F B McArdle,
Chief Executive,
South Derbyshire District Council,
Civic Offices, Civic Way,
Swadlincote, Derbyshire DE11 0AH.

www.south-derbys.gov.uk
@SDDC on Twitter

Please ask for Democratic Services
Phone (01283) 595722 / 595848
Typetalk 18001
DX 23912 Swadlincote
democraticservices@south-derbys.gov.uk

Our Ref: DS
Your Ref:

Date: 30 October 2017

Dear Councillor,

Planning Committee

A Meeting of the **Planning Committee** will be held in the **Council Chamber**, Civic Offices, Civic Way, Swadlincote on **Tuesday, 07 November 2017** at **18:00**. You are requested to attend.

Yours faithfully,

Chief Executive

To:- **Conservative Group**
Councillor Roberts (Chairman), Councillor Mrs Brown (Vice-Chairman) and Councillors Mrs Coe, Ford, Mrs Hall, Harrison, Muller, Stanton and Watson

Labour Group
Councillors Dr Pearson, Shepherd, Southerd and Tilley

AGENDA

Open to Public and Press

1	Apologies and to note any substitutes appointed for the Meeting.	
2	To receive the Open Minutes of the following Meeting:	
	Planning Committee 26th September 2017 Open Minutes	**3 - 6**
3	To note any declarations of interest arising from any items on the Agenda	
4	To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.	
5	REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES	**7 - 34**

Exclusion of the Public and Press:

6 The Chairman may therefore move:-

That in accordance with Section 100 (A)(4) of the Local Government Act 1972 (as amended) the press and public be excluded from the remainder of the Meeting as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraph of Part I of the Schedule 12A of the Act indicated in the header to each report on the Agenda.

7 To receive any Exempt questions by Members of the Council pursuant to Council procedure Rule No. 11.

OPEN

PLANNING COMMITTEE

26th September 2017

PRESENT:-

Conservative Group

Councillor Roberts (Chairman), Councillor Mrs Brown (Vice-Chairman) and Councillors Mrs Coe, Coe (substituting for Councillor Watson), Ford, Mrs Hall, Harrison, Hewlett (substituting for Councillor Stanton) and Muller

Labour Group

Councillors Dr Pearson, Shepherd, Southerd and Tilley

In attendance
Councillor Billings (Conservative Group)

PL/57 **APOLOGIES**

Apologies for absence were received from Councillors Stanton and Watson (Conservative Group)

PL/58 **DECLARATIONS OF INTEREST**

Councillor Shepherd declared a personal interest in Item 1.1 by virtue of a family member's property being in the vicinity of the application.

PL/59 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

The Committee was informed that no questions from Members of the Council had been received.

MATTERS DELEGATED TO COMMITTEE

PL/60 **REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES**

The Director of Community and Planning Services submitted reports for consideration and determination by the Committee and presented oral reports to the Meeting to update them as necessary. Consideration was then given thereto and decisions were reached as indicated.

PL/61 **APPROVAL OF RESERVED MATTERS OF APPEARANCE, LANDSCAPING, LAYOUT & SCALE PURSUANT TO PLANNING PERMISSION REF: 9/2015/0768 FOR THE ERECTION OF 252 DWELLINGS**

AND ASSOCIATED WORKS AT LAND AT SK2934 8494, WEST OF LADYBANK ROAD, MICKLEOVER, DERBY

Miss Jennifer Towers (applicant's agent) attended the Meeting and addressed Members on this application.

The Principal Area Planning Officer summarised the content of four further letters of objection, received since the report was compiled and updated Committee regarding a minor change to the development layout, additional conditions for greater visibility at one location and the resultant amended plans.

The Vice-Chairman addressed the Committee as Ward Member for Etwall, referring to representations received from individuals neighbouring the site. These included comments or concerns relating to the buffer zone, building proximity, appropriate tree planting, construction access, hours and traffic, building site signage, dust, dirt and wheel washing provision, crime reduction matters and Section 106 considerations, as well as the potential for resurfacing Swayfield Close once construction had been completed. It was also suggested that given the size and proximity of some properties, permitted development rights be removed in some locations.

Other Members raised comment on the feasibility of the Committee considering repairs to a road outside the District boundary, the treatment and future maintenance of the various buffer zones, maintenance of the Sustran cycle routes running alongside the site and, if later implemented, of the bus gates / bollards.

All matters were addressed by the Principal Area Planning Officer, who also reported that no responses had been received from Derby City Council.

RESOLVED:-

That planning permission be granted as recommended in the report of the Director of Community & Planning Services, subject to further conditions: removing permitted development rights and obscure glazing for side windows of dwellings on western boundary; resurfacing of Swayfield Close post development subject to Derby City Council approval.

Abstention: Councillor Shepherd.

PL/62 **RETROSPECTIVE APPLICATION TO VARY CONDITION 15 OF PLANNING PERMISSION REF: 9/2012/0505 TO READ: THE STORE HEREBY PERMITTED SHALL NOT BE OPEN TO THE PUBLIC OUTSIDE THE FOLLOWING TIMES: 08.00 TO 22.00 MONDAY TO SATURDAY AND 10.00 TO 17.00 ON SUNDAYS; AND NO DELIVERIES TAKEN AT OR DESPATCHED FROM THE SITE OUTSIDE THE FOLLOWING TIMES: 07:00 - 19.00 MONDAY TO SATURDAY. 09.00 - 17.00 SUNDAY ALDI FOOD STORE LTD, HUNTSPILL ROAD, HILTON, DERBY**

Councillor Billings addressed the Committee as Ward Member for Hilton, expressing concerns regarding outstanding conditions, requesting the matter be deferred for a site visit.

The registered speaker opted to return when the matter was rescheduled.

RESOLVED:-

That the application be deferred to allow for a site visit to be conducted.

Councillor Billings left the Meeting at 6.35pm.

PL/63 **THE ERECTION OF AN EXTENSION AT 721 BURTON ROAD MIDWAY SWADLINCOTE**

Mr David Bell (objector) attended the Meeting and addressed Members on this application.

Councillor Mrs Hall, speaking on behalf of Councillor Stanton who was unable to attend the Meeting, related his comments regarding the proximity of the two properties and the varying brickwork colours. The Principal Area Planning Officer commented that the application included a re-design to 12metres and that a condition required sight of sample bricks prior to commencement.

Other Members raised comments and concerns regarding sensitivity to materials and distances, the apparent inability to replace fence panels due to the overhanging transgressions, boundary matters, the legal versus moral position and the potential for civil action in such matters.

RESOLVED:-

That planning permission be granted as recommended in the report of the Director of Community & Planning Services, with the addition of the issue of an informative advising of trespass and the Party Walls etc Act 1996.

PL/64 **THE DEMOLITION OF A DETACHED OUTBUILDING, ALTERATIONS AND REPAIR WORK TO MAIN HOUSE TO INCLUDE AN EXTENSION TO THE SIDE AND TO THE REAR AND THE CONVERSION OF THE REAR ATTACHED OUTBUILDING TO EXTEND LIVING ACCOMMODATION AT 46 HIGH STREET, MELBOURNE, DERBY**

Councillor Harrison addressed the Committee as Ward Member for Melbourne, stating that as with the Melbourne Civic Society, he had no objection to the application. Councillor Hewlett, the other Ward Member for Melbourne, also concurred, stating that on balance, he was in favour as it improved the location.

RESOLVED:-

That planning permission be granted as recommended in the report of the Director of Community & Planning Services.

PL/65 **PLANNING AND OTHER APPEALS**

The Committee noted the planning appeal decisions in relation to the following applications:

9/2016/0470	Sutton Road, Church Broughton, DE65 5DB
9/2016/1132	Main Street, Repton, DE65 6FB
9/2017/0202	Rosliston Road South, Drakelow, DE15 9UD
9/2017/0389	Lullington Road, Overseal, DE12 6NG

The Planning Services Manager referred to the Church Broughton appeal, stating that the Inspector had not found against the provision of additional pitches, but against the size of the amenity blocks, so a revised application was anticipated, given that a five year gypsy / traveller site provision is not in place.

PL/66 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

***RESOLVED*:-**

That, in accordance with Section 100(A)(4) of the Local Government Act 1972 (as amended), the press and public be excluded from the remainder of the Meeting as it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.

EXEMPT QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE No 11.

The Committee was informed that no questions had been received.

The meeting terminated at 7.00pm.

COUNCILLOR A ROBERTS

CHAIRMAN

REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES

SECTION 1: Planning Applications
SECTION 2: Appeals

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

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1. PLANNING APPLICATIONS

This section also includes reports on applications for: approvals of reserved matters, listed building consent, work to trees in tree preservation orders and conservation areas, conservation area consent, hedgerows work, advertisement consent, notices for permitted development under the General Permitted Development Order 2015 (as amended) responses to County Matters and strategic submissions to the Secretary of State.

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 Director of Community and Planning Services' report or offered in explanation at the Committee meeting require further clarification by a demonstration of condition of site.

2. Further issues of principle, other than those specified in the report of the Director of Community and Planning Services, arise from a Member's personal knowledge of circumstances on the ground that lead to the need for clarification that may be achieved by a site visit.

3. Implications that may be demonstrated on site arise for consistency of decision making in other similar cases.

Item **1.1**

Ref. No. **9/2017/0343/FM**

Applicant:
Mrs Teresa Hawkins
21 Clayton Gardens
Hatton
DE65 5EB

Agent:
Mrs Teresa Hawkins
21 Clayton Gardens
Hatton
Derbyshire
DE65 5EB

Proposal: **THE ERECTION OF A DETACHED BUNGALOW WITH ACCESS AND PARKING AT LAND TO THE REAR OF 64 FABIS CLOSE SWADLINCOTE**

Ward: **Swadlincote**

Valid Date: **21/07/2017**

Reason for committee determination

The item is presented to Committee has been called to Planning Committee by Councillor Neil Tilley with regard to local concern that has been expressed about a particular issue.

Site Description

The site is located within the Swadlincote Urban area within an established residential estate, characterised by semi-detached and detached dwellings. The site is located to the rear of an existing detached dwelling with an existing driveway and garage to the side, and is abutted to the rear by a public footpath.

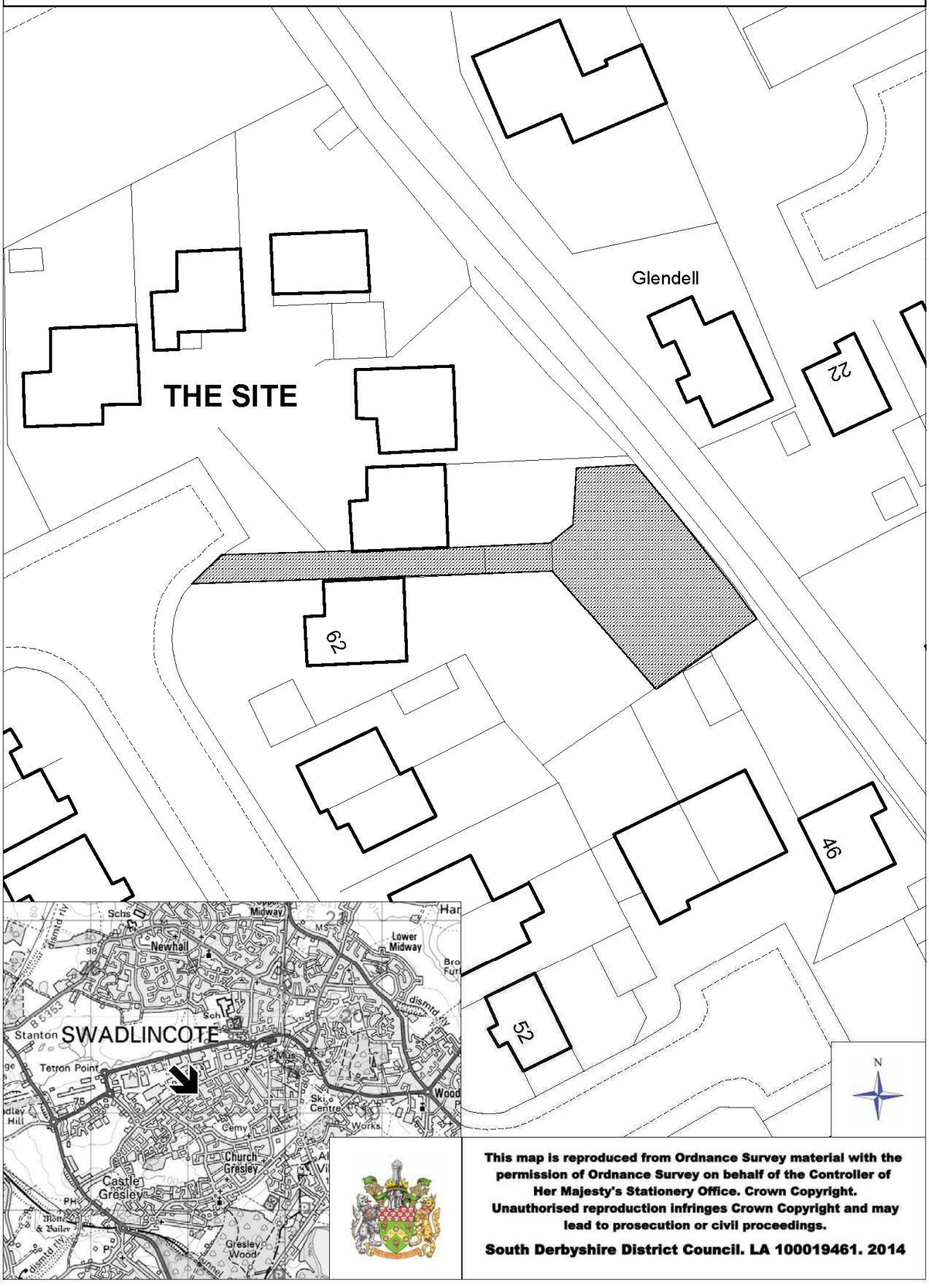
Proposal

It is proposed to demolish the garage and erect a single storey detached bungalow with associated parking at the rear of the existing dwelling. The existing driveway to the side would provide to access. Two replacement parking spaces to the front would be provided for the existing dwelling.

Applicant's supporting information

A Coal Mining Risk Assessment identifies that there is some residual risk from mining legacy features. However, subject to the undertaking of site investigations and any potential necessary remedial measures, it is considered that the site can be made safe and stable for future development and the risk to ground stability reduced. The recorded coal mining legacy issues present within the site do not pose any particular implications for the layout of the proposed residential development.

9/2017/0343 - Land to the rear of 64 Fabis Close, Swadlincote DE11 9SN



Planning History

There is no relevant planning history.

Responses to Consultations

The Environmental Health Officer has raised no objections.

The County Highways Authority raises no objection subject to conditions to achieve suitable access and parking arrangements for both properties.

The Coal Authority has no objection subject to a condition that a site investigation is carried out prior to works commencing on site, and that any remedial works identified within the report are satisfactorily implemented.

The County Flood Risk Team has raised no objections.

Responses to Publicity

3 objections have been received, raising the following concerns/points:

a) All existing properties are joined by garden to garden which gives occupiers the maximum level of light and privacy. Concerns that residents shall be overlooked;
b) The proposed bungalow would be the same height as a gravel board and would be higher than the neighbouring gardens. This would cause the bungalow to be a dominant feature in the surrounding area;
c) The property will have a gap of 2m to the rear of neighbouring properties and it is a concern that the proposed dwelling will overshadow the rear aspect of existing properties. The proposed ground level would be 2ft higher than neighbouring properties;
d) If the dwelling could not be moved further away from neighbouring properties, it would be sensible for the ground to be excavated to be level with the neighbouring properties. This would reduce the risk of subsidence.
e) There is excessive parking to the front;
f) This would not be in-keeping with the layout of the estate and number 64 will have very little garden left;
g) The proposed assess drive is the width of a family car and in some cases. Most family size cars would not fit through it. Whilst there is a garage there, there are no instances of the garage being accessed by cars;
h) The size of the access could result in damage to neighbouring properties;
i) Number 64 currently has three cars parked at the property and the application only accommodates two car parking spaces. This will increase the risk of on road parking;
j) This would be garden grabbing and there would be at least sixteen other properties in the immediate area that could do this;
k) There are many elderly people who live in the area who enjoy their gardens. The proposed bungalow would completely overshadow these properties;
l) This is very distressing and should be considered in the decision;

m) The proposed bungalow would not be in-keeping with the surrounding area given that the cul-de-sac consists of detached properties;
n) The garage forms a boundary wall; this would need to be re-instated;
o) There is a side door to number 64 which opens directly out onto the driveway to the new property;
p) There are concerns relating to the capacity of the existing foul drainage system and drainage to new properties;
q) Neighbouring gardens have mature, established trees and there are concerns that the proposal would compromise their roots;
r) Both properties currently enjoy a large garden; this could lead to excessive noise; and
s) Concerns relating to subsidence due to unrecorded shallow depth mining and how this could affect the property.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality) , SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), INF2 (Sustainable Transport)
- 1998 Local Plan (saved policies): EV9 (Protection of Trees and Woodland).

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 2: SDT1 (Settlement Boundaries and Development) and BNE7 (Trees, Woodland and Hedgerows).

Note: the adoption of the Local Plan Part 2 is being considered at Full Council following the writing of this report, but before the Planning Committee meeting takes place. Members will be updated on the policy context at the meeting.

National Guidance

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

Local Guidance

- Housing Design and Layout SPG

Planning Considerations

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

- Principle of the proposed dwelling;
- Impact on visual and neighbouring amenity; and

- Highways issues;

Planning Assessment

Principle of the proposed dwelling

Policy H1 of the Local Plan Part 1 stipulates that development of all sizes would be suitable within the urban areas of the district. The site is located within the Swadlincote Urban Area and therefore the principle of the development is considered acceptable. Whilst the NPPF indicates that local planning authorities should consider setting policies to control the use of gardens for development of housing, there are no relevant policies in the Development Plan and each case is instead assessed on its merits with respect to the impacts arising from the development.

Impact on visual and neighbour amenity

Policy BNE1 stipulates that development should be visually attractive and should not have a harmful effect on the amenity of nearby existing occupiers. Policy SD1 seeks to achieve the same in amenity terms. The proposed dwelling would not be visible from Fabis Close and only the hipped roof to the rear and side would be visible from the public footpath that runs to the rear of the site. Indeed, a building of broadly similar scale could be achieved under permitted development rights. With this in mind, there would be very little visual impact and the proposed works would comply with policy BNE1 of the Local Plan Part 1.

As the proposed dwelling would be single storey, overlooking and shading impacts should be assessed on their merits in line with the Council's SPG. It would be possible to restrict any overlooking from the proposed ground floor windows to neighbouring properties by way of suitable boundary treatments. Existing first floor windows on number 48 Fabis Close look down onto the site and towards the proposed kitchen window. However, the proximity of the boundary fence to this window would all but prevent intervisibility between the two. On this basis, the proposal would pose no overlooking issue that could not be addressed through the use of suitable conditions and hence comply with the policies BNE1 and SD1 of the Local Plan Part 1, and the SPG.

Concerns have been raised by local residents with regard to the proximity of the dwelling to the boundary of neighbouring properties. The height of the proposed dwelling would be 4.2m and 2.5m at the eaves. The roof is also hipped to all sides and would further help to reduce the impact of the building when it is experienced at the boundaries to the site. As noted, the proposed building is only marginally higher than what could be constructed under permitted development for a new outbuilding and hence it would be difficult to withhold permission on grounds of overbearance.

Consideration is also given to the use of the access by vehicles to reach the dwelling, with this route in close proximity to the side gable of the existing dwelling and number 62. However, there are no habitable windows to each of these side gables and the existing arrangement allows for vehicular movement commensurate with the use of a single dwelling. This would be no different under these proposals.

With no objection from the Environmental Health Officer, it is considered the noise and disturbance impacts would be broadly comparable with that existing and thus compliant with policy SD1.

Highways issues

Policy INF2 supports the creation of safe and convenient access to serve development. Whilst there have been no objections raised by the County Highway Authority, concerns have been raised by residents regarding the narrowness of the proposed access and driveway. The proposed access is an existing access and serves a garage to the side of the existing property which would be demolished in order to accommodate the proposed development. On the basis of this, the access could be used at any time without requiring planning permission to access the rear of the property and it would not be likely that planning permission could be withheld on highways grounds.

There are two spaces proposed to accommodate parking for the existing dwelling, with this partly provided already – provided for under permitted development allowances. Concerns have been raised that the proposal would lead to more on-street parking, but the size of the existing property only warrants the provision of two spaces having regard to the SPG. The proposed dwelling would also be served by two spaces. Overall, the provision would be suitable.

Other matters

Concerns have been raised in respect of possible subsidence and previous mining activity at the site. The Coal Mining Risk Assessment has been assessed by the Coal Authority and deemed to be satisfactory, with suitable remedial measures possible if required as a response to further investigatory works. Therefore, subject to the imposition of a condition, the proposal satisfies policy SD4.

Conclusion

On the basis of the above assessment, it is considered that the proposed dwelling would be suitable in principle and not bring about unacceptable impacts on the local environs.

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. The development hereby permitted shall be carried out in accordance with the Site Location Plan received on 9th October 2017 and plan/drawing 0741.1, received on 28th March 2017; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

   Reason: For the avoidance of doubt and in the interests of sustainable development.

3. No development shall commence until an adequate scheme of intrusive site investigation work has been undertaken and submitted and approved in writing by the Local Planning Authority. The submission shall include a scheme of intrusive site investigations; a report of the findings arising from these investigations; a scheme of proposed remedial works (if required); and a plan for the implementation of the remedial works (if required). Where required, the remedial works shall be implemented in accordance with the approved details and shall incorporate any measures shown in that assessment to be necessary for the stability of the development.

   Reason: To protect the site and immediate area from the effects of ground instability, recognising that initial preparatory works could bring about unacceptable impacts.

4. Before the construction of the dwellinghouse commences, a new vehicular access shall be formed to Fabis Close, located, designed, laid out and constructed, all as first submitted to and approved in writing by the Local Planning Authority.

   Reason: In the interest of highway safety, noting that sufficient access and parking provision is required throughout all stages of the development.

5. Prior to the construction of the proposed dwellinghouse, the replacement parking for the existing dwelling shall be provided to the frontage of 64 Fabris Close in accordance with drawings and details first submitted to and approved in writing by the Local Planning Authority, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

   Reason: In the interest of highway safety, recognising that initial preparatory works would lead to the loss of available parking for the existing dwelling.

6. Prior to the construction of the dwellinghouse, the entire site frontage shall be cleared, and maintained thereafter clear, of any obstruction exceeding 1m in height (600mm for vegetation) relative to the road level for a distance of 2m into the site from the rear edge of the highway boundary (footway/margin) in order to maximise the visibility available to drivers emerging onto the highway.

   Reason: In the interest of highway safety.

7. Prior to their incorporation into the dwelling hereby approved, 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 shall be submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

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

   Reason: In the interest of highway safety.

9. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; the dwellinghouse shall not be occupied 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 treatments shall be completed in accordance with the approved details before the dwelling is first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

   Reason: In the interests of the appearance of the area and amenities of adjoining properties.

10. There shall be no gates or other barriers within 5m of the nearside highway boundary and any gates shall open inwards only.

    Reason: In the interest of highway safety.

Informatives:

1. Where development is proposed over areas of coal and past coal workings at shallow depth. The Coal Authority is of the opinion that applicants should consider wherever possible removing the remnant shallow coal. This will enable the land to be stablised and treated by a more sustainable method; rather than by attempting to grout fill any voids and consequently unnecessarily sterilising the nation's asset.
   Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes reqire the prior written permission of The Coal Authority, since such activities can have serious publc health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from the Coal Authority's website at: www.coal.gov.uk/services/permissions/index.cfm.

Item 1.2

Ref. No. 9/2017/1013/TP

Applicant:
Mr Martin Buckley
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Agent:
Mr Martin Buckley
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Proposal: **THE PRUNING AND FELLING OF A TREES (AS IDENITIFIED AS WITHIN G1) COVERED BY SOUTH DERBYSHIRE DISTRICT COUNCIL TREE PRESERVATION ORDER NUMBER 149 AT OLD STATION CLOSE ETWALL DERBY**

Ward: **Etwall**

Valid Date: **18/09/2017**

Reason for committee determination

This item is presented to Committee as the Council is the applicant.

Site Description

The land sits at the entrance to Old Station Close, Etwall and features a number of protected trees. Other vegetation here has benefitted from the area being fenced off and has grown adventitiously. A water course runs through the site (north to south). Some (but not all) of the trees here are covered by a Tree Preservation Order (TPO) and are situated on land maintained as public open space.

Proposal

The proposal is to fell, coppice, pollard or reduce trees that present a hazard.

Applicant's supporting information

Supervision of the entire tree operation shall be conducted by the Council's Tree Officer as the area is largely inaccessible, therefore too difficult for effective marking up of individual trees to be undertaken.

Planning History

The TPO was made in 1999 prior to adjacent development being constructed (now known as Old Station Close).

9/2017/1013 - Old Station Close, Etwall DE65 6PQ

Responses to Consultations

Etwall Parish Council has no objections.

Responses to Publicity

1 objection has been received, raising the following concerns/points:

t) if trees are to be felled, will they be replaced with smaller trees as is the practice on private land;
u) green areas are limited these days and it would be a loss to the environment and the wildlife if these were to disappear; and
v) without some area of greenery, Old Station Close will become a boring barren brick/concrete jungle.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: BNE3 (Biodiversity)
- 1998 Local Plan (saved policies): EV9 (Protection of Trees and Woodland)

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 2: BNE7 (Trees, Woodland and Hedgerows)

Note: the adoption of the Local Plan Part 2 is being considered at Full Council following the writing of this report, but before the Planning Committee meeting takes place. Members will be updated on the policy context at the meeting.

National Guidance

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

Planning Considerations

The main issue central to the determination of this application is whether the work proposed is warranted given the protective designation.

Planning Assessment

This collective of trees certainly is a feature in the locality. Falling branches and general vegetation (brambles, etc.) here however has caused the watercourse to become blocked, the build-up of such acting as a dam.

The majority of the protected trees (Scots Pines) will not be unduly affected as they do sit away from the watercourse and are in good health. It is not doubted however

that some understorey trees will need to be removed and/or managed to lessen their individual potential to fail, sitting on steeply sloping land. The works are felt essential both in terms of general maintenance and having the added benefit of improving the through flow of the watercourse.

There will be no replanting, this area felt to be well represented in terms of its green offer to the local environs.

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

Recommendation

GRANT permission subject to the following conditions:

1. The work hereby approved shall be carried out within two years of the date of this consent.

   Reason: To conform with Regulation 17(4) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012, in order to enable the local planning authority to consider any proposals beyond this period in the interests of safeguarding the amenity value of the tree(s).

2. The work shall be carried out in accordance with BS3998:2010 - Tree Work.

   Reason: To safeguard the health of the tree(s).

Item 1.3

Ref. No. 9/2017/1039/A

Applicant:
Mr Mike Roylance
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Agent:
Mr Mike Roylance
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Proposal: **THE DISPLAY OF VINYL ADVERTS TO THE FRONTAGES AT 5-11 & 15 WEST STREET SWADLINCOTE**

Ward: **Swadlincote**

Valid Date **21/09/2017**

The following report also addresses a concurrent application under ref. 9/2017/1040.

Reason for committee determination

The item is presented to Committee as the Council is the applicant.

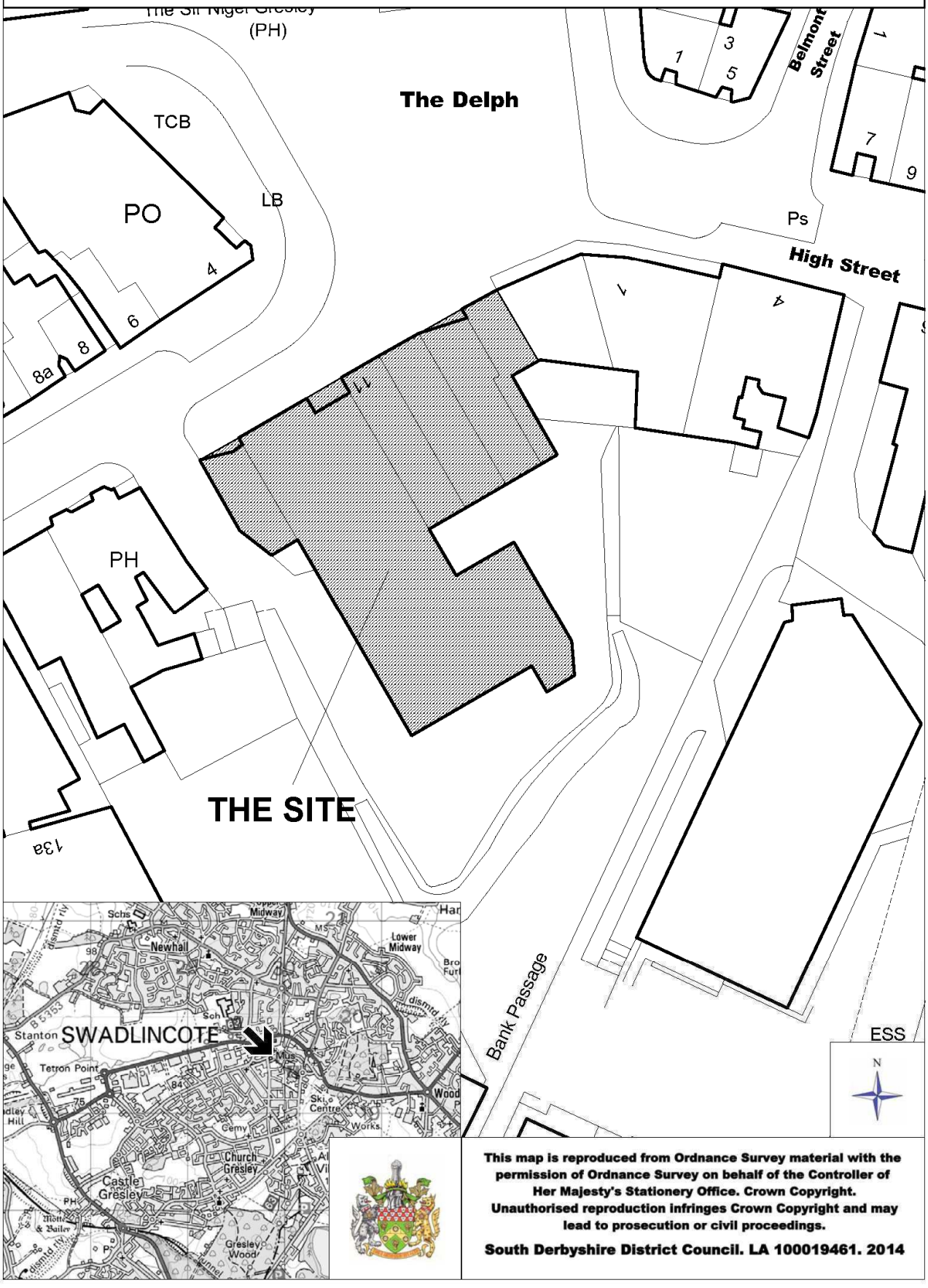
Site Description

The properties form a row of relatively modern two-storey buildings that front The Delph, constructed around the 1960s/70s and used for a range of shopping and commercial uses. They carry an appearance of that era, not reflective of the more traditional buildings which are more prevalent around The Delph and elsewhere within the Swadlincote Conservation Area. The Delph is an important open space and hence the properties are prominent within the town centre.

Proposal

Consent is sought to change the existing windows on the first floor to aluminium. In addition, the existing cladding along the top is to be removed and replaced with coated weatherboarding along with a new hanging sign at ground floor level and the replacement of the shopfront at number 7. The windows and cladding would be finished in a dark grey colour to give a more contemporary appearance. It is also proposed to add new vinyl advertisements to the upper sections of upper windows, due to the row of trees that currently restrict views of the main fascias from across The Delph.

9/2017/1039 & 9/2017/1040 - 5-11 & 15 West Street, Swadlincote DE11 9DG



Planning History

There is no relevant planning history.

Responses to Consultations

The County Highways Authority has no objection to the applications.

Responses to Publicity

There have been no comments or objections received.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), S7 (Retail), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE4 (Landscape Character and Local Distinctiveness).

- 1998 Local Plan (saved policies): EV12 (Conservation Areas).

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE9 (Advertisements and Visual Pollution), BNE10 (Heritage), BNE11 (Shopfronts) and RTL1 (Swadlincote Town Centre).

Note: the adoption of the Local Plan Part 2 is being considered at Full Council following the writing of this report, but before the Planning Committee meeting takes place. Members will be updated on the policy context at the meeting.

National Guidance

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

Local Guidance

- Swadlincote Conservation Area Character Statement
- Display of Advertisements SPG
- Swadlincote Townscape Heritage Scheme Conservation Area Management Plan and Article 4 Direction

Planning Considerations

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

- Appearance of the works to the frontage; and
- Appearance of the proposed hanging and vinyl signs

Planning Assessment

The buildings have a poor block-like appearance and owing to their massing, detailing and poor quality materials, make a poor contribution to the character and appearance of the conservation area. Owing to the age of the buildings, they would not benefit for grant funding under the Swadlincote Heritage Lottery Fund as they were not constructed within the qualifying period.

Appearance of the works to the frontage

The proposed windows, cladding and new shopfront would improve and enhance the existing building. The windows would be set back from the face of the building and therefore would not appear overly dominant. Whilst the use of aluminium windows and fascias would be discouraged elsewhere within the Conservation Area, owing to the style of the buildings it is considered that their use would be in keeping and appropriate in this instance - incorporating materials that would be more acceptable than those currently present. The alterations to the frontages would be an opportunity to significantly improve the appearance of the street scene and character of the area and would satisfy polices BNE1 and BNE2 of the Local Plan Part 1, saved policy EV12 and policies BNE10 and BNE11 of the emerging Local Plan Part 2.

Appearance of the proposed hanging and vinyl signs

The proposed vinyl signs are to be positioned at first floor level within the top lights of windows. Despite the height of the signs, it is considered that this is justified on the basis that the street trees obscure the original fascia signs. Existing signage would remain at mid-level, as largely obscured by the trees, whilst the originally proposed low level signage to unit 7 has been omitted. Over time it is hoped that the remaining units follow suit in respect of new shopfronts and consolidation of advertisements. The proposed hanging sign has been reduced in size and its projection and appearance would be more traditional, and thus acceptable.

It is considered there would be no adverse impact on the character or appearance of the area as a result of the proposed signage and there would be no harm by way of excessive illumination or clutter. Given the site is located in a predominantly retail frontage and away from residential properties, it is not out of keeping. On this basis, the signage would comply with policies BNE1 and BNE2 of the Local Plan Part 1, saved policy EV12, emerging policies BNE9 and BNE10 of the Local Plan Part 2, and the SPG.

Conclusion

The proposed windows, cladding and shopfront alterations would be in keeping with the style and appearance of the host building, whilst the proposed advertisements would not be visually harmful and would assist with reducing the level of visual clutter along the street scene. Whilst not presenting a perfect solution given not all

units are to undergo changes to their shopfronts, nor consolidate all advertisements at the present time, this application sets a ‘marker’ against which future proposed changes can be considered.

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

Recommendation

GRANT consent in accordance with the standard conditions under the Advertisement Regulations 2007 (as amended) and subject to the following additional conditions:

1. The advertisements shall be displayed in accordance with plan/drawing 001 Rev A with the exception of the ground floor vinyl which is specifically excluded from this grant of consent.

   Reason: For the avoidance of doubt.

2. The proposed hanging sign shall not be displayed until precise details, specifications and, where necessary, samples of the materials for the projecting sign and its supporting bracket have been submitted to and approved in writing by the Local Planning Authority. The projecting sign shall be installed in accordance with the approved details.

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

Item **1.4**

Ref. No. **9/2017/1040/NO**

Applicant:
Mr Mike Roylance
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Agent:
Mr Mike Roylance
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Proposal: **ALTERATIONS TO THE SHOP FRONTS AT GROUND AND FIRST FLOOR AND ALTERATIONS TO THE WINDOWS AT 5-15 WEST STREET SWADLINCOTE**

Ward: **Swadlincote**

Valid Date **21/09/2017**

Please see the report under application ref. 9/2017/1039 for assessment of this and the concurrent proposal for display of advertisements.

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. The development hereby permitted shall be carried out in accordance with plan/drawing 001 Rev A; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

   Reason: For the avoidance of doubt and in the interests of sustainable development.

3. The cladding shall not be installed until a sample of the proposed cladding material to be used has 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.

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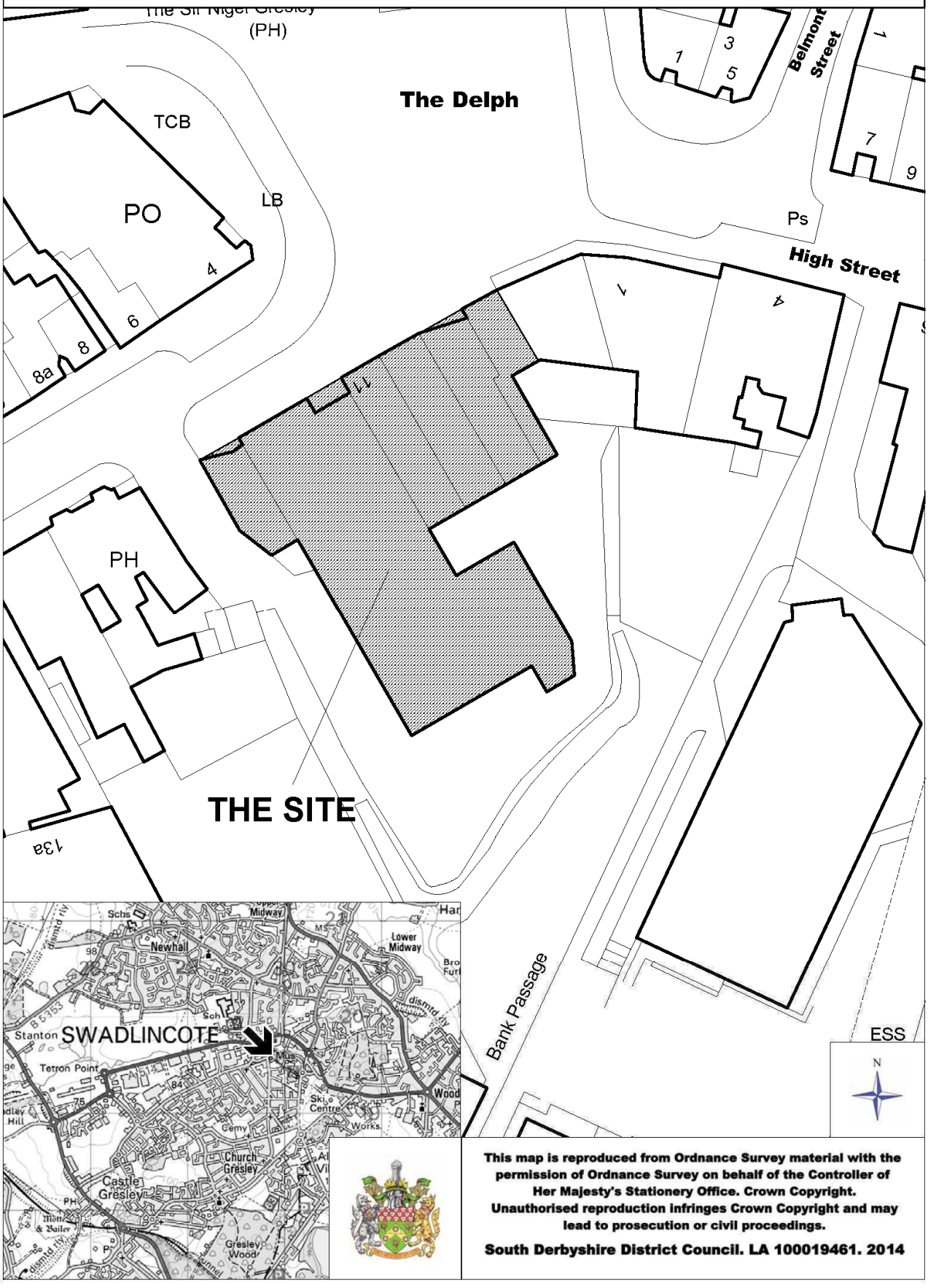

2. PLANNING AND OTHER APPEALS

(References beginning with a 9 are planning appeals and references beginning with an E are enforcement appeals)

Reference	Place	Ward	Result	Cttee/Delegated	Page
9/2016/1099	Main Street, Linton	Linton	Dismissed	Delegated	29
9/2016/1122	Derby Road, Melbourne	Melbourne	Dismissed	Delegated	32

The Planning Inspectorate

Appeal Decision

Site visit made on 22 August 2017

by Mike Worden BA (Hons) DipTP MRTPI

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

Decision date: 27 October 2017

Appeal Ref: APP/F1040/W/17/3174818
Land adjacent to 15 Main Street, Linton, Swadlincote, Derbyshire DE12 6PZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr K Willdig against the decision of South Derbyshire District Council.
- The application Ref 9/2016/1099, dated 16 October 2016, was refused by notice dated 14 December 2016.
- The development proposed is the erection of a dwelling.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The planning application was made in outline with all matters reserved apart from access and layout.

Main Issue

3. The main issue is the effect of the proposed development on highway safety.

Reasons

4. The appeal site is a small rectangular plot of land on the main road running through the village. It is former garden land and lies adjacent to an existing house, 15 Main Street. Across the road from the site are a public house, a shop and a takeaway restaurant.

5. The proposed development is to erect a house on the site and create a new access with the provision of two new off road car parking spaces at the front of the site.

6. The size of the plot and the provision of two off road parking spaces would mean that it is unlikely that vehicles would be able to enter and exit the site in forward gear as there would be insufficient space to turn a vehicle around since one of the proposed parking spaces may be already occupied by a vehicle. This would mean that a vehicle would have to either access or egress the site in reverse gear.

7. The appeal site is located on a long bend and the road also slopes uphill towards the appeal site from the direction of Hillside Road. Although this may be one of the wider points in the road through the village, the presence of a high hedge outside 15 Main Street and from the evidence before me not in the control of the appellant, restricts visibility of the nearside carriageway traffic approaching the site. Visibility in the opposite direction is also restricted.

8. According to the County Council's highway officers, visibility over controlled land, available to a driver, emerging from the access at a distance of around 2.4m back from the carriageway edge at a height of around 1.05m is around 20m to the north west and around 19m to the south east when measured against the nearside carriageway edge. This is significantly below the standards set out in Manual for Streets[1] which are the appropriate and accepted standards for assessing visibility distances. I consider that the reduced setback distance in Manual for Streets, which may be applicable in slow speed and lightly trafficked areas, is not appropriate for this site given that it is on a classified road through the village.

9. The visibility distances from the access fall significantly below accepted standards even for movements made to egress from the site in forward gear. Given the lack of space to turn a vehicle around on the site, it is likely that vehicles will attempt to access or egress in reverse gear. That would further restrict visibility. I therefore consider that the proposed development would be harmful to highway safety.

10. The appellant refers to an alternative position as it is claimed that a right of access exists over adjacent land which could provide access for the proposed development. A land registry title has been submitted as evidence. However, the application clearly is for access via a new access point directly onto Main Street to serve the proposed development. This proposed access point is indicated on the submitted plan. The Council has stated that any alternative point would have to be fully assessed in terms of impact on highway safety for the development which would be proposed. I agree with that view. Consequently I do not attach any significant weight to the alternative access position in reaching my conclusions.

11. I recognise that in the village there are examples of houses which do not have provision for off-street parking but I consider that those developments would be most likely to pre-date current standards and policies. I therefore do not attach any significant weight to those examples. I also do not have details before me of the development at the adjacent property which led to a loss of parking space. In any event, I have determined this case on its merits and on the evidence before me.

12. The proposed development would provide a new use for the vacant site. However, for the reasons set out above, I conclude that the proposed development would lead to significant harm to highway safety and would be contrary to Policies S6 and INF2 of the South Derbyshire Local Plan Part 1 2016 which respectively seek to promote sustainable access and sustainable transport. The proposed development would also be contrary to the third bullet point of paragraph 32 of the National Planning Policy Framework, which seeks

[1] Manual for Streets, Dept of Communities and Local Government, 2010

to promote safe and suitable access to sites. The other policies referred to me by the Council do not add to its case.

Conclusion

13. For the reasons given above, and having considered all matters raised, I conclude that the appeal should be dismissed.

Mike Worden

INSPECTOR

The Planning Inspectorate

Appeal Decisions

Site visit made on 9 October 2017

by Daniel Hartley BA Hons MTP MBA MRTPI

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

Decision date: 19 October 2017

Appeal Ref: APP/F1040/W/17/3177875
land adjacent to 62A Derby Road, Melbourne, Derby DE73 8FE

- 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 Nick Faulkner against the decision of South Derbyshire District Council.
- The application Ref 9/2016/1122, dated 28 October 2016, was refused by notice dated 22 December 2016.
- The development proposed is the change of use of amenity land to land used for domestic gardening.

Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the appeal site address from the Council's decision notice and appellant's appeal form as this more precisely describes the location of the appeal site.

3. At my request, the Council has confirmed that the Melbourne Neighbourhood Plan is at pre-submission consultation stage (August 2017) and that it *"does not refer to the site as a local green space. There are no adopted policies for un-adopted green spaces within the local plan part 1 or the emerging local plan part 2. On the basis of this, the development would be assessed against saved Policy EV8".* I have determined the appeal on the basis of this planning policy position.

Main Issue

4. The main issue is the effect of the proposal upon the character and appearance of the area including the setting of the Melbourne Conservation Area.

Reasons

5. The appeal site relates to land which is partly enclosed amenity space at the junction of Queensway and Beech Avenue. The land is in unknown ownership, but according to Melbourne Parish Council has been mown by South Derbyshire District Council for a number of years. The site is roughly triangular in shape and includes an angled stone wall fronting part of Queensway. This is similar in both appearance and its angled nature to the stone wall which is positioned to the rear of Nos 62a and 62 Derby Road and which runs alongside Beech

Avenue. The appeal site abuts the edge of the Melbourne Conservation Area (CA).

6. It is proposed to retain the existing stone wall and to enclose the remainder of the appeal site with a hedge. Derby Road, which falls within the CA, is more built up than Queensway and Beech Avenue, in so far that most of the buildings are positioned much closer to the road. In contrast, the properties in Queensway and Beech Avenue are predominantly set back from the main roads and are generally set within relatively spacious plots. The appeal site provides a welcome relief from the more built up environment on Derby Road and has the effect of creating a sense of spaciousness when driving/walking along Queensway. There are other areas of open space in Queensway which front residential properties and collectively these areas add positively to the character and appearance of the area.

7. Whilst it would be possible to ensure that the proposed means of enclosure were confined to that of a hedge, and that the existing stone wall were retained, the impact of such a proposal would be such that it would detract from the overall sense of space offered by the appeal site when viewed from the junction of Queensway and Derby Road. I recognise that the land around No 1 Beech Close has been enclosed and that land on the northern side of the junction of Derby Road with Queensway includes a hedgerow abutting the inside edge of the pavement. However, by enclosing the appeal site it would have the effect of creating visual pinch points when driving/walking along both Beech Avenue and Queensway to the detriment of the spacious character and appearance of the immediate environment. In this regard, the proposal would not accord with saved Policy EV8 of the adopted South Derbyshire Council Local Plan 1998 (LP) which states that *"open spaces, gaps and landscape features which make a valuable contribution to the character of the environmental quality of individual villages and settlements will be safeguarded from development"*.

8. I acknowledge that the appellant would agree to planning conditions which removed permitted development rights and controlled the boundary treatment on the site. However, it would not be possible to fully control what might exist in the resultant garden including landscaping, the installation of possible children's play equipment and other domestic paraphernalia. I agree with the Council that there is potential for the site to change significantly from one that is essentially open, and where the splendid protected silver birch tree (TPO No 418) is the dominant and very visible feature, to one which becomes more enclosed and very domestic in appearance. Such an impact would not be acceptable in this environment and I am not persuaded that the suggested planning conditions would suitably overcome my concerns about the significantly adverse impact that the proposal would have upon the character and appearance of the area.

9. I do not consider that the proposal would cause material harm to the setting or significance of the CA, given the position of intervening dwellings and the essentially more built up part of the CA on Derby Road, but this would not overcome or alter my conclusion in respect of the effect of the proposal upon the immediate character and appearance of the locality.

10. For the reasons outlined above, I conclude that the proposal would not accord with the design aims of saved Policy EV8 of the LP; Policy BNE1 of the South

Derbyshire Local Plan Part 1 Plan 2016 and the National Planning Policy Framework.

Other Matters

11. I have taken into account comments made by other interested parties including Melbourne Parish Council. Some of the comments made have already been addressed in the reasoning above.

12. It would appear that the land is in unknown ownership. However, the appellant has completed relevant ownership certificates for the purposes of the submission of the planning application.

13. The proposed boundary treatment would be set back from the junction of Beech Drive with Queensway. Nonetheless, had the proposal been acceptable in all other respects, I would have sought further information about this matter in order to ensure that the development would not have a significantly adverse impact upon vehicular sightlines. However, as the appeal is dismissed for other reasons it has not been necessary for me to pursue this matter further.

14. Whilst the site does not appear to be proposed as local green space in the emerging Neighbourhood Plan and Part 2 Plan, such development plans have not yet been adopted. It has been necessary for me to determine the appeal against saved Policy EV8 of the adopted LP. I have found that the proposal would conflict with the aims of this policy and that unacceptable harm would be caused to the character and appearance of the area. The inclusion or otherwise of the site as local green space in emerging plans does not alter my conclusion on this matter.

15. The appellant states that the site could be used for agricultural purposes (i.e. horticulture) without planning permission and so therefore the appeal should be allowed. The correct way to determine whether such a proposal would not need planning permission is to apply for a certificate of lawful development. I have not been provided with a certificate of lawful development and, in any event, use of the land for garden purposes needs planning permission. For the reasons outlined in this decision, I consider that such a proposal would cause material harm to the character and appearance of the area. It has been necessary for me to determine the planning application as submitted and any potential to use the site for agricultural purposes does not alter my conclusion on this matter.

16. None of the other matters raised outweigh my conclusion on the main issue.

Conclusion

17. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Daniel Hartley

INSPECTOR