Appeal Decision

Site visit made on 17 March 2011

by Simon Pryce

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

Decision date: 31 March 2011

Appeal Ref: APP/TPO/F1040/1664
28 Linnet Hill, Micklegate, Derby, DE3 0SJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent to undertake work to a tree protected by a Tree Preservation Order.
 - The appeal is made by Mr C Wilson against the decision of South Derbyshire District Council.
 - The application Ref:9/2010/0987, dated 25 October 2010, was refused by notice dated 24 December 2010.
 - The proposed work is the felling of one sycamore.
 - The relevant Tree Preservation Order (TPO) is the South Derbyshire District Council [Land at Pastures Hospital [Micklegate] TPO no.132 (1996), which was confirmed on 5 February 1997.
-

Decision

1. This appeal is allowed subject to the following conditions:
 - 1) Within the first planting season after felling a replacement tree is to be planted in the rear garden of 28 Linnet Hill. The species, size and exact location are to be agreed with the Local Planning Authority.
 - 2) If the new tree, or any replacement for it, dies or is damaged or lost for any reason within five years of the initial replacement planting another tree of the same species and size is to be planted at the same place unless the Local Planning Authority agree in writing to any variation.

Main Issues

2. The main issues in this appeal are:
 - 2.1 The tree's public amenity value
 - 2.2 The possible effects of the tree on the house foundations

Reasons

Amenity value

3. The appeal tree is part of a group, that includes trees in G3 and W5 of the TPO. The others make it less noticeable as an individual than it might otherwise be and from some directions, for instance from Hospital Lane, they screen it almost entirely. Its crown is natural looking and its removal would create a gap that would be noticeable from parts of Linnet Hill and Edmunds Square, but the trees near it have also developed full natural looking crowns, which would mitigate the visual impact. The tree is the nearest one to the back of the house and the proximity of the others on the rear boundary beyond mean that it is developing a lean towards the house. It is dominating and the combined effect could be oppressive, especially when the trees are all in full leaf. It is capable of further growth, but the junction between the two main trunks and the fork at about 3m in the larger one both have ingrown bark, creating a weakness. As a result the tree would need remedial work and intensive management in order to be retained satisfactorily. Therefore, although it provides a measure of public amenity its ability to continue doing so for the long term is limited.

Possible effects on foundations

4. Tree roots grow with little force, but can damage buildings and similar structures indirectly if the sub soil is a clay that shrinks as it is dried by the roots extracting water and the foundations do not extend below the zone affected. However many factors are involved, including weather and the nature of the foundations, so the presence of clay does not necessarily make damage inevitable. Current building industry guidelines, which have been in force since before this house was built, require foundations to be deeper than they might otherwise be if the sub soil is clay and trees are present. The concept of a "safe" distance between trees and buildings is therefore unreliable here although, all other factors being equal, the risk is greater where trees are close to buildings. The British Geological Survey shows local sub soils as till or alluvium, which can contain some clay, although the content of shrinkable material is generally low. However no firm information has been submitted about local soil conditions or the house foundations, so I am not able to draw firm conclusions. The information that is available suggests a low risk, although the possibility cannot be dismissed entirely.
5. Pruning can reduce subsidence risks, although it is less effective where trees are rooted close to buildings. The suggested removal of the smaller trunk would reduce the tree's water uptake and lessen any risk, but would leave it much less natural looking. It would also create a large wound that would start to decay, although the lack of connection between the two trunks would make this less harmful than it might otherwise be. Although there is no evidence of a high risk my view is that the disadvantages of this approach would outweigh any benefit.

Conclusions

6. The tree is close to the house and, combined with the others, the effect is dominating, verging on oppressive. Other trees make it less noticeable than it might otherwise be and would mitigate the effect of its removal. The ingrown bark between the trunks and in the fork mean that it would need remedial work to be retained satisfactorily and limit its ability to provide amenity in the long term.
7. The available information is limited; it suggests a low subsidence risk, but the possibility cannot be dismissed. Management options that might reduce any risk are limited and the disadvantages outweigh any benefit.
8. In arriving at this decision I have weighed the public amenity value of the tree against the problems associated with retaining it. It makes a positive contribution to the area, but that will be short lived; the risk associated with retaining it does not appear high, but could not be reduced satisfactorily by lesser work than felling it. In view of these points and because the other trees would mitigate the loss of the sycamore I have allowed this appeal.
9. I have noted the comments that replacement planting would not be considered essential here, but in my view a suitable new tree could provide some amenity, albeit that it would not necessarily be as prominent at maturity as the existing one. Therefore I have imposed a condition requiring replacement planting, but have left the matter of the species and precise location to be agreed between the parties.

Simon Pryce

Arboricultural Inspector