

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

## **SECTION 1: Planning Applications**

## **SECTION 2: Appeals**

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

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## **1. PLANNING APPLICATIONS**

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

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
9/2009/0836	1.1	Woodville	Woodville	1
9/2009/0899	1.2	Coton in the Elms	Seales	16
9/2010/0204	1.3	Woodville	Woodville	24
9/2010/0537	1.4	Swadlincote	Swadlincote	35
9/2010/0571	1.5	Melbourne	Melbourne	49
9/2010/0674	1.6	Barrow on Trent	Aston on Trent	55
9/2010/0705	1.7	Midway	Midway	60
9/2010/0721	1.8	Repton	Repton	65
9/2010/0789	1.9	Mickleover	Etwall	74

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.**        **9/2009/0836/MAF**

**Applicant:**

Mr Matt Richardson  
Hunt Habitats  
11 Claredon Street  
Nottingham  
NG1 5HR

**Agent:**

Mr Jonathan Naden  
CBP Architects Ltd  
44 The Ropewalk  
Nottingham  
NG1 5HR

**Proposal:**        **OUTLINE APPLICATION WITH LAYOUT, SCALE,  
APPEARANCE AND ACCESS FOR APPROVAL  
(LANDSCAPING ONLY AS A RESERVED MATTER) FOR  
A RESIDENTIAL CARE VILLAGE AT 80 GRANVILLE  
STREET WOODVILLE SWADLINCOTE**

**Ward:**            **WOODVILLE**

**Valid Date:**      **08/10/2009**

***Update***

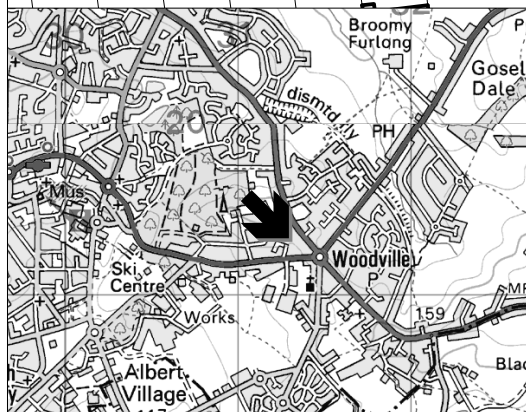
*This application was deferred at committee on the 24<sup>th</sup> August 2010 to seek additional on site car parking and Section 106 contributions towards mitigating traffic impact and in relation to the provision of the 7 bungalows proposed for private sale. An amended layout has been received and re-consultation has been undertaken with those neighbours affected allowing 14 days for comment. Updates are set out within the report in italics.*

**Reason for committee determination**

The application is brought before Committee because it is a major application that has attracted more than two objections.

**Site Description**

The application site is an area of 0.8 hectares situated within the Swadlincote urban area and comprises land occupied by the existing residential property 80 Granville Street, garage and a range of outbuildings. The site is bordered to the east and south by residential properties fronting onto Burton Road, Granville Street and Court Street. To the north is an area of open land which was formerly a nursery site, now clear of any structures, beyond which the land slopes away significantly giving the application site an elevated position on the ridge when viewed from the north. The adjacent site to the west has outline approval for residential development (9/2010/0535) and is currently the subject of an application to extend the time period for implementation. To the northwest is a playing field.



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**South Derbyshire District Council. LA 100019461. 2010**

The site is extremely varied in levels with the existing house and outbuildings situated at the highest point. From the house the land falls away to the east by some 5.5 metres towards the rear gardens of properties on Burton Road with a further more gradual slope towards the southeast corner of the site and properties on Granville Street. The land falls away again by some 2 metres in parts from the northern boundary to the southern boundary and rear gardens of properties on Court Street.

The site is bordered with the majority of adjacent residential properties by a red brick wall in varying states of repair beyond which are residential gardens all in excess of 20 metres from the site boundary, many containing various sheds and outbuildings. The northern and western boundaries are marked by a post and wire fence.

The site is accessed via an existing tree lined driveway from Granville Street which meets Granville Street at its junction with Court Street.

## **Proposal**

The proposal is for a care village incorporating a 54-bedroom care home, 8 apartments and 7 bungalows. The proposed apartments are intended to form part of the care facility whilst the bungalows would be for the over 60s and sold on the open market.

The application was originally submitted in outline with all matters reserved but has subsequently been amended to include details of access, layout, appearance and scale as matters for consideration. Further amendments have been submitted in order to meet the required parking standards and to reposition the main care home building further away from the northern boundary of the site to allow sufficient space for a comprehensive landscaping scheme.

The care home would consist of a two-storey building measuring 8.5m to the ridge stepping down in the middle by 0.75 metres to follow the changing levels of the site. A large proportion of the first floor accommodation would be provided within the roofspace with dormer windows and rooflights providing light to the rooms. The mass and form of the building would be broken up by a series of protruding gables from the main building. The main entrance would consist of a fully glazed gable adjoined by two semi-glazed gables. The building would consist of 54 bedrooms with communal and staff areas and a "hub for interaction with the wider community" consisting of a hairdressing/beauty salon and a hydrotherapy pool.

A single storey link would provide access to the adjacent two-storey apartments which would measure 10.5 metres to the ridge and be set at a floor level 0.8 metres lower than the adjacent part of the care home. Parts of the land at the centre of the site would be reduced in level by up to 1.8 metres maximum.

The lower eastern section of the site would accommodate seven bungalows which would share a communal garden. The land along the eastern boundary would be built up by approximately 1.5 metres (max) in parts to provide a level site for the bungalows. The buildings would be orientated around the perimeter of the site with large areas of green space around the boundary of the site providing a communal garden area and a central parking area with appropriate boundary treatment to be agreed to provide security and privacy to the residential areas.

The proposed materials would consist of red brick as the dominant material with smaller areas of render and timber cladding and large sections of glazing and clay roof tiles.

The existing access from Granville Street would be altered to incorporate an area of adjacent land to provide a wider access to the site. The junction with Court Street would be altered to inhibit straight-through movement from Court Street onto Granville Street.

An amended layout has been submitted increasing the previously proposed number of parking spaces on site from 42 to 53 in total with parking for the proposed bungalows to be allocated on the basis of 2 spaces per bungalow.

### **Applicants' supporting information**

A Design and Access Statement has been submitted with the application, a full copy of which is available to view on file, and includes the following:

The proposed care village provides a needed community facility to provide high quality housing for elderly persons with immediate access to on-site specialist care, as it is required. The village has been designed to keep residents secure and safe but not exclude them from the wider community.

The design of the new Care Village takes a traditional approach. In order to respect the fact that the site is highly visible due to its elevated position, the scheme has been reduced to 1.5 storeys with an enlarged footprint to provide accommodation in the roofspace. Natural light is provided by the combination of dormer windows, conservation rooflights and windows in end gables. This approach has the benefit of a complex roof structure which gives the impression of a collection of buildings built up over time.

The reduced height lessens the degree of overlooking. Where the site falls away steeply to the east the accommodation is restricted to a single storey to further prevent overlooking.

The function of a residential care home requires a large single building; however, the massing of this building has been broken up as far as possible to recreate the rhythms of the surrounding streets.

In order to enhance the amenity of the area, certain facilities have been designed to be shared with the public and are clearly visible on entrance to the site. Although the exact nature of the facilities is dependent on the care provider, provision has been made for a hairdressing salon and hydrotherapy pool.

The proposal includes substantial provision of public and private open space, has been designed to minimize overlooking and make best use of site aspect and available natural light.

Facing windows have been avoided along the western boundary where there is outline approval for residential development.

The location is convenient for community facilities, is accessible by private and public transport and is not unduly affected by traffic noise, industrial activities or other environmental nuisance.

The building will be occupied 24 hours, 7 days a week and so will inherently be secure from break-ins with staff on-site throughout the day and night. The car park and entrance will have CCTV surveillance.

The residential care home will provide employment to the local community. It is estimated that the development will provide 18 jobs.

The topography of the site is being altered to provide level access to all buildings.

The existing site access will be upgraded with a wall and separate pedestrian and vehicular gate.

### **Planning History**

Planning permission for the erection of four dwellings on the western part of the site was renewed in February 2005 (9/2004/1563).

### **Responses to Consultations**

The County Highway Authority had pre-application discussions with the applicant resulting in its agreement to the realignment of the Court Street/Granville Street junction as proposed in the application. Sufficient turning and manoeuvring space has been provided within the site to meet the County Highway Authority's requirement. It is noted that the Design and Access Statement submitted with the application made reference to a Transport Consultant Report, which would have been valuable in assessing the impact of the proposal, has not in fact been provided. However, in view of the extent of discussions which have taken place in the past year regarding the proposal it is not considered that a refusal on the grounds that a Travel Statement has not been submitted could be sustained. Therefore, subject to conditions as detailed below the Highway Authority has no objection.

*The Highway Authority has no objection to the amended parking layout. With regard to Section 106 contributions towards highway works, it is considered that the proposed works at the junction of Granville Street and Court Street are sufficient to mitigate the impact of the development on the highways in the vicinity of the site. It is not considered that a significant increase in traffic on the network would result from the development in relation to the amount of traffic already using the roads in the area and, bearing in mind that the roads are subject to considerable on street parking and that vehicle speeds are low as a result, it is not considered that the introduction of traffic calming measures would be beneficial or could be justified.*

The Contaminated Land Officer advises that there are likely to be issues of historical quarrying and subsequent ground infilling of unknown constituents within influencing distance of the site and requires the submission of a scheme to identify and control any contamination of land or pollution of controlled waters by condition.

Environmental Health has no objection but advises that the developer should consult the Environmental Health Section on all matters relating to food hygiene and health and safety.

Severn Trent Water has no objection subject to the submission of drainage plans.

The Environment Agency has no objection subject to the submission of a surface water drainage scheme for the site.

The Crime Prevention Design Advisor has no objections to the outline principle but expresses concern regarding the proposed public use and how spaces will be managed and subdivided in practice and advises that full consideration should be given to these conflicts of use and how access is to be monitored and controlled at all times. The public access could compromise safety and provide a legitimate excuse to access the premises. The proposed CCTV system is a welcome external deterrent but CCTV has its limitations, if not monitored, recorded and designed to meet an operational requirement. Lighting of external area is essential including lighting that is effective for clear CCTV images.

The Primary Care Trust has advised that they would not seek a S106 contribution towards healthcare.

## **Responses to Publicity**

17 letters of objection have been received and comments are as follows:

- Granville Street is a narrow street with no off road parking to the terraced properties on both sides of the street and traffic flow is consequently restricted with cars parked on both sides of the street from 5pm.
- Visibility splays to the left when existing the site are virtually non-existent due to parked cars.
- With the increased traffic that this high-density development will bring, cars parked along the street will cause congestion and could make it difficult for any emergency vehicles to access the area.
- It is a great pity that this lovely piece of open countryside will soon be gone.
- The development will bring a greater volume of traffic on the junction of Court Street and Granville Street on a bend which is already dangerous entering and leaving our driveway.
- Granville Street is used as a shortcut from Swadlincote Road and Burton Road, even more at peak times and vehicles speed round this junction.
- The descriptions of narrowing the road in the plans at the junction of Court Street seems like it would add even more danger.
- The site is in an elevated position in relation to surrounding properties which will be overlooked resulting in loss of privacy.
- The building site will cause a lot of disturbance for the properties along Burton Road.
- The building is very close to an adjacent boundary and will overshadow property and be an unsightly view.
- The access will cause problems during and after construction of this building.
- The two-storey element is unacceptable due to the height of the land behind Court Street.



- Access to the site would be better directed from Burton Road.
- This application could easily harm the existing care homes in the immediate vicinity. Another 60 beds in the area could easily cause serious damage to the existing providers of care.

## **National Guidance**

PPS1, PPS3, PPS4, PPG13.

## **Development Plan Policies**

The relevant policies are:

Local Plan: Community Facilities Policy 1, Housing Policy 4, Transport Policies 6 & 7.

## **Planning Considerations**

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

- The principle of development
- Design and appearance
- Impact on residential amenity
- Highway issues
- Trees and Landscaping

## **Planning Assessment**

### The principle of development

PPS4: 'Planning for Sustainable Economic Growth' advises that Local Planning Authorities should adopt a positive and constructive approach towards applications for economic development, including community facilities, and that applications that secure sustainable economic growth should be treated favourably. The policy draws on the sustainability issues contained within PPS1: 'Delivering Sustainable Development' and PPS3: 'Housing' advising that applications should be assessed against certain criteria including accessibility by a variety of transport methods, securing high quality design, assessing impact on the economic and physical regeneration of an area including social inclusion objectives and impact on local employment.

The main part of the development proposed would include the provision of a community use consisting of the care home and apartments (C2- residential institutions) with a further element of residential use (C3-dwelling houses) being provided by the bungalows. The application site is located well within the urban area within close proximity to existing facilities and bus routes along Burton Road and Swadlincote Road and as such is in a sustainable location. The community use would provide economic development within the area and it is estimated that it would provide employment for 18 staff. With regard to the impact of the development on existing care facilities within the area the assessment of need is not a planning consideration. The proposal is therefore considered to be consistent with the requirements of national policy.

Housing Policy 4 of the Local Plan allows for residential development within the built-up area of Swadlincote providing that it does not result in, amongst other things, a prominent intrusion into the rural landscape; excessive demands upon public utility

services; the development of open spaces, gaps and landscape features which make a valuable contribution to the character and environmental quality of the area; is of suitable scale and character; and does not prejudice the continued viability of adjacent industrial or community uses. The site is situated within the built-up area and enclosed along its southern and eastern boundaries by existing residential properties with further residential development proposed on the land to the west. The site is publicly visible from the adjacent playing field to the northwest with distant views from the north due to the site's elevated position along a ridge. The principle of development of part of the site has previously been established with the grant of outline permission for residential development and the remainder of the land is not considered to contribute significantly as an open space to the character of the area especially given its backland location. The scale and character of the development has been subject to significant negotiation and its acceptability is referred to later in this report.

Community Facilities Policy 1 of the Local Plan allows for new community facilities providing that the development does not have an adverse impact on local amenity by virtue of noise or traffic generation; that adequate provision is made for pedestrian and vehicular access with parking, servicing, screening and landscaping; and that they are of appropriate scale and design and well integrated with their surroundings. The following sub-headings identify how the proposed development relates to these criteria.

#### Design and appearance

The care home has been designed as a series of gables of varying width projecting from the main building in an attempt to reduce the overall mass and form of the building particularly when viewed from its more exposed north elevation. First floor accommodation is proposed within the roofspace in order to reduce the ridge height and further reduce the overall impact. The design of the apartments continues this strong presence of gables and reflects the fenestration and brick course detail of the care home. The bungalows are more simplistic in appearance and sympathetic to the main building. The development would generally follow the existing site levels with the main alteration being a reduction in levels at the centre of the site where the apartments would drop down resulting in a ridge height similar to that of the care home further reducing the impact of the development.

The proposed development would be visible from the north forming part of the existing ridgeline between two areas of tree planting visible on the horizon. The proposal has been amended to re-site the development further away from the northern boundary to allow sufficient space to provide a comprehensive landscaping scheme to be submitted as reserved matters. The landscaping would assist in mitigating the impact of the development when viewed from this direction and the adjacent playing fields to the northwest of the site. Views of the site from the public footpath situated to the north of the site, accessed by the side of 155 Burton Road, would be limited due to the rise in land levels.

#### Impact on residential amenity

The application site is situated in an elevated position in relation to the surrounding residential properties. Some of the properties on Court Street situated to the south of the site are situated approximately 1 metre lower than the application site. The majority of the care home development would be set back from this southern boundary with the nearest part being a double gable measuring 7.6 metres in height to the ridge and

situated approximately 1.5 metres higher than the neighbouring gardens and 2 metres from the site boundary. This gable end would be blank with the exception of a stairway window and would be situated 27 metres away from the nearest rear elevation of these neighbouring properties with the majority of the care home being in excess of 40 metres away.

The eastern boundary of the site is level with the rear gardens of the properties that front onto Burton Road with a gradual slope away from this boundary towards the dwellings themselves. The proposed bungalows in this eastern section would be situated over 24 metres away from these rear elevations and over 36 metres away from the rear elevation of properties on Granville Street. Parts of this area of the site would be raised by an approximate maximum of 1.5 metres in the south eastern corner levelling off to be comparable with existing site levels in the north eastern corner. Despite the variation in levels and proposed building heights across the site, the proposed development would comply with the Council's standards with regards to proximity to existing dwellings in terms of overlooking and overbearance and is considered acceptable in this regard.

The proposal would meet the minimum distance requirements in relation to the proposed residential development on the site to the west and would not inhibit development of this site.

#### Highway issues

The proposed alterations to the access were subject to pre-application discussions with the Highway Authority and proposed the re-alignment of the Court Street junction to inhibit straight-through movement from Court Street onto Granville Street. The existing access would be widened to allow the appropriate pedestrian and vehicle visibility splays. Amended plans have been submitted providing 53 parking spaces on site to meet the required level of parking and the provision of sufficient manoeuvring space within the site to accommodate service vehicles. On the advice of the Highway Authority the proposal is considered to comply with the requirements of the national and local plan policies identified above.

*The amended layout has increased the number of parking spaces proposed on site from 42 to 53 with parking provision for the bungalows on the basis of 2 spaces per unit which can be secured by condition. The Highway Authority has no objection to the amended parking layout. Six of the additional spaces would be adjacent to the residential boundary of No. 84 Granville Street. The occupiers affected by the proposed amendments have been notified and any response received will be reported verbally at the Committee. The Highway Authority has no objections to the amended scheme.*

#### Trees and Landscaping

A number of trees would be removed from the site the majority of which consist of a line of birch trees along the existing site entrance. The birch trees have been subject to previous poor arboricultural work and are not considered to be of any particular merit and so the Council's Landscape Consultant raises no objection to their removal. The odd remaining trees within the site are not considered to be of such merit to seek their retention and thereby inhibit development of the site. None of the trees are protected by a Tree Preservation Order. A landscaping scheme would be submitted as a reserved matter and further planting would be required at the entrance to the site further

enhancing this aspect when viewed from the street with additional planting required throughout the site to mitigate the loss of the existing trees.

### S106 Contributions

*The applicant has agreed to enter into a Unilateral Undertaking in relation to S106 contributions towards informal open space with regard to the seven bungalows proposed. The Unilateral Undertaking would also include a clause to ensure that the occupation of the bungalows intended for private sale would be by persons aged 60 or over (the qualifying age) save that such restriction shall not apply to the continued occupation of any bungalow by a surviving spouse, partner or member of the household under the qualifying age after the death of the member of the household who was of the qualifying age. In view of this an education contribution would not be required. A healthcare contribution is not required as advised by the PCT.*

### Conclusion

As a location for a new community facility the site is well placed on the edge of the urban area with good access to all the main services. After significant negotiation with the architects, due care has been taken to ensure that, as far as possible, the building and external treatment have been designed to limit impact on the landscape and take up an unobtrusive position on the site. As such the development complies with development plan policy.

*The amended layout is considered to provide adequate provision for access, parking, manoeuvring and off-street servicing within the site for the facility proposed and is in accordance with policy requirements.*

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 Delegate authority to the Head of Planning Services to deal with any new issues raised before the expiry of the consultation period on 23<sup>rd</sup> September 2010; and to secure the provision of a unilateral undertaking under Section 106 as described above; and

B. Subject to A, **GRANT** permission subject to the following conditions:

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
- (b) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.

2. Approval of the details of the landscaping shall be obtained from the Local Planning Authority in writing before any development is commenced.  
Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.
3. Notwithstanding the originally submitted details, this permission shall relate to the amended and additional drawing nos. 4007 (20) 201 rev C received 9 September 2010, 4007 (30) 301 rev x, 302 rev x, 303 rev x, 4007 (40) 401 rev B, received 13 August 2010 and 4007 (30) 305 rev B, 4007 (40) 403 rev B and 4007 (30) 304 rev x received 11 January 2010.

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

4. 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.

5. Gutters and downpipes shall have a black finish.

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

6. Notwithstanding any details submitted, precise details of the type and size of the proposed rooflight(s) shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflight(s) 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.

7. The windows in the west gable and southwestern gable situated to the rear of properties on Court Street of the care home shall be permanently glazed in obscure glass.

Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.

8. 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.

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

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

10. 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.

11. 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.

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

Reason: In the interests of highway safety.

13. Before any operations are commenced, the existing access to Granville Street and the Granville Street/Court Street junction shall be modified in accordance with the application drawings, no. 4007 (20) 201 rev B, laid out, constructed and provided with visibility splays extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the access to the extremities of the site frontage abutting the highway in each direction. The area in advance of the sightlines shall be cleared and permanently maintained clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

Reason: In the interests of highway safety.

14. The premises, the subject of the application, shall not be occupied/taken into use until space has been provided within the application site in accordance with the revised application drawing, no. 4007 (20) 201 rev B, for the parking and manoeuvring of residents'/visitors'/staff/service and delivery vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

15. Notwithstanding the submitted details, parking spaces 27-41 as shown on drawing no. 4007 (20) 201 received 9 September shall be for the sole use of the occupiers of the bungalows hereby permitted unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety and to ensure appropriate parking standards are maintained.

16. 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.

17. 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.

18. Prior to the commencement of development a surface and foul water drainage scheme for the site shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system.

19. Prior to the commencement of development a lighting scheme for the car parking and communal areas shall be submitted and approved in writing by the Local Planning Authority. The scheme shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the amenity of nearby residential areas.

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

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

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

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

Informatives:

Pursuant to Section 278 of the Highways Act 1980, no works may commence within the limits of the public highway without the formal written agreement of the County Council as the Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the



Strategic Director of Environmental Services at County Hall, Matlock (Tel: 01629 580000 and ask for the Area Development Manager). The applicant is advised to allow at least 12 weeks in any programmed of works to obtain a Section 278 Agreement.

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 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.

The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include: Collapse of shallow coal mine workings; Collapse of, or risk of entry into, mine entries (shafts and adits); Gas emissions from coal mines including methane and carbon dioxide; Spontaneous combustion or ignition of coal which may lead to underground heatings and production of carbon monoxide; Transmission of gases into adjacent properties from underground sources through ground fractures; Coal mining subsidence; Water emissions from coal mine workings.

Applicants must take account of these hazards which could affect stability, health & safety, or cause adverse environmental impacts during the carrying out their proposals and must seek specialist advice where required. Additional hazards or stability issues may arise from development on or adjacent to restored opencast sites or quarries and former colliery spoil tips. Potential hazards or impacts may not necessarily be confined to the development site, and Applicants must take advice and introduce appropriate measures to address risks both within and beyond the development site. As an example the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas. In coal mining areas there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling alone has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted. Any intrusive activities which intersect, disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and

coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. In the interests of public safety the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated.

The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in order to make an assessment of the risks. This can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com). To note and act upon as necessary the comments of the Environment Agency (see attached letter).

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). The developer should contact the Environmental Health Section on 01283 595947 on all matters relating to food hygiene and health and safety.

**Item**            **1.2**

**Reg. No.**        **9/2009/0899/FO**

**Applicant:**

Mr S Baker  
C/O S G Design Studio Ltd  
202 Woodville Road  
Hartshorne  
Swadlincote

**Agent:**

Mr Stephen Greaves  
S G Design Studio Limited  
202 Woodville Road  
Hartshorne  
Swadlincote

**Proposal:**        **OUTLINE APPLICATION FOR THE ERECTION OF TWO  
DETACHED DWELLINGS (APPEARANCE, LANDSCAPE  
& SCALE RESERVED) AT FORMER BAND ROOM  
CHAPEL STREET COTON-IN-THE-ELMS  
SWADLINCOTE**

**Ward:**            **SEALES**

**Valid Date:**      **26/10/2009**

***Update***

*The application was deferred at the committee meeting on 24<sup>th</sup> August 2010 for a site visit. A further letter has been received from the Parish Council and any new points raised have been added in italics to this report with a response where appropriate enclosed in brackets.*

**Reason for committee determination**

The Council is the applicant.

**Site Description**

The application site consists of a former band room, car-parking area and an area of open space. It is located within the village of Coton in the Elms in a highly residential area where properties are of varying size and style, mainly two storeys in design. The site is level with a storm ditch to the North Western boundary. The existing main access is from Chapel Street with a secondary access from Burton Road. The site is within Flood Zone 3.

**Proposal**

The proposal is an outline application with access and layout being considered now for the erection of two dwellings on the site. The proposed dwellings consist of one two storey 4 bedroom dwelling on the Chapel Street frontage with a single storey 2 bedroomed bungalow sited to the rear. The former band room would be demolished and a new vehicular access created off Chapel Street, with two off street parking spaces

**9/2009/-899 - Former Band Room, Chapel Street, Coton in the Elms DE12 8EY**



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**South Derbyshire District Council. LA 100019461. 2010**

provided for each dwelling. The existing secondary access from Chapel Street would be closed. Indicative elevations and floor plans have been submitted but if the application is approved the design of the properties would be the subject of a subsequent reserved matters application.

## **Planning History**

9/2009/0458: The erection of two detached dwellings – withdrawn 23 July 2009.

## **Responses to Consultations**

The Environment Agency initially objected to the application due to the proposed connection to the main foul sewerage system, the detrimental impact on water quality, the absence of any evidence to demonstrate that the flood risk had been sequentially tested and the Flood Risk Assessment was deemed to be unacceptable. However, further information was provided, a sequential test carried out and a revised Flood Risk Assessment submitted following discussions with the Environment Agency. The EA subsequently removed its objection subject to conditions and the mitigation measures identified in the revised FRA being implemented.

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

Coton in the Elms Parish Council object to the application. The concerns noted are:

- The development will exacerbate serious flooding problems in the village, the site is within the flood plain
- Planting in vicinity of Hoover Brook may lead to problems with root growth. The proposed planting is against advice which the National Forest have given in the past
- Insufficient parking resulting in further problems on Chapel Street
- Development will result in further sewerage difficulties
- The application should be determined by planning committee following a site visit

*Additional Comments received 07 September 2010*

- *The Environment Agency has already indicated the proposal will have a detrimental impact on water supply [The Environment Agency are satisfied with the proposal following the submission of the amended Flood Risk Assessment]*
- *The width of the secondary access onto Burton Road is not sufficient for vehicle access/egress - visibility splays are inadequate [no access is proposed to Burton Road]*
- *More on-site parking is essential [sufficient parking is provided on site to meet the needs of the proposed properties]*
- *Need for starter home housing and not for four bedroomed family/retirement bungalow type*
- *There will be a loss of light and outlook to neighbouring properties [the proposal satisfies the Council's space about dwelling standards with regards to loss of light and outlook]*
- *Close proximity of the proposed property would deny access to maintain a rendered wall at the side of 9 Chapel Street [and there is an access strip of between 4.4m (at the widest point) narrowing to 1m at the side of the proposed dwelling, adjacent to 9 Chapel Street. Any access by a neighbouring resident to*

*maintain their premises will require consent of the owner and is therefore in not a planning matter]*

The County Highway Authority has not raised any objections to the proposal subject to the same conditions recommended for application 9/2009/0458.

### **Responses to Publicity**

- Two neighbour objections were received. The concerns noted are:
- Insufficient parking is proposed and this will result in on street parking on Chapel Street
- Existing properties park on Chapel Street and on the pavement and the proposal will worsen this situation
- Consideration to selling land that is part of the proposal should be given to an existing occupier instead of being fully developed
- Loss of light and outlook
- Close proximity of proposed property would deny access to maintain rendered side wall at 9 Chapel Street
- Parking of vehicles on the road due to no parking being available at 9 Chapel Street will mean that vehicles exiting the proposed site will not have the required visibility, the vehicles are often on the pavement due to the narrow road and therefore pedestrians are forced into the highway
- Existing residents would like to purchase the land for off street parking for their property at 9 Chapel Street and to gain access to the rear of their property

### **National Guidance**

Planning Policy Statements 1, 3 and 25

### **Development Plan Policies**

The relevant saved policies are:  
Housing Policies 5 and 11  
Transport Policy 6

### **Planning Considerations**

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

- The principle of development
- Design and layout
- Flooding
- Highway capacity and safety issues
- Impact on amenity of neighbours

### **Planning Assessment**

The previous application was withdrawn due to flooding concerns and also due to the layout not conforming with the Council's guide on Housing Design and Layout. The application as now submitted has been the subject of extensive negotiations with the Environment Agency and plot 2 has been reduced to single storey to overcome any issues of overlooking or loss of privacy.

The proposal would ensure the reuse of an underused area of land within the village confines of Coton In the Elms and, whilst only being outline at this stage provides a quality design, conforming to the Council's space about dwelling standards. Adequate parking and manoeuvring has been included and the County Highway Authority is satisfied that highway safety is not compromised subject to conditions being applied.

Following the additional work undertaken on flooding the Environment Agency is now satisfied that the proposal (subject to conditions) is acceptable.

The development would provide much needed housing within the village, would bring back an area of derelict open space into use and is fully in accordance with both national and local policies being in scale and character with existing properties in the village, providing a safe, functional and convenient layout with private amenity space, landscaping and privacy for both the proposed and existing residents. Mitigation measures are proposed to alleviate any flooding concerns and the requirements of Planning Policy Statement 25 have been satisfied as advised by the Environment Agency. Severn Trent Water has not raised any concerns regarding sewerage. Existing parking issues on Chapel Street as detailed by neighbours are not considered sufficient to substantiate refusal of the application.

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

### **Recommendation**

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

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

(b) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.

2. Approval of the details of the scale, appearance, and the landscaping shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.

3. 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.

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

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

5. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.

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

6. Prior to any other works commencing, the new access shall be formed to Chapel Street. The new access shall be a minimum of 4.5m, be constructed as a splayed vehicular crossover, be provided with 2m x 2m x 45 degree pedestrian intervisibility splays and visibility sightlines measured from 2m back from the carriageway edge extending to the extremities of the site frontage abutting the highway in each direction, the area forward of which shall be cleared and maintained thereafter clear of any obstruction exceeding 1m in height (600mm in the case of vegetation) relative to the nearside carriageway edge.

Reason: In the interest of highway safety.

7. Prior to the occupation of the first dwelling, the existing vehicular crossover shall be reinstated as footway in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority and County Highway Authorities.

Reason: In the interest of highway safety.

8. Prior to the occupation of the first dwelling, space shall be provided within the site curtilage for the parking and turning of two vehicles per dwelling, laid out in accordance with the application drawing and maintained thereafter free of any impediment to its designated use.

Reason: In the interest of highway safety.

9. The development shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated 20 July 2010, undertaken by Manorwood Developments Ltd and the following mitigation measures detailed within the FRA:

1. Section 4 Limiting the surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm so that it will



not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.

2. Section 3 and Drawing No E506/021 Provision of compensatory flood storage on the site to a 100 year standard.
3. Section 3 and Drawing No E506/021 Demonstration within the FRA that the protection and maintenance of existing flood flow route will be provided.
4. Section 3 Identification and provision of safe route(s) into and out of the site to an appropriate safe haven.
5. Section 3 Finished floor levels are set no lower than 79.92m above Ordnance Datum (AOD).

Reason:

1. To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
  2. To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.
  3. To ensure safe access and egress from and to the site.
  4. To reduce the risk of flooding from blockages to the existing culvert (s).
  5. To reduce the impact and risk of flooding on the proposed development and future occupants.
10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 1995 (as amended), the site layout (dwellings) hereby permitted shall not be altered, enlarged or extended, 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 within the flood overflow route shown on Drawing No. E506/021 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 ensure that the watercourse flood overflow route is preserved for the lifetime of the development.

11. 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.

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

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

## Informatives:

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.

Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway (new estate street) measures shall 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 dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

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.

The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include: Collapse of shallow coal mine workings; Collapse of, or risk of entry into, mine entries (shafts and adits); Gas emissions from coal mines including methane and carbon dioxide; Spontaneous combustion or ignition of coal which may lead to underground heatings and production of carbon monoxide; Transmission of gases into adjacent properties from underground sources through ground fractures; Coal mining subsidence; Water emissions from coal mine workings.

Applicants must take account of these hazards which could affect stability, health & safety, or cause adverse environmental impacts during the carrying out their proposals and must seek specialist advice where required. Additional hazards or stability issues may arise from development on or adjacent to restored opencast sites or quarries and former colliery spoil tips. Potential hazards or impacts may not necessarily be confined to the development site, and Applicants must take advice and introduce appropriate measures to address risks both within and beyond the development site. As an example the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas. In coal mining areas there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling alone has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted. Any intrusive activities which intersect, disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. In the

interests of public safety the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated.

The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in order to make an assessment of the risks. This can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com).

**Item**            **1.3**

**Reg. No.**        **9/2010/0204/OS**

**Applicant:**

West Brothers And T H Archer Ltd  
Rose Hill Works  
Rose Hill  
Woodville  
Swadlincote

**Agent:**

J V H Town Planning Consultants  
Houndhill Courtyard  
Houndhill,  
Marchington  
Uttoxeter

**Proposal:**        **THE RENEWAL OF PLANNING PERMISSION  
9/2006/1205 FOR OUTLINE APPLICATION (ALL  
MATTERS TO BE RESERVED EXCEPT FOR ACCESS)  
FOR A RESIDENTIAL DEVELOPMENT AT ROSE HILL  
WORKS ROSE HILL WOODVILLE SWADLINCOTE**

**Ward:**            **WOODVILLE**

**Valid Date:**        **22/03/2010**

**Reason for committee determination**

The application is brought to Committee as it is a major application with more than two objections.

**Site Description**

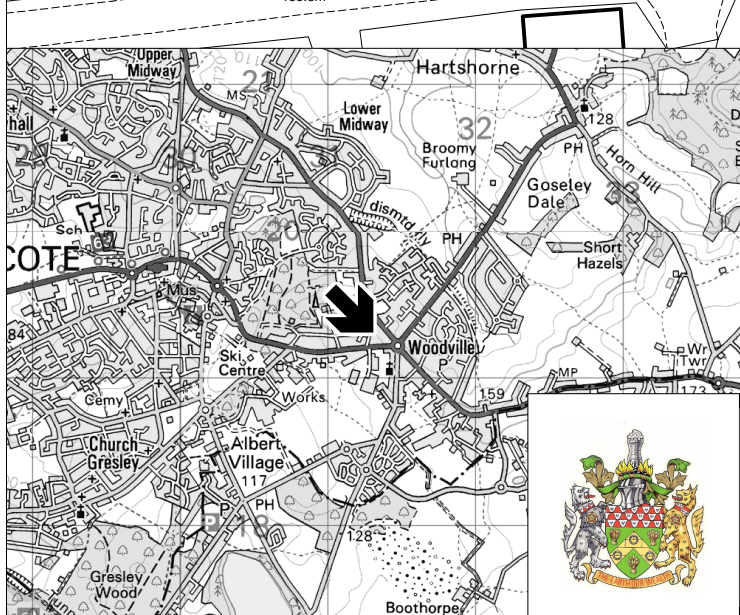
This irregular shaped site measures 1.27ha in total and was previously occupied by a number of B2 (industrial) employment units the majority of which are now demolished with the exception of units on the northern part of the site which remain occupied by a car sales and repairs business and a rubber and plastics manufacturer business. Two dwellings, No 15 & 17 Swadlincote Road located at the entrance to the site have also been demolished.

The site has an access connection to Burton Road at its northern end and Swadlincote Road at the southern end. Definitive Public Footpath number 20 runs through the site from Burton Road to Swadlincote Road.

On its western side the site is abutted mainly by existing terraced housing apart from the southwest corner where it abuts Masseys shop and half way up the western side where the site is indented by the Woodville Scout Group building and curtilage land. On the eastern side is a greater presence of commercial premises abutting the site interspersed with housing which extends up to Burton Road.

The topography of the site is mixed with a general rise in levels towards the north.

9/2010/0204 - Rose Hill Works, Rose Hill, Woodville, Swadlincote (DE11 7JQ)



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South Derbyshire District Council. LA 100019461. 2010

## **Proposal**

The application seeks to extend the time limit for implementation of an outline consent (9/2006/1205 – granted in 2007) for the residential development of the site. All matters other than access are reserved for subsequent approval.

An indicative layout has been submitted showing vehicular access off Swadlincote Road and altering the existing vehicular access from Burton Road to a footpath into the site. The layout shows a capacity for 53 units and proposes properties with a mix of 1, 2, 3 and 4 bedrooms, including dwelling heights of 2, 2½ storey and a limited number of three storey properties. A strong built form is proposed and care will be taken to minimise the number of cars that are visible in the street scene by introducing rear parking courts particularly for apartments. The layout retains and improves the footpath link between Burton Road and Swadlincote Road.

## **Applicants' supporting information**

A Design and Access Statement and Supporting Statement have been submitted with the application (full copies of which are available to view on file) and include the following statements:

This brownfield site is available and will be shortly vacant, the site is no longer required for existing users.

There is no demand for the site to retain its employment status as, although the site has been marketed, no offers have been received for the premises.

Full assessments relating to traffic, noise, and ground conditions all confirm the sites suitability for residential development.

The removal of the currently unappealing industrial premises will enhance the area aesthetically and improve living conditions for local residents by reducing noise and removing associated heavy vehicle movements within the vicinity of the site.

Residential development will reduce the potential for anti-social behaviour due to occupation and improve security for the Scout Hut and surrounding residential properties.

Development would remove traffic currently using the site as an illegal cut through between Burton Road and Swadlincote Road.

The formal footpath crossing the site will be retained and improved, providing a properly surfaced footpath to the benefit of all users.

Redevelopment of the site will have significant economical benefits and enable current occupiers to relocate to more suitable premises. The sites out of date and dilapidated buildings currently restrict operations and diversification placing pressure on the ability for companies to continue trading also added to by high building maintenance costs.

The redevelopment of the site would ensure the future of Bowest Precision Ltd who are currently looking to relocate locally as are T H Archer Ltd which is essential to their long-term survival.

The development is envisage to include a range of dwelling heights which will produce an interesting and varied roofline and massing which compliment and respects the varied topography of the site.

Traffic calming at the Swadlincote Road entrance to the site acts not only to reduce traffic speed but also as a gateway to the development creating a sense of place.

Good levels of general observation are created across the site with both footpaths and parking courts benefiting as a result.

A strong built form has been designed with care taken to minimise the number of cars that are visible in the street by introducing rear parking courts particularly for apartments.

Individual plots will benefit from private gardens with additional landscaping across the remainder of the site.

The site is well served both by road and public transport while being within easy walking distance of many local shops and services.

In addition to the above a Transport Assessment dated March 2010 and Flood Risk Assessment, Noise Assessment and Ground Risk Assessment have been submitted in support of the application.

A Supplemental Unilateral Undertaking has been submitted tying the current application to the previous Unilateral Undertaking for 9/2006/1205.

### **Planning History**

An outline application 9/2006/0290 was refused in May 2006 for the following reason: 'The proposal would lead to a qualitative and quantitative deficiency of business, general industrial and distribution land in the Swadlincote Sub Area and therefore does not accord with Economy Policy 1 of the Derby and Derbyshire Joint Structure Plan. The evidence submitted by the applicant does not satisfy the Council that the site is no longer needed for industrial and business purposes as the marketing period has been too short to expose the property correctly and the signage erected on site to advertise the property provides insufficient information to effectively fulfil its purpose'.

Following a subsequent marketing exercise over a 16-month period a further outline application for residential development (all matters to be reserved except for means of access) was submitted, 9/2006/1205, and approved in March 2007.

### **Responses to Consultations**

The Highway Authority has no objection subject to conditions.

The Contaminated Land Officer has no objection subject to a condition relating to contamination identification and monitoring.

The Affordable Housing Officer has no objection.

The Development Control Archaeologist has commented that the site relates to the former Rosehill Pottery and requests a condition for the submission of a programme of archaeological work to mitigate the proposed impact to the historic environment.

The County Rights of Way Officer has advised that Public Footpath No 20 (Swadlincote) crosses the application site. The application proposes the retention and improvement of the footpath but it is noted that the route will deviate from its legal alignment and therefore a permanent diversion order will be required.

Severn Trent Water has no objection subject to the submission of drainage details.

The Environment Agency following the submission of an updated Flood Risk Assessment has advised that the development is acceptable if measures limiting the

surface water run-off so that existing run-off from the undeveloped site is not exceeded and the provision of a minimum of 166m<sup>3</sup> of surface water run-off attenuation storage on the site are implemented in accordance with the approved Flood Risk Assessment dated August 2010. A scheme for surface water drainage should be submitted for approval prior to commencement of development. The Agency also request conditions relating to the control of contamination on the site.

Woodville Parish Council objects to the application commenting that traffic coming out of the site will cross the pathway of articulated lorries which are leaving the distribution site and that 2½ and 3-storey houses are not in keeping with the area.

### **Responses to Publicity**

Three letters of objection and one comment have been received and include the following comments:

- A house in such close proximity will devastate my outlook by being overshadowed and overlooked.
- The site is of an industrial nature and I object to its change of use and its viability to provide jobs for the community.
- Concern regarding earth works and impact on neighbouring properties from disturbance to foundations, mains gas and sewers.
- The site on Rose Lane has been subject to past ground disturbance and it is possible that there is still movement there.
- Concern regarding ground risk management.
- We do not want three-storey buildings invading privacy.
- The water supply will not take any more houses.
- The visibility from Rose Lane is not good.
- There is too much traffic on Rose Lane including heavy lorries.
- No more dust and vibration from heavy machinery – already suffer from scrap yard.
- Two buildings on site have asbestos roofs.
- Nos 63 & 65 Burton Road have a right of access from the rear of the properties through to Swadlincote Road which passes through the application site.
- There are far too many housing developments in the area many of which are up for sale or rent.
- The land would be better used for something for children and teenagers.
- Access onto the A514 is dangerous and has seen many accidents and there have been numerous accidents and a fatality around the doctor's surgery entrance (Burton Road).

### **National Guidance**

PPS1, PPS3 & PPS25

### **Development Plan Policies**

The relevant policies are:

Local Plan: Housing Policies 4 & 11, Transport Policy 6



## **Planning Considerations**

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

- The principle of residential development.
- Conformity with the development plan policies
- Any other material considerations or site circumstances which may have altered significantly since the previous grant of planning permission.

## **Planning Assessment**

The principle of residential development on the site including means of access has previously been established with outline consent.

In accordance with government advice the main considerations in assessing applications for extension to time limits for implementation should focus on development plan policies and other material considerations (including national policies on matters such as climate change) which may have changed significantly since the original grant of planning permission.

Outline approval was granted in March 2007. Since that time the relevant planning policy has remained relatively unaltered with regard to residential development of brownfield sites such as this.

An updated Transport Assessment and Accident Addendum Transport Assessment has been submitted with the application and the application has been assessed on the basis of this updated information. The Highway Authority has no objections.

The Flood Risk Assessment originally submitted with the application was dated July 2005 and as such pre-dated the release of PPS25: Development and Flood Risk issued in December 2006. Following the receipt of an amended Flood Risk Assessment dated August 2010 the Environment Agency has no objection subject to conditions as outlined earlier in this report. The Council's standard conditions relating to contamination could be imposed to address the relevant contamination issues.

There are no other material considerations that have altered significantly since the previous grant of outline permission.

The requirements of the S106 Unilateral Undertaking relating to contributions towards affordable housing, National Forest, healthcare, education and open space as well as on-site open space provision remain relevant to this application.

The proposed residential development of the site is therefore considered to be in accordance with planning policy.

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

## Recommendation

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

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

(b) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.

2. Approval of the details of the layout, scale, appearance and landscaping shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.

3. 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.

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

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

5. Further to condition 2 above, soft landscape details shall include planting plans; written specifications including cultivation and other operations associated with plant and grass establishment; schedules of plants (noting species, plant sizes and proposed numbers/densities where appropriate) and the implementation programme.

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

6. 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.

7. No development shall commence on site in connection with this approval until samples of materials for the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved samples.

Reason: To ensure the materials are appropriate to enhance the appearance of the area.

8. No development shall commence on site in connection with this approval until details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed in accordance with the agreed levels.

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

9. Open space (including an equipped play area to the standard of a LEAP), excluding areas of incidental landscaping and highway verges, shall be provided to a standard of 25.4 square metres per bedroom unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure an adequate standard of provision, in the interests of amenity including providing a meaningful buffer between the Scout premises and proposed dwellings.

10. Before any other operations are commenced on site in connection with this approval, a new estate street junction shall be formed onto Swadlincote Road as shown on the submitted drawing 3769/01, laid out and constructed in accordance with a detailed scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

11. No dwelling approved by the reserved matters approval shall be occupied until the proposed new estate street within the application site has been designed and laid out in accordance with the County Council's current design guide, and constructed to base level to adoptable standard, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

12. Before any other operations are commenced on site in connection with this approval, space shall be provided within the site curtilage for storage of plant and

materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives' and visitors vehicles, all laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority, and retained throughout the construction period in accordance with the approved designs, free of any impediment to the designated use.

Reason: In the interests of highway safety

13. No development shall commence on site in connection with this approval until details of parking and vehicle manoeuvring for the needs of the Scout Group have been submitted to and approved in writing by the Local Planning Authority and the new dwellings closest to these facilities shall not be occupied until the said facilities have been provided in accordance with the approved details and shall be retained for the use of the Scout Group thereafter.

Reason: To safeguard the amenities of neighbouring residents.

14. 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.

15. 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.

16. No development shall commence on site in connection with this permission until a noise mitigation scheme to benefit the future occupiers of the development has been submitted to and approved in writing by the Local Planning Authority and the approved mitigation scheme shall be provided before the dwelling to which it relates is first occupied.

Reason: To ensure a satisfactory living environment is provided for future occupiers.

17. Notwithstanding the submitted details the development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated August 2010 Ref J-D0561-R01, undertaken by Opus Joynes Pike Ltd and the following mitigation measures detailed within the FRA:
1. Section 7.3 and 8.3 Limiting the surface water run-off generated by the all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
  2. Section 7.4 and 8.3 Provision of a minimum of 166m<sup>3</sup> of surface water run-off attenuation storage on the site to accommodate the difference between the allowable discharge rate of 401/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to reduce the risk of flooding to the proposed development and future occupants.

18. No development shall commence on site until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme shall include:

- Limiting the surface water run-off generated by the all rainfall events up to the 100 year plus 30% (for climate change) critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
- Provision of a minimum of 166m<sup>3</sup> of surface water run-off attenuation storage on the site to accommodate the difference between the allowable discharge rate of 401/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm.
- Details of how the scheme shall be maintained and managed after completion.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, and ensure future maintenance of the surface water drainage system.

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

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

**Informatives:**

There are public sewers , which cross the site. No building shall be erected or trees planted within 2.5metres of the 225mm public combined and within 2.5 metres of the public surface water sewers. The applicant may wish to apply to Severn Trent Water to divert the sewer in accordance with Section 185 of the Water Industry Act 1991.

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

That detailed plans of road levels, surface water drainage arrangements and the construction of the new street should be submitted to the County Surveyor, Derbyshire County Council, County Offices, Matlock, Derbyshire, DE4 3AG, prior to the commencement of the work.

Any security measures implemented in compliance with the approved scheme should seek to achieve the 'Secured By Design' accreditation awarded by Derbyshire Constabulary. Written confirmation of those measures should then be provided to the Local Planning Authority.

The grant of planning permission does not entitle developers to obstruct public rights of way affected by the proposal. Development, in so far as it affects the right of way, should not be started, and the right of way should be kept open for public use, until the necessary order under Section 247 or 257 of the Town and Country Planning Act 1990 for the diversion or extinguishment of the right of way has been made and confirmed. Nor should it be assumed that because planning permission has been granted an order will invariably be made or confirmed.

If demolition works are to take place prior to confirmation of the permanent diversion Order, provision should be made to retain the legal line of the footpath. The safety of pedestrians using the public right of way must be considered and this may necessitate a temporary closure of the route during the works. At least 5 weeks notice will be required to process the closure order. An application form and further information can be obtained by contacting Karen Horobin, Rights of Way Officer, at Derbyshire County Council on 01629 533396.

The applicant is made aware of the attached information from the Environment Agency.

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

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).

The attached comments of the Highway Authority in their letter dated 7 April 2010 in relation to the design of the internal layout should be noted with regard to the submission of reserved matters.

**Item**            **1.4**

**Reg. No.**       **9/2010/0537/B**

**Applicant:**

Mr Anthony McCool  
Trident Housing Association  
239 Holiday Street  
Birmingham

**Agent:**

Mr Paul Hutt  
Glancy Nicholls Architects Ltd  
3 Greenfield Crescent  
Edgbaston  
Birmingham

**Proposal:**       **APPLICATION FOR THE VARIATION OF CONDITION 2  
OF PLANNING PERMISSION 9/2009/0180 TO AMEND  
THE SCHEME FOR THE DEVELOPMENT OF A 32  
BEDROOM RESIDENTIAL CARE CENTRE AND 88  
EXTRA CARE APARTMENTS WITH  
COMMUNAL/COMMUNITY FACILITIES. THE PROPOSAL  
INCLUDES ALTERATIONS TO HIGHWAYS &  
FOOTPATHS, PARKING AND HARD/SOFT LANDSCAPE  
WORKS AT HALL FARM ROAD SWADLINCOTE**

**Ward:**            **SWADLINCOTE**

**Valid Date:**     **16/06/2010**

***Update***

*This application was deferred at committee on the 24<sup>th</sup> August 2010 for further investigation of:*

- *means to overcome ownership issue.*
- *redistributing the additional car parking spaces that were allocated along the boundary with Palissy Close*
- *the retention of more trees*
- *the justification for the additional 1 bed apartments.*

*A 14 day re-consultation has been undertaken in relation to the amended plans received to overcome the above issues. A Notice that expires on 22<sup>nd</sup> September has been advertised in the local press to try and establish who owns a part of the land.*

*Updates relating to the above are presented within the report in italics.*

**Reason for committee determination**

The application is brought before Committee at the request of Councillor Lane because local concern has been raised about a particular issue, which should be considered by the Committee.



## Site Description

The site remains as previously described in the report relating to planning permission 9/2009/0180. See Appendix 1 previous Committee Report for further details.

## Proposal

Planning permission is sought to amend condition 2 of permission 9/2009/0180 which was granted at committee on the 7th July 2009. Condition 2 tied the permission to a specific set of plans and amendments to those approved plans are now sought due to unforeseen circumstances relating to land ownership and the line of a public footpath.

A full description of the development granted planning permission can be found in Appendix 1

The changes from the previously approved plans are as follows:-

- A 6m wide strip of unregistered land adjacent to footpath 133 on the southern boundary is no longer part of the garden area and the sub station and car parking have been amended accordingly.
- The access onto Church Street would not be altered but a turning area is to be provided for maintenance purposes for the sub station and generator.
- The pump house and sprinkle tank room have been moved from the area adjacent to Church Street to the care home servicing area adjacent to the bungalows on Hall Farm Close.
- A 3m x 3.5m extension to the care home plant room is proposed in order to comply with Building Regulations.
- *The resultant loss of car parking off Church Street has been accommodated by adding four spaces within the main car parking area, one space on Hall Farm Close and four spaces on Hall Farm Road adjacent to the undercroft parking. This ensures the previously approved 110 spaces for the development are maintained.*
- Part of the building adjacent to the eastern boundary with Footpath 114 has been reduced by 1.5m so as not to obstruct the line of the footpath. This has been achieved by changing three 2-bedroom apartments to 1 bedroom apartments.
- The turning head adjacent to the main entrance has moved 3.5 m south in order to avoid the Root Protection Area of an established healthy Sycamore tree and resulting in removal of a Horse Chestnut tree that has signs of decay.
- *The trees on site have been reassessed and further removal of 10 trees is now proposed where they are either diseased or obstruct development.*
- Retaining walls are proposed either side of the entrance due to land level changes.

## Site Ownership

The site is predominately owned by South Derbyshire District Council (SDDC). The three bungalows and one dwelling adjacent to Church Street are privately owned and the site of the former Oakland's nursing home is owned by Derbyshire County Council (DCC). All existing bungalows and houses on Hall Farm Road and Hall Farm Close are owned by SDDC. The proposal involves the demolition of the four properties adjacent to Church Street, Granville Court and Willoughby House.

## Planning History

9/2009/0180 - The demolition of two existing two storey sheltered housing apartment blocks (Granville Court & Willoughby House) and four bungalows to allow the development of a 32 bedroom residential care centre and 88 extra care apartments with communal/community facilities. The proposal includes alterations to highways & footpaths, parking and hard/soft landscape works, Granted by committee 7/7/09

9/2000/0059 - Willoughby House, Hall Farm Road -The installation of a pitched roof to replace the flat roof and external alterations, approved March 2000

## Responses to Consultations

County Highways Authority notes the loss of the 6 car parking spaces with access from Church Street, adjacent to Public Footpath 133. Given this access is now intended only to serve the substation and generator enclosure and replacement spaces have been provided elsewhere within the site, the amendment is considered a benefit in highway terms.

The proposed diverted route of Footpath 114 appears to differ from that previously shown, however, provided that the land is available and that formal diversion procedures are followed this is not considered detrimental in highway terms.

The main difference in highway terms from the previously approved proposal is that the extension to Vicarage Gardens is not now intended for adoption as public highway, although it will be laid out and constructed in accordance with the approved drawings and constructional approval issued on the 28th April 2010. It will remain a private access and maintained by SDDC. On this basis there are no objections from a highway viewpoint to the proposed variation of condition 2.

*The Highways Authority have been re-consulted on the changes to the car parking and their response will be given verbally at Committee. However, they were involved in negotiations prior to the amended plans being submitted.*

The Derbyshire Police Crime Reduction Design Advisor has no comments on the amended scheme.

Derbyshire County Council's Right of Way Officer comments on the original submission were that public footpath 114 would require diversion [however that is no longer necessary due to the reduction in the building by 1.5m adjacent to this footpath].

## Responses to Publicity

Five letters of objection have been received. The reasons for objection are summarised as follows: -

- a) The number of car parking spaces adjacent to the rear of their property has increased from 8 to 17.
- b) There will be an increase in fumes from cars which would affect the enjoyment of their property.
- c) The developer said that a green space would be left between the car parking and their boundary.

- d) The green area between the car parking and their rear boundary is only 1m and is an unnecessary over development of this area.
- e) The revised car parking design encourages reversing onto the access road which is a potential hazard.
- f) There will be an increase in vehicle noise for residents of Hall Farm Close and Palissy Close.
- g) The car parking adjacent to their property would cause stress which would affect their health.
- h) There is a concern regarding the loss of trees adjacent to 39 Outram Drive and the potential for speeding cars adjacent to their boundary.

*One letter of objection and a website comment has been received so far from a resident on Church Street in relation to the amended plans re-consultation undertaken. Their concern is regarding the additional spaces on Hall Farm Road, which are opposite a junction and visibility would be bad when reversing off these spaces as traffic would significantly increase when the building is complete. These spaces would create a hazard. It would reduce on road parking for residents of Hall Farm Road and would parking restrictions be introduced. They also do not understand the need for the change and inquire as to whether it is to make way for more flats.*

*Any further responses received will be reported verbally at Committee.*

## **National Guidance**

Planning Policy Statement 1 : Delivering Sustainable Development  
Planning Policy Statement 3 : Housing  
Planning Policy Guidance 13 : Transport  
Planning Policy Guidance 24 : Planning and Noise

## **Development Plan Policies**

The relevant policies are:

Saved Local Plan Policies:

Housing Policy 4, Environment Policies 9, 10, 12 and 13, Transport Policies 6 and 7 and Community Policy 1.

## **Planning Considerations**

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

- Principle of development
- Residential Amenity
- Design
- Trees and Landscaping
- Highways
- Other issues raised at the 24<sup>th</sup> August Committee

## **Planning Assessment**

Principle of development

The principle of the development was established by the granting of permission at committee on the 7th July 2009. This permission relates to the amendments outlined above in the proposal section of the report.

### Residential Amenity

The impact on the residential amenity of properties on Church Street, Hall Farm Road and Hall Farm Close was considered in detail in the report to committee in July 2009 for the overall scheme and was found to be acceptable.

In relation to the proposed amendments the increased level of parking adjacent to properties on Palissy Close and the change in location for the pump house and sprinkler tank room adjacent to Hall Farm Close properties are the main issues. No objections from residents have been received from neighbours with regard to the latter.

The car parking adjacent to the rear boundaries of 8-16 Palissy Close has been amended and has reverted back to provision of 8 parallel spaces in accordance with the previously approved plan.

The car parking adjacent to the rear boundaries of 8 -16 Palissy Close has been increased by 9 spaces and re-aligned due to the land ownership issue adjacent to the southern boundary. This was the only solution to retain the car parking level at 110 as the previous permission. A green area of between 3.5 - 1.5m shall be retained between the car parking and the rear boundaries of the properties and buffer tree planting shall be secured through the landscaping scheme condition. This area of parking would not be heavily used due to its distance from the main entrance to the building.

The pump house and sprinkler tank room would be 10.5m north west of 18 Hall Farm Close and due to the angle would not have a significant impact on the amenity of this property. Sufficient screening shall be secured by condition requiring a detailed landscaping scheme.

### Design

The design of the scheme has not changed and remains high quality. The only elevation change is in respect of the small extension adjacent to the plant room that faces the servicing area for the care home. The impact on the elevation is minimal with a small section of roof reduced and the shape and materials of this link section changed. The section is not highly visible in the streetscene of Hall Farm Close.

### Trees and Landscaping

*Since the last committee the number of additional trees to be removed has been reduced from 14 to 10. Their removal is due to their being either in poor health or as a consequence of the re-configuration of car parking on site. The Council's Tree Consultant has no objection to the trees now proposed for removal. The most established tree proposed for removal is one of the Horse Chestnut trees adjacent to the entrance on Hall Farm Road. The turning head in this area has been moved 3.5m south to avoid the roots of an established healthy Sycamore tree and results in the removal of the Horse Chestnut that has signs of decay and disease.*

*The new landscape scheme for the site would help to mitigate the loss of trees by planting new ones to provide an improved range of species, and better diversification of the age range of trees on the site to ensure that there will be good quality trees for the future, which represents a sustainable outcome. Species to be used include:- Acer, Whitebeam, Hornbeam, Italian Alder, Scarlet Rowan and Lime trees. The Council's Tree Consultant has confirmed that the species proposed are acceptable.*

The grassed bank adjacent to the southern boundary with footpath 133 would be maintained and planted with trees, however, railings would now be on the legal boundary of the site which is at the top of the bank.

### Highways

The proposed road that links the development with Vicarage Gardens would not encourage speeding vehicles as it has been designed to be a shared pedestrian and vehicle surface which is effective in reducing speeds as it is not clear what is the highway. The convoluted route through the car park also serves to reduce speeds and deter vehicles using it as a short cut or through route.

Detailed assessment was undertaken in terms of the level of car parking in relation to the previous permission and the overall level has been retained at 110 spaces. The small area of car parking and widened access off Church Street has been amended which avoids residents using the area. The County Highways Authority has no objection to the application.

Footpath 114 no longer requires diversion as the building does not obstruct the definitive line and this has been confirmed by the County Council's Rights of Way Officer.

### **Other issues raised at 24<sup>th</sup> August Committee**

#### Number of additional 1 bed apartments

Trident has submitted the following information regarding the mix of 1 bed and 2 bed accommodation:-

*"There has been a reduction of four two bedroom apartments in the planning amendment to accommodate the changes brought about by the land ownership issue. The planning amendment added a further 4 one bed apartments. Of the 88 units on the development we have 31 x 1 bed and 57 x 2 bed which equates in percentage terms to 35% for one bed and 65% 2 bed. This is very favourable to other schemes in the Country and nationally.*

*The latest Extra Care Scheme in New Oscott, Sutton Coldfield for extra care has 254 apartments comprising of 94 x 1 bed and 160 x 2 beds equating to 37% 1 bed and 63% 2 beds.*

*Swalincote also compares extremely favourably with our Matrix partners Accord extra care development that has an overall scheme mix of*

*Old Vic Close – 59 x 1 bed and 1 x 2 bed.*

*St Peter's = 32 x 1 bed and 2 x 2 bed.*

*Moxley = 31 x 1 bed and 11 x 2 bed.*

*Furlong House = 45 x 1 bed and 6 x 2 bed.*

*Specifically in relation to South Derbyshire, there is a predicted increase of some 37% between 2005-2015 of the older population. Within the South Derbyshire District Council Housing Strategy for 2009-2014 the district's population aged 85 and over is identified to increase by 88% between 2008 and 2025 and it is this rate of growth that the district has to plan for. The Strategic Market Assessment 2007/08 for the Derby sub-region Housing Market Area included evidence that there are a high percentage of households with one person occupying them. There is therefore a clear demand for 1 bed apartments. This scheme addresses the demand for older persons accommodation as well as the apartment sizes. Evidence has shown that larger units are not preferred by older people and that one beds are more manageable and provide more than enough living space to accommodate their new lifestyle.*

#### Unknown land ownership

*Solicitors have provided the following information:-*

*This land is outside the registered title boundary of the land owned by Trident, the County Council and the District Council in this area. Enquiries at the Land Registry confirm it is unregistered land. It has been suggested that the applicant could simply take possession of the land it requires and obtain indemnity insurance against a claim by the true owner. In order to do so one of the landowners would have to show either that the plans are wrong, or that it has occupied the relevant part of the unregistered land for at least the last 12 years. None of the landowners can make such a claim and therefore any attempt to build on, or use, part of the unregistered land would be a trespass. There is a risk that the true owner could come forward and obtain a court order for possession and for the removal of any buildings. This is not an insurable risk.*

#### **Conclusion**

The proposed changes to the previous scheme do not reduce the quality of the scheme or have a significant adverse impact on residential amenity. The changes are fairly minor in relation to the overall scheme granted approval in July 2009. The changes are due to unforeseen circumstances that have arisen as the scheme progressed to the construction phase and in granting this permission the exemplar scheme that was shortlisted in the Housing Design Awards would be realized to the benefit of the residents of Swadlincote and the District as a whole.

#### **Recommendation**

- A. Delegate power to the Head of Planning Services to deal with any new issue arising prior to the expiry on the 22<sup>nd</sup> September 2010 of the Notice 2;
- B. Subject to A., **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 A100G, A010G, A015B, A106R, A101M, A107N, A104N, A105P, A203G, A204F, A205E, A206E, A207F, A208E, A209D, A210D, A108M and 200407-P-02a.

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

3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the buildings have been submitted to and approved in writing by the Local Planning Authority.

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

4. 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.

5. With regard to the approved scheme to identify and control any contamination of land or pollution of controlled waters the following shall apply:  
(i) 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'.

(ii) 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'.

(iii) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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

6. 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.

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

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

8. 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 (which shall include retention of 4 additional trees within the unregistered land indicated on amended plan no. A108M ), together with measures for their protection in the course of development.

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

9. Prior to the commencement of the development a scheme highlighting details of the likely resultant noise levels from activities during the construction phase at the nearest noise sensitive premises shall be submitted and approved in writing by the Local Planning Authority. The investigation shall address the impact that the activities will have, in terms of noise, on nearby residential properties. The development shall be implemented in accordance with all identified noise control measures and retained thereafter.

Reason: In the interests of the amenity of the nearby residential areas.

10. Prior to the commencement of any site works for the development hereby approved details of all slab levels and any regrading proposed to the site shall be submitted to and approved in writing by the Local Planning Authority and the development shall only be carried out in accordance with those details so approved.

Reason: To ensure that the development does not adversely affect the amenities of adjoining properties and the character or appearance of the area.



11. Prior to the commencement of development a Travel Plan for all the staff shall be submitted and approved in writing by the Local Planning Authority and the development shall be occupied in accordance with the approved Travel Plan.

Reason: To ensure that adequate parking provision is available.

12. Prior to commencement of development a surface and foul water drainage scheme for the site shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system.

13. Prior to commencement of development a lighting scheme for the car parking and communal areas shall be submitted and approved in writing by the Local Planning Authority and the scheme shall be carried out in accordance with the approved details unless otherwise agreed in writing.

Reason: In the interests of the amenity of the nearby residential areas.

14. Prior to commencement of the development a scheme for the control of dust arising from the site during the construction phase shall be submitted and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved scheme.

Reason: In the interests of the amenity of the nearby residential areas.

15. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

16. Prior the occupation of any of the extra care apartments a detailed breakdown of the numbers of residents categorised as Level 1, 2 and 3 care (defined in informative 1) shall be submitted and approved in writing by the Local Planning Authority and the occupancy of apartments shall be in accordance with these approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

17. The locations of the residential care home and extra care apartments shall be maintained in accordance with the attached plan unless otherwise agreed in writing by the Local Planning Authority.  
Reason: To ensure the parking provision meets the requirements of the development.
18. The development hereby permitted shall only be occupied by persons where at least one member of the household is aged 60 years or over (the qualifying age) save that such restriction shall not apply to the continued occupation of any of the extra care apartments by a surviving spouse, partner or member of the household under the qualifying age after the death of the member of the household who was of the qualifying age.

Reason :To ensure the parking provision meets the requirements of the development.

19. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated February 2009 Ref:JS616-xx/AES/HB, undertaken by Johnson Poole and Bloomer Ltd (JPB) and the following mitigation measures detailed within the FRA:  
Section 4.3.6 and 5.4.5 limiting the surface water run-off generated by the 100 year plus 30% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.  
Section 6.3.2 and 6.3.9 Provision of a minimum of 40m<sup>2</sup> of bio-retention areas and 425m<sup>3</sup> of surface water rainfall run-off attenuation storage on site to accommodate the difference between the allowable discharge to STW public surface water sewers and the 100 year plus 30% (for climate change) critical rainfall event.  
Section 4.3.6 and 6.0 at the detailed design stage, undertake an investigation into the most suitable SUDs method/s to provide the required volume of surface water run-off attenuation storage.  
Section 6.8 Surface gradients of the site to be taken into account in the detailed design, including some terracing/re-grading of the site's surface where necessary.  
Section 7.1 Provision of a SUDs maintenance manual to facilitate the future operation of the as built on site SUDs systems.

Reason: To prevent flooding by ensuring the satisfactory storage of / disposal of surface water from the site and to reduce the risk of flooding to the proposed development and future occupants.

20. Construction hours shall be restricted to 8am to 6pm Monday to Saturday with no working on Sundays or Bank Holidays.

Reason: In the interests of the amenity of the nearby residential areas.

21. Prior to the commencement of building operations the proposed extension of Vicarage Gardens to provide the alternative access onto Hall Farm Close and the provision of the turning head on Hall Farm Road must be carried out and completed at least to base course level including footways, drainage and lighting in accordance with a detailed scheme (based on submitted CTM drawing 08-787-

502 D) first submitted to and approved in writing by the Local Planning Authority, before the required stopping- up of Hall Farm Road can be implemented.

Reason: In the interests of highway safety.

22. Prior to commencement of any building operations replacement parking for the existing bungalows on Hall Farm Road and Hall Farm Close must be provided in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority, also before the stopping-up of Hall Farm Road can be implemented.

Reason: In the interests of highway safety.

23. Prior to commencement of building operations, space shall be provided within the site curtilage for storage of plant and materials, site accommodation, loading and unloading for goods vehicles and parking and manoeuvring for site operatives and visitors vehicles, all laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority and maintained throughout the construction period in accordance with the approved designs.

Reason: In the interests of highway safety.

24. Before the commencement of engineering operations in connection with the development, facilities must be agreed in writing with the Local Planning Authority to prevent the deposition on the public highway of extraneous material from the site, and such facilities must be maintained throughout the construction period.

Reason: In the interests of highway safety.

25. The development shall not be taken into use until all parking spaces and proposed access thereto have been laid out and surfaced in accordance with details first submitted to and approved in writing by the Local Planning Authority and shall be maintained available throughout the life of the development free from any impediment to their designated use.

Reason: In the interests of highway safety.

Informatives:

The levels of care in condition 16 are defined as:

Level 1 - Residents are largely independent and can manage daily living on their own with minimal support. Customer would not normally require help from social services but might need occasional support, perhaps due to illness. Customers would benefit from living in a secure environment where staff could provide occasional practical help.

Customers would need less than 7 hours of care per week.

Level 2 - Customers meet Social Services definition as needing moderate care. Care needs might include bathing, monitoring of medication, monitoring of diet or orientation. Customers need a maximum of 15 hours of care per week.

Level 3 - Customers meet Social Services definition as needing substantial or greater levels of care. Some customers might need intensive 'round the clock' care. Customers

would be eligible for residential accommodation and require more than 15 hours of care per week.

The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include: Collapse of shallow coal mine workings; Collapse of, or risk of entry into, mine entries (shafts and adits); Gas emissions from coal mines including methane and carbon dioxide; Spontaneous combustion or ignition of coal which may lead to underground heatings and production of carbon monoxide; Transmission of gases into adjacent properties from underground sources through ground fractures; Coal mining subsidence; Water emissions from coal mine workings.

Applicants must take account of these hazards which could affect stability, health & safety, or cause adverse environmental impacts during the carrying out their proposals and must seek specialist advice where required. Additional hazards or stability issues may arise from development on or adjacent to restored opencast sites or quarries and former colliery spoil tips. Potential hazards or impacts may not necessarily be confined to the development site, and Applicants must take advice and introduce appropriate measures to address risks both within and beyond the development site. As an example the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas. In coal mining areas there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling alone has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted. Any intrusive activities which intersect, disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. In the interests of public safety the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated.

The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in order to make an assessment of the risks. This 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 drainage scheme required by condition 12 shall include:

- 1, Limiting the surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) event into the public sewerage system to a rate agreed with Severn Trent Water (STW) (The currently proposed allowable surface water discharge rate is 25l/s).
- 2, Provision of a minimum of 40m<sup>2</sup> of bio-retention areas and 425m<sup>3</sup> of surface water rainfall run-off attenuation storage on site to accommodate the difference between the allowable discharge to STW public surface water sewers and the 100 year plus 30% (for climate change) critical rainfall event.

3, Details of how the SUDs scheme/s shall be maintained and managed after completion.

The Environment Agency advise that finished floor levels should be set no lower than 150mm above adjacent proposed finished external ground levels, or adjacent highway levels, whichever is the greater to Ordnance Datum (AOD).

The Environment Agency advise that having reviewed the letter from Applied Geology to Cox Turner Morse re: Hall Farm Road, Swadlincote (dated 26th February 2009) submitted in relation to this Planning Application (9 2009 0180 MA). The information submitted indicates that the only previous development on the site was a care home. This activity is not highlighted in Planning Policy Statement 23 as one which 'may historically have contaminated, or have the potential to contaminate the land they are sited upon' (Annex 2, Table 2.1). In light of this, and the relatively low sensitivity of the site setting to 'Controlled Waters' receptors we do not require a Preliminary Risk Assessment for this development.

However the site owner should be made aware that they are responsible for any contamination on, in or under land that may be causing unacceptable risks to human health or the wider environment. Consequently if during site development any areas of significant contamination are suspected, then the materials should be sampled, tested and suitable remediation carried out in consultation with the Local Planning Authority.

The proposed development affects Public Rights of Way Footpaths Nos 114 and 133 as described on the Derbyshire Definitive Map. These routes must remain unobstructed at all times during and after construction works, and the safety of the public using these paths must not be prejudiced at any time. The comments of the Derbyshire Police Crime Reduction Design Advisor should be considered prior to any diversion application being made. Advice regarding the temporary and permanent diversion of such routes may be obtained from the Director of Environmental Services Department at County Hall, Matlock.

The Highways Authority advise that prior to the commencement of building operations for the construction of the Care Home the highway closure of the section of Hall Farm Road must be carried out and legally completed by means of legislation under Section 247 of the Town and Country Planning Act, unless otherwise agreed in writing by the Local Planning Authority.

Prior to the submission of details relating to boundary treatment (condition 4) and crime reduction measures (condition 7) the comments of the Derbyshire Police Crime Reduction Design Advisor should be taken into account.

**Item**            **1.1****Reg. No.**        **9/2009/0180/MA****Applicant:**

Mr Anthony McCool  
Trident Housing Association  
239 Holiday Street  
Birmingham

**Agent:**

Mr Paul Hutt  
Glancy Nicholls Architects Ltd  
3 Greenfield Crescent  
Edgbaston  
Birmingham  
Birmingham

**Proposal:**        **The demolition of two existing two storey sheltered housing apartment blocks (Granville Court & Willoughby House) and four bungalows to allow the development of a 32 bedroom residential care centre and 88 extra care apartments with communal/community facilities. The proposal includes alterations to highways & footpaths, parking and hard/soft landscape works On The Site Of Granville Court Oaklands & Willoughby House Hall Farm Road Swadlincote**

**Ward:**            **Swadlincote**

**Valid Date:**     **19/03/2009**

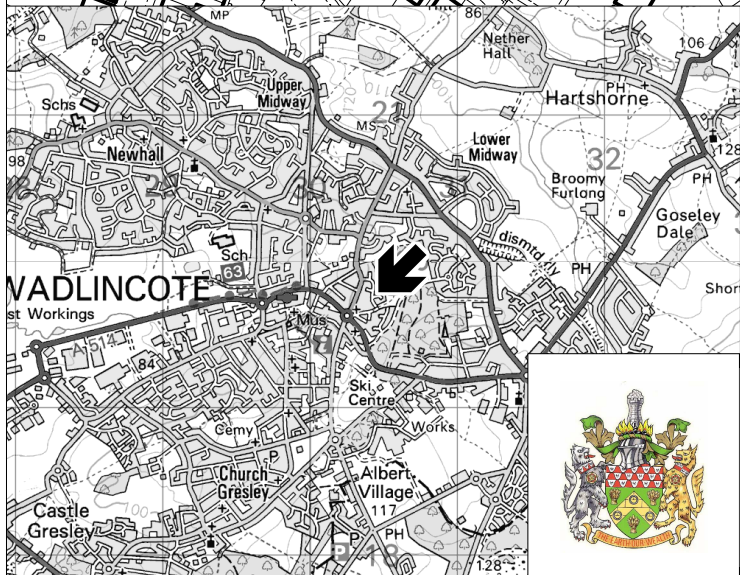
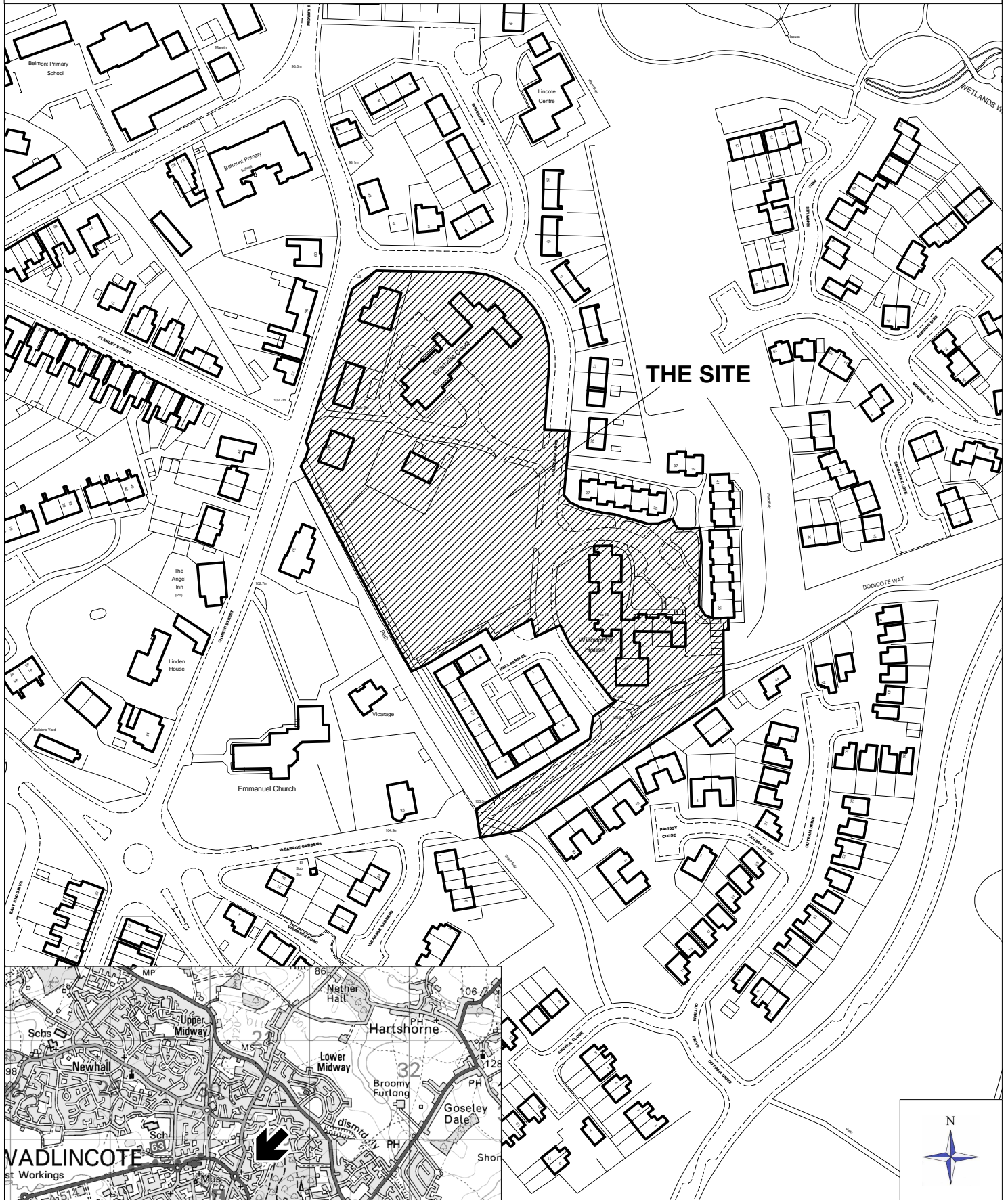
**Reason for committee determination**

The application is a controversial major application and the Council owns most of the site.

**Site Description**

The 1.89 hectare site is located 250 metres to the north east of Swadlincote town centre. The main frontage of the site is on Church Street and there are three existing bungalows on this part of the site. There are a mixture of semi-detached and detached two storey properties opposite the site on Church Street and a bungalow to the south adjacent to the footpath. The remainder of the site is visible from Hall Farm Road. On the left hand side of Hall Farm Road there are small bungalows and two storey semis, which curve around the road. On the right hand side immediately to the rear of the existing bungalow on the corner of Church Street and Hall Farm Road there is two storey flat accommodation with warden facilities at Granville Court. In the south eastern corner of the site there is a cull de sac of 15 small bungalows and Willoughby House, which is a two storey building of flats with communal facilities. In the south western corner at the end of Hall Farm Road there is Hall Farm Close which is 18 bungalows curved around a central courtyard. In the central part of the site, south of Granville Court

**9/2009/0180 - Site of Granville Court, Oaklands & Willoughby House,  
Hall Farm Road, Swadlincote DE11 8LH**



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**South Derbyshire District Council. LA 100019461. 2009**

there is a two storey dwelling and a grassed area on the site of the former Oakland's nursing home.

Adjacent to bungalows on Hall Farm Close, Hall Farm Road is blocked to vehicles. A road runs along the south eastern boundary adjacent to the bungalows and can be accessed from Vicarage Road. Public Footpath No. 133 runs parallel with the south western boundary of the site. There is an area of modern two storey semi-detached properties to the south east on Palissy Close and Outram Drive and terraced properties to the south west on Vicarage Gardens. Grade II listed Emmanuel Church is located to the south west, approximately 100 metres from the site boundary.

There are significant land level changes within the site, the lowest area is adjacent to Church Street and the area where Granville Court is located and the higher parts are to the south east of the site near to Willoughby House. There is an 11m land level difference across the site from the north west at the junction with Church Street and the south east corner. There are trees in clusters surrounding the existing buildings on site with the most significant mature trees located adjacent to Hall Farm Road in the centre of the site, the majority of which are House Chestnuts.

## **Proposal**

### Site Ownership

The site is predominately owned by South Derbyshire District Council (SDDC). The three bungalows and one dwelling adjacent to Church Street are privately owned and the site of the former Oakland's nursing home is owned by Derbyshire County Council (DCC). All existing bungalows and houses on Hall Farm Road and Hall Farm Close are owned by SDDC. The proposal involves the demolition of the four properties adjacent to Church Street, Granville Court and Willoughby House.

A report on the refurbishment costs of both Willoughby House and Granville Court has been before the Housing and Community Services Committee and it was concluded that sufficient resources were not available and the accommodation was criticised in an Audit Commission report as people did not want to live there and it was considered outdated.

### Concept of proposal

The proposal is required to cater for future provisional services for the older adult community within Swadlincote.

*"The aim is to provide a setting for the inclusion of community services incorporating the rehabilitation and assessment, that maximise and enables the potential for every elderly person to live independently"*

Derbyshire County Council's concept is: -

*"The scheme will be designed to provide flexible use of both communal and individual accommodation, to allow services to meet the changing needs of the community in which they are located. The design must be dementia friendly in order to aid orientation".*

Trident's concept states: -

*"Extra care will be part of a new generation of housing support and care for older people that will offer safety of care and support available on site where they live, 24 hours a day, according to people's assessed needs. Individuals will have the added security of either renting, owning or part owning their own apartment within a scheme of similar*



*units. In addition there will be communal facilities where people can participate in a range of activities”.*

### Facilities

The proposed accommodation comprises of:

#### Care Home

- 16 long term residential / dementia care beds – ground floor
- 8 short term respite care beds – first floor
- 8 short term intermediate / rehabilitation care beds – first floor
- 2 visitor bedrooms

#### Extra Care Apartments – All floors

- 62 double / 26 single bedroom apartments – 88 in total – with support / care and ownership options

The proposed communal facilities would be for the residents and the general wider local community and comprise of: -

- Day Centre – with access to the central garden
- Clinic / Consultancy rooms
- Physiotherapy / Gym with changing rooms
- Laundry facilities
- Prayer room
- Training room
- Secure gardens for residents and day centre visitors
- Bar / restaurant / Bristro / café and lounge areas – ground floor
- Multi-purpose hall – ground floor
- Small shop – ground floor
- Craft room – first floor
- IT suite – first floor
- Hairdressers – first floor
- Jacuzzi – first floor
- Careline Control Centre – First emergency response team under ownership of SDDC – monitors and provides extended care and support for older adult community within whole of SDDC area.

### Evolution of layout

The evolution of the layout is depicted in images within the Design and Access Statement. The main determining factors stipulated by the Clients: SDDC, DCC and Trident were that the care home and the communal facilities should be at the centre of the site. Other determining factors were the topography of the site, having the extra care units adjacent to the existing bungalows and a large area of landscaping which incorporated the majority of the existing trees. The OPUN panel also informed the design at an early stage and their comments and how the design changed to incorporate their comments is detailed in Appendix 3 of the Design and Access Statement.

### Proposal's Description

This description is from the north west of the site adjacent to Church Street to the south eastern part adjacent to Hall Farm Close. 61 extra care apartments would run along the frontage of Church Street and curve around the corner of Hall Farm Road until just after the junction with Wideshaft where the apartments cut into the site and at this point

adjacent to the road it opens out into a landscaped area with the retention of the existing mature trees. The apartments form a square with an internal courtyard where allotments are proposed. The communal facilities link with the apartments and form a central focal entrance adjacent to the trees. The care home is located to the rear of the communal area and main entrance and this would also form an internal courtyard area for a resident's garden and patio areas. A secure garden is proposed to the rear of the care home adjacent to the footpath on the south western boundary. The rear of the care home is curved and is at an angle with existing properties on Hall Farm Close.

In the area where Willoughby House is located a curved section extends to form communal areas and 27 extra care apartments in between the existing bungalows on Hall Farm Road and Hall Farm Close. The site would have two vehicular accesses from Church Street onto Hall Farm Road and from Vicarage Road onto both Hall Farm Close and Hall Farm Road. The proposal involves the creation of a through route from Hall Farm Road to Vicarage Road which is currently blocked by bollards. The service entrance would be from Hall Farm Close via Vicarage Road.

The majority of the car parking is located in the south eastern corner of the site and adjacent to the entrance on Hall Farm Road. However, a small area of 6 spaces is proposed off Church Street and 12 undercroft parking spaces are proposed half way up Hall Farm Road underneath the apartments.

### **Applicants' supporting information**

Design and Access Statement – This comprehensive document includes the following information:- accommodation proposed, site context and analysis including photographs, concept drawings, shadow analysis. The sections on use, scale, amount leads to the design evolution. The section on scale includes sections in relation to existing dwellings and 3D modelling. Sections on appearance, landscaping and highways detail the formulation of the proposed layout. Appendixes include the Arboricultural Survey Report, Draft Travel Plan, Analysis of OPUN's Panel Review and meeting notes from residents meetings and with the Local Planning Authority. This document details the thinking behind the scheme and its concept and includes analysis of the factors that have informed the proposed layout and design.

Flood Risk Assessment – The site is in Flood Zone 1 defined by the Environment Agency and thus has a low risk of flooding. An assessment into the surface water generation is required to ensure the development will not increase flood risk to surrounding developments. Sustainable surface water drainage principles will be utilised at the site by the use of permeable pavements and the channelling of roof waters to storage areas created below the paving and below the areas of landscaping. All surface waters will be discharged to public sewers at an agreed maximum discharge rate and the attenuation of flows and the use of bio-retention will prevent sewers from becoming overwhelmed during extreme storm events. A Drainage Statement from Severn Trent has also been submitted which concurs with the statements made in the Flood Risk Assessment in relation to discharge into the public sewers and any attenuation.

### **Arboricultural Survey Report**

This report is read in conjunction with the landscaping plan and Arboricultural Constraints and Protection Plan. All trees on site are categorised into four categories: - R – trees to be removed, A – trees of high quality and value, B – trees of moderate

quality and value and C – trees of low quality and value. Trees to be removed include G03, 04, G09, 10, G10 & 27. Tree 32 is to be retained.

Travel Statement - This report outlines with plans the proposed stopping up of the direct link between Hall Farm Road and Hall Farm Close and proposed new highway linking Hall Farm Close with Vicarage Gardens. Footpath 114 will be diverted by the development. The service and delivery access would be from Hall Farm Close. In terms of parking provision the document states that the proposal is aimed at residents aged 55 and over and it is anticipated that car ownership would be lower to that of a similar development aimed at a lower age group.

The document states that under the SDDC Appendix A Parking Standards document and PPG13 and the Regional Transport Strategy for the East Midlands, the requirements would be: - 1 space per four bedrooms (plus 2) and for sheltered accommodation at 1 space per 3 bedrooms (plus 2). This would be 10 spaces for the Care Centre, 31 spaces for the extra care development with 2 extra spaces for guests. A total of 43.98 spaces are proposed and would be broken down as follows: -

#### Extra care Apartments

- 8 units for outright sale (1:1 parking = 8 spaces)
- 15 units for shared ownership (1:1 parking = 15 spaces)
- 64 units for rent (1:3 parking = 22 spaces)

Care Centre -30 spaces

Careline Control Centre -12 spaces required for staff and visiting wardens

#### Contamination – Desktop survey

This brief report outlines the site history, ground conditions, contamination testing and assessment and ground gas. Open cast mining pits are to the east and south east of the site and at least part of the site to the south east has been used for landfill. Made Ground underlies the site and below this are coal seams, mudstones and sandstones. Soil samples of these areas were taken and levels of nickel and arsenic were found, however, end users are considered to be at low risk. Initial ground gas testing has been carried out and more monitoring is necessary.

#### **Planning History**

9/2000/0059 - Willoughby House, Hall Farm Road -The installation of a pitched roof to replace the flat roof and external alterations, approved March 2000

#### **Responses to Consultations**

County Highways Authority whilst having initial concerns with regard the amount and location of the parking have no objection to the application as amended. The survey information demonstrates that the parking requirement for the existing bungalows No's 27 –55 Hall Farm Road is 20% per dwelling plus short stay care worker visits. The provision of parking can be sufficiently controlled by suitably worded conditions restricting the category of residents in the independent living units to be similar to those in the existing bungalows. The concern with regard the potential for people to park on Church Street has been removed by the omission of the paths and there would be no access for residents along this Street as it is intended that pedestrian access will mainly be via the reception area off Hall Farm Road. Whilst the Highway Authority is still of the

view that parking is not located particularly conveniently in relation to the main entrance and some parking could therefore take place on Hall Farm Road any reasons for refusal of planning permission on highway grounds have been removed.

Design and Heritage Officer states that the proposal is about 50 metres from Swadlincote Conservation Area and about 100 metres from Emmanuel Church which is Grade II Listed. The design has been carefully considered and it could be a good scheme if it is a quality specification. The Church Street frontage of the development would figure prominently in the approach to the Church and conservation area and there will be an impact on both heritage assets but it is not considered to be harmful in either case provided the materials and detailing are well handled. The ranges deeper into the site won't impact on the heritage assets.

Design Excellence Officer states that the density, scale, height and massing of the scheme is considered suitable for a location that is adjacent to a large town centre. The massing on Church Street would create a strong streetscape with a good sense of enclosure and a street with considerably more character than at present. The scheme will enhance the area considerably, and although it will be a dramatic change, it will be a positive one. The overall design of the scheme appears to be very well thought out and of a high quality.

Contaminated Land Officer considers the main issues likely to pose a risk to the development are the following land uses, all within a 250m radius of the site; the landfill to the northwest, quarrying of sand and clay and the operation of sand and gravel pits to the northeast, east, southwest and south, an area of unknown filled ground to the south and the industrial uses in the area/gas manufacture to the southwest. In addition there are also two sub stations located on site, adjacent and to the west of Granville Court. Phased Contamination condition is recommended. Conditions in relation to control of construction noise and dust are recommended.

Tree and Landscape Consultant considers the landscape design masterplan to be a good design. A detailed landscaping plan is required. There are no objections in relation to tree removal.

Severn Trent Water has no objection subject to drainage condition.

The Environment Agency has not yet responded.

The Derbyshire Police Crime Reduction Design Advisor's comments on the original application are summarised as follows: -

- The proposal requires conformity with Secure by Design
- The Church Street frontage needs enclosure with a low divider such as railings or walls with individual gates to provide privacy and ensure there is demarcation of what is public and what is semi private along the whole of Church Street.
- The plans do not show any form of protection for the Church Street car park and entrance or restrictions on pedestrian access. Locking gates with anti lift hinges are evidently required for the vehicle entrance and the pedestrian route.
- The plans show a close boarded 1.8m fence to enclose the garden areas adjacent to the footpath on the south western boundary. Solid lines of fencing can shield users from useful views and will reduce the safety of this footpath. See through boundary treatment is recommended.

- The plans indicate footpath 114's termination into the development and it has not been routed around the site. A footpath leading in to the development without demarcation and control is not acceptable in this type of development and should have been clearly routed along the boundaries to exit within the public domain.
- Bollard lighting is a poor single solution, even more so for partially sighted and elderly persons to navigate by. The low level illumination does not illuminate the faces of people removing facial identification of recognition. Modern luminaires are well designed to reduce light glare and sky pollution and should be considered.

## **Responses to Publicity**

Eighteen letters of objection have been received. Three petitions with 183, 112 and 101 signatures have also been received in response to consultation. The reasons for objection are summarised as follows: -

### Highways

- There would be an increase in traffic on Vicarage Road, causing congestion at the roundabout
- There would be an increase in congestion due to insufficient parking
- 92 parking spaces is unacceptable as there are 50 staff, where would visitors park
- The majority of car parking is accessed at the rear, a distance from the flats, which is dangerous as parking on the Church Street would occur
- Insufficient parking is proposed
- The ratio of car parking spaces to residents is only 1 per 3.
- Visibility is poor adjacent to the school
- Planning applications for the new dwelling adjacent to 32 and between 35 and 37 Church Street was not allowed due to insufficient access
- 1.5 spaces per house are required but only 1 per 3 flats is provided. The majority of residents will drive and may have 2 cars
- Where is the restaurant and shop parking?
- No.33 Church Street has difficulty in accessing their driveway at busy times due to school traffic
- There are no traffic calming / crossing facilities on Church Street

### Appearance / Character

- The Church Street frontage is not in keeping with the area
- The height at 13.15m is too large for Church Street frontage
- The proposed block of flats would not fit into urban fabric of Church Street
- The development is too intense for the limited space and it would resemble the 1960's block of flats it replaces
- It would be viewed as one long frontage on Church Street with no separation for 50m
- It is too high density with too many apartments and is three storeys high
- The design is ridiculous and when permission was granted for their dwelling the Local Planning Authority were very strict on materials as they had to be in keeping with Church Street. The proposal would be an eyesore due to its futuristic design.
- It would be overbearing due to its height in relation to existing properties which are 8m

- There is an important view from the Belmont School corner

#### Consultation

- There was insufficient consultation with adjoining residents, it was too late in process being in April 2009 – Stating that there were 3 meetings is misleading as 1 meeting was repeated on the same day.
- Belmont School were not consulted – there is a concern in relation to safety of children.
- The three meetings were all held on the 15<sup>th</sup> Jan 09 – one for bungalows to be demolished, one for bungalows to be retained and one evening meeting for adjoining residents.
- No presentation was given and only vague models and vague answers were given to questions such as the number of storeys proposed
- Outline planning permission was not discussed with residents
- Neighbour notification letters were sent out over Easter and received after date of letter, which meant a loss of 21 days.
- No.43 Church Street was not invited to 15<sup>th</sup> Jan 09 meeting
- The height of buildings has changed since 15<sup>th</sup> Jan meeting
- Trident has approached the local pub for extra parking

#### Residential Amenity

- There would be overlooking of adjoining houses due to the elevated ground
- There would be a loss of privacy of No. 52 Church Street as the main room windows would overlook their first floor bedrooms and occupants are likely to be in the majority of the time
- The height and land level of the buildings would cause overshadowing of properties on Church Street
- Overlooking of No.33 Church Street due to the location of the viewing area, which would mean a loss of privacy and overlooking of their garden and rear bedroom windows.
- Stanley Street properties face the site

#### Other

- Church Street is very busy and 88 flats and 32 dementia units would cause serious safety issue
- The corridors have no natural light and would be like prison dormitories
- They would prefer the original buildings on site to be renovated and extended
- The demolition of the bungalows on Church Street is an infringement of rights of the owner / occupiers
- Older people deserve a Council built bungalow
- What is the need for care village, has any research been undertaken
- What is the tenure of properties – they were told at 15<sup>th</sup> Jan meeting that 1/3 would be for rent, 1/3 would be for part rent and 1/3 would be for sale – 8 out of 88 would be for sale for market housing.
- Renting to people under 55 may occur if they are difficult to rent
- Where are the gym and hairdressers proposed?
- How would age of people be controlled
- It is not in accordance with the East Midlands Regional Plan as the central corridor has not natural light and reuse rather than demolish is advocated.

- The overshadowing views in appendixes of Design and Access Statement are missing.
- It would cause an increase in crime within the parking areas
- The LDF requires a Statement of Community Involvement
- Could families rent the flats?
- Are levels of Arsenic and Nickel on site safe?
- Have other suitable sites been investigated?
- Appendix 4 of DAS missing
- There is a shortage of bungalows
- A similar scheme in Beacon Hill in Lichfield is a concrete jungle with people clumped together

Four letters were received on the amended plans and additional concerns are summarised as follows:-

- Consultation with Highways was at a late stage and required amendments to the scheme.
- The removal of paths on Church Street means the development turns its back on Church Street and would no longer appear as individual properties.
- The removal of the paths compromises the scheme and creates a bland and featureless façade.
- The removal of the barrier on Hall Farm Road creates a through road.
- Double yellow lines on Church Street should be considered by Highways.
- Accidents on Church Street have occurred with cars hitting the school barrier and the tree on the corner of Hall Farm Road and Church Street.
- The one remaining access on Church Street would still cause parking on Church Street.
- We were told that Swadlincote residents could use the facilities but have now found that it only applies to over 55s.
- The removal of the paths moves the parking problem to Hall Farm Road which is already full of residents' cars.
- The height of the building on Church Street is constant and does not rise with the land level therefore it must be higher than stated on the plans at the lowest part of Church Street.

## **Development Plan Policies**

The relevant policies are:

East Midlands Regional Plan Policies: 1, 2, 3, 14, 26, 27, 35, 45 and 48.

Saved Local Plan Policies:

Housing Policy 4, Environment Policies 9, 10, 12 and 13, Transport Policies 6 and 7 and Community Policy 1.

## **National Guidance**

Planning Policy Statement 1 : Delivering Sustainable Development

Planning Policy Statement 3 : Housing

Planning Policy Statement 25 : Planning and Flood Risk

Planning Policy Guidance 13 : Transport

Planning Policy Guidance 15 : Planning and the Historic Environment

Planning Policy Guidance 24 : Planning and Noise

## **Planning Considerations**

- Principle of development
- Residential Amenity
- Pre-application consultation
- Design / character
- Trees and Landscaping
- Highways

## **Planning Assessment**

### Principle of development

The site currently provides sheltered housing for the Swadlincote community at both Willoughby House and Granville Court and there was the former Oakland's Care Home also on the site. Old persons bungalows owned by the Council bound the site and the proposed communal facilities would be utilised by these residents. The proposal is residential development that can be classified as a C2 – residential institutions use within 250 metres of Swadlincote town centre and its frontage on Church Street is on a main bus route. The proposal is therefore classed as sustainable development whereby the majority of residents and staff could use a choice means of transport. The proposal is thus compatible with the Government's aims in relation to reduction of travel by the private car by locating development close to main centres. The principle of the proposal is therefore acceptable and accords with National and Local Plan Policies in this respect.

### Pre-Application Consultation

Prior to submission of the planning application and the formal requirements of that process, initial consultation was by letter in July, August and November 2007 to the privately owned bungalows adjacent to the site and residents of Willoughby House, Granville Court, Hall Farm Road, Hall Farm Close and Wideshaft. The letters outlined the concept of new residential accommodation to replace Willoughby House and Granville Court together with a village centre with a shop, lounge and restaurant. The privately owned properties were visited individually in August 2007 and Council residents were invited to look at draft plans in the communal lounge at Willoughby House on the 19<sup>th</sup> December 2007.

Further letters were sent in July and October 2008 to the owner occupied bungalows informing them of progress and the confirmation that additional land would be required for the scheme, which may involve the purchase of their properties should they wish to sell. In the October letter they were invited to a meeting to discuss the scheme and view plans on the 23<sup>rd</sup> November at Granville Court. Letters to Council residents were sent on the 28<sup>th</sup> October 2008 to inform them of progress. On the 6<sup>th</sup> January 2009 invitation letters were sent to all properties likely to be affected by the scheme. Granville Court and Willoughby House residents were invited to a meeting to discuss and view the plans for the scheme on the 15<sup>th</sup> January 2009 at Granville Court at 1pm. Hall Farm Road, Hall Farm Close and Wideshaft Council residents were invited to a meeting at 3pm on the same day. Approximately 200 other letters were sent to other surrounding residential properties inviting them to a meeting between 6 – 8 pm also on the 15<sup>th</sup> January 2009.



The decision about the amount of additional land that was required, which involved the purchase of the privately owned properties, was only made in September 2008. The meetings on the 15<sup>th</sup> January 2009 involved detailed question and answer sessions with the architects and representatives of Trident, Derbyshire County Council and South Derbyshire District Council. A powerpoint presentation was running for residents to view plans and images and detailed plans were pinned up. The notes of this meeting can be found in Appendix 4 of the Design and Access Statement. In summary the questions from residents related to the future occupants in terms of their disability, age and if they would be local people and also the impact on the surrounding area in relation to increased security, Church Street traffic, visual impact on Church Street, overlooking of their properties and questions regarding the proposed communal facilities.

### Residential Amenity

#### Church Street

The nearest properties opposite the site on Church Street are No's 52, 54, 56 and 58. A sectional drawing indicating the existing and proposed relationships for each of these dwellings have been submitted. No's 52, 54 and 58 would be 21 - 22m metres from the proposed apartments and No.56 would be 19.6m away. Whilst this relationship with the lounge window of No.56 and the first floor bedroom window of the proposed apartment is slightly below the space standard for overlooking; the proposed hedge and line of trees along the boundary would provide sufficient screening to mitigate this impact. The existing bungalows on the site are between 17-19m away from these dwellings and are at a higher land level. In relation to No. 52, the land levels of the proposed apartments would be the same, however, the building is 2 and a half storeys and the section indicates that the second floor would be 1.5m higher than the eaves level of this property, therefore overlooking from the additional floor would not be significant. At this point the proposed apartments would have a ridge height above the pavement level of 12.5m. In relation to No's 54 and 56, the apartments would have a 2m higher eaves height than these properties and thus first floor windows would overlook their roofs. The ridge height adjacent to these properties is also 12.5m.

The proposed apartments would have an eaves height 2m higher than that of No. 58 Church Street. There would be a 4.7m difference in ridge heights between this property and the apartments opposite. The difference between the pavement level and the ground floor of the proposed apartments would be 1.67m and the total ridge height adjacent to No. 58 would be 12.8m. The floor to eaves height would be 6.6m.

The submitted shadow survey for the properties opposite the site on Church Street indicates from the north direction there would be some shadow over part of the properties at 8am which has reduced by 9am and has disappeared by 12am. From the southern direction the study indicates that only front gardens would be in shadow and this has reduced by 9am. On the basis of this study, overshadowing of these properties is not considered significant.

No.41 Church Street is a small bungalow with its double garage facing onto to Hall Farm Road. The proposed building would be 14m in height above ground level on the corner of Church Street and Hall Farm Road. This relationship is considered acceptable as the existing property does not have any windows facing the proposed building.

In relation to the existing bungalow No. 31 Church Street, which is to the south of the site adjacent to the footpath on the same side of the road, the communal rooms would

be 14.8m from the footpath boundary and 18 m from the boundary of the rear garden of this property. There is 2 m high fencing enclosing this rear garden. The proposed building would be two storey but would have a higher land level. Existing trees in this area would be retained and a secure garden area is proposed adjacent to the footpath which would have a see through boundary treatment. Boundary treatments shall be controlled by condition. Due to the angle of the apartments in relation to this property no bedrooms would overlook this property. It is considered that due to the distance and the retention of existing mature trees overlooking of this property would not be significant. A generator is proposed 9m from the boundary of this property and the potential noise impact shall be considered in a noise assessment required by condition. Overshadowing would not be significant due to the position of the bungalow in relation to the site.

#### Hall Farm Road

The majority of properties on Hall Farm Road are bungalows, apart from No's 9-25 which are two storey semis. The distances from the proposed apartments range from 20.5m -23m, of which only one is below the guidance figure of 21m. The proposed apartments would be built into the existing slope with some dwellings having a lower ground floor or undercroft parking and higher up the slope only two storey apartments. The part of the building on the corner of Hall Farm Road and Church Street would be 14 m in height above ground level and at the top of the slope adjacent to No's 5 & 7 it would be 9m in height. Therefore opposite these bungalows would be only two floors of apartments and trees are proposed on the frontage to provide screening. Due to the distance and potential screening this relationship is considered acceptable. From No. 13 upwards the distances between existing dwellings and the proposed apartments increase to 25m+ due to the retention of the existing trees and the building curving away from the road.

No's 27-35 are a row of bungalows which would be 21 – 32 metres from the communal restaurant and outdoor seating areas. This is not a direct relationship as the bungalows are at an angle and some landscaped screening is proposed. No's 41 - 55 would be 25 - 55 m from the proposed building and this is also not a direct relationship. These existing bungalows would overlook landscaped seating, barbeque areas and parking which they could use. On the basis that there is sufficient distance between the buildings and the fact that all the tenants of these Council owned bungalows would be able to use these communal facilities these relationships accord with the Council's space standards.

#### Hall Farm Close

These properties are a courtyard of bungalows in the southern highest part of the site. The ground floor level of the proposed apartments in this area would be 10.4m higher than the Church Street road level. Row 1-5 of these existing bungalows would be 23.5 – 30m from the proposed two storey section of apartments. Some tree screening would be retained in this area. No. 18 would be 10m from the bin storage area and service entrance. A condition requiring the bin area to be enclosed shall be attached to any permission. The proposed apartments adjacent to No's 16 -18 would be at an angle with their nearest point 16m away. Screening on this boundary shall be controlled by condition to retain the privacy of these properties. Existing trees in this area would provide screening from the building. Due to the angle and potential for sufficient screening this relationship is considered acceptable.

Land level information in relation to existing properties on Hall Farm Road and Hall Farm Close has not been provided, however, this can be controlled by condition.

### Design / Character

The density, scale, height and massing of the scheme is considered suitable in this location in close proximity to Swadlincote town centre. The massing on Church Street is broken up by breaks in the building and different set backs from the road. It is acknowledged that it would be a dramatic change from the low density bungalows, however, it is considered to create a strong streetscape with a good sense of enclosure with tree planting along the frontage. The proposed development would enhance the area considerably and would be an exemplar scheme for Swadlincote.

The removal of the paths on Church Street is not considered to significantly impact upon the appearance of the apartments in the street as the design and position of the building has not changed. The breaks between the sections of building with glazing and different set backs from the road continue to make the building appear as separate dwellings. Grassed areas with a line of trees adjacent to Church Street are proposed which are compatible with a residential street.

The materials proposed are of a high quality with a mixture of render, brickwork, copper and timber cladding, exposed hardwood truss rafters on side elevations and glazing. The square dormers of differing sizes and projecting windows serve to add interest in the streetscene and the low pitch of the roofs reduce the vertical mass of the building.

The communal areas follow the same design theme however, more glazing is used together with design features such as dry stone wall feature walls, an overhanging roof with visible beams and a wooden canopy and wooden blades on the roof above the entrance.

### Trees and Landscaping

The majority of the existing trees on the site are to be retained and the trees to be removed fall within the categories of moderate or poor quality and are generally in the centre of the site. The cluster of horse chestnuts on Hall Farm Road would be retained as the building curves around them and they would enhance the communal facilities and entrance to the building. The secure garden to the rear of the care home part of the building would be enhanced by the existing mature trees on the south western boundary. Existing trees would help to frame the building and soften the boundaries with existing properties.

The landscaping masterplan is of high quality and is an essential part of the scheme where communal outdoors facilities are paramount to the quality of life of future residents and have been designed specifically for the age and mobility range of these residents. The secure garden would be grassed with curved pathways leading to seating areas and landscape features. Curved pathways feature in all of the landscaped areas surrounding the building. A water feature is proposed to frame the main entrance and they are proposed in the residents' gardens also. Three garden areas and an enclosed area of allotments for residents and visitors to the communal facilities are proposed. The main car parking area is designed to be pedestrian friendly with different paving sections and communal areas adjacent.

## Highways

Further information in terms of the parking requirements of the development and amended plans have been provided to remove the concerns raised by the Highway Authority in relation to the amount and location of the car parking.

Questionnaires were submitted of interviews with the residents of the bungalows No.'s 27 – 55 Hall Farm Road, which establish their car ownership and numbers of visitors they have per week. The majority of these residents do not own a car and have regular (3-4 times of week) visits from health visitors, cleaners and their families, which equates to a 20% car parking requirement. On the basis of this information and consideration that the future residents of the apartments and care home would have similar requirements, highways consider the level of parking to be adequate. The types of mobility of the residents of the extra care apartments can be controlled by condition linked to the percentages of occupants defined under the three levels of care provided by Trident detailed in informative 1.

The parking provision breakdown is as follows:

### Extra Care Housing

The 88 apartments are to be a balanced mix of the three levels of care services provided (29.3 units per level) requiring the following parking provision;

- Level 1 care – Largely independent with minimal support – *1 space per residential unit plus 1 space per 2 units for visitors*. Total = 44 spaces
- Level 2 & 3 care – Moderate to substantial support required - *Residents, visitors and staff -2 spaces plus 1 space per 3 residential units*. Total = 24 spaces

This provides a total of 68 spaces for the Extra Care Housing (77%)

### Care Centre

The 32 bedroom care centre will be provided with the following;

- *Aged persons care home, provision for visitors and staff - 2 spaces plus 1 space per 4 bedrooms*. Total = 10 spaces

### Care Line Facility

6 Full time office staff. Total = 6 spaces

### Additional Staff

12 Management/Catering staff plus provision for 3 visiting professionals. Total = 15 spaces

A condition would also specify which parts of the building fall within the extra care category and the care home category. This is considered sufficient to control the levels of parking on the site and prevent on-street parking. A further condition requiring a Travel Plan for staff to be submitted prior to occupation shall ensure that sustainable means of transport are encouraged.

In relation to the location of the car parking and the potential for on-street parking on Church Street amended plans have removed the pedestrian paths along Church Street and only one pedestrian access is proposed for residents on the corner of Church Street and Hall Farm Road. Highways consider the removal of the paths and proposed line of trees would prevent parking on Church Street and thus removes their objection. The provision of double yellow lines on Church Street is therefore not considered necessary by the Highways Authority. The operation of the proposed building would be such that for security reasons the majority of residents would access the site through the main entrance on Hall Farm Road in the centre of the site and as such this is where

the majority of the parking is located. Residents that wish to walk to the town centre could use the one access on the corner of Church Street and Hall Farm Road.

The County Highways Authority has not raised any concerns with regard the reinstatement of a through route from Hall Farm Road to Vicarage Gardens and has suggested conditions to control its implementation.

The comments of the Derbyshire Police Crime Reduction Design Advisor will be incorporated when the boundary treatment and crime reduction measures conditions are assessed for discharge. The comments in relation to Footpath 114 shall be considered prior to a diversion application being made and an informative to this effect shall be placed on any permission.

## **Conclusion**

The proposal is considered to be an exemplar scheme for Swadlincote and the District. It is accepted that the scheme would have an impact on the appearance of Church Street; however, the design is considered to be such that it would improve this area which is on a main route to the town. Highways issues have been addressed by the amended plans and conditions. The proposed landscaping and retention of existing trees is considered to significantly soften the appearance of the building. The proposed building would be a significant community facility to the benefit of the residents of Swadlincote.

## **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 no's A010A, A100 A, A101 F, A104 F, A105 E, A106 H, A107 F, A108, A203 C, A204 B, A205 A, A206 B, A207 A, A208 A, A209 A, A210 A, A301 A, A302 A, A303 B, A500 A, Landscape Masterplan Rev E, 12743\_Rev3 3 and 01.  
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the buildings have been submitted to and approved in writing by the Local Planning Authority.  
Reason: To safeguard the appearance of the existing building and the locality generally.
4. 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.

5. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.
- B) Prior to occupation of the development (or parts thereof) an independent verification report 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.

6. 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.

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

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

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

8. 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.

9. Prior to the commencement of the development a scheme highlighting details of the likely resultant noise levels from activities during the construction phase at the nearest noise sensitive premises shall be submitted and approved in writing by the Local Planning Authority. The investigation shall address the impact that the activities will have, in terms of noise, on nearby residential properties. The development shall be implemented in accordance with all identified noise control measures and retained thereafter.

Reason: In the interests of the amenity of the nearby residential areas.

10. Prior to the commencement of any site works for the development hereby approved details of all slab levels and any regrading proposed to the site shall be submitted to and approved in writing by the Local Planning Authority and the development shall only be carried out in accordance with those details so approved.

Reason: To ensure that the development does not adversely affect the amenities of adjoining properties and the character or appearance of the area.

11. Prior to the commencement of development a Travel Plan for all the staff shall be submitted and approved in writing by the Local Planning Authority and the development shall be occupied in accordance with the approved Travel Plan.

Reason: To ensure that adequate parking provision is available.

12. Prior to commencement of development a surface and foul water drainage scheme for the site shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system.

13. Prior to commencement of development a lighting scheme for the car parking and communal areas shall be submitted and approved in writing by the Local Planning Authority and the scheme shall be carried out in accordance with the approved details unless otherwise agreed in writing.

Reason: In the interests of the amenity of the nearby residential areas.

14. Prior to commencement of the development a scheme for the control of dust arising from the site during the construction phase shall be submitted and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved scheme.

Reason: In the interests of the amenity of the nearby residential areas.

15. All hard and soft landscape works shall be carried out in accordance with the approved details that shall include methods of construction and surface materials for those car parking spaces in close proximity to existing trees. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.

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

16. Prior the occupation of the any of the extra care apartments a detailed breakdown of the numbers of residents categorised as Level 1, 2 and 3 care (defined in informative 1) shall be submitted and approved in writing by the Local Planning Authority and the occupancy of apartments shall be in accordance with these approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

17. The locations of the residential care home and extra care apartments shall be maintained in accordance with the attached plan unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the parking provision meets the requirements of the development.

18. The development hereby permitted shall only be occupied by persons where at least one member of the household is aged 55 years or over (the qualifying age) save that such restriction shall not apply to the continued occupation of any of the extra care apartments by a surviving spouse, partner or member of the household under the qualifying age after the death of the member of the household who was of the qualifying age.

Reason :To ensure the parking provision meets the requirements of the development.

19. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated February 2009 Ref:JS616-xx/AES/HB, undertaken by Johnson Poole and Bloomer Ltd (JPB) and the following mitigation measures detailed within the FRA:

Section 4.3.6 and 5.4.5 limiting the surface water run-off generated by the 100 year plus 30% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.

Section 6.3.2 and 6.3.9 Provision of a minimum of 40m<sup>2</sup> of bio-retention areas and 425m<sup>3</sup> of surface water rainfall run-off attenuation storage on site to accommodate the difference between the allowable discharge to STW public surface water sewers and the 100 year plus 30% (for climate change) critical rainfall event.

Section 4.3.6 and 6.0 at the detailed design stage, undertake an investigation into the most suitable SUDs method/s to provide the required volume of surface water run-off attenuation storage.

Section 6.8 Surface gradients of the site to be taken into account in the detailed design, including some terracing/re-grading of the site's surface where necessary.



Section 7.1 Provision of a SUDs maintenance manual to facilitate the future operation of the as built on site SUDs systems.

Reason: To prevent flooding by ensuring the satisfactory storage of / disposal of surface water from the site and to reduce the risk of flooding to the proposed development and future occupants.

20. Construction hours shall be restricted to 8am to 6pm Monday to Saturday with no working on Sundays or Bank Holidays.

Reason: In the interests of the amenity of the nearby residential areas.

21. Prior to the commencement of building operations the proposed extension of Vicarage Gardens to provide the alternative access onto Hall Farm Close and the provision of the turning head on Hall Farm Road must be carried out and completed at least to base course level including footways, drainage and lighting in accordance with a detailed scheme (based on submitted CTM drawing 08787-502) first submitted to and approved in writing by the Local Planning Authority, before the required stopping- up of Hall Farm Road can be implemented.

Reason: In the interests of highway safety.

22. Prior to commencement of any building operations replacement parking for the existing bungalows on Hall Farm Road and Hall Farm Close must be provided in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority, also before the stopping-up of Hall Farm Road can be implemented.

Reason: In the interests of highway safety.

23. Prior to commencement of building operations, space shall be provided within the site curtilage for storage of plant and materials, site accommodation, loading and unloading for goods vehicles and parking and manoeuvring for site operatives and visitors vehicles, all laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority and maintained throughout the construction period in accordance with the approved designs.

Reason: In the interests of highway safety.

24. Before the commencement of engineering operations in connection with the development, facilities must be agreed in writing with the Local Planning Authority to prevent the deposition on the public highway of extraneous material from the site, and such facilities must be maintained throughout the construction period.

Reason: In the interests of highway safety.

25. The development shall not be taken into use until all parking spaces and proposed access thereto have been laid out and surfaced in accordance with details first submitted to and approved in writing by the Local Planning Authority and shall be maintained available throughout the life of the development free from any impediment to their designated use.

Reason: In the interests of highway safety.

## Informatives:

The levels of care in condition 15 are defined as:

Level 1 - Residents are largely independent and can manage daily living on their own with minimal support. Customer would not normally require help from social services but might need occasional support, perhaps due to illness. Customers would benefit from living in a secure environment where staff could provide occasional practical help.

Customers would need less than 7 hours of care per week.

Level 2 - Customers meet Social Services definition as needing moderate care. Care needs might include bathing, monitoring of medication, monitoring of diet or orientation. Customers need a maximum of 15 hours of care per week.

Level 3 - Customers meet Social Services definition as needing substantial or greater levels of care. Some customers might need intensive 'round the clock' care. Customers would be eligible for residential accommodation and require more than 15 hours of care per week.

The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include: Collapse of shallow coal mine workings; Collapse of, or risk of entry into, mine entries (shafts and adits); Gas emissions from coal mines including methane and carbon dioxide; Spontaneous combustion or ignition of coal which may lead to underground heatings and production of carbon monoxide; Transmission of gases into adjacent properties from underground sources through ground fractures; Coal mining subsidence; Water emissions from coal mine workings.

Applicants must take account of these hazards which could affect stability, health & safety, or cause adverse environmental impacts during the carrying out their proposals and must seek specialist advice where required. Additional hazards or stability issues may arise from development on or adjacent to restored opencast sites or quarries and former colliery spoil tips. Potential hazards or impacts may not necessarily be confined to the development site, and Applicants must take advice and introduce appropriate measures to address risks both within and beyond the development site. As an example the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas. In coal mining areas there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling alone has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted. Any intrusive activities which intersect, disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. In the interests of public safety the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated.

The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in

order to make an assessment of the risks. This 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 drainage scheme required by condition 11 shall include:

- 1, Limiting the surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) event into the public sewerage system to a rate agreed with Severn Trent Water (STW) (The currently proposed allowable surface water discharge rate is 25l/s).
- 2, Provision of a minimum of 40m<sup>2</sup> of bio-retention areas and 425m<sup>3</sup> of surface water rainfall run-off attenuation storage on site to accommodate the difference between the allowable discharge to STW public surface water sewers and the 100 year plus 30% (for climate change) critical rainfall event.
- 3, Details of how the SUDs scheme/s shall be maintained and managed after completion.

The Environment Agency advise that finished floor levels should be set no lower than 150mm above adjacent proposed finished external ground levels, or adjacent highway levels, whichever is the greater to Ordnance Datum (AOD).

The Environment Agency advise that having reviewed the letter from Applied Geology to Cox Turner Morse re: Hall Farm Road, Swadlincote (dated 26th February 2009) submitted in relation to this Planning Application (9 2009 0180 MA). The information submitted indicates that the only previous development on the site was a care home. This activity is not highlighted in Planning Policy Statement 23 as one which 'may historically have contaminated, or have the potential to contaminate the land they are sited upon' (Annex 2, Table 2.1). In light of this, and the relatively low sensitivity of the site setting to 'Controlled Waters' receptors we do not require a Preliminary Risk Assessment for this development.

However the site owner should be made that they are responsible for any contamination on, in or under land that may be causing unacceptable risks to human health or the wider environment. Consequently if during site development any areas of significant contamination are suspected, then the materials should be sampled, tested and suitable remediation carried out in consultation with the Local Planning Authority.

The proposed development affects Public Rights of Way Footpaths Nos 114 and 133 as described on the Derbyshire Definitive Map. These routes must remain unobstructed at all times during and after construction works, and the safety of the public using these paths must not be prejudiced at any time. The comments of the Derbyshire Police Crime Reduction Design Advisor should be considered prior to any diversion application being made. Advice regarding the temporary and permanent diversion of such routes may be obtained from the Director of Environmental Services Department at County Hall, Matlock.

The Highways Authority advise that prior to the commencement of building operations for the construction of the Care Home the highway closure of the section of Hall Farm Road must be carried out and legally completed by means of legislation under Section 247 of the Town and Country Planning Act, unless otherwise agreed in writing by the Local Planning Authority.

Prior to the submission of details relating to boundary treatment (condition 4) and crime reduction measures (condition 6) the comments of the Derbyshire Police Crime Reduction Design Advisor should be taken into account.

**Item**            **1.5**

**Reg. No.**       **9/2010/0571/FM**

**Applicant:**  
Mr M Walker  
85 Washford Road  
Hilton

**Agent:**  
Mr Michael Congreve  
bi Design Architecture Ltd  
79 High Street  
Repton

**Proposal:**       **THE ERECTION OF A DETACHED DWELLING AT 55  
COMMERCE STREET MELBOURNE DERBY**

**Ward:**           **MELBOURNE**

**Valid Date:**     **17/06/2010**

***Update***

*The application was deferred at the last Committee for a site visit.*

**Reason for committee determination**

The application is referred to Committee at the request of Councillor Harrison.

**Site Description**

The site was formerly part of the garden to 55 Commerce Street, the south-eastern boundary of which is contiguous with the highway boundary in Union Street. No 55 is now in separate ownership.

**Proposal**

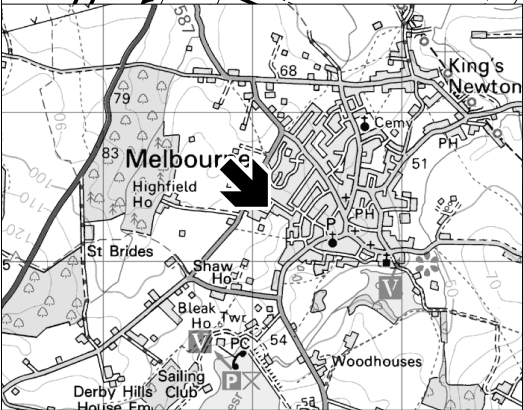
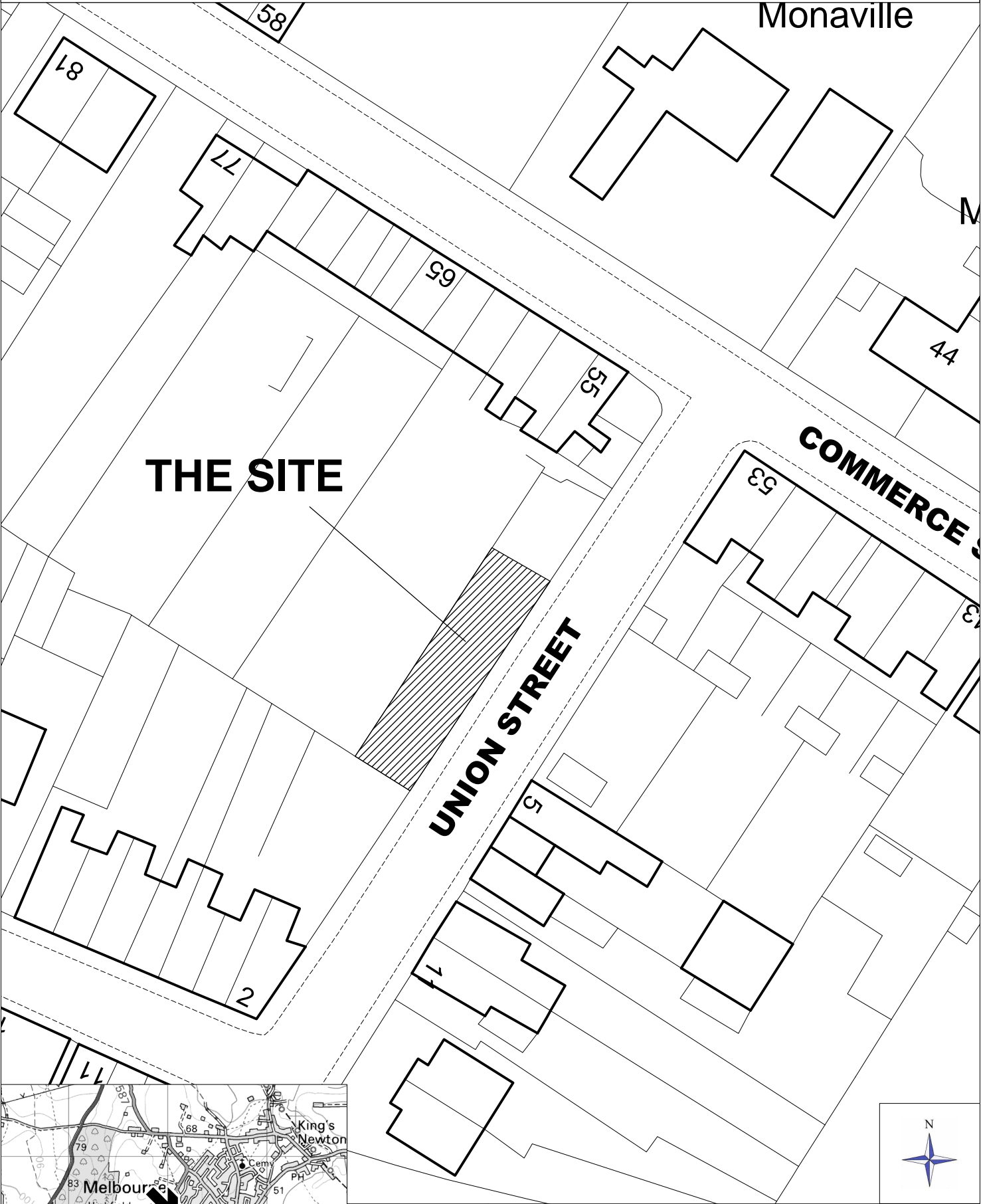
The proposal shares its siting and footprint with the previously permitted application 9/2009/0823. The proposal differs from that scheme insofar as there would be a second storey over the previously approved utility room, to enable a dressing room and en-suite bathroom to be accommodated. There would also be an additional ground floor living room window in the south-west elevation, in lieu of the approved window in the north-west wall, and a small first floor bathroom window in the north-west elevation.

The house would be 5m to the eaves with a ridgeline of 7.2m.

**Planning History**

9/2008/0740 - permitted September 2008.

9/2009/0823 – dwelling (revised scheme) – permitted December 2009



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South Derbyshire District Council. LA 100019461. 2010

## **Responses to Consultations**

The Parish Council objects because the area is already densely populated and there would be a loss of on street parking spaces.

Melbourne Civic Society objects for the following reasons: The previous permissions were deplorable lapses of development control standards. The proposal is far too large for the site, and would severely overshadow and overlook neighbouring gardens. If the plans are approved the Civic Society will have no confidence in the Council's residential planning standards.

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

## **Responses to Publicity**

Four letters have been received objecting as follows:

- The application has to be considered on the basis of all material considerations. The current permission should be given limited weight in the light of new government guidance.
- The site is now greenfield and the government has provided powers to prevent the destructive practice of 'garden grabbing'. The previous applications benefited from the 'brownfield' definition. Now, there is no need to develop this greenfield site.
- The garden makes a valuable contribution to the character and environmental quality of the area.
- The increased mass of the building would have an unacceptable overbearing and dominating effect on the neighbouring garden and outlook from the neighbouring dwelling, and is overdevelopment.
- There would be harmful loss of sunlight and daylight, in particular the neighbouring garden.
- The Design and Access Statement does not adequately address the impact on neighbours.
- The proposal would be out of character with existing street pattern.
- The proposal does not meet the tests of the adopted supplementary planning guidance, by failing to protect the amenities of neighbours, and by unsatisfactory contextual design.
- The site levels have not been taken into account – the house would be half a storey higher than properties in Commerce Street.
- Existing on street parking problems, and access problems for emergency vehicles, would be exacerbated. Accident risk would be increased.

## **National Guidance**

PPS1 PPS3

## **Development Plan Policies**

The relevant policies are:

South Derbyshire Local Plan Housing Policies 5 & 11 and Transport Policy 6.

## **Planning Considerations**

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

- The principle.
- Impact on the general character of the area.
- Residential amenity.
- Highway safety.

## **Planning Assessment**

The site lies within the defined village confine, in an area well served with local facilities. The principle of residential development is thus favoured by Saved Housing Policy 5 of the Local Plan. The earlier permissions did not rely on the previous PPS3 definition of previously used land. There are two extant planning permissions as detailed above, which amount to a substantial material consideration in the light of a similar policy background.

The design and scale of the building and its relationship to the street frontage is in keeping with the predominant grain of the area. The change from the scheme permitted under 9/2009/0823 would have only marginal effect on the character and appearance of the locality.

Whilst there would be impact on the neighbouring garden, that garden is some 35 m in length and the dwelling would be set back relative to the main elevation of the neighbouring dwelling by 15 m. The adopted supplementary planning guidance seeks a minimum distance of 12 metres from an existing main window to a proposed blank (i.e. non habitable room clear-glazed windows) two-storey elevation. The distance of 15 m takes adequate account of the rising ground levels. In all other respects the proposal meets the space standards set out in the guidance. As such the impact on neighbours would be acceptable.

On the advice of the Highway Authority there would be no demonstrable harm to highway safety interests. The proposal would provide its own parking commensurate with its size and it would not be reasonable to withhold permission merely to preserve the use of the public highway for the parking of private cars.

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

## **Recommendation**

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

2. 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.

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

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. Prior to any other works commencing, the new vehicular access shall be formed to Union Street. The access shall be constructed as a splayed vehicular crossover, provided with 2m x 2m x 45° pedestrian indivisibility splays and 2.4m x 33m visibility sightline in the southerly direction and 2.4m x 25m sightline in the northerly direction, the area forward of which shall be cleared and maintained in perpetuity clear of any obstruction exceeding 1m in height (600mm in the case of vegetation) relative to the nearside carriageway edge.

Reason: In the interests of highway safety.

5. Prior to the occupation of the new dwelling hereby permitted, parking facilities shall be provided so as to accommodate two cars within the curtilage of the dwelling, laid out in accordance with the application drawing and paved in a solid bound material. Thereafter, (notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995), two parking spaces, measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of the site free from any impediment to their designated use.

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

6. Prior to the occupation of the new dwelling the access at the southern end of the site shall be permanently stopped-up and the footway reinstated in accordance with a scheme first submitted to and approved by the Local Planning Authority.

Reason: In the interests of highway safety.

7. Notwithstanding the submitted plans, the first floor windows in the north-west and north-east elevations of the building shall be permanently glazed in obscure glass.

Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, there shall be no external alterations, including the insertion of new windows, to the buildings other than as approved under this permission.



Reason: In the interests of preserving the setting of the building and the character of the area.

9. 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.

10. 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.

11. 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.

12. This permission shall relate solely to the plans submitted with the application, unless as otherwise required by condition attached to the permission and unless as may otherwise be agreed in writing with the Local Planning Authority.

Reason: For the avoidance of doubt.

Informatives:

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).

**Item**            **1.6**

**Reg. No.**       **9/2010/0674/NO**

**Applicant:**

Mr Adrian Dawson  
The Hill Lodge  
Deep Dale Lane  
Barrow On Trent  
Derby

**Agent:**

Mr Christopher Thorp  
Chris Thorp Planning Ltd  
20a Hazlewood Road  
Duffield  
Belper

**Proposal:**       **THE FORMATION OF NEW ACCESS AND ENTRANCE  
GATES AT THE HILL LODGE DEEP DALE LANE  
BARROW ON TRENT DERBY**

**Ward:**           **ASTON ON TRENT**

**Valid Date:**     **28/07/2010**

**Reason for committee determination**

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

**Site Description**

The Hill Lodge is located close the Canal Bridge on Deepdale Lane. The property has been extend and altered and there are free standing buildings in the curtilage. At present the means of access to the site is shared with The Hill, from a private drive. The Deepdale Lane boundary consists of a mix of fencing, conifers and a deciduous hedge species.

**Proposal**

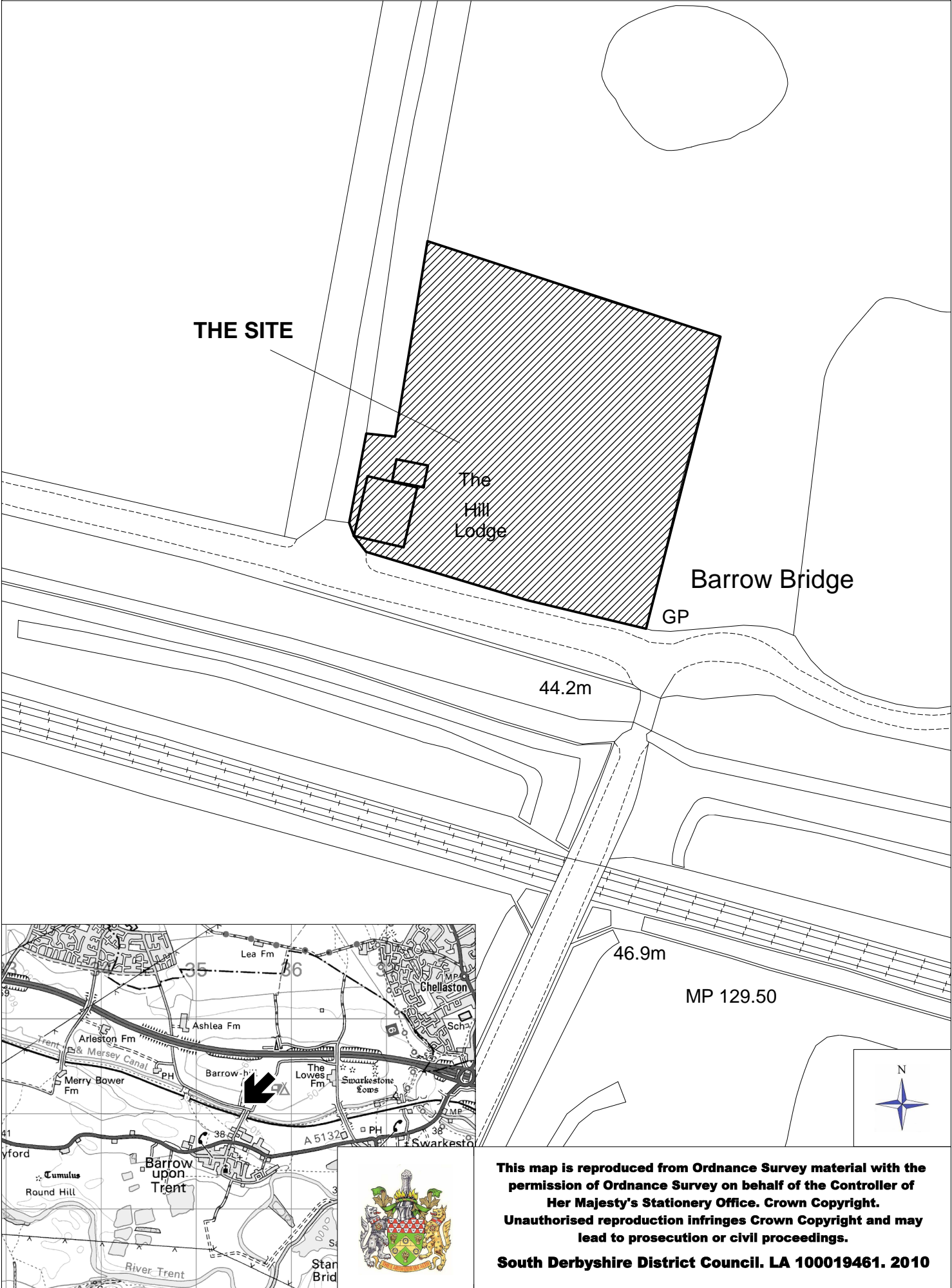
The proposal seeks to form direct access to Deepdale Lane through the boundary hedge. Work has commenced. There is a large tree, a Beech, immediately to the west of the access.

**Applicants' supporting information**

The applicant has supplied an arboricultural survey, which makes recommendations about the method of construction so as to avoid damage to the tree.

**Planning History**

9/0390/1320/F - Stable block. Permitted. Work commenced within five years of the grant of permission.



9/2002/1020/F - Conservatory. Permitted  
 9/2002/1038/F - Two storage sheds (one in the garden and one in the paddock) and revised plan for stables. Permitted  
 9/2002/1211/F - Hardstanding and access - permitted.  
 9/2003/0267/F Erection of feed store and tack shed to be attached to stable. Permission refused on the grounds of visual impact.  
 9/2003/0480/F - Conservatory and garage - permitted.  
 9/2003/1026/U - Change of use and alterations to stables for office use. Refused on the grounds of traffic and the visual impact of the proposed changes.  
 9/2004/0534/FH - The installation of a balcony, and alterations to previously approved shed - permitted.  
 9/2005/0194/F - Animal rearing shed. Refused on the grounds of visual impact.  
 9/2005/0040/F – Garage (revised elevations) - permitted.  
 9/2005/0807/U – Change of use of stable to office and retention of hardstanding - permitted.  
 9/2006/0423/F – Animal rearing shed. Refused on the grounds of visual impact.  
 9/2007/0076/F – Extension to office. Refused on policy, visual impact and sustainability grounds. Appeal dismissed.  
 9/2008/0579/U – Change of use of paddock to garden - permitted  
 9/2008/1059 – Covered structure attached to garage – permitted.

## **Responses to Consultations**

The Parish Council objects for the following reasons:

- The block plan is out of date and does not show extra buildings on the site that are now dwellinghouses, which do not have planning permission and another building is shown as 'proposed annex'.
- The access is close to a hazardous bridge crossing and corner, with poor visibility. Increased usage of the site for dwellings would increase risk.
- The access has been blocked with tarpaulins.
- The drive would be within 20 metres of a watercourse, the canal, contrary to the application form (Comment – this part of the form relates to flood risk. The form refers to a watercourse as river, stream or beck. The access has no flood risk implications).
- The site is already occupied by several dwellings, contrary to the application form.
- The arboricultural statement postdates the felling of existing trees and hedges and does not give a true representation of the original state of the site.
- A site visit should be undertaken.
- This is another retrospective application that makes a mockery of the planning process and prejudices the council's ability to protect the environment from undesirable development.

The Highway Authority has no objection subject to the provision of a visibility sight line in the easterly (bridge) direction.

## **Responses to Publicity**

None.

## **National Guidance**

PPS7

## **Development Plan Policies**

The relevant policies are:

South Derbyshire Local Plan Saved Environment Policy 1.

## **Planning Considerations**

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

- The principle.
- Highway safety.
- Visual impact.
- Trees.

## **Planning Assessment**

Because the access would serve an existing planning unit the principle is in accord with Environment Policy 1.

Subject to the recommendation of the Highway Authority, highway safety interests would not be demonstrably compromised. However the visibility splay in the easterly direction would necessitate the cutting back, or loss, of the remainder of the hedgerow.

The access would be clearly visible. However, subject to control over the materials used for the wall and gates, and subject to landscaping to compensate for the loss of vegetation to form the visibility splay, the visual impact would not be demonstrably harmful.

The arboricultural report demonstrates that the tree could be preserved. Conditions would be needed to ensure implementation of the report's recommendations.

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. Before any further development takes place a scheme of landscaping shall be submitted to and approved by the Local Planning Authority; the scheme 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.

2. 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.

3. Before any further development takes place details and specifications of the foundations of the west wall and the methodology of the driveway construction, which shall follow the principles set out in the submitted arboricultural report, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented strictly in accordance with the approved details and specifications unless as may otherwise be agreed in writing with the local planning authority.

Reason: To ensure that the Beech tree is adequately protected from damage.

4. Before the access is brought into use, visibility splays shall be provided extending from a point 2.4 m from the carriageway edge, measured along the centreline of the access, for a distance of 160m in the westerly direction, and in the easterly direction from a point 2.4m from the carriageway edge measured along the nearside carriageway edge to the junction with Moor Lane, in accordance with a scheme that shall first be submitted to and approved in writing by the local planning authority. The land in advance of the visibility splays shall be maintained throughout the life of the development clear of any object greater than 1 m in height (0.6 m in the case of vegetation) relative to the adjoining nearside carriageway channel.

Reason: In the interests of highway safety.

5. No gates shall be erected within 5m. of the highway boundary and any gates shall open inwards only.

Reason: In the interests of highway safety.

6. No further 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 new walls, including the capping, 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 walls and the locality generally.

Informatives:

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 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.



**Item**            **1.7**

**Reg. No.**       **9/2010/0705/FM**

**Applicant:**

Mr Anser Mahmood  
257 Branston Road  
Burton upon Trent

**Agent:**

Mr Anser Mahmood  
257 Branston Road  
Burton upon Trent

**Proposal:**       **THE RENEWAL OF PLANNING PERMISSION  
9/2005/0266 FOR THE ERECTION OF A DETACHED  
HOUSE AT 485 BURTON ROAD MIDWAY  
SWADLINCOTE**

**Ward:**            **MIDWAY**

**Valid Date:**     **03/08/2010**

**Reason for committee determination**

The application is brought before Committee at the request of Councillor Wilkins because local concern has been raised about a particular issue and there are unusual site circumstances, which should be considered by the Committee.

**Site Description**

This 235 square metre site is located just south east of the main Midway Road and Burton Road junction and is opposite the car park of the former Mason Arms public house. It has a frontage directly onto Burton Road in between 485 Burton Road and the double garage of 493 Burton Road. The site is currently enclosed by 2m high fencing on the south eastern, south western and north western boundary and is open on the Burton Road frontage. The site slopes down to the south western boundary by approximately by 0.5m.

**Proposal**

Planning permission is sought for an extension of time of the full planning permission granted in 2005 which expired on the 5<sup>th</sup> August 2010. This type of permission was bought into force on the 1<sup>st</sup> October 2009 and was introduced *"in order to make it easier for developers and LPAs to keep planning permissions alive for longer during the economic downturn so that they can more quickly be implemented when economic conditions improve"*.

A two storey detached dwelling with an attached single garage was proposed in the 2005 application set back 6m from the road frontage and with a 7m in length rear garden area. The dwelling would have a gable roof, brick arch lintels and with the garage set back 5m from the front of the proposed dwelling. This forms part of the extension of time application as all details have to be identical to the 2005 permission.

**9/2010/0705 - 485 Burton Road, Midway, Swadlincote DE11 7NB**



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**South Derbyshire District Council. LA 100019461. 2010**

## **Applicants' supporting information**

None

## **Planning History**

9/2004/1089 - Outline application (all matters to be reserved) for the erection of a detached two storey dwelling, granted 8/11/04

9/2005/0266 – The erection of a detached house, granted 5/8/05

## **Responses to Consultations**

The County Highways Authority has no objections subject to the previous highway conditions being included in any consent for the current application.

Severn Trent Water has yet to comment on the application.

The Contaminated Land Officer does not have any significant concerns with respect to ground contamination at the site, however the site has been previously developed and is in an area of quarrying and industrial land use. There is potential for unrecorded contamination to exist at the above site, it is therefore recommended that should planning permission be granted a condition requiring that if contamination be found on the site the appropriate phased assessment is carried out.

## **Responses to Publicity**

Three letters of objection have been received from bungalows on Midway Road which raise the following concerns:

- The site has an elevated position and would infringe on the privacy of properties on Midway Road.
- A single storey property would be more appropriate on this site.
- The proposed property would darken the lounge of their bungalow and take away the morning sun.
- The occupiers of the new dwelling would look down onto to their property's garden, kitchen and bedroom windows.
- The proposal would de-value their property.

## **National Guidance**

PPS1 & PPS3

## **Development Plan Policies**

The relevant policies are:

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

## **Planning Considerations**

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

- Principle of development
- Amenity of neighbouring properties
- Highway issues

## **Planning Assessment**

The principle of development has been established on this site by the granting of firstly the outline permission in 2004 and then the full permission in 2005. Local Plan Policies have not changed since these applications were determined. The recent changes to PPS3 in respect of garden areas being removed from the definition of brownfield land and densities for brownfield land removed would not affect this application as the proposal is for only one dwelling on the frontage of Burton Road which is considered to be in character with the street.

The Council's space standards were published in May 2004 and therefore the previous applications were assessed against these standards. However, a summary of the assessment is considered necessary due to the objections. Due to the position of the proposed dwelling in the plot and the fact that the rear elevation would face south west and the rear elevations of bungalows on Midway Road face south east, overlooking is not considered a major concern. To clarify, in taking a 45 degree angle from the middle of the nearest ground and first floor windows of the proposed property to the bungalow on Midway Road within this angle there would be a distance of 24 metres, which exceeds the space standards. Overlooking is therefore not considered to be significant. Finished floor levels would be controlled by condition to ensure that the amenities of neighbouring properties are protected.

Overshadowing of the bungalows on Midway Road would not be significant due to the position of the dwelling in the plot and the fact it is to north east of these bungalows. No. 485 Burton Road would also not be overshadowed as the proposed property is to the north west and this property faces north east.

Amended plans were received as part of the 2005 permission, which provided adequate vehicle manoeuvring space within the site to satisfy the Highways Authority. The Highway Authority has no objections to the application and recommends the same conditions as the 2005 permission.

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

## **Recommendation**

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

2. This permission shall relate to the amended drawing, no 0455/02 D received on 19th July 2005 showing the inclusion of a chimney, increased roof pitch, brick arch lintels, plain brick verges, vertically boarded garage door and vehicle manoeuvring area.

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

3. No development shall commence on site in connection with this approval until samples of materials for the external elevations of the building have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.

Reason: In the interests of the appearance of the building and to safeguard the appearance of the area.

4. The eaves shall be brick and the gutters and downpipes shall have a black finish and be fixed direct to the brickwork. No fascia boards and soffits shall be used.

Reason: In the interests of the appearance of the building and the character of the area.

5. The building shall not be occupied until the chimney has been completed in accordance with the approved drawing.

Reason: In the interests of the appearance of the building and to safeguard the character of the area.

6. Notwithstanding any details submitted, 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 development shall commence on site in connection with this approval until details of the finished floor levels of the building hereby approved and of the ground levels of the site relative to adjoining land levels have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed levels.

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

8. Before any other works are commenced in connection with the development a new vehicular access shall be created to Burton Road in accordance with the

approved plans and laid out and constructed all to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety.

9. The development shall not be occupied until space has been provided within the site curtilage for parking and manoeuvring of vehicles in accordance with the approved drawings, laid out and constructed in a solid bound material (i.e. not loose chippings) all to the satisfaction of the Local Planning Authority and retained thereafter free of any impediment to its designated use.

Reason: In the interests of highway safety

10. 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.

Informatives:

To contact the Area Engineer South, Trent Valley Area, Derbyshire County Council, Director of Environmental Services, County Hall, Matlock, Derbyshire (Tel. 01629 580000 ext 7595) at least six weeks before the commencement date of the proposed works in order to arrange the necessary supervision of works on the highway crossing.

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

**Item**            **1.8**

**Reg. No.**       **9/2010/0721/FM**

**Applicant:**

Mr Glyn Jones  
Sunrise Homes  
4 Trent Lane  
Weston on Trent  
Derby

**Agent:**

Mr Mark Blood  
MAB Building Design  
Manor Farm House  
London Road  
Derby

**Proposal:**       **THE DEMOLITION OF THE EXISTING TWO DWELLINGS  
AND THE ERECTION OF THREE DWELLINGS AT 27-29  
THE CRESCENT REPTON DERBY**

**Ward:**            **REPTON**

**Valid Date:**       **06/08/2010**

**Reason for committee determination**

The application is brought to Committee at the request of Councillor Bladen as unusual site circumstances should be considered by the Committee.

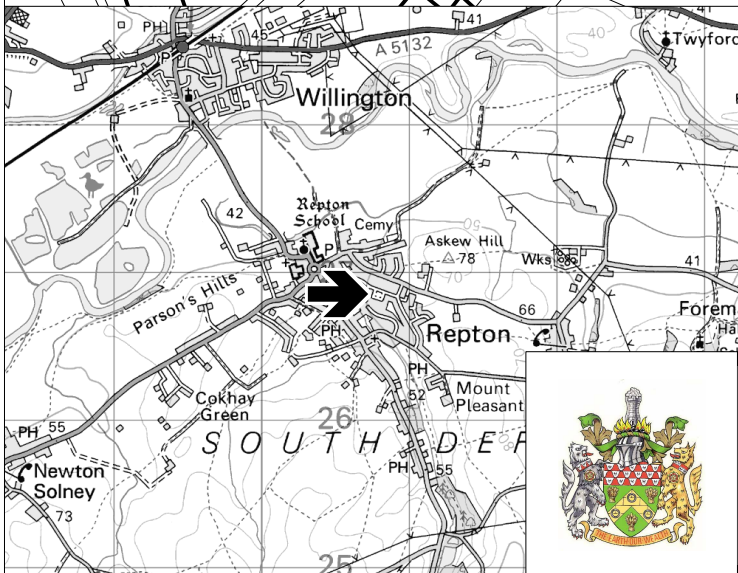
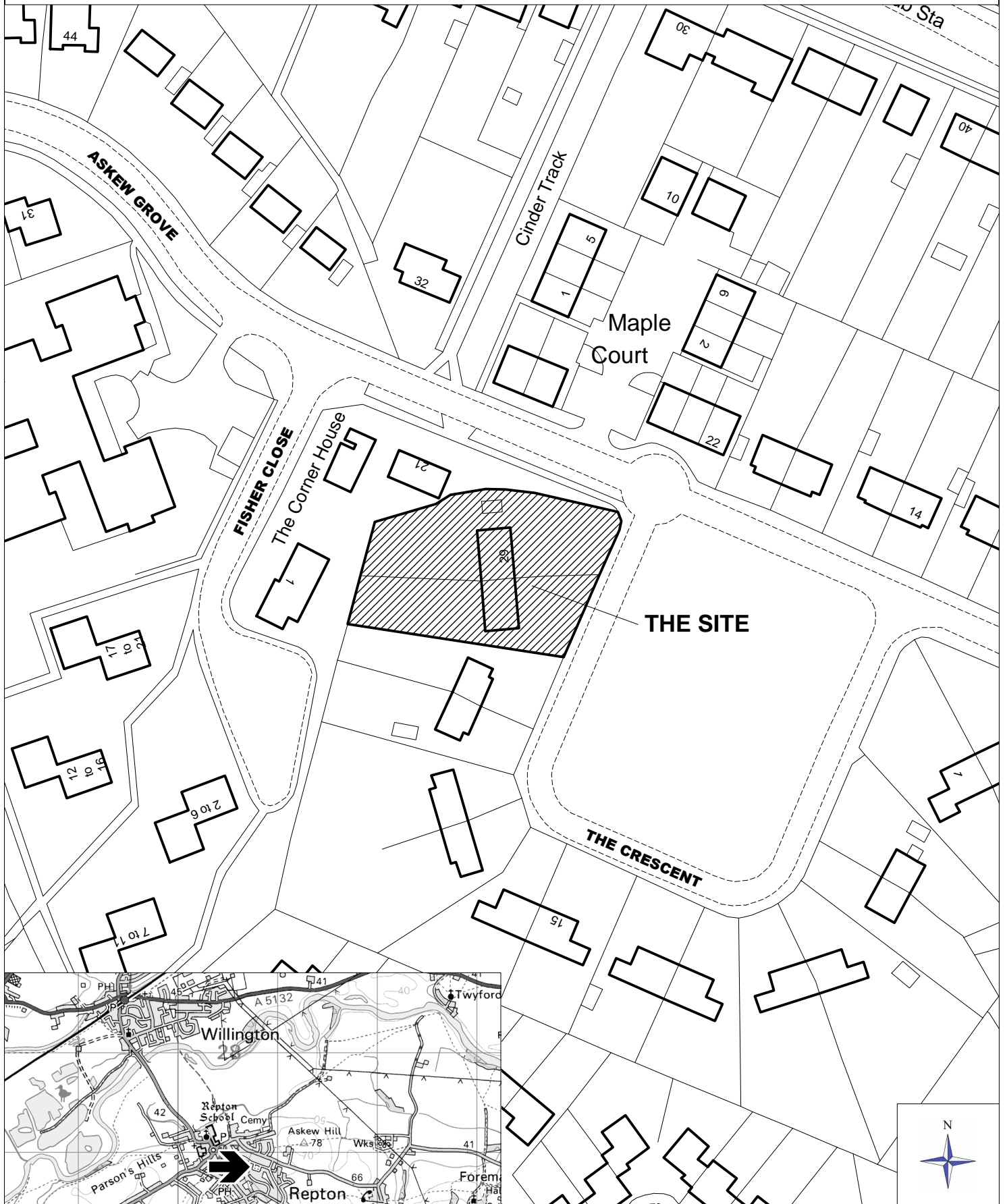
**Site Description**

The application site is located on the corner of Askew Grove and The Crescent within Repton village and is currently occupied by a pair of semi-detached dwellings. The Crescent consists of a central area of grassland enclosed on three sides by semi-detached dwellings consisting of both bungalows and houses accessed at two points from Askew Grove which borders its northern end. The properties are generally evenly spaced with well-defined gaps between each pair of semis and set back a minimum distance of 10m from the road frontage creating a defined building line. The pre-dominant character of both The Crescent and Askew Grove is of semi-detached c1950s pre-fabricated properties identical to that currently on the application site. An area of Askew Grove facing directly onto The Crescent has been subject to recent re-development by the applicant consisting of both terraced and semi-detached properties.

**Proposal**

The application proposes the demolition of the existing two semi-detached dwellings on site and the erection of three 2½-storey 5-bedroom dwellings with rooms over three floors. The dwellings would have integral garages and on-plot parking with vehicular access from The Crescent. Plot 1 would front onto Askew Grove with vehicular access from The Crescent and would reflect the character of the recent development on Askew Grove. Plots 2 and 3 have been designed as handed versions of each other. The properties would be constructed in a mix of brick and render with timber boarding. Front

9/2010/0721 - 27 & 29 The Crescent, Repton DE65 6GL



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**South Derbyshire District Council. LA 100019461. 2010**



boundaries would consist of 1m high wrought iron railings and each property would have a private garden.

### **Applicants' supporting information**

A Design and Access Statement has been submitted in support of the application and includes the following statements:

The site is located within a well-established and a predominantly residential community. The dwellings will comprise conventional ground and first floor accommodation with second floor accommodation being provided in the roof-space with dormer and Velux roof windows.

The development is intended to provide a degree of additional mid-priced housing within this very popular area.

The applicant company has recently undertaken the redevelopment of a number of properties on Askew Grove. The new dwellings proposed differ in scale but a number of the external features, materials and elements have been reproduced to ensure a degree of continuity between Askew Grove and The Crescent and compliment and maintain the approved design details for the redevelopment at 21 The Crescent.

It is inevitable that during these early stages of the redevelopment of The Crescent the visual aspect of the proposed dwellings will convey a conflicting appearance in relation to the existing semi-detached 'Canadian' dwellings.

The primary consideration is that a desirable design precedent is established for any new development in order that a particular style and character can be maintained for all future redevelopment of The Crescent.

The development as proposed adheres strictly to the existing and preferred building line, the height of the buildings will provide a strong sense of enclosure as set out in the authority's Design Brief.

The development is consistent with the prevailing density of other developments in the locality.

Adequate private garden space is retained to serve each dwelling.

### **Planning History**

Application 9/2010/0368 for the demolition of the existing dwellings and the erection of four dwellings is yet to be determined.

### **Responses to Consultations**

The Highway Authority has no objection but recommends that the access to Plot 3 should be handed to maximise pedestrian and vehicle visibility onto The Crescent.

The Contaminated Land Officer has no objection subject to standard contamination conditions.

Housing Services has commented that the Nos 27 and 29 The Crescent are both former Council properties which are subject to a restrictive covenant which restrict the transfer/sale of an ex-Council property to safeguard the interests of surrounding Council properties and that the appropriate authorisation should be obtained for the relaxation of the Restrictive Covenants.

## **Responses to Publicity**

None.

## **National Guidance**

PPS1 & PPS3

## **Development Plan Policies**

The relevant policies are:

Local Plan: Saved Housing Policy 5 & 11, Transport Policy 6

## **Planning Considerations**

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

- Principle of development
- Design and impact on the character and streetscene
- Residential Amenity
- Highway issues

## **Planning Assessment**

### Principle

The site is located within the village boundary and is in an established residential area. Under the prevailing policy residential development is acceptable in principle provided that it is in keeping with the scale and character of the area.

### Design and impact on character and the streetscene

The Crescent has a strong character and form created by the central area of grassland and the enclosure of the semi-detached dwellings surrounding its three sides. Although there are differences in buildings heights, the semi-detached properties are essentially a group of paired structures with a similar footprint. There are defined gaps between the built forms and each has a similar relationship to the road frontage. It is this repetition and sense of enclosure that creates the special character of the group.

It is recognised that the properties on The Crescent may be of a limited lifespan and that individual ownership of the plots will probably lead to redevelopment of individual plots and as such this is a material consideration. The application to re-develop No. 21 The Crescent (9/2009/0568) was approved in September 2009. It was recognised that the consideration of this application was likely to influence how the Local Planning Authority dealt with development of future sites on The Crescent and the importance of how scale, form, massing and materials related to the context of the area. As a result a Design Brief for Askew Grove and The Crescent was produced for the Council by the Design Excellence Officer and approved at Environment and Development Services Committee in March 2010.

The brief outlines key factors which form the design principles for future development of the area as follows:

All new buildings should be set forward on plots and should front the street.  
All new buildings should follow a clear building line as shown in the brief.  
Clear demarcation between public and private space. Front gardens should be enclosed by clearly defined boundary treatments.  
Boundary treatments should be in line, parallel to the building line and of uniform material and style.  
All new buildings should possess a degree of uniformity in height, massing, roof type and pitch, boundary treatments and materials.  
Be spaced to create rhythm (similar massing and distance between each structure);  
Maintain a strong sense of enclosure around The Crescent through use of building heights, the building line is set forward appropriately and continuity of facades.  
Maintain The Crescent as a green functional space.

The current application is the result of a number of pre-application discussions in consultation with the Design Excellence Officer.

The proposed dwellings are set forward on plots with Plots 2 & 3 fronting onto The Crescent and following a clear building line in keeping with the existing properties. Plot 1 fronts onto Askew Grove continuing the streetscene but has windows which maintain an active frontage overlooking The Crescent. Plots 2 & 3 have been designed as handed versions of each other to reflect the character of and maintain the rhythm of the existing semis that are characteristic of The Crescent.

The gable widths and use of front gables as a feature reflect those of the approved dwelling at No. 21. The use of horizontal timber boarding reflects that of the approved dwelling and the existing 'Canadian' style dwellings surrounding The Crescent and along Askew Grove and assists in assimilating the proposed development into the area. Ridge heights would be approximately ½m higher than the adjacent dwellings. The detailed materials would be agreed by condition but a mix of brick, render and timber is proposed with timber framed windows and use of vertical timbers to define the front gables on Plots 2 & 3. The design and appearance of Plot 1 is more akin to the recent development on Askew Grove but reflects the detailing of the proposed dwellings on The Crescent.

The surrounding front boundary treatments are varied in style however a clear demarcation of private space is proposed with wrought iron railings clearly defining the front boundaries with The Crescent. Sufficient private amenity space has been provided for the proposed occupiers.

The design of the development is considered to meet the general design rules set out in the Design Brief and relates architecturally to the approved development at No. 21 setting an acceptable precedent for the rest of The Crescent. The recent residential development on Askew Grove, though not entirely in the same context as The Crescent, presents an example of how a high quality development can make a positive contribution towards the character and appearance of the area that has a strong development pattern.

#### Residential amenity

The proposed dwellings meet the Council's required minimum distances in relation to neighbouring dwellings and there is not considered to be any significant adverse impact on the amenity of the neighbouring properties.

## Highway

The Highway Authority recommends that the access to Plot 3 should be handed to maximise visibility. The access to the existing property, No 27 The Crescent, is in the same position to that proposed to Plot 3. The design of the proposed dwellings on Plots 2 & 3 have been designed to be handed versions of each other to reflect the appearance of the surrounding semi-detached properties. Altering the access would necessitate altering the arrangement of the dwellings such that this symmetry would be upset. In view of the fact that there is an existing access at the point proposed the Highway Authority has advised that they would not pursue an objection if Plot 3 remains as submitted.

## Conclusion

The proposal is considered to be in accordance with the requirements of the Design Brief and planning policy. In view of the unusual and sensitive circumstances of the site it is considered that the proposal represents a positive and sympathetic design solution that would make a positive contribution to the character of the area.

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

## **Recommendation**

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

2. Notwithstanding the submitted details 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.

3. Large scale drawings to a minimum Scale of 1:10 of external joinery, including horizontal and vertical sections, 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 external joinery 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.

4. Windows shall be painted timber in a colour and to a specification which shall have previously been agreed in writing by the Local Planning Authority 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.

5. Gutters and downpipes shall have a black finish.

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

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

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

7. 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.

8. 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.

9. 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.

10. 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.

11. Before any dwellings are occupied, new vehicular accesses shall be created for each property, laid out and constructed in accordance with the application drawings.

Reason: In the interests of highway safety.

12. The entire frontage is to be kept clear of any object greater than 1m in height or 600mm in the case of vegetation, relative to the adjoining carriageway level, from a point set back 2 metres from the edge of the carriageway.

Reason: In the interests of highway safety.

13. Before any of the dwellings are occupied, the existing vehicular accesses to The Crescent within the site curtilage shall be permanently closed and the existing vehicle crossovers reinstated as footway in a manner to be agreed in writing with the Local Planning Authority in consultation with the County Highways Authority.  
Reason: In the interests of highway safety.

14. The dwellings, 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 vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

15. 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.

16. 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.

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.

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).



**Item**            **1.9**

**Reg. No.**       **9/2010/0789/TP**

**Applicant:**

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

**Agent:**

Mr Martin Buckley  
Leisure Services  
South Derbyshire District Council  
Civic Offices  
Civic Way  
Swadlincote  
DE11 0AH

**Proposal:**       **THE FELLING OF TWO PINE TREES AND PRUNING OF  
A LARCH TREE COVERED BY SOUTH DERBYSHIRE  
DISTRICT COUNCIL TREE PRESERVATION ORDER  
NUMBER 132 AT 16 FINCH CRESCENT MICKLEOVER  
DERBY**

**Ward:**            **ETWALL**

**Valid Date:**     **24/08/2010**

**Reason for committee determination**

The trees to which this application relates are on land in the ownership of the Council.

**Site Description**

The trees lie in an area of mainly Scots pine that lies off the access road to Wilson Close to the rear of 16 Finch Crescent. The land is separated from adjoining houses by fences.

**Proposal**

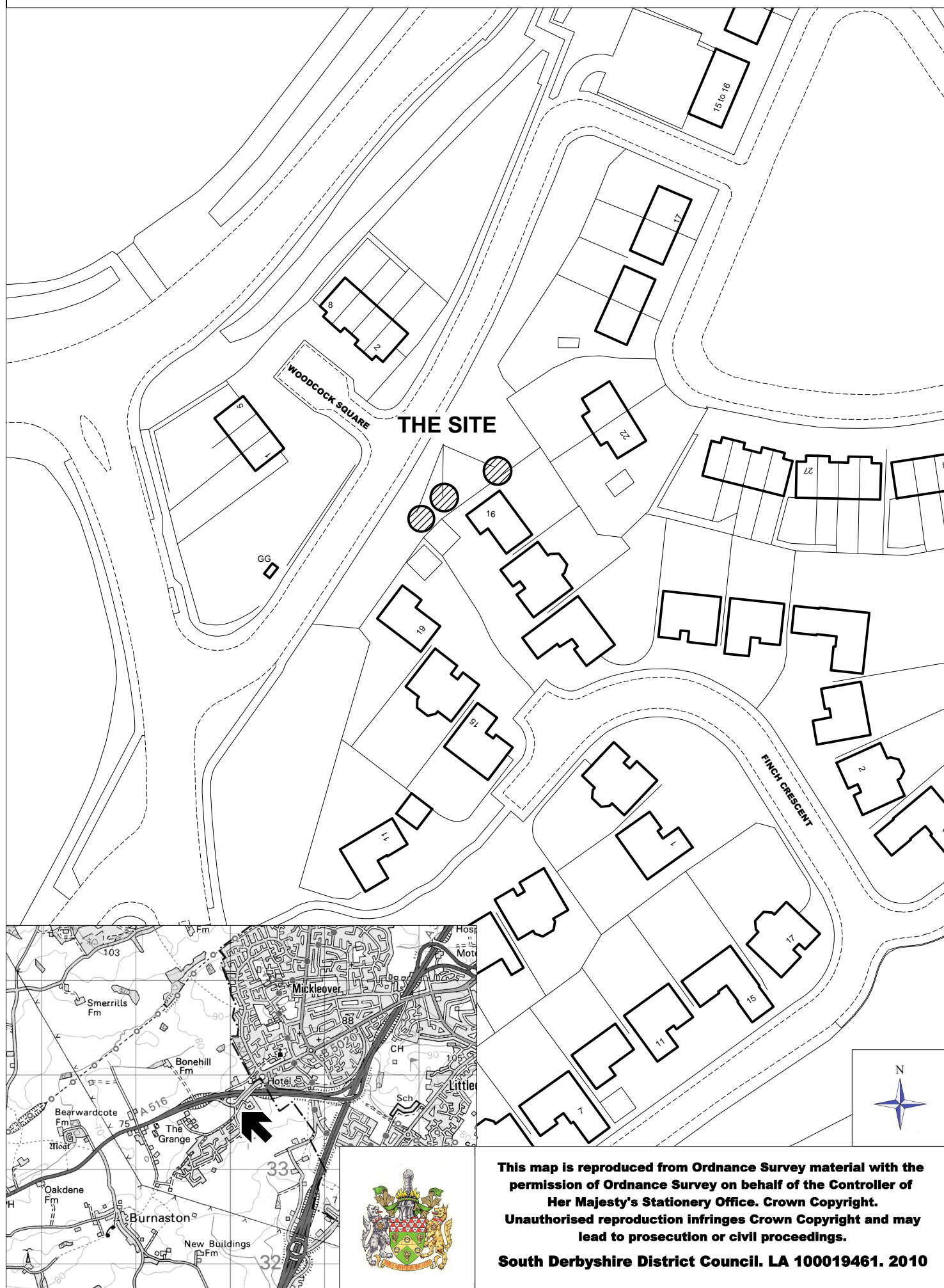
The proposal is as described above.

**Applicants' supporting information**

In support of the application it is stated that the pine trees are becoming top heavy with thin trunks and are thus prone to 'wind-snap'. Given to their proximity to the adjacent dwelling, it is recommended that these particular trees should be removed.

The works to the larch tree would comprise dead wooding and the removal of branches overhanging the boundaries to minimise the risk of branches falling into the adjacent house.

**Planning History**



TPO 132 was imposed when the redevelopment of the former Pastures Hospital was proposed in the 1990's.

### **Responses to Consultations**

Burnaston Parish Council has no objection.

The Council's Tree Consultant supports the proposed works and suggests asking for replacement trees if that is considered necessary.

### **Responses to Publicity**

None received when the report was prepared, any that are received by the 15<sup>th</sup> September will be reported at the meeting.

### **National Guidance**

PPS1 & PPS3

### **Development Plan Policies**

The relevant policies are:

Local Plan: Environment Policy 9

### **National Guidance**

None

### **Planning Considerations**

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

- The need for the works
- The impact of the loss of the trees on the wider area
- Replacement trees

### **Planning Assessment**

The Council's consultant tree specialist has assessed the works and agrees that the removal of the trees is acceptable along with the works to the larch tree.

These trees lie within a much larger group and are at the back of the group when viewed from the highway. The loss of the two pine trees would not affect the overall amenity value of the group that provides part of a well-treed entrance to the development site. The retention of this group through the medium of a TPO was to provide such a setting for the development site and this would not be compromised by the loss of these trees.

Whilst there would be a loss of trees the planting of two new ones would not be of great benefit to the amenity provided by the rest of the stand of trees.

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.

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

<b>Reference</b>	<b>Place</b>	<b>Ward</b>	<b>Result</b>	<b>Cttee/Delegated</b>
9/2007/1470	Willington	Willington/Findern	dismissed	Committee
9/2009/0842	Hartshorne	Hartshorne/Ticknall	dismissed	Committee



# Appeal Decision

Inquiry opened on 21 April 2009  
Site visits made on 12 and 13 May  
2009 and on various other occasions

**by Alan Novitzky B Arch(Hons) MA(RCA)  
PhD RIBA**

**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 August 2010**

**Appeal Ref: APP/F1040/A/08/2081933**

**Land at Etwall Road, junction of A38 and A50, Willington, South  
Derbyshire DE65 6GW (known as Burnaston Cross)**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for part outline and part full planning permission.
- The appeal is made by TNT Post UK Ltd and Burnaston Cross Ltd against South Derbyshire District Council.
- The application Ref 9/2007/1470/MI, is dated 19 December 2007.
- The development proposed is *the provision of up to 114,100 sq m gross external area (GEA) of built floorspace for strategic distribution use falling within Use Class B8, including ancillary Use Class B1(a) offices (not to exceed 10% of GEA). Ancillary car, cycle and lorry parking and loading areas are also provided. Such development will provide for revised ground contours, development platforms, strategic landscape, provision of vehicular as well as pedestrian access and infrastructure for drainage and services. The development will also provide for the potential connection of the site to the national rail network. As a result of this development, appropriate remediation where necessary of those parts of the site previously used for landfill will be undertaken.*  
*The application is submitted in outline with access to be determined. Full planning permission is sought for the provision of the new access and estate road, the remediation scheme, finished ground levels and Phase 1 of the development amounting to 23,496 sq m (GEA) of built accommodation.*

## Decision

1. I dismiss the appeal and refuse planning permission for the proposals set out above.

## Procedural Matters

2. A pre-inquiry meeting was held on 16 February 2009.<sup>1</sup> The Inquiry sat from 21 April to 1 May and from 20 to 23 October 2009. Where drawings refer to matters other than those for which the description of the proposals indicates that full permission is sought, I will regard them as illustrative of one way of carrying out the proposals.
3. An Environmental Statement (ES) was produced with two addenda,<sup>2</sup> dealing with additional matters requested by the Council. Subject to comments within this decision, I am satisfied that the ES, together with its addenda and other

<sup>1</sup> Minutes ID3

<sup>2</sup> CD5.4b, 5.4c, 5.4g and 5.4h

environmental information arising from the Inquiry, meets the requirements of the Environmental Information Act Regulations.

4. Proofs of evidence are included as Inquiry Documents. These are as originally submitted and do not take account of how the evidence may have been affected by questioning or by other aspects of the Inquiry. Opening and closing submissions are also included and have been amended in red to more accurately reflect their delivered content. Typographical errors to Inquiry Documents, where detected, have been corrected in red.

### **Main issues**

5. The main issues are whether the proposals are acceptable in terms of:
  - Landscape and visual impact
  - Effect on the Trent and Mersey Canal Conservation Area
  - Effect on the settings of listed buildings
  - Highways considerations
  - Strategic site selection

### **Reasons**

#### ***Landscape and Visual Impact***

##### *Landscape*

6. The Site falls within Character Area 69: Trent Valley Washlands, in the *Countryside Agency Landscape Character Assessment*,<sup>3</sup> on land rising gently from the Trent and Mersey Canal at Willington towards the Needwood and South Derbyshire Claylands north of the A38/A50 gyratory. The landscape character type within the Washlands is described in *The Landscape Character of Derbyshire* as Lowland Village Farmlands.<sup>4</sup>
7. These documents refer to a nucleated settlement pattern within a very subdued, gently rolling, somewhat fragmented, lowland landscape, intermixed with urban development. They describe much of the character as seriously affected by modern large scale development with large power stations and pylons dominating views across the landscape and modern roads passing through it.
8. The setting of the Site is influenced by the very busy A38 which bounds it to the west, the gyratory and associated development to the north, and the Derby to Stoke railway line to the south. The cooling towers of Willington Power Station are a major feature to the east, and electricity pylons cross the landscape. However, Willington is fairly well contained, the Canal acting as a reasonably effective barrier to the spread of development to the north.
9. The Site, together with land to the south, forms a break between Willington and development associated with the gyratory system, including the Toyota factory and the service area. The topography enhances its effectiveness, the land rising from the settlement to round off north of Hill Farm which lies

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<sup>3</sup> A2.2, Appendix 6

<sup>4</sup> CD3.15, pages 157-164; A2.2, Appendix 7

alongside the Site. Viewed from areas south of the Site little of the development to the north is seen. Therefore, the separation is visually as well as physically effective.

10. The proposed development would consume most of the separating zone, despite the landscaped buffer south of the railway, establishing near continuity of development north of Willington. Although harmful features exist, the landscape character of the area would suffer under the proposals with the erosion of the nucleated character of Willington. The proposals would conflict with one of the primary aims of managing development and landscape change in Lowland Village Farmlands set out in *The Landscape Character of Derbyshire*,<sup>5</sup> of conservation of the settlement pattern.
11. The Environmental Statement (ES) points to landscape receptors likely to be affected by the proposal.<sup>6</sup> Of these, hedgerows as field boundaries, and trees as standards in hedgerows, are ranked as of high sensitivity with medium adverse impact during construction. Some internal and boundary hedgerows, particularly that west of Etwall Road, and four field trees would be lost. However, scope exists for new planting and improvement of diversity in existing hedgerows in mitigation, which I regard as adequate.
12. Lowland agricultural grazing is ranked as of medium sensitivity in the ES, with large adverse impact and no scope for mitigation. The Site was used for gravel extraction but has since been restored to agricultural use and, in accordance with the definition in Planning Policy Statement 3 (PPS3),<sup>7</sup> should no longer be regarded as previously-developed land. The impact on grazing is integral to the nature of the proposals for mainly B8 Use Class development on a greenfield site in the open countryside. A policy presumption exists against such development, especially where it could be accommodated on allocated employment land.

### *Visual*

13. At present, views towards the site from the northern fringes of Willington, including those from Etwall Road Bridge, from the tow path of the Canal, and from Castle Way Bridge, scarcely take in the existing development to the north, except for light spillage from the road system at night. This is largely because of the land form described above,<sup>8</sup> but also the considerable extent of structural landscaping acting as a visual buffer around the Toyota factory. Although some distance away, the proposed buildings, some 18 metres high compared to the 12 metres of the Toyota buildings, and with a much narrower zone of structural landscaping, would introduce a significant new visual impact.
14. The impact would increase moving northwards along Etwall Road. Views from Etwall Road alongside the site, and from Hill Farm, would be dominated by the new buildings, despite the landscape screening proposed. Within the gyratory system and the service area, the visual impact of the proposed buildings would be subsumed by the overwhelming physical presence of the road structure and the uncoordinated clutter of road furniture and undistinguished buildings.

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<sup>5</sup> CD3.15, page 215

<sup>6</sup> CD5.4b, Section 9.5

<sup>7</sup> PPS3, Annex B

<sup>8</sup> Paragraph 8



15. The proposed buildings would have a major visual impact on Danes Lodge and the Bungalow, mitigated to some extent by landscape screening. However, these buildings are already overwhelmed by the presence of roads, and the increase in visual disturbance would be proportionately small. Views from the A38 through a narrow zone of visual screening, would also be harmed.
16. The footpath which runs across the site would require rerouting. The opportunity exists to direct it through perimeter structural landscaping, mitigating the effects on views. However, the impact on the character of views from the footpath would be profound, changing from one of openness to enclosure with foliage and users would be constantly aware of the looming presence of the buildings.
17. Turning to more distant views, long views from the north are not generally available, because of the form of the topography and intervening foliage masking the site. From the east, including the Marina and Stenson Bridge crossing the A50, glimpses might be possible but the impact on views would be slight. From the west, material views are unlikely because of the masking effects of land form and vegetation.
18. Long, panoramic views exist from the elevated sandstone plateau to the south, beyond the River Trent. Viewpoints include those from footpaths at Askew Hill and Bladon Castle, from Newton Lane, and from Winshill housing estate. They look down on the Toyota factory, revealing an area of light coloured roofs, particularly evident in the clear sunny conditions of the site visit, which would be significantly extended by the proposed development. This would be moderately harmful, in my view, and the presence of the power station cooling towers would not make the harm any more acceptable.
19. Despite the Site having no protective designation, the landscape and visual effects of the proposals would be unacceptably harmful overall. There would be conflict with *South Derbyshire Local Plan* (LP) Policy EV1 (Development in the Countryside) and LP Policy E6 (Large Firms) through environmental harm. The proposals would also conflict with *East Midlands Regional Plan* (RSS) Policy 26 (Protecting and Enhancing the Region's Natural and Cultural Heritage).

### ***Trent and Mersey Canal Conservation Area***

20. The Canal, one of the oldest in England, is an important piece of early engineering. Its character varies along its considerable length. Unfortunately, the two bridges in the vicinity of the site, at Etwall Road and Castle Way, are relatively recent, designed to take modern road traffic, displacing the delightful, modestly crafted, arched brick structures associated with early canal architecture. Moreover, the Canal does not exert a strong presence in the vicinity of the site.
21. However, from the tow path, the quiet ribbon of water, bright characterful craft, leisurely activity, and occasional wildlife give rise to a strong ambience. In pace and nature, it comprises a world very different from that of the modern roads, industrial buildings, and housing estates which abut the Canal, despite the noise and disturbance of nearby highway and rail traffic. The *Conservation Area Designation*<sup>9</sup> sets out a zone of visual influence which includes part of the

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<sup>9</sup> CD3.14

site. Moreover, the draft *Character Statement*<sup>10</sup> notes that the character of the Conservation Area takes in views of the wider countryside and settlements both along its length and viewed from its many bridges.

22. The principal views associated with the Conservation Area appear in the *Verified Photomontages*.<sup>11</sup> From Etwall Road Bridge (View 2), the proposed buildings would be glimpsed, especially as the sun catches the light coloured roofs on bright days. Although there is a certain sense of dislocation from the Canal in this view, one has only to glance eastwards to see an active part of the Canal, with broadened tow path and a surrounding pattern of development influenced by the history of the Canal. The consequent effect on the character of the Conservation Area would be materially harmful. A similar but less harmful effect, because the sense of dislocation from the Canal is more complete, would be associated with the view from Castle Way Bridge (View 4).
23. The montage taken between the bridges (View 3) shows a view which would be experienced from well within the ambience of the Conservation Area along some length of the Canal and tow path. It would, therefore, exercise greater influence on the character of the Conservation Area than would the views from the bridges. Despite some screening from foliage, the buildings would be seen, even on sunless days, as extremely large with a very dominant horizontal emphasis. This would be out of character with the remainder of the local setting, displacing an open, informal landscape of relatively small scale agricultural buildings, fields, hedges and trees.
24. Overall, I find the proposals would not preserve, but would have a harmful effect on the character of the Conservation Area, through its influence on views from the Area. They would, therefore, conflict with LP Policy EV12 (Conservation Areas).

### **Listed Buildings**

25. The two relevant buildings are the Green Man public house and Hill Farm, both Grade II listed. The Green Man lies within Willington's built up area, well south of the Canal. Its setting is locally focussed and would not be affected by the proposals.
26. Hill Farm dates from the 18<sup>th</sup> and 19<sup>th</sup> centuries, comprising a three storey main building in red brick with stone dressings and slate roof, set at the south western corner of a complex of lower buildings arranged around a courtyard. The principal elevation of the main building faces south. The complex has been converted to residential use in a manner which preserves its special interest and, when mature, the dense screen planting and the earth banking will protect the setting of the listed building from the service area to the north .
27. The curtilage of Hill Farm abuts Etwall Road, which lies on the eastern boundary of the Site. The broad formal entrance drive runs directly off Etwall Road to arrive, in an axial manner, at the gathering area in front of the main building's principal elevation. It comprises a mature avenue of deciduous trees which were probably present at listing in 1986. In my view, the avenue is an important element of interest in the curtilage of the listed building.

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<sup>10</sup> CD3.11, page 10

<sup>11</sup> A2.4

28. Moving down the avenue towards the road, one can see outwards into an open landscape, the view being channelled by the flanking trees. Just as views from the south-facing principal elevation of the main building are significant in defining the setting of the listed building, so are those from the avenue.
29. The proposals would place a very large building, over 16 metres to its eaves above the road level, and well over 19 metres to its ridge, close to Etwall Road, directly facing the avenue. The effect can be seen in View 1 of the *Verified Photomontages*. A landscape buffer would be installed, with evergreen trees which are anticipated to grow some 8 to 10 metres high, 15 years after planting. However, the visual obstruction caused by the proposed development would have a significantly harmful effect on the setting of the listed building.
30. The proposals would therefore not preserve the setting of the listed building. It would conflict with LP Policy EV13 (Listed or Other Buildings of Architectural or Historic Importance).

### ***Highways Considerations***

31. Circular 02/2007 makes clear that where the overall forecast traffic demand of a proposal on the strategic road network (SRN) throughout the review period does not exceed the operating capacity, developments will normally be allowed to go ahead without the need for improvements to the network. Where extra capacity is needed, improvements may be agreed and will normally be provided at the expense of the developer.
32. Much time has been spent during the Inquiry awaiting the outcome of deliberations between the Appellant and the Highways Agency over the extent of traffic demand arising from the proposals and how it might be mitigated. With adequate preparatory work, this could have been avoided. Provided intensification of highways use does not take place through developments such as the final delivery of mail from the Site to destination addresses, a matter which could be controlled by condition, it is now agreed that the highways impact of the proposals on the SRN could be successfully mitigated. This would be through one of two alternative schemes, broadly involving signalisation and the minor reconfiguration of road geometry.
33. There is, therefore, no obstacle on operational highways grounds to the implementation of the proposals which, accordingly, satisfy LP Policy T6 (New Development). The Highways Agency maintains an objection on policy grounds. They say that the SRN is a precious resource with limited capacity which should not be utilised unnecessarily or taken up by unsustainable or otherwise inappropriate development. They call for an assessment of whether other available sites better satisfy RSS Policy 3 (Distribution of New Development) whilst complying with RSS Policy 21 (Strategic Distribution). This matter is covered below, in the final main issue

### ***Strategic Site Selection***

34. RSS Policy 21 is key to directing the location of sites for strategic distribution. It is written as a forward planning policy but the Council acknowledges, and I agree, that it could also be used for development control purposes. This is because beneficial proposals might otherwise experience unacceptable delay awaiting the outcome of the LDF process. However, the aims of joint working

- and the optimisation of location run throughout the policy and its explanatory paragraphs.
35. They are underlined by RSS Policy 55 (Implementation of the Regional Freight Strategy), one of whose key priorities is the identification of new strategic distribution sites in line with Policy 21. Since the Inquiry opened, the *East Midlands Strategic Site Identification Study – Implementation of RSS Policy 21*,<sup>12</sup> has been launched under the aegis of the East Midlands Development Agency (EMDA) to prioritise sites in accordance with RSS policy within the Three Cities Sub-Area.
36. Relatively few strategic distribution centres will be developed, their impact on the SRN could be profound, and the placing of centres in suboptimal locations would be harmful and inefficient. Consideration of the proposals, therefore, demands as full a comparative assessment as possible, absent the report of the EMDA or a similar study.
37. I consider first whether the proposals meet the criteria of Policy 21 in terms of development control objectives. The proposals lie within the Derby Housing Market Area (HMA), one of the broad locations preferred. The site could provide good rail access, and has good access to the highway network. It is amenable to a suitable configuration which allows large scale high bay warehousing, inter-modal terminal facilities, appropriate railway wagon reception facilities, and parking for goods vehicles. Demand for such facilities exists from the logistics industry, the location allows 24 hour operations, and is not near to sensitive nature conservation sites.
38. However, as explored above, there would be significant environmental impact overall in terms of harm to landscape character, views, and heritage assets. Moreover, unemployment in Willington is very low and access to the Site by sustainable modes of transport is poor. For employees, sustainable access would depend critically on the operation of measures within the s106 Agreement regarding the enhanced use of public transport, and there is no guarantee that these would be satisfactorily taken up.
39. Viewed from a development control perspective, therefore, the proposals conflict to a significant extent with criteria in RSS Policy 21. The proposals also conflict with RSS Policy 3 in that the site is in the open countryside away from the region's five Principal Urban areas (PUAs); the three growth towns; and the Sub-Regional Centres (SRCs) where appropriate development of a lesser scale might be located. The Site's location falls into the fourth category of other settlements and rural areas, but fails to satisfy the attached criteria.
40. PPG13 advises that developments generating substantial freight movements such as distribution and warehousing should be located away from congested central and residential areas. The aim is to avoid highways difficulties and material harm to residential amenity. However, there may well be sites strategically positioned in relation to the SRN, located sustainably on the edge of urban centres with access to a labour market well served by public transport, where these issues do not arise or could be adequately mitigated. At the same time, the harmful impact on the rural environment and heritage

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<sup>12</sup> HA1.3

assets arising from the present proposals could be avoided. This point gives weight to the argument in favour of comparative analysis.

41. In addition, the proposals conflict with LP Policy E2 (Main Locations for New Industrial and Business Development) since the site falls outside the areas identified. They also conflict with LP Policy E6 (Large Firms), because it has not been shown that accommodation on land allocated for employment purposes lacks feasibility, and because the proposals are unacceptable on environmental grounds.
42. Alternative locations are compared in the ES.<sup>13</sup> The study focuses on sites within the South Derbyshire area, as close substitutes for Burnaston Cross, even though RSS Policy 21 applies to a much wider area. The three sites identified, besides Burnaston Cross, are the Hilton Depot, Dove Valley, and Drakelow Power Station.
43. Mr Jackson, the Appellants' commercial surveying witness, presented a survey of a wider range of sites, focussing on the Derby HMA.<sup>14</sup> The East Midlands Distribution Centre (EMDC) is included as potentially suitable, but dismissed as being outside the Derby HMA and the TNT search area.
44. The analyses are flawed for several reasons. The choice of sites and their assessment is based on the particular but undefined requirements of TNT, rather than on general planning criteria, as they would be in an independent study. An example is the TNT requirement for prominence, the lack of which leads in part to both the Hilton Depot and the EMDC sites being dismissed. Prominence would not appear as a general planning requirement both for aesthetic reasons and because it is unlikely that navigation would pose a problem to professional drivers.
45. Moreover, the reasons for limiting the area of search are not explained. It is not at all clear why Mr Jackson's analysis champions Burnaston Cross as the ideal location. He asserts that other sites would incur additional costs of some £1/vehicle/mile distant from the Site, whilst admitting the existence of a fallback site many miles away at Cannock in the West Midlands. In addition, environmental harm to landscape, views, or heritage assets is not assessed.
46. Little emphasis is placed in Mr Jackson's analysis on the conformity of sites with the development plan. For instance, the Hilton Depot and the EMDC comprise allocated employment land, unlike the Burnaston Cross Site which is in the open countryside and has been restored to agricultural use following mineral extraction. The analysis indicates that the labour catchment area of both sites is smaller than that of the Burnaston Cross Site. However, both are adjacent to sizable settlements, and the availability and suitability of labour within the various catchment areas is unclear. Moreover, a rail connection could become a real possibility for both these sites should it be sought, as it has for the Burnaston Cross Site.
47. The presence of residential development in the vicinity of the Hilton Depot, and its possibility near the EMDC site, is regarded in the Appellants' analysis as counting seriously against their suitability. However, the planning implications

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<sup>13</sup> CD5.4b, Chapter 5 and Technical Appendix 11

<sup>14</sup> A3.1 and A3.2

of the two uses are clear, and the configuration of the housing, with measures in place at Hilton and certainly likely at the EMDC site, such as acoustic barriers, protective planting, appropriate orientation, and so on could adequately mitigate harm to residents' living conditions.

48. In my view, the comparisons of alternative sites put forward by the Appellant are inadequate.

### **Overall Conclusions**

49. Overall, the proposals do not accord with the development plan. Although the harmful effects of noise and lighting arising from the proposals could be adequately controlled, the harm identified to landscape, views and heritage assets is sufficient to lead to dismissal of the proposals. The inadequacy of comparisons with other sites adds weight to this conclusion. I have considered the suggested conditions and the s106 Agreement but find that they do not satisfactorily mitigate the critical harm. I dismiss the appeal.

### **Revocation of the RSS**

50. Since the Inquiry closed, the Secretary of State has revoked regional spatial strategies. The parties were consulted on this change and their responses are noted. Revocation of the RSS does not diminish the harm and conflict with the development plan identified in relation to landscape, views and heritage assets. In addition, conflict remains with LP Policies E2 (Main Locations for New Industrial and Business Development) and E6 (Large Firms). Need for the development does not outweigh the harm identified. My overall conclusions remain.

**Alan Novitzky**

Inspector

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY

Mr Hugh Richards of Counsel      Instructed by Marrons Solicitors, 1 Meridian South,  
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He called:

Richard Groves      Planning Policy Officer with the Council  
BA(Hons), MRTPI

Marilyn Hallard DipTP,      Design and Conservation Officer with the Council  
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Peter Wood      Landscape Architect and Arboriculturalist with the  
BSc(Hons), Dip LA,      Council  
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Timothy Richard      Area Planning Officer with the Council  
Denning Dip URP,  
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### FOR THE APPELLANT

Mr Martin Kingston QC      Instructed by Iain Painting, Barton Willmore  
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He called:

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Leslie A Jackson      Commercial Surveying witness  
FRICS

Matthew D Chard      Landscape witness  
BA(Hons), Dip Hons,  
MAUD, MLI

Nigel E Pollard I Eng,      Lighting witness  
FILE, MSLL

Andrew N Brown      Heritage and conservation witness  
BA, B Arch, MSc,  
MRTPI, RIBA, IHBC

Douglas F Sharps      Acoustics witness  
CEng, FIMechE, FIOA

David A Tucker MSc,      Transport witness  
CEng, MICE, MIHT

Henry Maxwell      Railway Engineering witness







# Appeal Decision

Hearing opened on 20 May 2010

Site visit made on 21 July 2010

by **G M Hollington MA, BPhil, MRTPI**

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

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**Decision date:**  
**20 August 2010**

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## Appeal Ref: APP/F1040/A/10/2121925

### Land at Gravel Pit Hill Road, Hartshorne, Swadlincote, Derbyshire

- 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 Andrew Price against the decision of South Derbyshire District Council.
  - The application Ref. 9/2009/0842/NU, dated 8 October 2009, was refused by notice dated 15 December 2009.
  - The development proposed is change of use of land to use as a residential caravan site for four gypsy families, each with two caravans.
  - The Hearing sat for two days, on 20 May and 21 July 2010.
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### Applications for Costs

1. At the Hearing, applications for costs were made by Mr Andrew Price against South Derbyshire District Council and against a group of local residents. These applications are the subject of separate Decisions.

### Decision

2. I dismiss the appeal.

### Procedural Matters

3. At the Hearing, the appellant confirmed that, for details of the site layout, reliance should be placed on the 1:500 plan rather than the "1:2,500" plan. It was on this basis that the local planning authority (LPA) determined the planning application, and I shall do likewise.
4. Measurement on site confirmed that the existing access is not in the position of the proposed access shown on the 1:500 plan and that the "1:2,500" plan is at 1:1,250 scale. My decision is based on the proposed access.

### Main Issues

5. I consider the main issues in this appeal to be:
    - (a) the effect of the proposed development on the character and appearance of the surrounding area;
    - (b) the effect of the proposed development on highway safety;
    - (c) whether the site would be a sustainable location in terms of integration with the local community and access to health, education and other services; and
-

- (d) whether any conflict with policy or other harm would be outweighed by other material considerations, including the appellant's personal and family circumstances.

## **Reasons**

### **(a) Character & Appearance**

6. Circular 01/2006: *Planning for Gypsy and Traveller Caravan Sites* accepts rural settings in principle and the site is not in an area with a nationally recognised designation. It is to be accepted, therefore, that a gypsy caravan site in such a rural area can affect its character and appearance. Locally, Housing Policy 15 of the South Derbyshire Local Plan (adopted May 1998) expects sites to be capable of sympathetic assimilation into their surroundings.
7. The appeal site stands in an elevated and exposed position in countryside which is mostly open, with only a scatter of buildings, although there is an existing gypsy caravan site (Greengates) on adjoining land. Substantial tree planting has taken place in the area, which forms part of the National Forest and is used for recreation by walkers, cyclists and horse-riders, with a picnic area and viewpoint nearby.
8. The proposed development would include, on each of the four pitches, a static caravan or mobile home, a touring caravan and a brick and tile utility building (toilet and laundry room), with a combined access on to Gravel Pit Hill Road. The field is clearly visible in long distance views although, from such places, the caravans and structures would be less easy to see. In near and medium distance views, on the other hand, the caravans and buildings would be seen as an alien and intrusive form of development on the top of the hill, notwithstanding the tree planting which has taken place on the opposite side of the road. Caravans are not forms of development which can be designed to be attractive, and to them would be added parked vehicles and domestic paraphernalia.
9. The proposal would also be seen as an addition to the Greengates site which, despite having a relatively short road frontage, woodland to one side and additional landscaping, is clearly visible from the road and can be seen from the footpath to the south-west. The appeal site has a longer road frontage and I consider it would be difficult for the development to be assimilated into its surroundings. Creation of an adequate visibility splay to the north would exacerbate the harm, even if a new hedge were planted to the rear of the splay.
10. The appellant is willing to undertake tree planting and landscaping, which I accept could help to reduce the visual impact of the development. However, planting with appropriate indigenous species would take some time to mature and become effective, and would be less so in winter when deciduous trees are bare of leaves.
11. I appreciate that planning permission was granted on appeal in respect of the gypsy site on adjoining land, where the Inspector expected landscaping would quickly provide an effective screen, in character with the established landscape. However, ten years later, the landscaping is not wholly effective, even in summer.

12. There is concern about light pollution and, while there are some lights at Greengates, the development would have the potential to increase this in an area which otherwise lacks significant development. However, I consider this matter could be addressed satisfactorily by means of a planning condition.
13. I conclude on this issue is that, although gypsy caravan sites are acceptable in principle in rural settings, in this particularly exposed and sensitive location the proposed development would unacceptably harm the character and appearance of the surrounding area. It would conflict with the aims of Housing Policy 15.

(b) Highway Safety

14. Access to the appeal site would be from Gravel Pit Hill Road, near its junction with Greysich Lane; access to the wider highway network would be via either of these roads but with the greater use likely to be of Gravel Pit Hill Road, leading to Hartshorne village.
15. The highway authority considered that the proposed development could generate up to about 50 additional vehicle movements per day. The appellant's consultant, after discussion with some of the intended occupants and by comparison with the 6-10 movements typically generated per house, estimates the number of additional movements would be less than 30.
16. An allowance needs to be made for the small number of movements which could result from agricultural use of the land but my view is that it should be assumed the net increase would be towards the higher end of the typical residential range, i.e. about 40 movements per day, because of the rural location and the need to rely on private vehicles for transport. The sizes of vehicles kept on the land could be restricted by condition and those used by the appellants are no bigger than Transit sized tippers.
17. The context for this increase is the existing motor vehicle use of Gravel Pit Hill Road in the vicinity of the site, surveyed by the appellant at a neutral time of year as two-way flows of an average of some 132 vehicles per day, Monday-Friday, or 125 per day over the whole week.
18. Circular 01/2006 advises that proposals should not be rejected if they would only give rise to modest additional daily vehicle movements and/or the impact on minor roads would not be significant. I consider the generated movements would be modest in absolute terms but significant in the context of the existing, low use of the road and the highway conditions.
19. In the light of the appellant's evidence, it is not disputed that adequate visibility exists or could be achieved at the site access and at the junctions of Brook Street (the continuation of Gravel Pit Hill Road) and Greysich Lane with Repton Road. To achieve the necessary visibility splay on the north side of the site access (as proposed rather than where it is now) would require the removal of roadside vegetation which would exacerbate the harm to the area's character and appearance.
20. Gravel Pit Hill Road is narrow with informal or formal passing places and with restricted forward visibility in parts. It is steeply inclined near the site and some stretches are poorly surfaced; it lacks lighting, footways and drainage. A sign at the lower end states "unsuitable for motor vehicles" (although there is

no corresponding sign for drivers approaching from the opposite direction). I have no statistics regarding usage other than by motor vehicles, but it is said to be well used recreationally by walkers, cyclists and horse-riders. There have been no recorded personal injury accidents, but local residents and the Parish Council refer to other accidents having taken place.

21. The proposed increase in traffic would be significant in percentage terms, although still not sufficient to lead to undue delays at passing places. Traffic volumes and speeds would be well below those acceptable for designated Quiet Lanes (Department for Transport Circular 02/2006: *The Quiet Lanes and Home Zones (England) Regulations 2006*), but I consider it important to take into account also the poor highway geometry and conditions. The road does not benefit from Quiet Lanes designation and the increased potential for conflict with vulnerable road users, particularly on a narrow and poorly surfaced hill with visibility limitations, would result in harm to highway safety.
22. Within the village of Hartshorne, Brook Street has a footway and lighting but forward visibility is restricted at bends where on-street parking takes place. Traffic priority is unclear for drivers on the minor road at its junction with Repton Street. Nevertheless, I consider that road conditions are not unduly poor for within a built-up area and conflicts with walkers, cyclists and horse-riders would be less likely.
23. Greysich Lane shares many of the characteristics of Gravel Pit Hill Road, but forward visibility and road surface conditions tend to be better and it is less steeply inclined. It would also be likely to be the lesser used route for those driving to/from the appeal site. The impact on this road would not, therefore, be significant.
24. My conclusion on this issue is that, because of the effects on Gravel Pit Hill Road, the proposed development would result in harm to highway safety. It would conflict with the aims of Local Plan Transport Policy 7. In terms of Circular 01/2006, the impact on this minor road would be significant.

(c) Sustainable Location

25. The appeal site is in countryside, outside any settlement. Local Plan Environment Policy 1 generally resists development outside settlements but the criteria of Housing Policy 15 allow for gypsy caravan sites if they are satisfactorily located in relation to other development and are reasonably accessible to community services and facilities.
26. Circular 01/2006 accepts the principle of rural settings and urges realism about the availability of alternatives to the car in accessing local services. However, the circular also indicates that sustainability should be considered in terms of matters such as promoting peaceful and integrated co-existence between the site and the local community, and the benefits of access to health and education services.
27. The circular advises local planning authorities (LPAs) to consider first locations in or near existing settlements, but I see this advice as being more relevant to the planned provision of sites through the local development framework process rather individual planning applications. The appeal site is some 700m from the village of Hartshorne and its position would not assist its residents'

integration with the community of Hartshorne, although some interaction would occur when using local services and facilities.

28. There is also concern that, being adjacent to an existing gypsy caravan site, a separate gypsy community could be seen to be developing. While this would not help to promote integrated co-existence, I have doubts whether a location immediately next to the settled community would necessarily promote peaceful co-existence; the difficulties which may arise in such places were referred to by the Inspector who determined the appeal (Ref. APP/F1040/C/99/1035692) regarding the adjacent land.
29. It is not disputed that the appeal site is around 1.4-1.5km from the nearest bus stops, public house and primary school, nearly 3km from a shop and 4km or more from a doctors' surgery and post office. Because of the location and local road conditions, the appellant accepts that journeys to/from the site would be by motor vehicle. However, given the note of realism urged by the circular, I consider these distances to be quite modest and acceptable for the site's location.
30. The appellant considers having a settled base would make travel for work purposes more economic and efficient, and it would reduce travel between family members. I can understand the benefits for work and social reasons but the appellant acknowledges that not only the appeal site could, in principle, provide these and so I attach limited weight to this benefit.
31. Nevertheless, my overall conclusion on this issue is that the site would be a sustainable location in terms of integration with the local community and access to health, education and other services. It would accord with the aims of Housing Policy 15 and Circular 01/2006.

(d) Other Material Considerations

32. The appeal site would be occupied by the appellant, Mr Andrew Price, and his wife, Norma; Mr Sidney Winson, his expectant wife, Jane, and daughter, Norma Rose (aged under 2 years); Mr Lee Price and his wife, Rosemary; and Mr Hope Price and his wife, Mandy. It is not disputed that the family group are "gypsies and travellers" as defined by Circular 01/2006.
33. The circular acknowledges a national need for gypsy and traveller sites and regional need was addressed in the East Midlands Regional Plan, but this has been revoked, so local authorities are now responsible for determining the right level of site provision. Government advice is that Gypsy and Traveller Accommodation Assessments (GTAA's) will form a good starting point if local authorities decide to review the level of provision.
34. The total provision set out in the Regional Plan (58 new pitches over the five years to 2012) corresponded with the findings of the Derbyshire GTAA (2008). In the south of the county, the GTAA recommended new public sites should be in Amber Valley Borough or Derbyshire Dales District; it commented that private site applications tend to reflect where gypsies and travellers want to live and so these should be considered on their own merits regardless of existing provision in the local authority area.

35. The bi-annual counts published by the Government for January 2008-January 2010 indicated there were some 340-430 gypsy and traveller caravans on unauthorised sites in the East Midlands, of which 8-31 were Derbyshire, with 0-7 in South Derbyshire. My view is that the need for sites is substantial nationally and regionally but less pronounced in Derbyshire and only slight in South Derbyshire.
36. Turning to the supply of sites, there are in the District two socially rented gypsy/traveller sites: Lullington Cross Roads and Woodyard Lane, Church Broughton, which the latest information suggests have respectively two and possibly 14-19 vacant pitches. It seems the latter is because of an impending change in management, so I see these vacancies as meeting needs previously fulfilled by this site.
37. The LPA has 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. Its view now is 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.
38. The LPA estimates that its Core Strategy will be adopted in January 2012, with the Site Allocations development plan document (DPD), which would allocate any needed gypsy and traveller caravan sites, to be adopted in autumn 2013. Although the District Council is willing to work with other local authorities regarding the redistribution of sites, my view is that revocation of the Regional Strategy has introduced uncertainty to the process.
39. I turn now to the personal circumstances of the intended occupiers. There are no school age children but they would wish their children to gain an education. Mrs Norma Price suffers from asthma, for which she has visit doctors or hospitals. Mrs Winson attends hospital in Burton upon Trent, where she hopes to have her baby. It is not known whether any of the occupiers are registered with a GP. The appellant has not sought any alternative site.
40. I can understand the benefits of certainty and a stable location, and Circular 01/2006 refers to the link between the lack of good quality sites for gypsies/travellers and poor health and education. However, it seems to me that the health issues are no different from those experienced by others and, in principle, the benefit of a settled base cannot only be met by the appeal site.
41. Dismissal of the appeal would deprive the appellant and intended occupiers of a settled base for their caravans, from which they carry on their private lives, without any certainty of suitable alternative accommodation being readily available. I recognise that this would represent an interference with their home and family life. However, the harm which would be caused by the development, in terms of its effects upon the interests of public safety and the economic well-being of the country (which encompasses protection of the environment), is considerable. Taking into account all material considerations, I am satisfied that these legitimate aims can only be adequately safeguarded by the refusal of permission.
42. I have considered whether temporary permission would be appropriate: Circular 01/2006 envisages this possibility where there is unmet need and no alternative gypsy and traveller site provision in an area but there is a

reasonable expectation that new sites are likely to become available in the area which will meet that need, e.g. where a LPA is preparing its site allocations DPD. In this instance, I am not confident DPD preparation is sufficiently advanced and will not be affected by revocation of the Regional Strategy.

43. The protection of the public interest cannot therefore be achieved by means which are less interfering of the appellant's rights. They are proportionate and necessary in the circumstances and would not result in a violation of their rights under Article 8 of the European Convention on Human Rights.

#### Conclusion

44. I have come to the views that the proposed development would be harmful to the character and appearance of the surrounding area and to highway safety, but the appeal site would be a sustainable location in respect of integration with the local community and access to services.
45. Development of the site would contribute to meeting national and regional needs for gypsy and traveller caravan sites, but the need in South Derbyshire is slight and the GTAA did not recommend a specific number of new sites for this District. The appellant and other intended occupiers need a site but I consider the benefits of a settled base cannot only be met by the appeal site. With the revocation of the Regional Plan, the allocation by the LPA of any new land for sites is uncertain.
46. 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.
47. I have also taken into account all the other matters raised at the Hearing and in the written representations, but none is of such significance as to outweigh the considerations which have led to my overall conclusion on the main issues.

*G M Hollington*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Mr A Statham	Agent
Mr S Clarke, MRAC, FRICS, FAAV	Sansom Clarke
Mr J Hurlstone, BSc(Hons), MCHIT, CMILT	The Hurlstone Partnership

### FOR THE LOCAL PLANNING AUTHORITY:

Mr B Wolsey, Dip TP, Dip Arch Cons, MRTPI	Bryan Wolsey (Planning) Ltd
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### INTERESTED PERSONS:

Mr P Diffey, BA(Hons), MRTPI (on behalf of Mr & Mrs Hogg)	Peter Diffey & Associates Ltd
Mr H Richards (on behalf of Mr D Hall, Mrs C Oates, Mrs J Routledge-Martin, Mrs J Vickers and Mr K Harvey)	No. 5 Chambers
Mr D Hall	Local resident
Mr M Stanton	Member, Ticknall & Hartshorne Ward, South Derbyshire District Council
Mrs L Brown	Member, Etwall Ward, South Derbyshire District Council
Mrs L Redmond	Local resident
Mr A Jones	Vice-Chairman, Hartshorne Parish Council
Mr G Landsborough	Local resident
Mrs J Routledge-Martin	Local resident
Mr P Smith	Local resident

## DOCUMENTS

- 1 Highways Report, submitted by Mr Hall and a group of residents
- 2 Appeal decision Ref. T/APP/F1040/A/86/53104/P6, submitted by  
Mr & Mrs Hogg
- 3 Letter from Councillors M Stanton and Mrs L Brown  
Submitted by the appellant
- 4 Letter of 5 July 2010 from Mr Clarke
- 5 Hearing Statement on Highway Matters
- 6 Application for an award of costs  
Submitted by the local planning authority
- 7 Bundle of supporting representations
- 8 Appeal documents re: proposed extension of gypsy caravan site,  
Greengates, Gravel Pit Hill
- 9 Exchange of emails between Mr Wolsey, Mr Hurlstone and Mr Fairs
- 10 Letters and attachments from Mr Wolsey dated 9 & 15 July 2010