

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

**SECTION 1: Planning Applications**

**SECTION 2: Appeals**

In accordance with the provisions of Section 100D of the Local Government Act 1972, BACKGROUND PAPERS are the contents of the files whose registration numbers are quoted at the head of each report, but this does not include material which is confidential or exempt (as defined in Sections 100A and D of that Act, respectively).

-----

## **1. PLANNING APPLICATIONS**

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

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
9/2010/0687	1.1	Hilton	Hilton	1
9/2010/0839	1.2	Ticknall	Hartshorne & Ticknall	10
9/2010/0844	1.3	Shardlow	Aston	19
9/2010/0864	1.4	Shardlow	Aston	23
9/2010/0891	1.5	Midway	Midway	26

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

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

**Item**            1.1

**Reg. No.**        9/2010/0687/U

**Applicant:**  
Mr Martin Doherty

**Agent:**  
Mr Philip Brown  
Philip Brown Associates Ltd  
74 Park Road  
Rugby

**Proposal:**        **THE CHANGE OF USE OF LAND TO USE AS A  
RESIDENTIAL CARAVAN SITE FOR 4 GYPSY FAMILIES,  
EACH WITH TWO CARAVANS AND AN AMENITY  
BUILDING, INCLUDING ERECTION OF PALISADE  
FENCE AT LAND OFF SUTTON LANE HILTON DERBY**

**Ward:**            **HILTON**

**Valid Date:**      **09/08/2010**

#### **Reason for Committee Determination**

Councillor Mrs Patten has requested that this application be reported to Committee as issues of local concern have been raised.

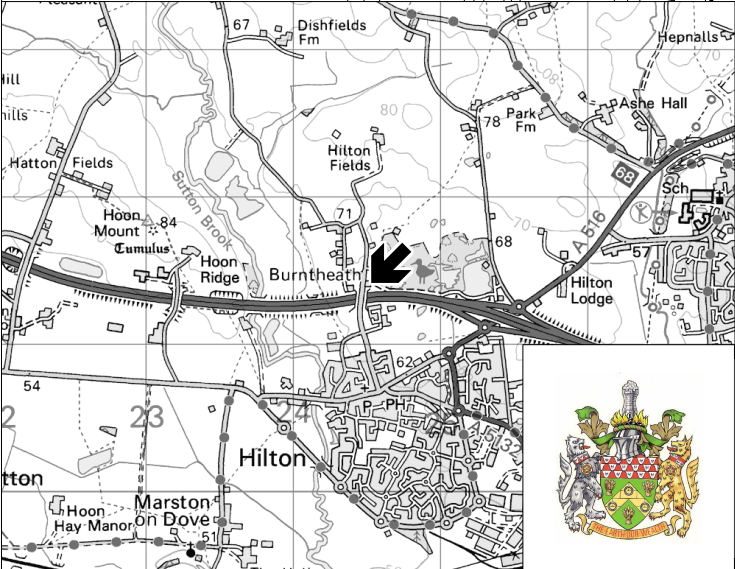
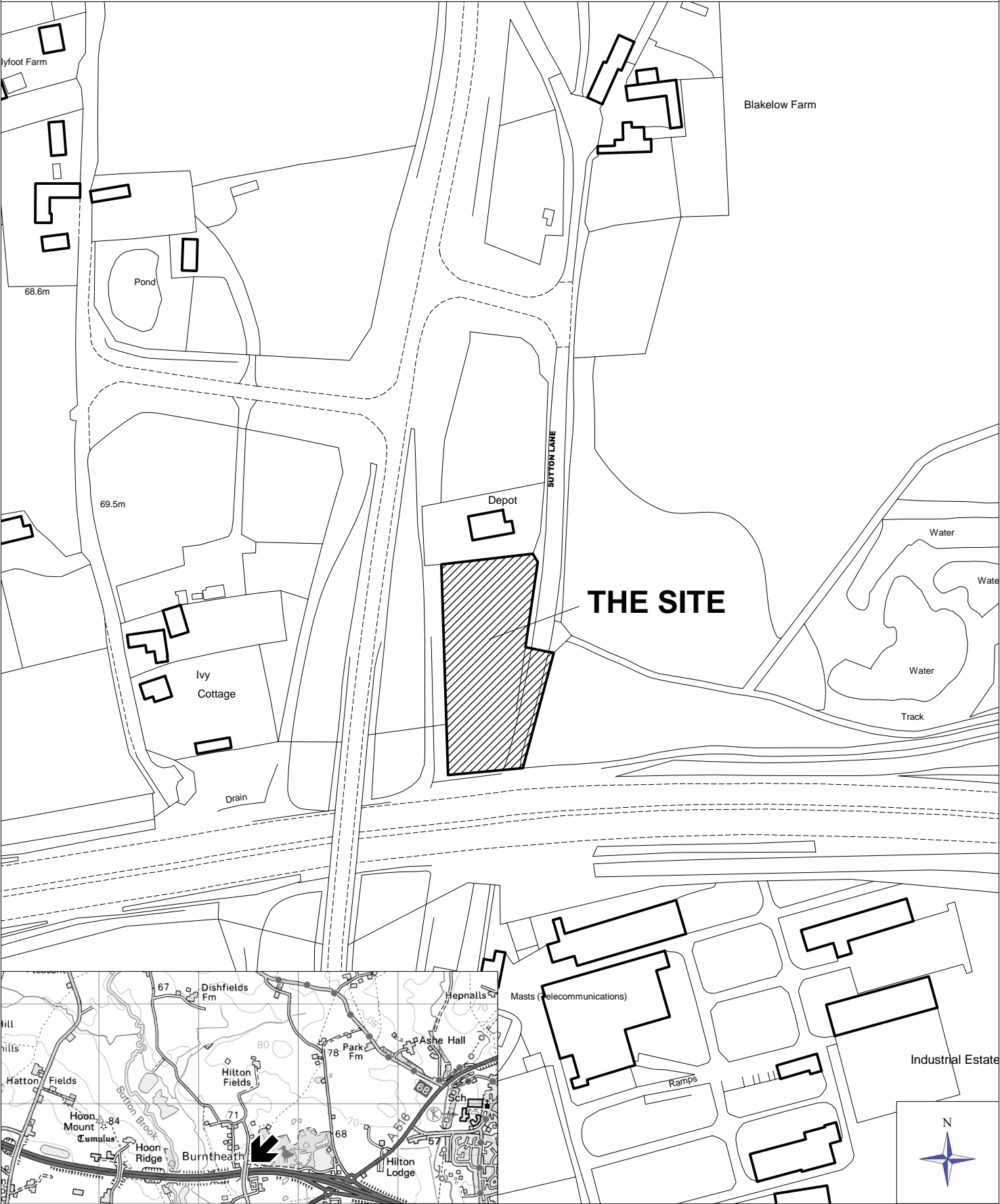
#### **Site Description**

The site lies immediately to the north of the A50 Trunk Road that has had a mound constructed next to it by a previous landowner. To the west of the site is a substantial area of tree and shrub planting that was put in place when Sutton Lane was realigned as part of the construction of the A50. The bridge taking Sutton Lane over the A50 is to the south west of the application site. To the north of the site boundary is a haulage yard and this is separated from the site by a steel palisade fence and the applicants have also erected a solid timber fence 2.0 metres high supported by concrete posts. The steel palisade fence then extends along the east boundary of the site before crossing the former Sutton Lane where it meets the boundary of the Derbyshire Wildlife Trust site at Hilton where there is a timber post and rail fence to the A50 boundary.

#### **Proposal**

Since August the site has been occupied by 8 touring caravans to provide accommodation for 4 groups of the same family on 4 pitches. If permitted, 4 of the touring caravans would be replaced by mobile homes with 4 remaining touring vans being used for travelling; each of the plots would be provided with an amenity block. Foul drainage would go to a treatment facility and surface water would soakaway. The application is accompanied by a survey document undertaken in 2003 that

9/2010/0687 - Land off Sutton Lane, Hilton DE65 5FE



**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**

demonstrates that the site is underlain with porous material. It is stated that the new material on the site is also porous and as such surface water would soakaway.

### **Applicants' supporting information**

It is stated that the site is well screened on its west and north boundaries by existing landscaping and further landscaping is proposed along the east boundary. The bund to the south screens the site from the A50. For these reasons it is considered that the site sits well within the landscape. It is also stated that the intention is not to completely screen the site, as this would be wrong; a Gypsy site should be seen as a part of the whole community. This is illustrated by an appeal decision in Maidstone where the inspector rejected that Council's arguments against a Gypsy site being visible stating that such sites should not be hidden away.

Reference is made to the provisions of Circular 01/2006 that states that in principle Gypsy sites are acceptable in the countryside. It is contended that the first test should be the impact of a particular site on the countryside and whether harm would be caused that could not be mitigated. This site is well screened from most public vantage points and as such would not adversely affect the rural landscape.

The site is well related to the services such as the doctors, schools and shops in the nearby village of Hilton, all being accessible by foot at a reasonable distance. The site also enjoys excellent access to the trunk and main road network that would facilitate the travelling lifestyle of the applicants and the site is clearly located in an area frequented by Gypsies. The site is not adjacent to dwellings and would have a higher standard of amenity than the public Gypsy site at Woodyard Lane. The overall contention is that the site is fully in accord with the criteria in Housing Policy 15 that is a saved policy in the adopted South Derbyshire Local Plan.

In addition to this the applicants draw attention to the provisions of Circular 01/2006 and PPS 3 that require an authority to demonstrate an adequate supply of sites to meet the needs of the travelling community for a five-year period. Reference is made to the GTAA that sets out a requirement for South Derbyshire of 19 pitches by mid 2012. The applicants contend that as the publication of the core strategy has been put back to September 2011, the publication of the Site Allocations DPD cannot take place much before the end of 2012. This would result in a delay in allocating land for Gypsies and the 5-year supply of gypsy sites required by Circular 01/2006 would not be met. Thus there is a considerable weight in favour of allowing this proposal.

It is therefore requested that planning permission be granted for this site to meet the unmet need for Gypsy sites in South Derbyshire. Conditions limiting occupation of the site to Gypsies or Travellers and the scale of the development would be acceptable to the applicants

### **Planning History**

It is difficult following the construction of the A50 to establish precisely what is the planning status of this land. There is evidence of hard surfacing and what appears to be a vehicle inspection pit. However there is some evidence to suggest that the site was regenerating naturally prior to the unauthorised works, undertaken by a previous landowner, to erect the steel palisade fencing and cover the majority of the site with road scrapings. There is no relevant planning history other than the land may have formed a part of the former gravel workings.

## **Responses to Consultations**

Hilton Parish Council notes there is a responsibility for the Authority to provide sites to meet the needs of the Gypsy and Traveller community. However, the village already has two permanent sites one of which operates satisfactorily, the first site on Sutton Lane operates with more than the permitted number of caravans. The proposed site has been occupied prior to the grant of any planning permission and the Parish Council questions the need for a third site in Hilton particularly when the occupiers have turned a 'blind eye' to the law and in these circumstances the Parish Council objects to the development.

The Highways Agency following consideration of additional information has raised no objection to the development subject to conditions controlling the installation of external lighting and an agreement to reform the bund adjacent to the A50 to remove it from highway land.

The County Highway Authority has no objection to the development subject to conditions but draws attention to the fact that part of the former Sutton Lane is no longer part of the highway network.

The Development Control Archaeologist confirms that there is no element of interest in this site.

The Derbyshire Wildlife Trust has objected to the development both as the Council's consultee on wildlife issues and as owner/manager of the adjacent Hilton Gravel Pits SSSI. It considers that the development would deter visitors from accessing the reserve by virtue of detracting from the approach to the reserve beyond that produced by the commercial unit; increasing the presence of unrestrained dogs that is already an issue; preventing adequate parking for those arriving by car; increase vehicle usage of the road where there are no pavements; cause noise within the reserve detracting from its quiet enjoyment and would make visitors feel uncomfortable when first arriving at this entrance to the site.

At the suggestion of the Derbyshire Wildlife Trust, Natural England has been consulted about this application. Any response will be reported at the meeting if available.

## **Responses to Publicity**

7 letters of support have been received including three from 1 family, that state the site would be hardly visible and would not affect the local area unlike some of the affordable housing in the village that has had a significant impact on neighbours. The applicant is said to be a trustworthy person who works hard and now wants a base from which his children can obtain a high standard of education.

11 letters of objection have been received the main points are:

- a) To grant permission for another Gypsy site at Burnt Heath would overwhelm the small settled community. Circular 01/2006 is specific in stating that the impact on the settled community is as important as providing accommodation for the Gypsy community and inappropriate or large camps in a small community can adversely affect the human rights to respect for private and family life. It is asserted that

the settled residents would be outnumbered by 3 to 1 if planning permission were granted. Gypsy families may be in conflict; that was a concern of the occupiers of the original site when it was occupied when rejecting the Woodyard Lane site. Objectors are concerned that these families may fall out.

- b) Contrary to what is stated in the supporting information, the site is visible during the winter months when the trees and shrubs lose their leaves and it becomes fully exposed.
- c) There are far too many Gypsy sites in South Derbyshire; other authorities should take more of these sites in line with their obligations. There is space available to take the Travellers at the Woodyard Lane site at Foston.
- d) The site has been occupied in advance of the grant of planning permission.
- e) The site is contaminated and putting up buildings may disturb these contaminants. It is asserted that there is asbestos beneath the site.
- f) There are health and safety issues arising from the current occupiers of the site and use of the adjacent haulage yard for the occupiers of the site.
- g) Noise from the A50 would adversely affect the potential occupants of the site.
- h) There is insufficient infrastructure in place in that the nearest bus stop is 500 metres away; the doctors and school are 1km away from the site, there is no public sewer and there is no power source available and as such diesel generators may be used.
- i) Dogs and poultry as well as ponies are causing a problem. There is a possibility that free roaming dogs could adversely affect the wildlife reserve that is an important wildlife area. There is concern that residents of the area would no longer be able to access the wildlife area because public access would no longer be available.
- j) Whilst the sites are tidy at the moment, what would be the situation in one year's time, they may deteriorate.
- k) Property values would decline.

## **Development Plan Policies**

The relevant policies are:

Local Plan: Environment Policy 1, Housing Policy 15.

## **National Guidance**

ODPM Circular 01/2006. Recently the government has indicated that:

- There is an intention to replace Planning Circular 01/06 Planning for Gypsy and Traveller sites with new light-touch guidance
- Stronger planning enforcement powers would be introduced to help local authorities deal with breaches of planning control and limiting the opportunities for retrospective planning applications
- Local Authorities would be encouraged to provide, in consultation with the local community, an appropriate number of Traveller sites that reflect local and historic demand. Incentives for site provision and innovative ways in which Traveller sites can be funded and maintained would be explored.

- DGLG would co-ordinate action across Government to tackle the discrimination and poor social outcomes faced by Gypsies and Travellers and seeking to remove barriers that are stopping them from taking part in the 'Big Society'.

If there are any further reports, an update will be provided at the meeting.

## **Other Guidance**

The Derbyshire Gypsy and Traveller Accommodation Assessment (GTAA).

Published Government Guidance about the Design and Layout of Gypsy Sites.

## **Planning Considerations**

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

- The Development Plan
- Government Advice and the Derbyshire GTAA
- Alternative Sites
- Recent Planning Appeal Decisions
- Policy Implications
- Proximity to the SSSI
- Noise implications for the occupiers of the site

## **Planning Assessment**

### The Development Plan and Government Advice

The Development Plan comprises the South Derbyshire Local Plan and Policies Environment Policy 1 and Housing Policy 15 are relevant to the consideration of this application.

Circular 01/06 works on the basis that a location in the countryside can be acceptable. The abandoned Regional Plan set a figure for plots to be provided in South Derbyshire. That figure was based on the results of the GTAA that stated the need for 19 pitches in South Derbyshire up to 2012 with 3% compound growth in the years after that to 2026. However, the abandonment of the Regional Plan presents the opportunity to revisit the GTAA in terms of how it set out the need for Gypsy accommodation in southern Derbyshire. The word 'southern' is used advisedly. The GTAA sets out the figures as set out above. However, Paragraph 8.49 and 9.7 suggest that new public sites should be located in areas other than. ...South Derbyshire to reflect the desire of the Travelling Community to have alternative public sites in a 5 – 15 mile radius of existing public sites. However, the recommendation at Paragraph 9.6 is that applications for private sites should be judged on their own merits as that indicates a location where Gypsies wish to live (see conclusion below).

In terms of the Development Plan, the criteria set out in Housing Policy 15 are relevant to the determination of this application subject to the provisions of Circular 01/2006. The applicants in their supporting information refer to these criteria. The policy states that gypsy caravan sites will be permitted provided that a site is:

- In an area frequented by Gypsies, and



- Satisfactorily related in relation to other development; and
- Acceptable in environmental terms; and
- Reasonably accessible to community services and facilities; and
- Capable of sympathetic assimilation into its surroundings; and
- Adequate provision is made for vehicular and pedestrian access.

These issues are discussed in the following sections where these issues arise and the overall conclusion draws together the above criteria.

### Alternative Sites

Woodyard Lane Foston – this Council is no longer responsible for the management of this site. The site owners, Derbyshire County Council, have recently let a contract for a member of the Gypsy community to manage the site on its behalf. The contract makes provision for the new leaseholder to admit or refuse admission to the site and it is anticipated that the site would be managed as if it were a private Gypsy site. Some of the plots on the site would be available as Transit plots. Again the leaseholder will be responsible for controlling access to the site. Officers at the County Council anticipate that the site will be full by the end of the year.

All other sites in the area are privately owned. There are currently no available spaces on these sites to the best of officer's knowledge.

### Recent appeal decisions and policy implications

There are two recent appeal decisions of note, the first on land close to this application site (also on Sutton Lane approx 20m to the north) and the second at Gravel Pit Hill at Hartshorne.

The Sutton Lane appeal was allowed and the families on that site were granted planning permission to stay on the land with up to 4 caravans for the two families.

In the Gravel Pit Hill decision, the Inspector took the view that with the revocation of the Regional Plan, the allocation by the Local Planning Authority of any new land for sites is uncertain. He accepted that the Council had granted planning permission for 12 pitches since the base date of the GTAA, which resulted in an outstanding need for seven pitches in relation to the Regional Plan. His view was that the Council could very likely argue these seven pitches should be redistributed to other local authority areas to provide Gypsies with the choice envisaged by the GTAA.

*'My overall conclusion is that the degree of harm to the area's character and appearance and to highway safety is sufficient to outweigh the sustainability of the location and the need, both generally and of the appellant, for Gypsy and Traveller caravan sites.'*

In this case the application site has no material impact on the wider countryside. It is well screened and the access to it is good. In this regard it differs significantly from the situation at Gravel Pit Hill. However, the Inspectors comments about the overall provision of sites in South Derbyshire are worthy of consideration. The removal of the East Midlands Regional Plan policies has introduced uncertainty into the process. None of the discussions with adjoining Councils to seek to redistribute provision as envisaged by the Gravel Pit Hill Inspector has yet taken place.

In effect, the provisions of Circular 01/2006 remain in place and Gypsy development can take place in rural areas in accordance with its provision. The GTAA recognises an on-going need for Gypsy sites and the applications for private sites should be dealt with on their merits. In terms of the GTAA the Council has an on-going need to find additional sites in its administrative area by 2012. In the light of the shortfall in pitches available it is considered that the current state of policy and advice is such that there are no grounds for refusing planning permission.

Circular 01/2006 does make reference to the need to avoid Gypsy communities overwhelming small settlements or villages and this is an argument promoted by objectors to the retention of the development. There is a physical separation from the small number of houses provided by the new line of Sutton Lane and the extensive landscaping that was implemented when the A50 was constructed to a point where the relationship between the two is relatively remote. As such a refusal on these grounds would be difficult to sustain.

The site is well screened and would not represent an intrusion into the countryside to a point where refusal of planning permission could be justified. In this case the development conforms to these requirements in Housing Policy 15.

#### Proximity to the SSSI

The Derbyshire Wildlife Trust has objected to the development for the reasons as stated above. However, the main entrance to the SSSI is from Willowpit Lane where there is a car park. The path that passes through the site is a permissive path and not an official public footpath. There is clearly concern about the impact of dogs on the habitat, but there appears to be no evidence that the dogs that are causing a nuisance have come from either of the Gypsy sites. The Derbyshire Wildlife Trust did not object to the first Gypsy site when consulted on that application. Whilst there is some sympathy for the position of the Wildlife Trust, there is nothing in its objections that would justify refusing planning permission and as such the proposal satisfies the criteria in Housing Policy 15.

#### The impact of noise sources on occupiers of the site.

This site is close to the A50 and also adjoins a haulage depot. Previously the Authority sought to refuse permission on the land to the north of the haulage depot on grounds of unreasonable noise intrusion, but the Inspector comprehensively rejected the Council's arguments to a point where trying to apply a similar reason for refusal is considered inappropriate and unlikely to succeed. Thus it is considered that the environment for the occupiers of the site would not be ideal in terms of proximity to noise sources but not to a point where planning permission could be refused as the site meets the relevant criteria in Housing Policy 15.

#### Overall Conclusions

Having reflected on the issues identified above, on balance it is considered that in the absence of any further information on the future of Circular 06/2001, should there be any further advice issued by the Secretary of State in respect Gypsy site provision, that will be reported at the meeting. The provisions of the GTAA state that applications for private sites should be treated on their own merits, as it is an indicator of where Gypsies want to live. The decision at appeal on the adjacent site with the lack of support therein

for refusal based on the impact of local conditions of the occupiers of the site draws a conclusion that the application should be recommended for permission. It satisfies the criteria in Housing Policy 15 in that the site lies in an area frequented by Gypsies, it is well screened and reasonable related to the community and other facilities in Hilton, and there is good vehicular access to the site.

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 site shall not be permanently occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.  
Reason: In order that the site remains available to member of the gypsy and travelling community in perpetuity.
2. There shall be no more than 4 pitches on the site and on each of the 4 pitches hereby approved no more than 2 caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed at any time. Only 1 static caravan is permitted for each pitch.  
Reason: For the avoidance of doubt and to control the number of caravans on the site to those specified in the planning application.
3. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 3 months of the date of failure to meet any one of the requirements set out in (a) to (e) below and within 3 months of the date of this decision a scheme for:
  - a) The precise means of foul water drainage of the site that shall include the provision of an on-site foul water treatment plant as specified in the planning application;
  - b) Proposed and existing external lighting on the boundary of and within the site;
  - c) The internal layout of the site, including the siting of caravans, plots, hardstanding, access roads, parking and amenity areas;
  - d) The re-profiling of the earth mound on the south boundary of the site together with a scheme of landscaping and implementation of the landscaping;
  - e) Details of the materials of construction of the amenity blocks; hereafter referred to as the site development scheme shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.

Within 11 months of the date of this decision the site development scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State if an appeal is made

that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State thereafter the approved scheme shall have been carried out and completed in accordance with the approved timetable.

Reason: In order that the development at the site is controlled in accordance with an approved development scheme.

4. No more than one commercial vehicle per plot shall be kept on the land for use by the occupiers of the caravans hereby permitted, and they shall not exceed 3.5 tonnes in weight.

Reason: For the avoidance of doubt and to allow limited commercial vehicle parking on the site in the interests of the occupiers of the site.

5. No commercial activities shall take place on the land, including the storage of materials

Reason: The site is located in the countryside where the Local Planning Authority would not normally grant planning permission for business uses unless there was a specific need to meet the requirements of an established rural business.

**Item**            **1.2**

**Reg. No.**        **9/2010/0839/B**

**Applicant:**

MR HOLLINGWORTH  
202 WOODVILLE ROAD  
HARTSHORNE  
SWADLINCOTE

**Agent:**

MR STEPHEN GREAVES  
S G DESIGN STUDIO LTD  
202 WOODVILLE ROAD  
HARTSHORNE  
SWADLINCOTE

**Proposal:**        **THE VARIATION OF CONDITION 19 TO ALLOW  
COMMENCEMENT PRIOR TO THE APPROVAL OF A  
SECTION 247 STOPPING-UP ORDER AND CONDITION  
31 TO AGREE WINDOW DETAILS OF PLANNING  
PERMISSION 9//2010/0131/FM AT 10 HIGH STREET  
TICKNALL DERBY**

**Ward:**            **HARTSHORNE AND TICKNALL**

**Valid Date:**      **15/09/2010**

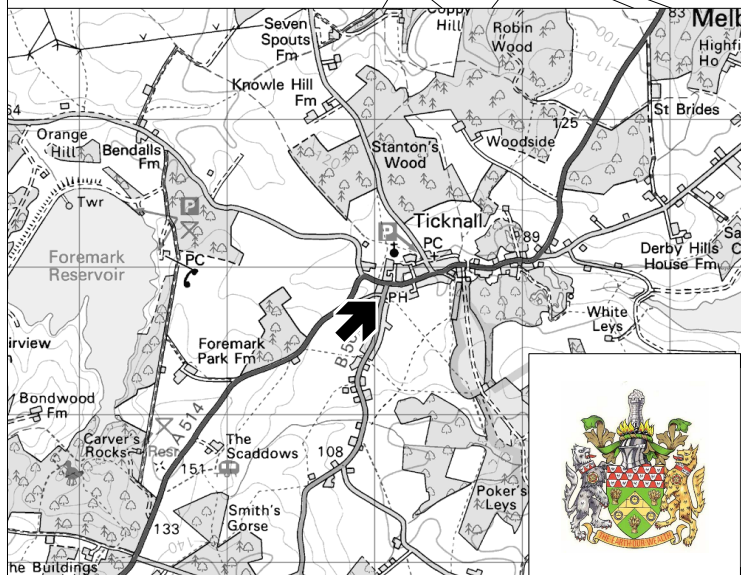
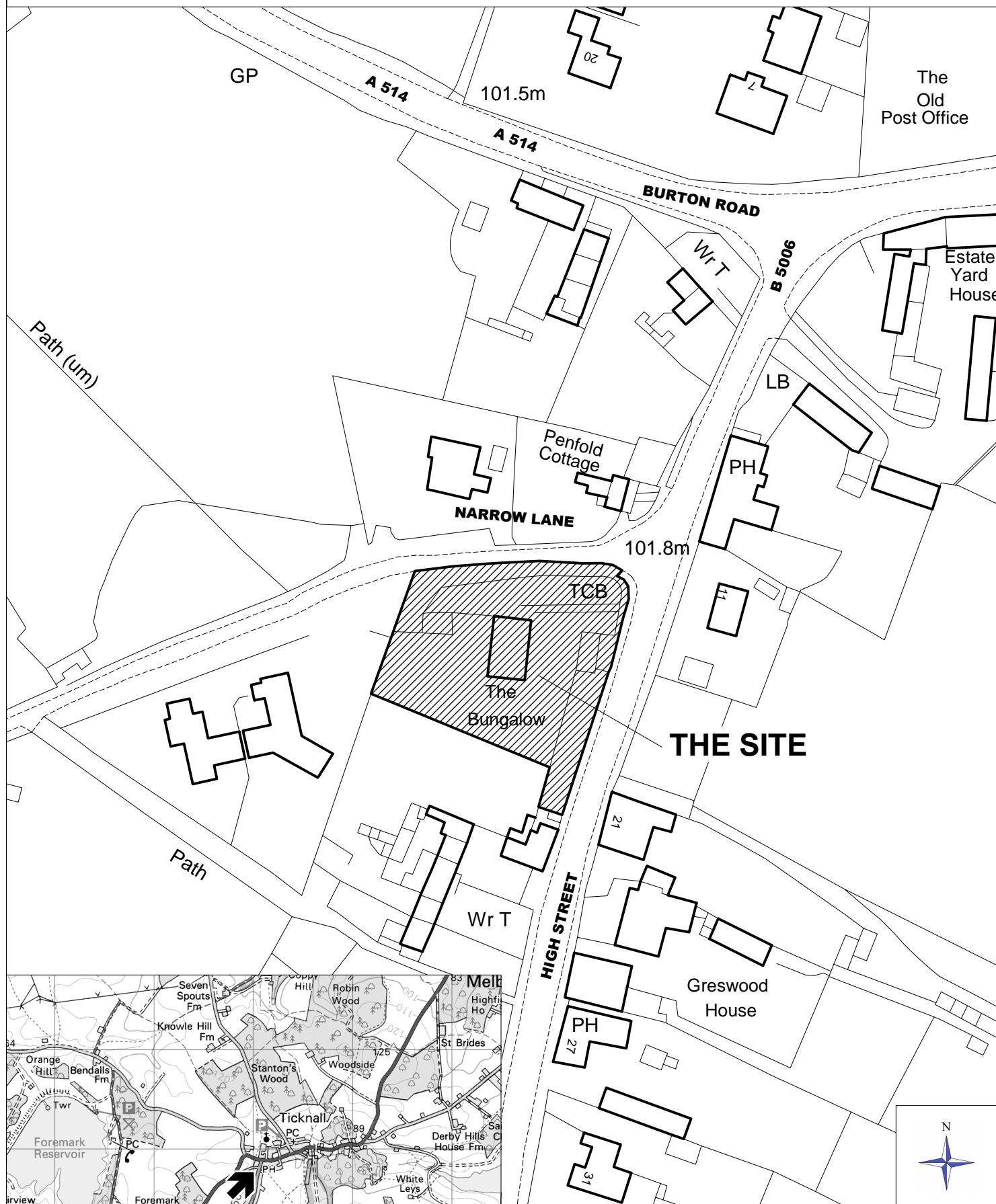
**Reason for committee determination**

The application is brought to Committee at the discretion of the Head of Planning Services as it relates to the variation of a condition previously agreed by Committee.

**Site Description**

The application site is a corner plot situated within Ticknall village confines. The site is occupied by an existing bungalow, detached garage and stable building set within a mature garden. The stable building, a stone wall and two protected mature Corsican pines form the site frontage with High Street. With the exception of this frontage the majority of the site lies outside of Ticknall Conservation Area. A beech hedge forms the western and southern boundaries of the site with a low stone wall inset from a highway verge forming the northern boundary with Narrow Lane. The site is in an elevated position from High Street and continues to rise up with the rising gradient of Narrow Lane. Access to the site is from Narrow Lane with a stepped pedestrian access from High Street.

Residential development surrounds the site on all sides. The surrounding properties are varied in style and heights but are traditional in character. A more recent development of two dwellings is situated to the west of the application site and accessed from Narrow Lane. A sewer easement crosses the southern boundary of the 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**

An application to demolish the existing bungalow and the erection of two dwellings including refurbishment of the existing stable building and associated access and parking was approved at Committee in May 2010. The approval was subject to conditions including an additional condition requested by Committee requiring that the windows of the proposed dwellings be small-paned to reflect the window details of surrounding properties within the conservation area.

This application seeks to vary the above condition relating to the submission of revised window details and a further condition relating to the grant of a stopping-up Order (under Section 247 of the Town and Country Planning Act 1990) for the area of 'highway' verge along the northern boundary of the site fronting Narrow Lane, both required prior to commencement. The application seeks to vary the conditions to allow work to commence on site prior to the granting of the stopping-up order and to allow further discussion of the window details with the intention that both be completed prior to occupation of the dwellings.

## **Applicants' supporting information**

None.

## **Planning History**

9/2010/0131/FM – The demolition of existing bungalow and the erection of two detached dwellings including refurbishment of existing stable building and associated access. Approved 11.05.10.

## **Responses to Consultations**

The Highway Authority has no objection subject to conditions requiring that no dwellings are occupied and no work is carried out within the public highway, (with the exception of the modification of the existing access and the creation of the new vehicular access onto Narrow Lane in accordance with the approved plan) prior to the granting of the stopping-up order.

## **Responses to Publicity**

None.

## **Development Plan Policies**

The relevant policies are:

Local Plan: Saved Environment Policy 12 & Transport Policy 6

## **National Guidance**

PPS5

## **Planning Considerations**

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

- Highway issues
- Conservation issues.

## **Planning Assessment**

On the advice of the Highway Authority as outlined above, the proposed variation of condition relating to the stopping-up order would not have any adverse impact on highway conditions.

The applicant's agent is in discussion with the Design and Conservation Officer regarding the window details with the intention of submitting details altering windows that are visible from High Street and Narrow Lane from within the conservation area to small-paned windows. The variation of the condition to ensure details are agreed prior to installation would allow the applicant to commence work on site whilst these discussions are ongoing. The proposed relaxation maintains the intention of the condition in accordance with Members' original requirements. The Design and Conservation Officer considers that the development as a whole would be a sympathetic one, not harmful to the character of the conservation area, whether or not the windows are multi-paned, subject to careful detailed design and construction and has no objection to the variation of the condition.

## **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 nos. 210.01.01 rev A, 210.01.02 rev A, 210-01.03 rev A received on 21st April 2010 and 210-01.04 rev B received on 5 May 2010.

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

3. No part of the development shall be carried out until samples of the facing materials to be used in the execution of the works have been submitted to and approved in writing by the Local Planning Authority. The agreed materials shall then be used in the development hereby approved.

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

4. Large scale drawings, including horizontal and vertical sections, to a minimum scale of 1:10 of railings, steps, porches, eaves, verges chimney stacks, boundary walls and copings, external joinery, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The details shall be constructed in accordance with the approved drawings.

Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.



5. The precise type and size of the proposed rooflights shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflights shall be fitted such that their outer faces are flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.  
Reason: In the interests of the appearance of the building(s) and the character of the area.
6. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.  
Reason: In the interests of the appearance of the area.
7. No part of the development shall be carried out until precise details including paving patterns, specifications and samples of the materials to be used in the hard landscaping works have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the Local Planning Authority.  
Reason: In the interests of the appearance of the area.
8. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.  
Reason: In the interests of the appearance of the building(s) and the character of the area.
9. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number, position and finish of heating and ventilation flue outlets shall be agreed in writing with the Local Planning Authority before development is commenced.  
Reason: In the interests of the appearance of the building(s) and the character of the area.
10. Gutters shall be cast metal (with cast metal fall pipes) and shall be fixed direct to the brickwork 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.
11. Pointing of the existing/ proposed building(s) shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish.  
Reason: In the interests of the appearance of the building(s).
12. A sample panel of pointed brickwork and stonework 1 metre square or such other area as may be agreed by the Local Planning Authority shall be prepared for

inspection and approval in writing by the Local Planning Authority before the work is generally executed.

Reason: In the interests of the appearance of the building(s) and the locality generally.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, the dwellings hereby permitted shall not be altered, enlarged or extended, no satellite dishes shall be affixed to the dwelling and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the application site (shown edged red on the submitted plan) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

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.

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

Reason: In the interests of highway safety.

15. Before any other operations are commenced (excluding Condition 14 above) the existing access to Narrow Lane shall be modified, and the new vehicular access shall be created to Narrow Lane, laid out and constructed in accordance with the application drawings, and thereafter maintained in perpetuity.

Reason: In the interests of highway safety.

16. Before any other operations are commenced (excluding Conditions 14 and 15 above) the verge fronting onto Narrow Lane shall be cleared of any objects greater than 1m in height (0.6m in the case of vegetation), for a minimum distance of 2m back from the carriageway edge, and thereafter maintained throughout the life of the development.

Reason: In the interests of highway safety.

17. The proposed access drive to Narrow Lane shall be no steeper than 1 in 15 for the first 5m from the nearside highway boundary.

Reason: In the interests of highway safety.

18. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the application drawings for the parking and manoeuvring of residents' vehicles, laid out, surfaced and maintained throughout the life of the development free of any impediment to its designated use.

Reason: In the interests of highway safety.

19. Notwithstanding the particulars of the application, revised window details shall be submitted for approval in writing by the Local Planning Authority prior to their

installation. 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.

20. No development shall take place, until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority in writing. The scheme shall include on-site work, and off-site work such as the analysis, publication, and archiving of the results. All works shall be carried out and completed as approved, unless otherwise agreed in writing by the Local Planning Authority.

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

21. 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.

22. 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.

23. Notwithstanding the submitted details, prior to the commencement of building operations on adjoining areas, the boundary with the area of the two Corsican pines protected under Tree Preservation Order No. 77 shall be fenced with steel mesh fencing to 2.3m high supported by steel scaffold poles staked at 3 metre centres. The fencing shall be retained in position until all building works on adjoining areas have been completed unless otherwise agreed in writing with the local planning authority.

Reason: To protect the trees from undue disturbance

24. There shall be no tipping or deposition of materials within the area fenced under Condition 23 above without the prior written authorisation of the local planning authority.

Reason: To protect the trees from undue disturbance

25. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

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

26. 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.

27. 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.

28. No work shall take place on the site until details of a scheme for the disposal of surface water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be based upon Sustainable Urban Drainage Principles and 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 protection.

29. The scheme for the disposal of foul drainage shall be carried out in accordance with the details as shown on the submitted plan 210-01.02 rev A before the development is first brought into use.

Reason: In the interests of pollution control.

30. No development shall take place until details of earthworks have been submitted to and approved in writing by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the existing and proposed levels and contours to be formed, showing the relationship of the proposed mounding to existing vegetation and surrounding landform.

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

31. No work shall be carried out, with the exception of the creation and modification of the accesses onto Narrow Lane in accordance with Condition 15 until such time as an application has been made to the Secretary of State and granted for the Section 247 Stopping-Up Order of the highway fronting the development site in accordance with the permitted application plans.

Reason: In the interests of highway safety.

32. The dwellings shall not be occupied until such time as an application has been made to the Secretary of State and granted for the Section 247 Stopping-Up Order of the highway fronting the development site in accordance with the permitted application plans.

Reason: In the interests of highway safety.

#### Informatives:

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months prior notification 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 Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

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.

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.

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

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from [http://www.south-derbys.gov.uk/business/pollution/contaminated\\_land/default.asp](http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp) Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: [pollution.control@south-derbys.gov.uk](mailto:pollution.control@south-derbys.gov.uk). In regard to discharging condition 19 details should include small paned windows in keeping with the surrounding historic properties.

**Item**            **1.3**

**Reg. No.**        **9/2010/0844/FM**

**Applicant:**

MESSERS H T HAWKSWORTH  
MOOR FARM  
LONDON ROAD  
SHARDLOW  
DERBY

**Agent:**

MR DANIEL WRIGHT  
WOORE:WATKINS LTD  
61 FIRAR GATE  
DERBY

**Proposal:**        **THE ERECTION OF AN AGRICULTURAL DWELLING AT  
MOOR FARM LONDON ROAD SHARDLOW DERBY**

**Ward:**            **ASTON**

**Valid Date:**      **10/09/2010**

**Reason for committee determination**

The application is subject to an objection from The Environment Agency (a statutory consultee) but the recommendation is for permission to be granted.

**Site Description**

The site is part of a field to the west of the existing Moor Farm complex, which includes the existing old farmhouse, on London Road. It is located opposite an established industrial site. The site lies in the green belt and is located within a Zone 3a flood risk area.

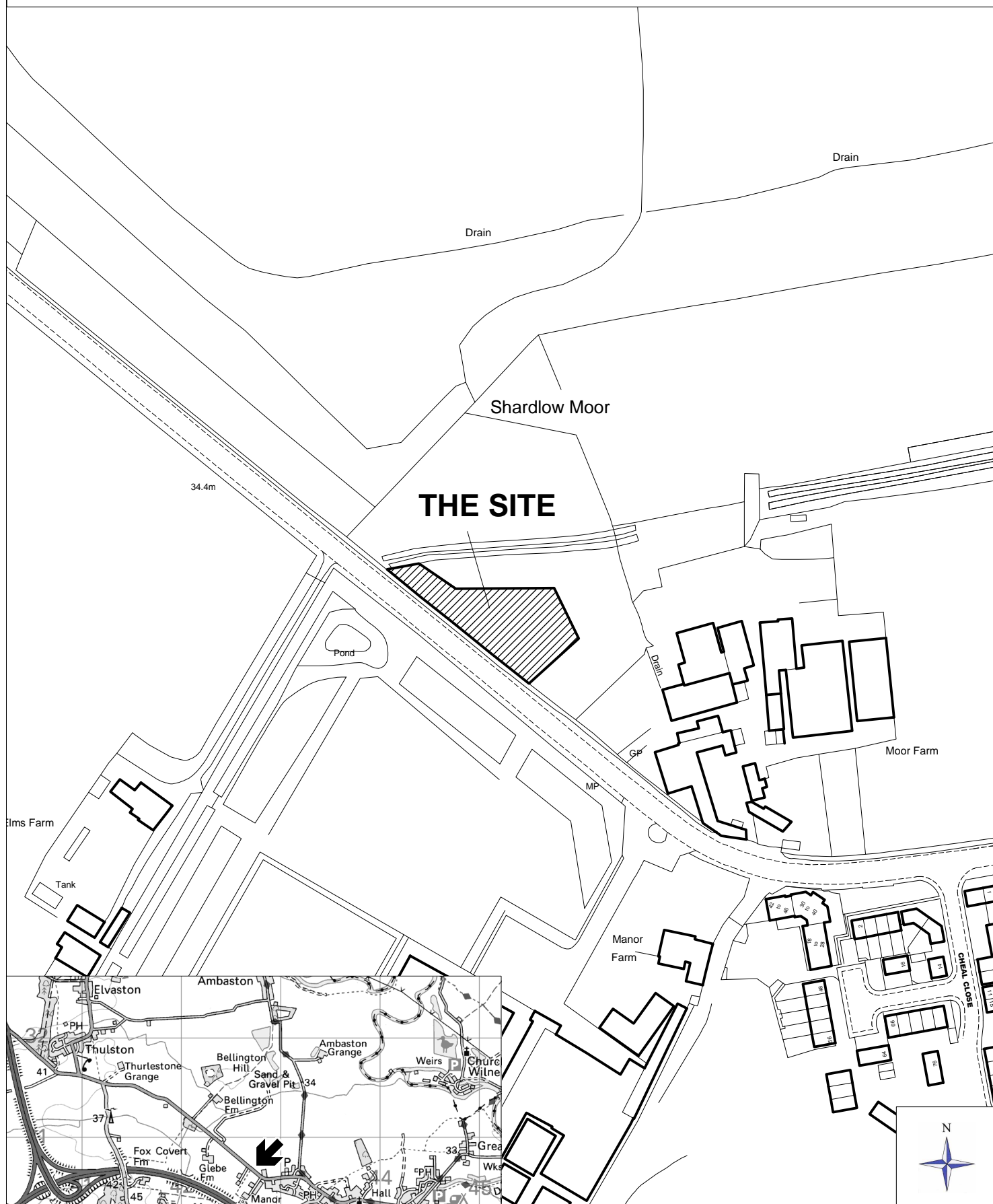
**Proposal**

The application seeks full permission for a single dwelling for a farm worker. The house would be a traditionally designed four-bedroom property with farm office and a detached garage.

**Applicants' supporting information**

The applicant has submitted a Design and Access Statement (DAS) that points out the need to amend the site boundary from the approved scheme (see Planning History below) to avoid a gas pipelines and its easements.

The DAS makes it clear that justification for a farm worker's dwelling is as it was when the previous permission was granted.



**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**



## **Planning History**

Moor Farm has been developed over the years. New livestock buildings were permitted in 2002 and 2008.

Committee granted outline permission (9/2010/0376) at the meeting held on 8 June 2010. That application was also subject to an objection from the Environment Agency on flood risk grounds.

## **Responses to Consultations**

The Highway Authority and Severn Trent Water Ltd have no objection in principle.

The Environment Agency objects because the development would fail to secure dry access in the event of flooding causing an unacceptable risk to the occupants and would also impede flood flow and reduce storage capacity thereby increasing the risk of flooding elsewhere.

## **Responses to Publicity**

None received.

## **Development Plan Policies**

The relevant policies are:

South Derbyshire Local Plan Saved Housing Policies 8A & 11, Environment Policy 1 and Green Belt Policy 3C.

## **National Guidance**

PPG2 PPS7 PPS25

## **Planning Considerations**

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

- The principle.
- Impact on the openness of the green belt and the character of the countryside.
- Flood risk.
- Highway safety.

## **Planning Assessment**

The site is an area where residential development is normally unacceptable as a matter of principle. However the relevant policies make an exception where it is established that a dwelling is necessary for the purposes of agriculture, provided that it is adjacent to the development in connection with which it is required. The applicant has demonstrated such a need and the dwelling would be located within sight and sound of the farm that it would serve. The extant outline permission is a material consideration of substantial weight. The only reason the applicant needs to apply for full permission,

rather than reserved matters, is because of the existence of the gas pipeline, which causes the site boundary to be modified.

The dwelling would be located past the last existing group of buildings (Moor Farm) on the north side of London Road so it would be perceived as a new feature in the landscape, affecting the openness of the green belt. However this location has been chosen because it is the highest piece of land around the farm complex and would be least affected in the event of flood. The design reflects the local distinctiveness of houses in the Shardlow area and its impact on the countryside would thus be acceptable.

It is not possible for the applicant to reconcile the conflict between the need for an agricultural workers dwelling at this location with the fact that the site lies within an area at risk of flood. Given that the dwelling would be part of an existing enterprise that already contains an occupied farmhouse, the risk would arguably be less than would be the case with an independently occupied new dwelling. In the circumstances the need to enable the viable continuation of the long-standing farm enterprise, which has clearly been the subject of substantial investment over the years, outweighs the undesirability of a new house in the flood risk zone.

The Highway Authority requires adequate parking, turning and visibility splays, all of which could be secured by condition.

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 one year from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990, and to ensure that, having regard to the changing needs of agriculture and the general policy of the approved Structure Plan to restrict development in the countryside, the number and life of planning permissions for agricultural workers' dwellings in being at any one time is limited.

2. The occupation of the dwelling shall be limited to the family and/or dependents of a person employed, or last employed, wholly or mainly, in agriculture, as defined in Section 336 of the Town and Country Planning Act 1990, or in forestry.

Reason: The site is within open countryside where the Development Plan provides that development shall be confined within the limits of an existing town or village, except where the needs of agriculture or other overriding reasons justify a departure from that policy. The Local Planning Authority is concerned to ensure that agricultural workers' dwellings are maintained available to meet the needs of the locality and to avoid proliferation of dwellings in the countryside.

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

Reason: In the interests of the appearance of the buildings, and the character of the area.

5. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 8597 01 Revision 04/10/2010 showing revised access.

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

6. Before any other operations are commenced a new access shall be created to the A6 London Road in accordance with Drawing no. 8597 01 Revision 04/10/2010, laid out, constructed and provided with visibility splays measuring 2.4m x 215m in the north westerly direction and 2.4m x maximum achievable in the south easterly direction, the land in advance of which shall be cleared and thereafter retained free of all obstructions to visibility over a height of 1 metre above the adjoining carriageway level (0.6 m in the case of vegetation) relative to the nearside carriageway channel level.

Reason: In the interests of highway safety.

7. Before the dwelling is occupied the area shown for the parking and manoeuvring of vehicles shall be laid out, surfaced and shall thereafter be retained free of any impediment to its designated use.

8. The development shall incorporate the recommendations of the submitted flood risk assessment.

Reason: To minimise flood risk in the circumstances of the overriding need for an agricultural worker's dwelling in this location.

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

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

#### Informatives:

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months prior notification 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 Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

**Item**            **1.4**

**Reg. No.**        **9/2010/0864/FM**

**Applicant:**

Mr James Chamberlain  
Glebe Farm  
London Road  
Shardlow

**Agent:**

Kay Smith Architect Ltd  
Studio 2  
Waterside Court,  
Third Avenue  
Centrum 100  
Burton on Trent

**Proposal:**        **THE SITING OF A TEMPORARY MOBILE HOME AT  
HOME FARM LONDON ROAD SHARDLOW DERBY**

**Ward:**            **ASTON**

**Valid Date:**      **13/09/2010**

**Reason for committee determination**

The application is subject to an objection from the Environment Agency (a statutory consultee) but the recommendation is for permission to be granted.

**Site Description**

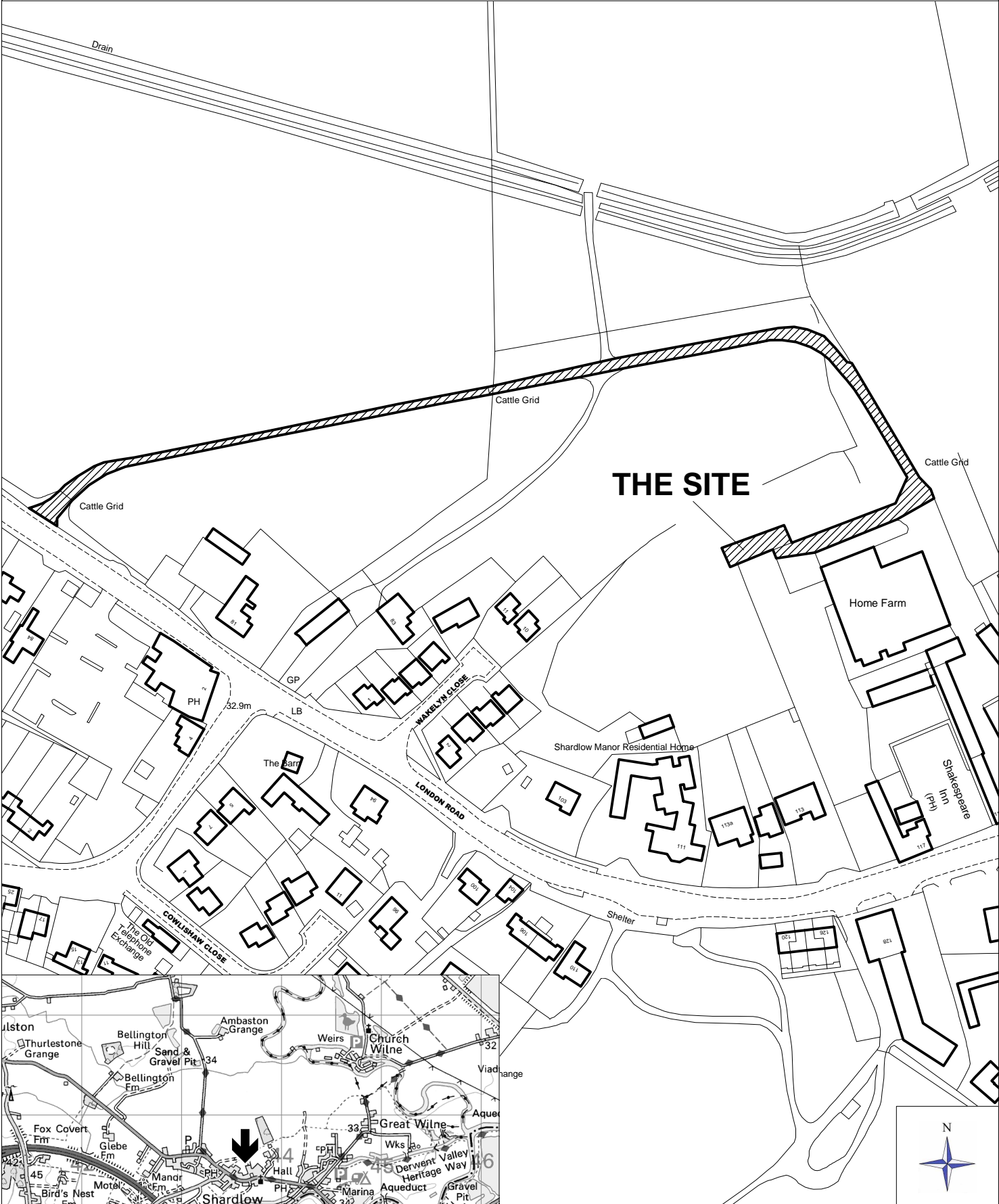
The site is part of field located adjacent to the main farm buildings at Home Farm. It lies within the conservation area and an area at risk of flood (Zone 3a).

**Proposal**

A mobile home is proposed to house a farm worker. The submitted drawings show a two-bedroom unit measuring 9m x 6 m. The existing farm access to London Road would be used.

**Applicants' supporting information**

- The mobile home is required to provide temporary accommodation for a farm worker currently residing at Glebe Cottage, while that property is re-built. It would also be used to provide on site supervision for the existing farm complex, which has been the subject of crime.
- The mobile home would be needed until a permitted farm workers' dwelling at the site can be built.



**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**

- Whilst the area is at risk of flood there is functional need for a farm worker to be present here and measures would be taken to minimise the risk.

## **Planning History**

9/2008/1013 – Agricultural worker's dwelling – permission granted by the Planning Committee. To be commenced before 17/12/2011.

## **Responses to Consultations**

The Environment Agency objects because the site is within Flood Zone 3a and does not have a safe means of access/egress in the event of flooding.

The Development Control Archaeologist has no objection.

## **Responses to Publicity**

None

## **Development Plan Policies**

The relevant policies are:

South Derbyshire Local Plan Saved Green Belt Policies 1 & 3, Housing Policies 8 & 11 and Transport Policy 6.

## **National Guidance**

PPG2, PPS7, PPS25.

## **Planning Considerations**

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

- The principle.
- Impact on the conservation area.
- Flood risk.

## **Planning Assessment**

The principle of a farm worker's dwelling in this location has been previously accepted by the Committee and so there is an extant permission for a permanent farm worker's dwelling. The relevant policies for the countryside and the green belt favour dwellings in such circumstances.

The mobile home would be visible from the public footpath to the north of the site but would be seen in the context of a modern working farm. As such the character of the conservation area would be preserved.

The site is at risk of flood. However, members may recall as explained previously that there is nowhere in a lower risk area that would serve the functional purpose of the

mobile home, which is needed next to the farm enterprise it would serve. The principle of farm worker's dwelling in this location is already accepted and the mobile home would be removed once the permitted permanent dwelling is built. The measures proposed in the submitted FRA would minimise risk to the occupants. It is also relevant that the occupants will likely be working on site in the event of flood to deal with associated emergencies at the farm.

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 use of the application site for the siting of a mobile home shall be discontinued on first occupation of the dwelling permitted under Reg. No. 9/2008/1013 and the site reinstated to the satisfaction of the Local Planning Authority unless, prior to that event, an application has been made and permission has been granted for an extended period.

Reason: The site is within open countryside where the Development Plan provides that development shall be confined within the limits of an existing town or village, except where the needs of agriculture or other overriding reasons justify a departure from that policy. The Local Planning Authority is concerned to ensure that agricultural worker's dwellings are maintained available to meet the needs of the locality and to avoid proliferation of dwellings in the countryside.

2. The occupation of the dwelling shall be limited to the family and/or dependents of a person employed, or last employed, wholly or mainly, in agriculture, as defined in Section 336 of the Town and Country Planning Act 1990, or in forestry.

Reason: The site is within open countryside where the Development Plan provides that development shall be confined within the limits of an existing town or village, except where the needs of agriculture or other overriding reasons justify a departure from that policy. The Local Planning Authority is concerned to ensure that agricultural worker's dwellings are maintained available to meet the needs of the locality and to avoid proliferation of dwellings in the countryside.

3. The development shall incorporate the recommendations of the submitted flood risk assessment.

Reason: To minimise flood risk in the circumstances of the overriding need for an agricultural worker's dwelling in this location.

**Item**            **1.5**

**Reg. No.**        **9/2010/0891/SMD**

**Applicant:**

Mr Scott Pluthero  
evolve estates  
Unit 8C Commodore House  
Battersea Reach  
Juniper Road  
Wandsworth SW18 1TW

**Agent:**

Darryn Buttrill  
Bi Design Architecture Ltd  
79 High Street  
Repton

**Proposal:**        **THE CONVERSION OF EXISTING PUBLIC HOUSE INTO  
FOUR 1 BEDROOM FLATS AND THE ERECTION OF SIX  
NEW HOUSES AT MASON ARMS BURTON ROAD  
MIDWAY SWADLINCOTE**

**Ward:**            **MIDWAY**

**Valid Date:**      **27/09/2010**

**Reason for committee determination**

The application is brought before the Committee at the request of Cllr Wilkins as local concern has been expressed about a particular issue and there are unusual site circumstances that should be considered by Committee.

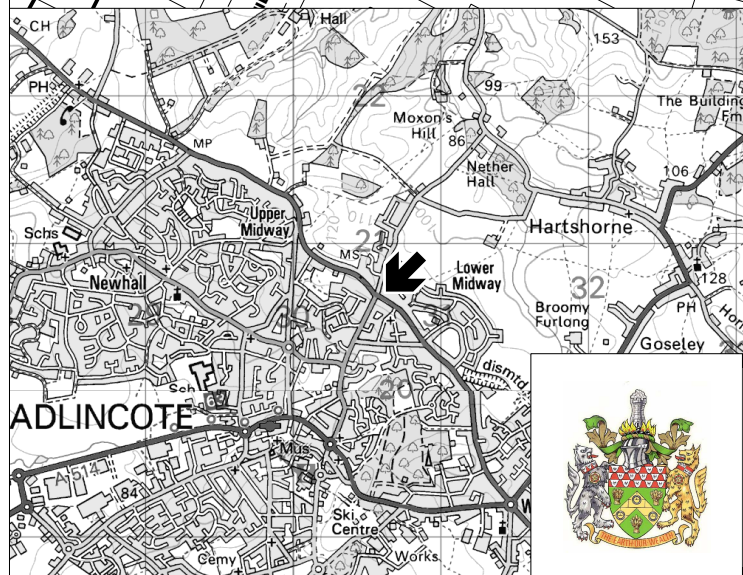
**Site Description**

This 0.11 hectare (1,127 sq. metre) site is located adjacent to the cross roads of Burton Road, Midway Road and Sandcliffe Road. There is the prominent Mason's Arms public housing building right on the corner of Burton Road and Sandcliffe Road which is two storey and has a two storey bay feature on the corner. The windows are large with stone cills and lintels. The car park with approximately 19 spaces is to the south east with access onto Burton Road adjacent to the side of the building and the car park which is enclosed by a low wall. The site slopes from the north west down to the south east with a difference of 4.4m between the highest and lowest parts of the site. On Sandcliffe Road the site has a difference in levels from the north west corner to the corner with Burton Road of 2.9m. There are two existing properties adjacent to the north eastern boundary of the site and from this boundary to the Burton Road boundary the land slopes down between 100-400mm.

**Proposal**

Planning permission is sought for the conversion of the public house building to four 4 bedroom apartments and five dwellings. Proposed changes to the public house building involve removal of the toilet and kitchen extensions to the side and rear and an





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

additional window where the kitchen extension would be removed. All existing openings would be utilised and in the main the building would appear as existing.

A pair of semi-detached properties are proposed on Sandcliffe Road between the existing building and No.2 Sandcliffe Road. The proposed properties would have two storey bay windows set within a gable feature and would have a slightly lower land level than No.2 Sandcliffe Road as levels reduce to the south west.

The original submission proposed a further 4 dwellings facing Burton Road, however, this has now been reduced to 3 dwellings due to highway concerns, lack of adequate garden space and potential overlooking of No.394 Burton Road. The proposal is therefore amended to a pair of semi-detached dwellings with an attached single storey dwelling. These properties would be smaller than units 1 & 2 and would have arched lintels under gable features in the roof and canopies over the doors. The single storey dwelling would be a similar design with the front door to the side of the dwelling.

Garden sizes are considered adequate for the size of properties proposed. The car parking area would be to the rear of units 1 & 2 and the existing public house building. 13 spaces were originally proposed, however, this has increased to 15 together with the reduction of one unit. The proposed access would be moved 4.4m away from the existing public house and would be 4.8m in width. Bin storage would be provided in the communal areas adjacent to the car park.

### **Applicants' supporting information**

The Design and Access Statement describes the site and considers the site to be sustainable in terms of its location. The loss of the public house is not considered to have a significant impact on the local community due to the proximity to other pubs such as the Midway Inn and The Wheel on Burton Road. The pub has been vacant for some time and would require substantial renovation to offer food in order to attract landlords and customers. The building is structurally sound and the proposed use is the most economically viable and would make the best use of the site. The pre-application involvement with the both Planning Officer and Highway Officers is outlined. The design principles are outlined that ensure that the properties would integrate with the streetscene. Floor area details for each unit are listed and an explanation on the proposed layout and how it integrates with both the streetscene and land levels is included. Heights and floor levels of the proposed dwellings are listed. There are 9 existing trees on site and are predominately conifers that have already begun to cause problems for neighbouring properties as they have not been maintained. Other trees are multi stemmed self set trees of little amenity value. In terms of the access and parking, guidance was sought from the Highways Authority and as such the proposed access and parking is considered acceptable.

### **Planning History**

None

### **Responses to Consultations**

The County Highways Authority states that whilst the sites existing access off Burton Road (A511) is a concern from a highway safety viewpoint, with it being within the close vicinity of a major 4-way road junction, it is unlikely a highway objection could be

sustained given the sites previous use as a public house. The amended plan (12B) received addresses the initial concerns with the level of parking and manoeuvring. The 15 spaces now proposed are acceptable and adequate manoeuvring space has been provided. Conditions relating to provision of a site compound, the access and visibility, parking and manoeuvring and gates are recommended.

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

The Contaminated Land Officer considers that as the site may be affected by off site sources of ground gas and from unrecorded made ground on site due to the existence of former structures, a phased contamination condition is recommended.

Derbyshire County Education states that the proposed development at the Mason Arms Burton Road Midway is within the normal area of Eureka Primary School and Granville Sports College. Due to the number of dwellings with 2 bedrooms or above, DCC would not seek a S106 education contribution.

### **Responses to Publicity**

Six letters of objection have been received based on the original submission and the concerns raised are summarised below:-

- a) The bedroom windows of plots 7, 8 and 9 would overlook 394 Burton Road's kitchen window and the rear windows of units 1 and 2 would overlook the rear garden area.
- b) Smoke fumes from units 7, 8 and 9 would blow straight at 394 Burton Road.
- c) The public house car park has been used as an unofficial resident's car park for 23 years and there are up to 6 resident's vehicles that currently use it. These vehicles would be displaced and may park on the street.
- d) 13 car parking spaces are not sufficient for 10 properties as many households have 2 cars.
- e) There is no provision for turning space within the plans and therefore vehicles would have to reverse onto Burton Road close to a major junction and accident black spot.
- f) The car parking for units 1 and 2 would be at the same level of 394 Burton Road which would affect security if the boundary wall is not increased in height.
- g) Units 7, 8, 9 and 10 have their front doors onto Burton Road, which will encourage on street parking within the bus lay-by which may obstruct 394's vehicle access.
- h) No. 394 Burton Road requires oil deliveries for their fuel and the car park is used for this purpose and due to the layout the tanker would have to reverse.
- i) Loss of the trees is a concern in the National Forest.
- j) No. 438 Burton Road is being used as a care home with staff and taxis visiting the site.
- k) Access from 392A is difficult due to the queuing traffic waiting at the traffic lights and this proposal would make it worse.
- l) The chaos during construction on this busy junction would be horrendous.
- m) The drainage system is at capacity and cannot take any more dwellings due to existing drainage problems experienced at the pub and No.392A.
- n) The previous landlady had a kitchen extension with a view to providing food so new facilities could be installed.

- o) The car park suffers from subsidence due cellars from a previous building on the site and investigation as to whether these cellars are listed is being carried out.
- p) Sandcliffe Road is a very busy and important thoroughfare for access to Derby and for the police and farmers.
- q) On street parking on Sandcliffe Road causes major problems as queuing traffic gets blocked due to the traffic lights and any new residents parking on this road would exacerbate the problem.
- r) Any vehicles using the proposed access would be in conflict with vehicles turning towards Woodville from Sandcliffe Road, as it is a blind corner.
- s) The Council should consider acquiring the site to further improve the junction and provide a slip road onto the A511 towards Woodville, reducing queuing on Sandcliffe Road.

## **Development Plan Policies**

The relevant policies are:

Saved Local Plan: Environment Policies 10 and 9, Housing Policies 4 and 11, Recreation and Tourism Policy 4 and Transport Policy 6.

## **National Guidance**

PPS 1 and PPS 3

## **Planning Considerations**

The main issues to be considered are:

- Principle of development
- Residential Amenity
- Design and layout
- Highway/parking Issues

## **Planning Assessment**

### The principle of development

The site is located within the built up area of Swadlincote and is surrounded by residential development. It is a sustainable location in terms of access to the town centre and the site is classed as 'previously developed land'. The proposal for residential development is therefore considered acceptable in principle and in line with Housing Policy 4. It is acknowledged that the development involves the loss of a 'community facility'. However, due to the proximity of other public houses nearby, case law for other losses in similar circumstances, and the lack of any planning policy backing, it is considered that a refusal on this basis could not be sustained at appeal.

### Residential Amenity

The original submission for 10 dwellings raised concerns with regard the overlooking of No.394's main kitchen window as the Council's space standards between the proposed first floor bedroom windows could not be met. Amendments have been sought due to this issue and units 7 and 8 no longer propose any bedroom windows on the rear

elevations adjacent to No.394. The bedroom windows are now proposed on the side elevations of the properties and as such do not cause any overlooking concerns. The distance between the ground floor living room / kitchen of unit 9 and the first floor bedroom window of No.392A is considered adequate and a section indicates that due to the land level difference and existing screening on the boundary no views could be afforded. A section of the relationship between units 7, 8 and 9 and No. 394 indicate that overshadowing of the main kitchen window of this property would not be significant due to the change in land levels, screening on the boundary and the fact that unit 9 is only single storey.

The main useable garden area for No.394 is to the north west of the dwelling at a higher land level than the property. Units 1 and 2 would be over 25 m from this garden therefore overlooking is not considered significant. The garden areas and parking for units 1 and 2 would have a similar land level to the proposed properties and as such would not impact upon the privacy or security of No.394. Adequate screening on the boundary would be achieved by condition.

### Design and layout

The design of the dwellings is considered to be of a high quality and has picked out the features of both the existing public house building (units 1 and 2) and properties in the vicinity (units 7 and 8). The new dwellings would integrate well within the existing streetscenes of Burton Road and Sandcliffe Road. The proposal involves the retention of the prominent corner building, which is an important focal point in the area, which is to be welcomed. The layout indicates that adequate garden areas for the size of dwellings can be accommodated together with a communal area with bin storage for the apartments.

### Highway/parking Issues

The layout has been amended due to highways concerns with regard the level of parking. One unit has been removed from the scheme and thus the accommodation breakdown would be five 1 bedroom units, two 2 bedroom units and two 3 bedroom units. 15 car parking spaces are proposed including one disabled space. All 2 and 3 bedroom properties have two spaces allocated and 1 space per apartment / 1 bedroom property with one additional visitor spaces has been provided within the site. The highway safety of the proposed access adjacent to the junction has been considered and the fact that the site has been used as a public house with no restriction on vehicle movements does also have to be taken into account and the whether the proposal would result in an increase. The Highways Authority has confirmed that the amended plans received on the 22 October 2010 indicate that adequate access, parking and manoeuvring is achievable.

The fact that residents currently use the site as an 'unofficial' car park does not have a bearing on this case as the land is privately owned and as long as adequate parking for the proposed residents can be achieved the proposal is considered acceptable. The application cannot accommodate parking for existing residents. Nor does the site need to accommodate for adjacent residents who use the site for fuel tankers to access their property. Drainage issues shall be dealt with by condition as recommended by Severn Trent Water.

### Other issues

The Council's Tree Consultant has assessed the trees on site and does not consider them worthy of protection due to their species and health. A landscaping scheme would be required by condition to soften the appearance of the dwellings.

The comment that No. 438 Burton Road is being used as a care home is being investigated separately by the enforcement officer.

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

### **Recommendation**

- A. That the Head of Planning Services be granted delegated powers to deal with any new issues raised as a result of the readvertising of the amended scheme;
- B. Subject to A, and the satisfactory receipt of a signed unilateral undertaking for the provision of £10,710 for open space and £4,959 for healthcare 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 amended drawing no's 12B, 13B and 14 A received on the 22nd October 2010.  
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
  - 3. 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.
  - 4. 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.

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

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

7. 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.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, the dwellings hereby permitted shall not be altered, enlarged or extended, no satellite dishes shall be affixed to the dwellings and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the application site (shown edged red on the submitted plan) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

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.

9. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

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

10. 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.

11. 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.

12. No gates and other barriers shall be erected within 10m. of the highway boundary and any gates elsewhere shall open inwards only.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

14. Before any other operations are commenced the existing vehicular access to Burton Road (A511) shall be modified in accordance with the application details, laid out, constructed with a minimum width of 4.8m and provided with visibility splays extending from a point 2.4m from the carriageway edge, measured from the centreline of the access along the nearside carriageway edge to the extremities of the site frontage abutting the highway in each direction, the area in advance of the sightlines being maintained throughout the life of the development clear of any obstruction greater than 1m in height (0.6m in the case of vegetation).



Reason: In the interests of highway safety.

15. The car parking spaces and manoeuvring areas shown on the amended plan No. 12B shall be hard surfaced with a solid bound material and marked out prior to the first use of the development and thereafter retained for that purpose free of obstruction.

Reason: In the interests of highway safety.

#### Informatives:

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

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

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

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com). The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

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

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 Strategic Director, Environmental Services at County Hall, Matlock (tel: 01629 580000 and ask for the Administration Officer, Mrs G Mordey) before any works commence on the vehicular access within highway limits.

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

## **2. PLANNING AND OTHER APPEALS**

(references beginning with a 9 is planning appeal and  
references beginning with an E is an enforcement appeal)

<b>Reference</b>	<b>Place</b>	<b>Ward</b>	<b>Result</b>	<b>Cttee/delegated</b>
9/2008/1176	Woodville	Woodville	Dismissed	Delegated
9/2010/0395	Rosliston	Linton	Allowed	Delegated
9/2010/0334	Newhall	Newhall	Allowed	Delegated



# Appeal Decision

Site visit made on 18 August 2010

by **Mr J P Sargent BA(Hons) MA MRTPI**

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

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

☎ 0117 372 6372  
email: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

**Decision date:**  
**21 October 2010**

---

## Appeal Ref: APP/F1040/E/09/2118609

### 21 Moira Road, Woodville, Swadlincote DE11 8DG

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) against a refusal to grant listed building consent.
- The appeal is made by Mr Stephen Davey against the decision of South Derbyshire District Council.
- The application Ref 9/2008/1176/LD, dated 4 December 2008, was refused by notice dated 10 June 2009.
- The works proposed are the removal of the existing Church Rooms.

---

### Procedural matters

1. On the Appeal Form the Appellant is said to be the Reverend T Vale and the PCC of St Stephen's Church. However, the right of appeal rests only with the original applicant who, I understand, is willing for the appeal to proceed.
2. The description on the application form included various works to St Stephen's Church itself. However, the Appellant has confirmed that these are subject to what is known as ecclesiastical exemption under the Faculty system so they do not form part of the appeal before me. Furthermore, as the proposal would involve the removal of just the Church Rooms and not the main church building as well, it cannot be considered as an act of demolition under the terms of the Act. Rather, it must be viewed as an alteration to the listed building as a whole. I have therefore amended the description accordingly.

### Decision

3. I dismiss the appeal.

### Main issue

4. The main issue is whether the removal of this building would result in an unacceptable loss of a historic asset and/or fail to preserve the setting of St Stephen's Church, a Grade II listed building.

### Reasons

5. St Stephen's Church is a stone church that was built in 1846 and stands on the north side of its grounds. Running along the southern boundary, and separated from the church by the main part of the churchyard, is a long narrow building called the Church Rooms (the hall). The main part of this building dates from 1905, though it was extended in the 1950's. It is built of red brick with a slate roof and has a limited amount of decorative detailing.
-

6. The hall is of a markedly different design to the church. Its appearance is not particularly distinctive and it has been subject to various alterations over the years that fail to sympathise strongly with its original character. While the hall partially encloses the churchyard, the sense of enclosure and seclusion in this area is more dependent upon the size of the churchyard and the effect of the existing boundary trees. It is also some distance from the main church and the functional link between the 2 buildings is not strong. Therefore, these factors limit the contribution the hall makes to the setting of the church.
7. However, the hall does not harm the setting of the church. It is also an important part of the historic evolution of the site, showing how there was a need for increased facilities at the premises. Therefore, despite the comments above, the hall constitutes a heritage asset, and its removal would cause substantial harm to the setting of the principal listed building as it would result in its historic role no longer being apparent.
8. The *Historic Environment Planning Practice Guide* (the Guide) that accompanies Planning Policy Statement 5 *Planning for the Historic Environment* (PPS5) says the destruction of a heritage asset is very much the last resort after every other option has been exhausted. It acknowledges though that the substantial harm arising from the removal of buildings can be acceptable if there are substantial public benefits or if the building is genuinely redundant.
9. In this respect the Appellant has highlighted how the works would be freeing the church community of a financial burden and allowing investment in the principal building. However, I have received little information to support this or to demonstrate the importance of the proposed alterations to the church. While there is an intention for the site of the hall to be redeveloped, no revised scheme has planning permission and so the weight I can attach to any financial benefits from that are limited. I also consider the contribution the building makes to the appearance of the surroundings could be improved to a certain degree if some general maintenance works were undertaken.
10. While I noted its elongated floor plan I have no substantive evidence to demonstrate that the building is genuinely redundant or that there are no viable alternative uses. Furthermore, little has been presented to show that the structural condition means its repair or refurbishment would be unrealistic. While the hall may well duplicate some of the facilities that are to be included in the works to the church, that in itself does not justify its removal or indicate that no other uses, unrelated to the church activity, could be found.
11. Accordingly, I conclude that the removal of the hall would constitute the unacceptable loss of a historic asset that would cause substantial harm to the setting of St Stephen's Church, a Grade II listed building, and it has not been shown that substantial public benefits would arise from its removal or that the building is genuinely redundant. Consequently, the scheme would conflict with national policy in PPS5 and advice in the Guide. I therefore conclude the appeal should be dismissed.

*J P Sargent*

INSPECTOR



# Appeal Decision

Site visit made on 6 October 2010

**by Chris Frost BSc(Hons) DipLD FLI CBiol  
MBS MRTPI**

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

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

☎ 0117 372 6372  
email: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

**Decision date:  
19 October 2010**

## **Appeal Ref: APP/F1040/A/10/2132823**

**Tamworth Co-operative Society Ltd, Rosliston Branch, Main Street,  
Rosliston, Swadlincote, Derby DE12 8JW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Tamworth Co-operative Society Ltd against the decision of South Derbyshire District Council.
- The application Ref: 9/2010/0395/B, dated 27 April 2010, was refused by notice dated 5 July 2010.
- The original application sought planning permission for the variation of condition 10 of planning permission 9/2008/0191/F to allow for an amended car parking layout to that approved on drawing No. 8744/16/01. The application which is the subject of this appeal is for the variation of condition 14 of planning permission 9/2009/0673/B dated 3 November 2009 to allow deliveries between 07:30-23:00hrs on Sundays and Public Holidays.
- The condition in dispute is No.14 which states that: No deliveries shall be taken at or despatched from the site outside the hours of 0730 – 2300 hours nor at any time on Sundays, Bank or Public Holidays.
- The reason given for the condition is: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.

## **Decision**

1. I allow this appeal and grant planning permission for the variation of condition 10 of planning permission Ref: 9/2008/0191/F to allow for an amended car parking layout to that approved on drawing No. 8744/16/01 at the Rosliston Branch, Tamworth Co-operative Society Ltd, Main Street, Rosliston DE12 8JW in accordance with application Ref: 9/2010/0395/B made on the 27 April 2010 without compliance with condition number 14 previously imposed on planning permission Ref: 9/2009/0673/B, dated 3 November 2009, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the following new condition:
  - 1) No deliveries shall be taken at or despatched from the site outside the hours of 07:30hrs to 23:00hrs.

## **Main issues**

2. The main issues are whether allowing daily deliveries to take place at this store would result in significant harm to the living conditions of nearby residents and whether there are any other factors that support daily deliveries.

## **Reasons**

3. This village store has an off-road frontage and rear yard. It is set within a residential setting but there is some separation between the store and its neighbours. The arrival and manoeuvring and unloading of delivery vehicles would be likely attract more attention than ordinary passing traffic and some residents have highlighted the difficulties they perceive, including the size of delivery vehicles, the duration of deliveries, the disruption caused and the possibility of deliveries up to 23:00hrs. It is pointed out that, contrary to the current planning condition, deliveries already take place on Sundays and Public Holidays.
4. In the context of this relatively modest village store, it seems unlikely that the duration or frequency of deliveries or the amount of activity they would generate would be particularly great or disproportionate. Nevertheless, they would be noticeable and clearly have the potential to cause annoyance. However, it is pointed out that allowing such activity on a daily basis would bring with it the benefit of a consistent supply of items, including fresh produce, for the benefit of local customers.
5. This is a village location where the activity generated by deliveries is likely to stand out more than, say, in a suburban shopping parade. However, providing the convenience of locally available goods and produce brings with it advantages in terms of sustainability as well as convenience. These are significant advantages that have the potential to result in savings relating to time and travel and it seems reasonable to regard them as sufficiently important to outweigh the amount of disadvantage that would be associated with daily deliveries.
6. As for the timing of deliveries, it seems that these are likely to take place between 07:30hrs and 16:00hrs. The hours proposed extend from 07:30 to 23:00hrs. This restriction is necessary to protect living conditions at unsocial hours and accordingly need not be more restrictive.
7. Saved Shopping Policy 3 : Local Shopping of the South Derbyshire Local Plan recognises the need for small shops where they do not adversely affect the amenities of neighbouring properties. Here, extending delivery times to allow them on a daily basis would have some adverse effect on amenity, but in view of the advantages it would bring to the village it would seem unreasonable to deny this opportunity.

*Chris Frost*

**Inspector**



---

# Appeal Decision

Site visit made on 19 October 2010

**by Steven Fox BA MA MRTPI**

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

**Decision date: 22 October 2010**

---

**Appeal Ref: APP/F1040/D/10/2135299**

**12 Westwood Park, Newhall, Swadlincote DE11 0RT**

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr G Stretton against the decision of South Derbyshire District Council.
  - The application Ref 9/2010/0334/FH, dated 7 April 2010, was refused by notice dated 8 June 2010.
  - The development proposed is the formation of a loft conversion and insertion of dormer windows.
- 

## Decision

1. I allow the appeal, and grant planning permission for the formation of a loft conversion and insertion of dormer windows at 12 Westwood Park, Newhall, Swadlincote in accordance with the terms of the application, Ref. 9/2010/0334/FH, dated 7 April 2010 and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The materials to be used in the construction of the external surfaces of the dormer windows hereby permitted shall match those used in the existing building.

## Inspector's Reasons

2. From what I have seen and read I consider the main issue to be the effect of the proposed dormer windows on the character and appearance of the bungalow and its surroundings.
3. The appeal property is a semi-detached bungalow on the west side of Westwood Park, within a residential area that has a range of house types. During my visit I noted the presence of a number of other dormers in the immediate vicinity. The Council says that those at 16 Westwood Park are unauthorised but other examples nearby on properties at The Rise, Westwood Park and Renshaw Drive mean that those proposed at the appeal property would not be alien features in the context of their surroundings.
4. The front dormer is set slightly below the ridge and occupies a relatively small part of the roof area. Because of its siting and modest scale it would not be unduly intrusive or over dominant in relation to the front elevation of the bungalow, or appear incongruous in the street scene generally. The rear

dormer is wider but retains a significant area of the original roof. Its bulk is not such that the bungalow would appear unbalanced or top-heavy. I realise that both front and rear dormers would be seen between properties at the eastern end of The Rise but other existing dormers can also be viewed from the street between dwellings and those at the appeal site would be no more prominent.

5. I conclude that individually and cumulatively the proposed dormers would not materially harm the character and appearance of no. 12 or its surroundings and consequently there would be no conflict with saved local plan housing policy 13 which seeks to ensure that extensions are in keeping with their host property.
6. I have taken into account all other matters raised. The Council refers to a loss of privacy for occupiers of no. 10 through overlooking of their rear garden. I consider that any loss of privacy would be insignificant. The position would be comparable with other semi-detached bungalows that have rear dormers or with semi-detached houses.
7. I therefore grant planning permission, subject to a condition along the lines suggested by the Council to ensure that the materials of the dormers match those of the original building.

*Steven Fox*

Inspector