

REPORT OF THE HEAD OF COMMUNITY AND PLANNING SERVICES

SECTION 1: Planning Applications SECTION 2: Planning Appeals

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

1. PLANNING APPLICATIONS

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

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

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

Item 1.1

Reg. No. 9/2011/1007/NO

Applicant:
Bowler Energy LLP
Badger Farm
Willowpit Lane
Hilton

Agent:
Mr Anthony Lee
Bowler Energy
Willowpit Lane
Badger Farm
Hilton

Proposal: **THE INSTALLATION OF 2 X 50 KW ENDURANCE WIND
TURBINES (RADIUS 906M) WITH CABLING ON LAND
LYING TO THE SOUTH OF BURNASTON LANE ETWALL
DERBY**

Ward: **ETWALL**

Valid Date: **15/12/2011**

Reason for committee determination

This application has attracted a considerable level of public comment and objection and Councillor Lemmon has requested that it be brought to Committee for determination because local concern has been expressed about a particular issue.

Site Description

The site lies in the countryside to the east of dwellings at Risborrow Close and the Nursing Home off Sandypits Lane (about 400m to the turbines) and to the west of Burnaston Village (760 metres). The nearest dwelling lies on Burnaston Lane which is about 300 metres to the north.

A public footpath is to the north of the site and access to the site would be along Sandypits Lane and the footpath.

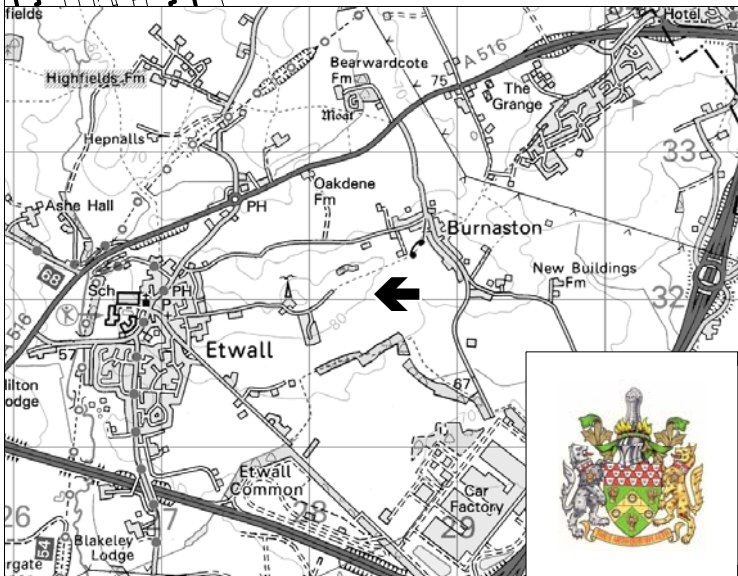
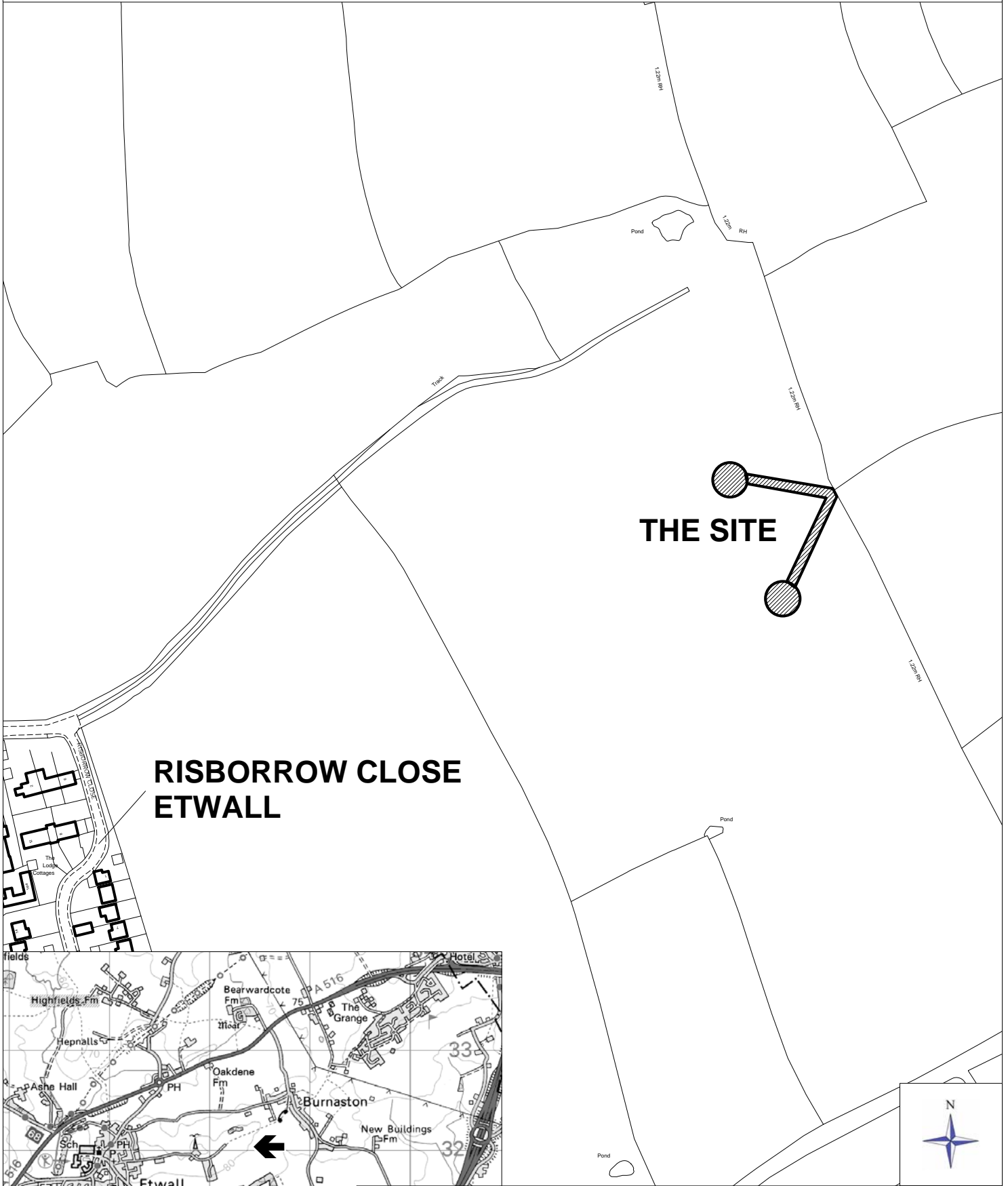
The northern boundary of the field is fairly open alongside the footpath but hedges define other boundaries.

A high-pressure gas main lies within the north boundary of the site in the vicinity of the public footpath that it also crosses before entering the site.

Proposal

The turbine and supporting structures would have a maximum height from ground to tip of blade of 46 metres each blade having a radius of 9.6 metres and thus a diameter of 19.2 metres. The supporting mast would be 35.4 metres and the hub of the turbine

**9/2011/1007 - Land lying to the South of Burnaston Lane, Etwall, Derby
(DE65 6HY Risborrow Close)**



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would be 36.4 metres. The masts are shown constructed on 6m x 6m concrete bases. The structures would be white in colour and the blades would be coloured cream.

The turbines and supporting structures would be set a minimum of 40 metres from the boundary hedge that encloses the field to the west (max 50 metres). The public footpath is some 100 metres to the north of the nearest turbine site. An underground line from each turbine would link them to the national grid via an existing electricity pole that stands within the hedge on the west boundary of the field the access to the grid is at the point where the underground lines converge.

Access to construct the turbines would be from Sandypits Lane in the form of a temporary metal track that would be removed once the works are complete. Maintenance access would be by vehicles capable of crossing the field without the need for any formal access.

Each turbine would be sited in a field in the ownership of the company principal's family and is vested in the applicants to develop. It was originally stated that the applicant owned the land but now notice has been served on the landowners and the appropriate Planning Certificate issued to the Local Planning Authority.

Applicants' supporting information

The application is accompanied by a document entitled Design and Access Statement and Planning Statement the full contents are available for inspection on the file but in summary it addresses the following areas:

The Proposal, National and Local Planning Policy - PPS 1, 22 and its companion guide, PPS 7 and the South Derbyshire Local Plan. As advised in the Companion guide to PPS 22 the applicant has undertaken an assessment of the noise impacts, landscape and visual impact of the proposal. The statement also discusses the economic benefits, and

Noise

Since submission a noise report has been undertaken in support of the planning application. It concludes that when assessed against the criteria in PPS 22 and its companion guide, the proposals accord with that guidance. In particular, the applicants have drawn attention to the guidance in respect of amplitude modulation and the applicants note that the document refers to low frequency noise and in particular reference to any vibration reducing to a factor level of 10 below the level where there may be harm to human health at a distance of 100m from the structures and that tones above 3.0hz are found to attenuate rapidly with distance. The same document also looked at the phenomenon of shadow flicker and concluded that only properties within a 130° either side of north can be affected and then only those properties within a distance of 10 times the diameter of the rotor blades are likely to be affected. There are no such properties within 192 metres of the structures.

Landscape and Amenity

This has been assessed from four locations at Risborrow Close, the public footpath to the north, Green Lane and Findern Lane. The applicants state that it is not part of their argument that the turbines would not impact on the landscape. They do consider that

the site, design colour and materials of the development help to minimise these impacts. It is noted that Risborrow Close is some 400 metres to the west of the proposed development and that the village of Burnaston is some 600 metres further to the west. There are relatively few dwellings on Risborrow Close that look directly towards the site and those distances are long distance views.

From the public footpath, for about 100 metres off the end of Sandypits Lane, the developers assert, the development would be screened by vegetation emerging from the screened area on the footpath. The development would then be viewed in the context of other prominent structures such as the cooling towers of the former Willington Power Station and the Toyota factory. From the Burnaston Village end of the footpath, the roofs of the Risborrow Close development are visible and the turbines would be located in front of those buildings.

Green Lane serves one property and there are relatively few users of the road itself. Views from here would be limited.

Findern Lane is some 1.2km to the east of the site and there would be distant views of the development from the lane.

In terms of visual impact, the applicants contend that given colours of the structures proposed, they would blend well into the landscape and that this would mitigate their impact on the wider landscape and reduce their visual intrusion to a point where planning permission should be granted.

Separation from the footpath – the Companion Guide to PPS 22 remains valid albeit that the Government is reviewing all such documentation and PPS 22 itself has been revoked. It offers advice on the separation distances between turbines and public footpaths. There is more than 1.5 times the height of the turbines between the nearest mast and the footpath.

Ecology and Wildlife – the standing advice from Natural England requires a minimum separation of 65m between woodland and turbines in respect of bats, and the turbines have been located a minimum of 65 metres from the boundary hedge. Given this siting requirement it is asserted that the turbines would not significantly interfere with migrating/feeding birds or indeed bats.

Construction - would take about 5 working days and involve 6 HGV's movements including a mobile crane to assist in erecting the structures. Construction workers vehicles would be in addition to HGV movements. Any excavated material would be spread on the rest of the field thus minimising the need to transport material from the site.

Interference with electromagnetic transmissions is considered and given the type of turbine selected, the risk of such interference has been minimised as no brushes are involved in the generation process. As digital signals are the only television signals available, there would be no interference with television transmissions.

There are no recorded listed buildings or other heritage assets in the vicinity of the site that would be adversely affected by the development.

The applicant's conclusion is that whilst there would be a limited number of short or middle distant public views of the turbines these are capable of mitigation either through

the use of colour or are mitigated by distance. There are social, economic and environmental benefits arising from the development with a modest impact on the wider landscape. The proposals would not result in unacceptable harm to the wider visual amenity and would provide renewable energy and reduce carbon emissions. In the light of the above the applicant's request that planning permission be granted.

Following the publication of the NPPF (The Framework) the applicant has submitted the following supplementary information.

The South Derbyshire Local Plan is silent on the issue of renewable energy. As such the provisions of The Framework have considerably more weight as a material consideration than would be the case if there were a Local Plan policy (Paragraph 14). Attention is drawn to the provisions of paragraph 98 *[this is summarised below and discussed below in Planning Assessment]*.

Planning History

There is no relevant planning history affecting this site.

There are two other turbines in the area at Highfield Farm Findern and Betty's Farm Willington.

The next nearest turbine is at Highfields Farm Etwall at 2.1km to the northwest.

Responses to Consultations

Etwall Parish Council – Support the numerous objections to the development received by the Local Planning Authority. There is concern that 'flicker' would affect local people and wildlife but the main concern is the visual impact. The turbines would be visible over a wide area and a blot on the landscape. These turbines will have a long-term impact on the area and would lead to further planning application including an egg production unit. The Parish Council is faced with a savage application for a railhead on Egginton Common and the turbine application should therefore be considered very carefully. Turbine applications should be limited to off our coasts or remote isolated areas away from rural habitation.

Burnaston Parish Council – the Parish Council received no information either verbal or written, to support the application when it held a public meeting to discuss the application. Having read the supporting information that accompanied the planning application and visited the application site Burnaston Parish Council has the following objections to the development based on:

Visual Impact – the turbines would be located in an area of gently rolling countryside consisting of fields, hedges and trees. The industrial elements are only available through distant views and the turbines would dwarf anything in their surroundings and form an industrial landmark that would significantly change the rural character of the area enjoyed by local residents. The site occupies an elevated location and the 46m high blade tips would be set at an elevation of 103mAOD. They would therefore be visible from several miles around including all roads, footpaths into Burnaston, as this site is a local high spot. The turbines are twice the height of any other turbines currently operational in South Derbyshire. There is no accurate visual representation of the impact of the turbines presented by the applicants, the submitted information is

considered to give a misleading impression and give the impression that the turbines are much smaller than proposed. In objecting on visual grounds, the recently constructed Happy Hens mast has the same turbine but is on a smaller mast.

Lack of benefit to the Local Community – There is no local business that would benefit from the energy generated at the site the Parish Council considers that in these circumstances there is no benefit to the local community and there would be a loss of power generated as the power would be to the grid rather than on site consumption where power loss would be minimised.

Lack of Consultation – the applicant should have consulted the local community and adjacent landowners prior to submitting the application and this has led to concern about the lack of clarity on what is proposed and there are fears about the scale of the development. The Parish Council support renewable energy projects which are unobtrusive, such as the Toyota photovoltaic array and approval of this is likely to undermine that stance.

Safety Concerns – Young cattle are kept in the fields adjacent to the turbines. There is concern that noise and shadow flicker from the turbines could unsettle cattle and cause them to stampede thus causing a potential risk to users of the Burnaston – Etwall public footpath.

It is considered that granting permission for this development would cause degradation of the quality of life for residents of Burnaston with a very modest environmental benefit and the application should be refused.

East Midlands Airport asked that the application be placed on hold pending the airport undertaking an assessment of the potential for its activities to be compromised by the presence of these turbines. Having carried out the assessment in relation to this site and other sites with planning permission, the airport has raised no objection but warns that further proposals in this vector may attract objections due to the potential effect on activities at the airport.

Derbyshire Wildlife Trust confirm that there are no designated sites for important bird populations near the site nor is it on a major migratory route albeit the Trust is aware of Buzzard and Peregrine Falcons in the wider area. However any data in relation to adverse impacts on birds is not available for turbines of the scale proposed.

Bat activity is noted in the supporting information but as the turbines are located some 65m from the nearest linear feature the siting complies with Natural England guidance published in TIN 051 – Bats and Onshore Turbines. The Trust is not aware of any bat roosts or suitable bat roost habitat in the immediate vicinity of the turbines and it is unlikely that the turbines would have an impact on bats.

The Trust requests that once the turbines are in place and to assist in the assessment of and gather data on the impact, if any, of turbine on bats and that to assist this a survey should be undertaken during optimal activity periods for bats (June and July) and the ground beneath the turbines should be inspected for fatalities if any. The results should then be made available to the Local Planning Authority and The Trust.

National Grid (Gas) – has no objection to the principle of the development provided that its gas assets are protected at all times.

Environmental Health Manager has had regard to all the applicant's submissions, the noise objections made and current Government advice in respect of noise as expressed in the ETSU-R-97 that is to be used in determining planning applications of this nature. He is aware of the criticism of this approach to noise assessment but it is the relevant document and continues to apply in the absence of any other best practice guidance. He comments that the noise report concludes that noise levels would not have a detrimental effect on neighbouring residents. He then states that if the noise levels were close to ETSU limits then there may have been a case for further investigation but the levels generated by the turbines would be considerably below those limits. Accordingly no objection is raised subject to conditions limiting the type of turbine to those proposed, located in the positions shown on the submitted plans, and maintained in accordance with manufacturers recommendations.

Responses to Publicity

147 objections have been directly received in response to the usual publicity. Elected Members have also received some 80 representations that have been forwarded on to the planning department the points made to local representative are reflected in the summary below. In addition the Local MP has expressed her support for the objections made and has raised the matter with a group of other parliamentarians who are opposed to the subsidies paid to landowners who install wind turbines. That group has raised the matter with the Prime Minister who has responded to the MP's expressing the need for local people to be actively involved in the decision making process on local planning matters as provided for in the Localism Act.

The objections received can be summarised as follows:

- a. The application was made valid before all the relevant information was submitted, such as a Landscape Character Assessment, Noise Impact Assessment and Environmental Impact Assessment.
- b. The fact that the application is deficient suggests a Regional Plan policy presumption against such development.
- c. There is no justification for a rural location and therefore the application is contrary to Local Plan Saved Environment Policy 1.
- d. The development is not farm diversification as stated by the applicant; the land is still farmed, there is no requirement to provide electricity for any existing development and therefore all electricity generated would be fed into the national grid. No farm plan has been submitted to show how the proposal fits in with the on-going farm business.
- e. The scale and impact of the proposal would not meet the advice in Environment Policy 1.
- f. Government advice is only supportive of wind turbine development that can be incorporated into new development.
- g. Anomalies between the applicant's assertion that wind power is 'free' and the government subsidies in the form of feed-in tariffs. Public money is used to generate profits for the operator for private financial gain.
- h. How can such a project be sustainable when they are supported by public money?
- i. Wind turbines are alien features in the landscape, which cannot be screened effectively. They will dominate the area between Etwall and Burnaston, undermine its attractiveness and have an unacceptable visual impact.

- j. Adverse impact on visual amenity and quality of life of neighbouring residents and diminished enjoyment for the users of the adjacent footpaths, which flies in the face of the County Council's document '*The Needwood and South Derbyshire Claylands Character Assessment No.68*'.
- k. Intrusive low frequency noise levels, particularly at night, impact of electromagnetic radiation and shadow flicker can cause problems for sufferers of epilepsy and autism.
- l. If approved, the precedent would be set for future wind turbine development on the land.
- m. The application is premature in light of two Private Members' Bills currently before Parliament to determine minimum distances between turbines and residential properties.
- n. Potential damaging impact on local and migrating birds (bird strike) and wildlife and human safety. No mention has been made of the badger setts located to the north of the application site or the roosting bats at Manor Farm or the recent return of Barn Owls to the area. Other birds that could be affected include Buzzards, Owls, Ospreys, and Peregrine Falcons, all of which have been encouraged into the area. Loss of habitats.
- o. Contrary to the submitted information relating to the non-proximity of the site to nature reserves, Ramsar sites, Special Areas of Conservation etc., the Hilton Gravel Pits Nature Reserve is located 3km to the west of the site and the non-designated nature site at Toyota is 500m to the south of the site.
- p. Loss of views.
- q. Public safety, particularly when the turbines are affected by high winds or risk from fire. Consideration in this regard should be given to the proximity of existing gas and sewer pipelines. Wind speeds of 50mph have been recorded recently in the area.
- r. Loss of revenue by way of Council Tax reduction, possibly of around £80,000 per annum (from the 200 houses that would be affected) as a result of devaluation of properties.
- s. Impact on elderly residents of Etwall Lodge Nursing Home, which is less than 600m from the site.
- t. Sandypitts Lane is too narrow for emergency vehicles to get to in the event of the turbines setting on fire and it would be difficult to evacuate residents.
- u. Impact on health such as heart problems, sleep deprivation, loss of hearing/tinnitus, lung problems, depression, dizziness, migraine headaches and nausea, wind turbine syndrome etc.
- v. Impact on the medieval ridge and furrow groundworks that are evident on the application site.
- w. At 300m the distance between the proposed turbines and nearest residential properties is insufficient.
- x. Fear for children's safety when playing outdoors on windy days, should the turbines become unstable.
- y. Local authorities and planning officers have a duty to consider hazards that are too close to residential properties that may result in personal injury.
- z. Possible loss of business and land blight.
- aa. The Local Planning Authority should designate suitable sites following comprehensive surveys.
- bb. The turbines will be highly visible from more than the 4 public vantage points listed in the supporting information, including the A38, A516 and the A50.
- cc. Impact on horses and cattle that graze the land.

- dd. The application is not 'small scale' as stated by the applicant, plus inaccurate/out of date information of the economic, environmental and technical nature used in the submission.
- ee. There has been no consultation with the local community or businesses, in accordance with the Localism Bill.
- ff. There is no benefit to the rural economy. The applicant should submit a cost benefit analysis to show the net benefit to the community would outweigh the negative impacts.
- gg. Means of access for construction and maintenance vehicles is not clear.
- hh. Construction vehicles will produce noise, dust and exhaust emissions and increase danger on local roads.
- ii. The development should be classed as industrial development and assessed against the noise criteria associated with such proposals.
- jj. No mention of ground-borne noise. The noise from more than one turbine will increase and vary the frequency of their rhythm.
- kk. Inappropriate commercial development on agricultural land. Valuable agricultural land should be protected from irreversible and inappropriate development.
- ll. Overbearing effect on residents resulting in unsatisfactory living conditions. The submitted plans do not provide a true impact on the character of the landscape and residential properties in terms of scale.
- mm. Compensation may be required from the Council and/or applicant to re-house affected residents.
- nn. An application for a temporary high wind speed measuring mast at Toyota was refused because of possible detrimental impact on the operation at Egginton airfield. It is assumed that the proposed wind turbines would have a similar impact.
- oo. Negative impact on flying of light aircraft, hang gliding, ballooning, bird watching, star gazing and kite flying.
- pp. Increased risk of damage to power lines which supply Burnaston.
- qq. Increased traffic on minor roads.
- rr. Danger to police and emergency helicopters.
- ss. The damage to the environment will not outweigh the benefit of producing just 25kw of electricity.
- tt. Adverse impact on the setting of Listed Buildings, the nearest of which is just 500m.
- uu. Wind power is not the solution to solving out energy problems. It does not fulfil sustainable objectives.
- vv. How can this development be approved when an application for a replacement dwelling at Greenacres (which is in the adjacent field) was refused on grounds that it would adversely affect the character and appearance of the locality?
- ww. No detail to justify there is sufficient wind in the location to generate 316,440kw of energy per year, as stipulated in the Design and Access Statement.
- xx. Contrary to the Council's primary objective in the Corporate Plan to improve the health and well being of communities and residents.
- yy. Why were there no site notices posted near the site or in Burnaston?
- zz. Conditions should be imposed to monitor actual output and for removal if failing to operate for several months.

One letter of support for the development states that there is no valid reason to oppose the development and that they would sooner have 1000 turbines than a nuclear power station.

Development Plan Policies

The relevant policies are:

EMRP: Policies 1, 3 & 40.

Local Plan: Environment Policy 1.

National Guidance

National Planning Policy Framework (the Framework) states that planning law remains the same in that applications for planning permission must be determined in accordance with the development plan unless material considerations dictate otherwise. There is no change arising from the publication of the Framework in this case. The Framework, in terms of Development Management, constitutes a material consideration.

[There is discussion of this advice in Planning Assessment below.]

There is an overarching National Policy Statement for Energy (EN-1) and the National Policy Statement for Renewable Energy Infrastructure (EN-3). Although these are primarily intended to inform the work of the Infrastructure Planning Commission on proposals for nationally significant energy infrastructure, they can be a material consideration in assessing applications such as this.

Planning Considerations

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

- Environmental Impact Assessment.
- Development Plan Policy and other material considerations
- Landscape and Visual Impacts
- The Natural and Cultural Environment
- Noise Issues
- The number and size of the turbines
- Other issues

Planning Assessment

Environmental Impact Assessment

The proposal has been screened in accordance with the requirements of the Environmental Impact Regulations 2011 and the conclusion, having completed the assessment matrix, was that the development did not require the submission of an Environmental Impact Assessment. This outcome has been posted on the Part 1 of the Planning Register in accordance with the requirements of the Regulations. Accordingly the Local Planning Authority accepts that that no EIA is required for the proposed development.

Development Plan Policy and other material considerations

Notwithstanding the substantial number of planning objections to this development it remains a fact that the application must be determined in the light of the provisions of the Development Plan unless material considerations indicate otherwise (as required by Section 38(6) of the Planning and Compulsory Purchase Act 2004).

The Development Plan currently consists of the East Midlands Regional Plan (although this is soon to be revoked) and the South Derbyshire Local Plan.

The Regional Plan contains targets for energy generation from renewable sources and the contribution of wind power to this target is acknowledged in the policy and states that Local Planning Authorities should not adopt policies that seek a blanket ban on on-shore wind energy projects (para 3.3.86) and it is also stated that micro generation can be applied anywhere either grid linked or with battery back up (Para 3.3.88). Policy 40 then looks at criteria that could be applied to drawing up a renewable energy policy particularly with respect to on shore wind energy in LDFs. These criteria are landscape and visual impact, the effect on biodiversity, the built environment, the number and size of turbines, the cumulative impact including intervisibility, the contribution towards meeting renewable targets and the contribution to national and international environmental objectives on climate change.

The South Derbyshire Local plan is silent on renewable energy but the provisions of Environment Policy 1 are a consideration in respect of any development in the countryside. In this regard, the policy seeks to ensure that development outside settlements is essential to a rural based activity, or, unavoidable in the countryside, and that the character of the countryside, landscape quality, wildlife and historic features are safeguarded and protected. In this case the erection of the turbines is only practicable in the countryside. It goes on to state that where development is permitted it should be designed and located so as to create as little impact as practicable. The issue of environmental protection is dealt with later.

In determining applications Paragraph 14 of the Framework states that Local Planning Authorities should grant permission for development that accord with the Development Plan. Where there are no policies or the policies are out of date, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole or specific policies in the Framework indicate development should be restricted. In this latter case it gives examples as SSSI, Green Belt, ANOB as, amongst others, areas where the Framework seeks to restrict development.

Section 10 of the Framework goes on to discuss the need to meet the challenge of climate change, flooding and coastal change. At paragraph 97 it states that Local Planning Authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. The paragraph then goes on to identify criteria that should be adopted in Local Plans to draw up suitable policies for such development but in respect of planning applications, Paragraph 98 gives guidance to the Local Planning Authorities when determining applications.

It states that applicants should not be required to demonstrate the overall need for renewable or low carbon energy and Local Planning Authorities should recognise that even small-scale projects provide a valuable contribution to cutting greenhouse

emissions. It further states that applications for such development should be approved if its impacts are or can be made acceptable unless material considerations indicate otherwise.

The Framework is therefore a material consideration in the determination of planning applications. The document should be read as a whole but Paragraphs 97 and 98 give specific guidance to drawing up renewable energy policies and determining planning applications. The provisions of Paragraph 98 are particularly relevant to the determination of this planning application. This paragraph is summarised above but in the light of the objections received, there are no grounds for the Local Planning Authority to seek justification for the development here – as the paragraph states, *‘even small-scale projects provide a valuable contribution to cutting green house gas emissions’*.

Much of the Guidance in National Policy Statements (EN1 and EN3) is similar to that found in the now revoked PPS 22 and now succinctly stated in The Framework. Certainly they stress the urgency of addressing climate change but they do not fundamentally shift the balance implicit in The Framework between exploiting renewable energy and satisfactorily addressing environmental, economic and social impacts. Bearing in mind also the strategic thrust of the National Policy Statements they do not carry great weight in this case. Nor do they need to do so in order to bolster the importance attached to renewable energy generation in national policy (para 3.4.5 in EN1); that importance is already self-evident in the Framework and in particular the statement that *‘small-scale projects provide a valuable contribution to cutting greenhouse emissions.’*

The issue will now turn on whether the proposal is acceptable or can be made acceptable in terms of other material considerations such as landscape or visual effects, the natural or cultural environment, the built environment including noise impacts, and the number and size of the turbines proposed.

Issues such as the cumulative impact of wind generation projects is a lesser consideration as East Midlands Airport has raised no objection but has expressed concern, in response to this application, of such impacts but decided to raise no objection. The Framework addresses concerns about the contribution to regional renewable energy targets and national and international objectives in the text at Paragraph 98.

Landscape and Visual Impacts

The application is for 2 wind turbines both with a hub height of 36.4m and a maximum blade height of 46m. An illustration to be displayed at the meeting will show the relative height of the range of turbines currently in use in the UK. It will illustrate that these turbines are at the lower end of the height scale but nevertheless would represent tall but slender structures in what is currently an area of open countryside lying between two villages. Objectors have made much of the visual and landscape intrusion arising from this development in respect of the structures themselves and the impact on the visual amenity of residents living in the vicinity of the site. There is also concern that the development would be visible from houses in relatively close proximity to the turbines.

The applicants have drawn attention to an appeal decision in Bedfordshire for a development of 10 wind turbines and the comments therein by the Inspector about

outlook and the impact wind turbines can have on views. He stated that ‘...*It is a well held planning principle that there is no “right to a view” such that an attractive or cherished outlook from a private property can be protected from development that would adversely affect it. The fact that the proposed wind turbines would be seen from dwellings in and around Langford, and in some cases would be prominent and would significantly change views of the countryside, is not determinative in itself.*

In the same case the Inspector agreed that ‘...*the appropriate test by which to judge the overall magnitude of visual impact on local residents is what is described in the Spalding case [appeal decisions made in 2010] as the “public interest test”, and which has been widely applied by Inspectors and the Secretary of State. This is to ask the question “... would the proposals affect the outlook of residents to such an extent, i.e. be so unpleasant, overwhelming and oppressive, that the property would become an unacceptably unattractive place to live.”*’ It will be noted from the display of the various turbine heights, that the scale of the proposed turbines is not excessive and although they will be visible, it would not be reasonable to argue that they would breach this test. As such the conclusion is that there are no landscape or visual impact objections that would justify a refusal of planning permission.

The visual impact from the public footpath is also raised as a significant objection to the development. The applicants have asserted that the views from the footpath are already degraded by the presence of Toyota and the cooling towers at Willington Power Station. These views have been assessed as a part of the consideration of the application and it is considered that these views whilst pleasant are not part of an unspoilt landscape that is of such high value worthy of a statutory designation. Objectors do make reference to the area being a part of the Green Belt but this is not the case. There is no landscape designation affecting this area where the provisions of the Framework could be said to discourage development (para 14).

The Natural and Cultural Environment

This is one of the main objections to the development that has been raised in the objections received. The impact on bats, birdlife and other species including badgers, are matters that are considered by objectors to be reasons for refusing planning permission. The applicants have addressed these issues in their submissions and the Derbyshire Wildlife Trust (DWT) in its response has confirmed the approach as acceptable. In consulting the DWT, the request was for an assessment of whether a full habitat survey was required as alleged by letters of objection; it confirmed that there was no need for such an assessment in respect of the proposal as the turbines are proposed to accord with Natural England advice in respect of wind turbines in proximity to field boundaries. Whilst the strength of the objections is noted, on the advice of Council’s advisor on such matters (DWT) the impact on the natural environment would not form justification for refusing planning permission.

The application also looks at the proximity of cultural assets but there are none that would be directly affected by the development nor would their setting be adversely affected.

Noise issues

The nearest house to the development site is some 300m to the north of the nearest turbine. Risborrow Close properties are some 460m to the west of the site and

Burnaston Village is some 550m to the east. Green Farm is some 560m to the southeast. Given these distances, the immediate impact on built development is not considered significant. The issue of noise is another major plank of the objectors' case against the development not just the noise of the turbines themselves but issues such as low frequency noise and shadow flicker have been raised against the development. Each of these is now addressed.

Turbine noise – the information provided in support of the application and in the subsequent noise report asserts that the turbines themselves should not produce noise levels that would be audible at any of the properties identified above.

The Environmental Health Manager has examined all the noise information submitted with the application and in those letters submitted that pay particular regard to noise issues. This includes the references to research published on the Internet that assert any turbine sited with 1km of a house can have adverse impacts on health through noise generation. The health impact asserted to result from turbine development are summarised in the 'Responses to Publicity' part of the report above. Having had regard to all the information, the Environmental Health Manager has concluded that the proposal would not adversely affect the occupiers of the houses to a point where there is justification to refuse planning permission. A condition is recommended to restrict the type of turbine to be installed on the site to those proposed in the application. Such a condition would enable the Local Planning Authority and Environmental Health Manager to assess any proposed changes of turbine against the advice pertaining at that time in respect of noise.

In terms of low frequency noise, the impact reduces with distance from the structures. Previous advice in the companion guide to PPS 22 stated that vibration levels 100m from the nearest turbine were a factor of 10 less than those recommended for human exposure. Again the grounds for refusing permission on this basis would not stand up at appeal.

In the same way research on shadow flicker has revealed that only those properties within 130 degrees either side of north relative to the turbines at latitudes in the UK. Turbines do not cast long shadows on their south side. Shadow flicker has been proven to affect only those properties within 10 rotor diameters of a turbine. There are no properties within 192 m of either of the turbines.

All the noise impacts have been assessed in accordance with the ETSU W/13/0032/REP, which is the standard method of assessing impacts advocated in the companion guide to PPS 22 (N.B. whilst PPS 22 has been revoked, there is no similar statement revoking the companion guide). In any event the ETSU document is referred to in the guidance on nationally significant projects issues to the Infrastructure Planning Commission (now the Major Infrastructure Directorate at the Planning Inspectorate). Whilst not strictly relevant to the current application, there is evidence of its use in planning appeals in less significant schemes by the Planning Inspectorate.

The number and size of the turbines

A site for two turbines with an overall height of 46m, in relative terms, is not large. In terms of intervisibility, turbines on this site may be visible in association with the turbine permitted at Highfield Farm Findern some 1.8km to the south west of this site. That permission is for a 10.8m diameter blade on a 15m high tower which has now been

implemented. There is another turbine in place off The Castle Way Willington. It is not considered any of these would be seen in the same view from any significant vantage points such as public footpaths. Landform and distance separate the turbine from the site at Highfield Farm. There are no grounds for refusing permission on this basis.

Other issues

The objectors place particular emphasis on the subsidy that the developer would enjoy if planning permission were granted. It is Government policy to encourage renewable energy generation by subsidy and to refuse permission on these grounds would thus be flawed.

Equally the potential for a turbine to break and cast a blade in the direction of the footpath on the north boundary is not grounds for refusing planning permission. It is a health and safety management matter that is covered by other legislation.

References to loss in value to property and wider health issues cannot form part of the consideration of the application. Health issues are a matter for central government in terms of the health of the nation and the loss in property values is not a matter for consideration as part of any planning application.

Conclusion

The development is considered to accord with the Development Plan. The Framework is a significant material consideration in determining this application and its advice is that the principle of turbine development, even small-scale schemes, is capable of meeting the country's obligation on carbon reduction. The grant of such permissions is encouraged unless other material considerations indicate otherwise. In the light of the above assessment, there are no material planning considerations that indicate planning permission should be refused.

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 wind turbines hereby permitted shall be erected only in the positions shown on the submitted drawing unless the Local Planning Authority has granted planning permission for an alternative location in response to a planning application made in that regard.

Reason: The proposal has been assessed on the basis of the submitted information in particular the noise impact of the development, the Local Planning Authority seeks to ensure that the development is sited to accord with the information submitted in support of the application and in the event that there is an application to vary the siting of the turbines there is a proper assessment of those changes through the medium of a new planning application.

3. The turbine installed at the site shall be the Endurance E3 120 50Kw mounted on 2 x 35.4m high towers unless the Local Planning Authority grants planning permission for an alternative type of turbine in response to a planning application made in that regard.

Reason: The proposal has been assessed on the basis of the submitted information in particular the noise impact of the development, the Local Planning Authority seeks to ensure that the development is sited to accord with the information submitted in support of the application and in the event that there is an application to vary the siting of the turbines there is a proper assessment of those changes through the medium of a new planning application.

4. Before the development is commenced a maintenance schedule drawn up in accordance with the manufacturers recommendations shall be submitted to the Local Planning Authority. Following approval of the maintenance schedule it shall be used to undertake maintenance operations to the turbines throughout the life of the development.

Reason: This planning permission is granted on the basis that the turbines will operate at optimum capacity and that the noise characteristics will be the same throughout their period of operation. Accordingly the submission and approval of a maintenance schedule and the requirement to undertake maintenance in accordance with that schedule is imposed to secure the operation of the turbines on the basis that the permission was granted.

5. If any wind turbine generators hereby permitted ceases to operate for a continuous period of 6 months then, unless otherwise agreed in writing by the Local Planning Authority, a scheme for the decommissioning and removal of the wind turbine generators and any other ancillary equipment and structures relating solely to those generator), shall be submitted to and agreed in writing by the Planning Authority within 1 month of the end of the cessation period. The scheme shall include details for the restoration of the site. The applicant or his agent shall implement the scheme within 6 months of the date of its agreement by the Local Planning Authority.

Reason: To ensure that the specific details of the decommissioning work are outlined and agreed on prior to being carried out in the interests of the character and appearance of the countryside once the development has reached the end of its working life.

6. All electrical cabling between the individual turbines and the on-site connection building shall be located underground unless otherwise agreed in writing with the Local Planning Authority. Thereafter the excavated ground shall be reinstated to its former condition as pastureland within 2 months of the commissioning of the wind turbines.

Reason: For the avoidance of doubt and in the interests of visual amenity of the area and to ensure that the clutter normally associated with overhead power lines is removed to minimize the impact of such structures on the appearance of the countryside.

7. In the period comprising the June and July following the commissioning of the wind turbines, a survey of bat activity within the vicinity of the turbines and including the hedgerow shall be commissioned from a suitably qualified and registered bat expert. The ground area in the vicinity of the turbines shall be examined in that same period to identify if any fatalities to the bat population

have taken place. The results of the survey shall be submitted to the Local Planning Authority for assessment in consultation with the Derbyshire Wildlife Trust.

Reason: To assist the Derbyshire Wildlife Trust in the gathering of data.

Informatives:

The proposal has been screened in accordance with the requirements of the Environmental Impact Regulations 2011 and the conclusion is that the development did not require the submission of an Environmental Impact Assessment. This outcome has been posted on the Part 1 of the Planning Register in accordance with the requirements of the Regulations. Accordingly the Local Planning Authority accepts that that no EIA is required for the proposed development.

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

Item 1.2

Reg. No. 9/2012/0152/FH

Applicant:

Mr I Swindell
6 Chellaston Cottages
Swarkestone Road
Weston On Trent
Derby

Agent:

Philip Anthony
PCA Building Services Consultancy
40 Uttoxeter Road
Mickleover

Proposal: **THE ERECTION OF AN EXTENSION AT 6 CHELLASTON
COTTAGES SWARKESTONE ROAD WESTON ON
TRENT DERBY**

Ward: **ASTON**

Valid Date: **27/02/2012**

Reason for committee determination

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

Site Description

This group of former railway workers cottages is rural in its situation, found well outside of the village boundary. The property in question is the end one, in a terrace of six and affords front, side and rear garden space. As viewed from the highway the cottages retain their simple form; changes have though been made to the rear with a mix of alterations, both one and two storey.

A shared resident parking area is sited to the rear, accessed by the unclassified track which runs alongside No6. A train line runs to the south of this parking area; mature planting though provides some screening.

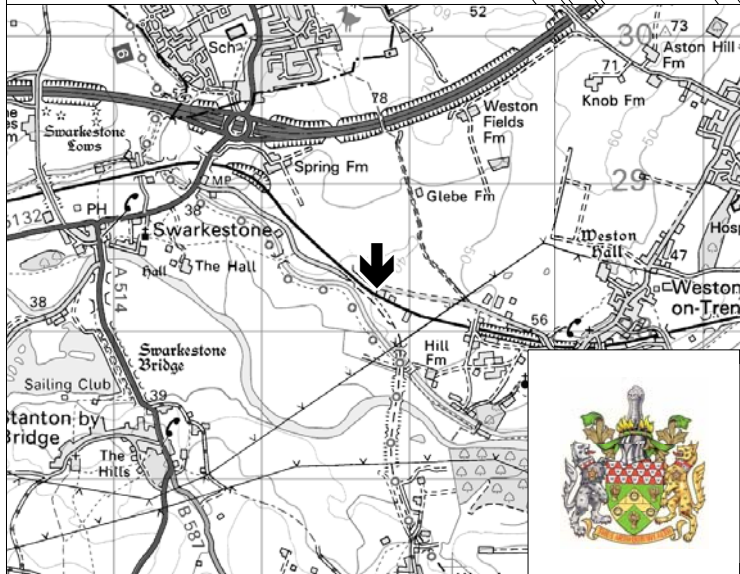
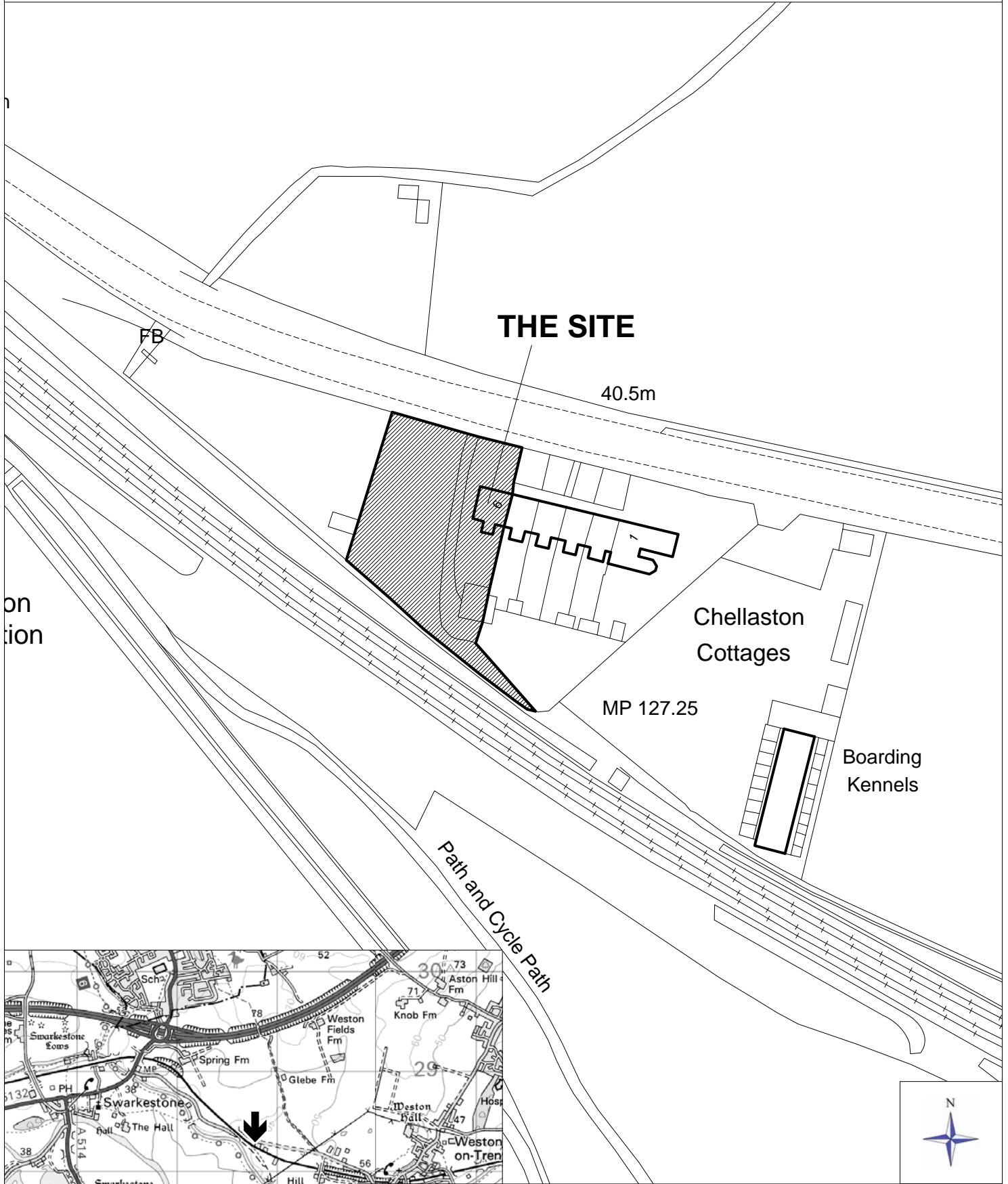
The site as a whole is generally flat.

Proposal

The proposal is in two parts and includes a single storey extension and a remodelling/enlargement of the existing porch. Both these elements are to be to the rear of the property. The plans also show the enlargement of the side kitchen window – that particular element though is achievable as permitted development.

Applicants' supporting information

9/2012/0152 - 6 Chellaston Cottages, Swarkestone Road, Weston on Trent, Derby DE72 2BU



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South Derbyshire District Council. LA 100019461. 2010

None.

Planning History

This property has been extended before to the rear, two-storey, part of a permission granted in 1983.

Responses to Consultations

Weston on Trent Parish Council objects to the proposal and asks for the following to be taken into consideration:

- 1) The build would change the look of this row of historic cottages;
- 2) Maintenance of the main soakaway for all the cottages could be affected;
- 3) Loss of light to neighbour;
- 4) Concern over possible further extensions here;
- 5) The existing garage makes access difficult – is this to be retained?

The Parish have also asked that if the application is allowed that consideration (via a possible planning condition) is given to neighbours as regards hours of work and times of deliveries.

Network Rail has no objection in principle. They have asked that the applicant consider adequate soundproofing.

Derbyshire County Council (Archaeologist) considers that the proposal will have no archaeological impact.

The Environmental Health Manager has no objection.

Severn Trent Water has no objection.

Responses to Publicity

Objections from three neighbours have been received. These are summarised as follows:

- a. The extension will compromise the integrity and character of these cottages;
- b. There is presently an established building line to the rear of these properties. Any change to this will spoil the appearance of these historical cottages;
- c. The extension is too large leaving limited space between it and the existing garage, overdevelopment of site;
- d. The existing garage here would now be in contravention of current planning regulations and makes vehicular access difficult;
- e. Concern has been expressed in regard the future maintenance of the shared storm drains. The extension also increases the load on the existing drains and flooding has occurred here previously;
- f. The extension will cause loss of light and aspect to neighbouring windows and garden space. Access will be required to my site to complete the rendering;

- g. May set precedent for others to extend / concern over future development especially at first floor level;
- h. Forms show inaccuracies in regards trees near to the site;
- i. The proposal will negatively affect property values.
- j. There will be disruption for neighbours during the build especially in regard the shared vehicular access and the general noise of construction works.
- k. Network Rail currently have 24 hour access rights over this access;

Development Plan Policies

Local Plan Housing Policy 13;
(Supplementary Planning Guidance (SPG): Extending Your Home).

Planning Considerations

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

- The impact on the character and appearance of this group of dwellings;
- The impact on neighbours assessed against the Council's adopted standards.

Planning Assessment

The impact on the character and appearance of the locality

This terrace affords some character as seen from the highway – simple form, traditional materials etc. The works here though are to the rear, an area not easily seen from the public realm. This rear space has 'evolved' over time with the addition of a variety of built forms and in my view any original character here has been eroded.

As stated in SPG, the front of the dwelling is generally the most sensitive – that is the case here and that should be maintained; rear extensions in general should present fewer problems.

The proposed materials are shown to match the existing brick/render and includes the use of welsh slate on the roof.

The impact on the general character is nominal and in keeping with the scale of the existing cottages.

The impact on neighbours assessed against the Council's adopted standards

There is no case for loss of privacy as no primary neighbouring spaces are unduly overlooked. Overbearance is usually only considered when the proposal is two storey or the ground level slopes unfavourably. However, the site is flat and the additions are only single storey.

The new porch is a modification of an existing structure; the proposed extension shown to be set in 1.7m from the boundary with No5. The adjacent 1.8m high fence should screen most of that new bulk from No5's perspective.

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. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless otherwise agreed in writing by the Local Planning Authority.

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

Item 1.3

Reg. No. 9/2012/0167/SMD

Applicant:

David Wilson Homes East Midlands
Forest Business Park
Cartwright Way
Bardon Hill

Agent:

Mr John Deakin
David Wilson Homes East Midlands
Forest Business Park
Cartwright Way
Bardon Hill

Proposal: **THE ERECTION OF 45 DWELLINGS ON LAND AT
SK2818 7032 GLAMORGAN WAY CHURCH GRESLEY
SWADLINCOTE**

Ward: **CHURCH GRESLEY**

Valid Date: **01/03/2012**

Reason for committee determination

The site was previously reserved for a new school (at outline stage in 2000) and this application now proposes a housing development. The Committee's views are required on the 'redesignation' of the site and the alternative use of the S106 funds generated by the proposed development.

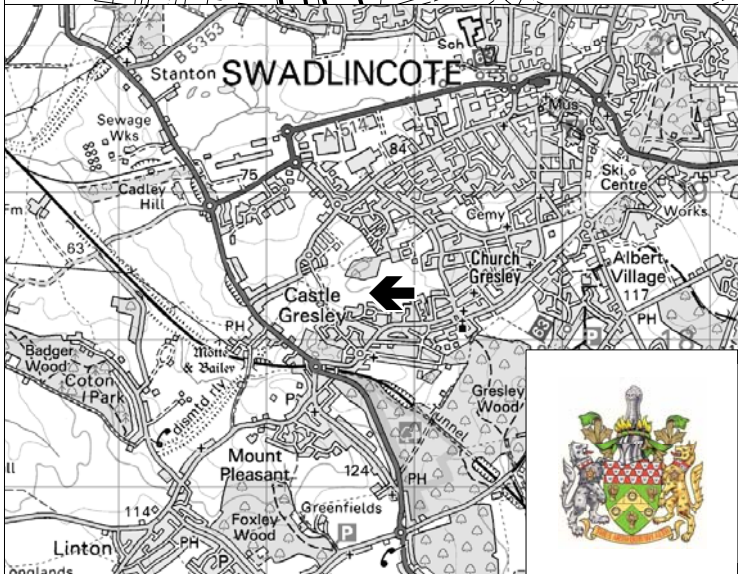
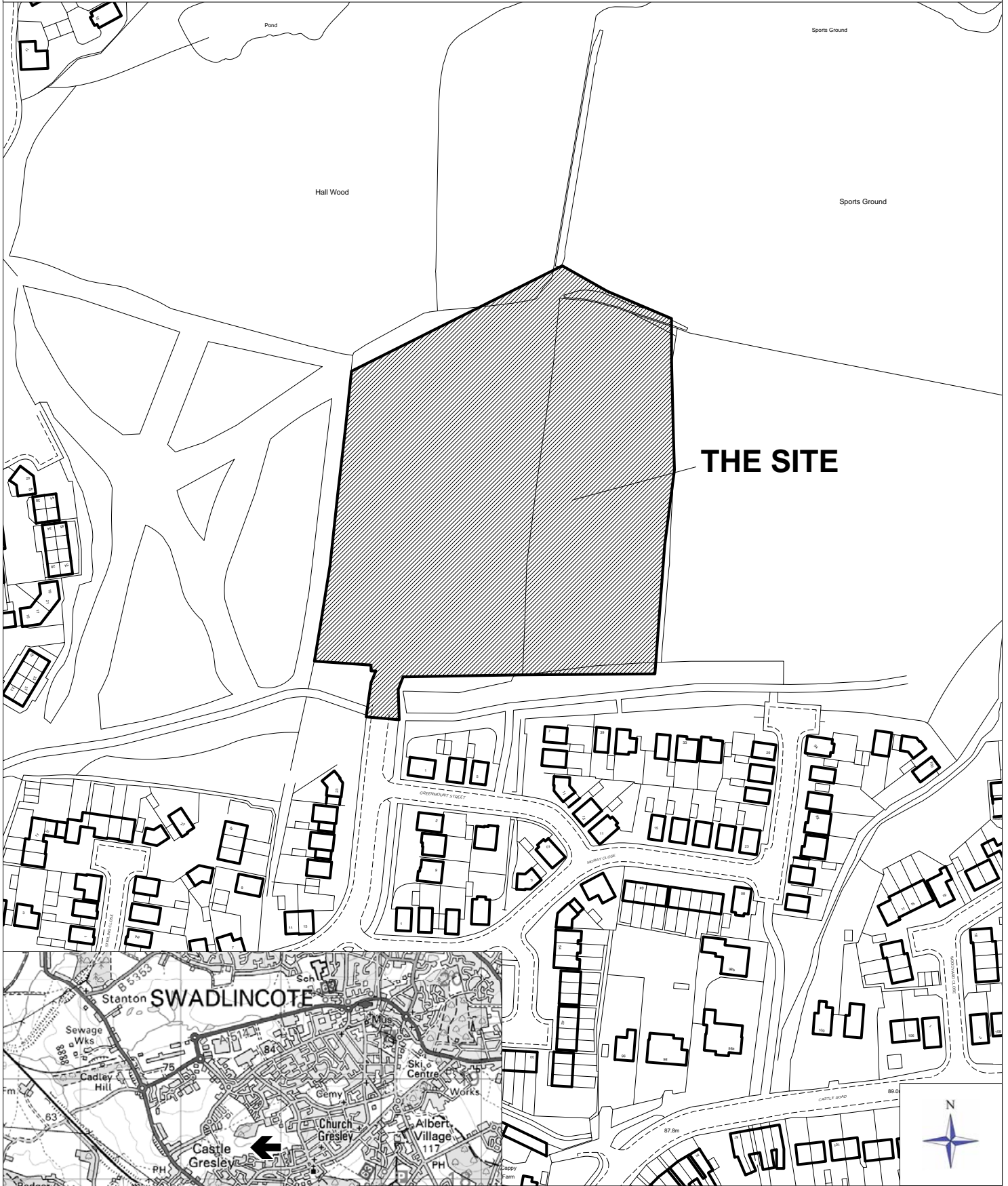
Site Description

This 1.74 hectare site is located to the east of the local centre of Castleton Park where Glamorgan Way terminates. To the north is Hall Wood, to the east is public open space and to the west is new woodland planting. Existing housing on Phase 2A bounds the site to the south at a 2 metre lower land level. The southern boundary of the site contains existing woodland planting which is fairly immature. A pedestrian walkway separates the planting from the existing dwellings. The site slopes up towards Hall Wood. There are existing hedgerows on the eastern and western boundaries together with the hedgerow that runs through the centre of the site.

Proposal

Planning permission is sought for the erection of 45 dwellings on the site originally set aside for a new school on the Castleton Park masterplan. The main road would continue Glamorgan Way northwards ending in a turning head adjacent to Hall Wood and a section of road would turn east in the centre of the site. Private driveways extend off these roads. The design of the layout is similar to the latter phases of the overall development as feature areas with paving and tree planting are proposed with the properties framing the street and turning the corners.

9/2012/0167 - Land at SK 2818 7032, Glamorgan Way, Church Gresley, Swadlincote (DE11 9JT)



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South Derbyshire District Council. LA 100019461. 2010

The housing breakdown is as follows:

13 three bedroomed properties

23 four bedroomed properties

9 five bedroomed properties

The house type designs are similar to those previously granted on phases 5 and 6. They have fanned brick lintel features above windows, flat roof door surrounds, bay windows, small flat roof dormers, projecting gables on front elevations. Dual aspect dwellings are also proposed to ensure that the streetscenes are not dominated by blank gables and adequate surveillance of parking spaces are achieved. Each dwelling has one garage space and an additional space in front. Garden lengths vary from 8-10.5 m.

Applicants' supporting information

Design and Access Statement – This includes site analysis and the site context together with the character assessment and an assessment of local facilities. It outlines the design concept and highlights the importance of linkages to existing public open space. A Building for Life Assessment was carried out with a score of 18 out of 20.

Coal Mining Risk Assessment – This report concludes that the risk from recorded workings and mine entries is negligible. The risk from un-recorded shallow workings is high and probe drilling is required to confirm. The risk from past, current or future coal mining is negligible.

Arboricultural Assessment – This report indicates that all existing trees and hedgerows would be retained albeit a section of the hedgerow (H2) that dissects the site through the middle would be removed in order to accommodate the estate road. There are three trees within the hedgerows that are classified as moderate trees which will be retained and the remaining trees on the edge of Hall Wood are also moderate with two high retention value Oak trees, all to be retained.

Ecological Appraisal – The hedgerows are species diverse. The H2 hedgerow was a slightly lower value than the perimeter hedgerows. None of the trees within or flanking the boundaries of the site provides potentially suitable habitats for roosting bats, however the site is likely to be utilised for a larger foraging area. The habitat is considered unsuitable to support reptiles. There are opportunities for nesting birds within hedgerows and trees within and on the boundaries of the site. No badger setts, latrines, prints or hairs were recorded within or directly adjacent to the site, however, a mammal track that emerges from Hall Wood was recorded. Recommendations include lighting adjacent to hedgerows and the woodland edges be designed to reduce spill and work to existing hedgerows and removal of vegetation be undertaken outside the bird nesting season.

Infrastructure Storm Water Drainage Strategy – Surface water drainage for this development would connect to an existing storm water sewer constructed previously within the Phase 2A. This storm water network was designed to accommodate surface water flows from both Phase 2A and the school site. The design of the storm water network made an allowance of 55% of the gross school site area being impermeable (11085m²). The residential development proposed has a reduced impermeable area of 10,287m². Therefore, it is considered that the existing storm water sewers can accommodate the proposal.

Planning History

9/0890/515 – Outline - Residential Development of approximately 58.3 hectares of land to the south east of Swadlincote Lane, Approved March 2000.

Responses to Consultations

The Council's Contaminated Land Officer recommends a phased contamination condition as the site is within 200m of several locations with known potentially contaminative historical uses.

On the basis that the site has already been catered for in the originally approved scheme of drainage, the Environment Agency has no objection. However, they do recommend a condition in relation to a surface water drainage scheme.

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

The County Archaeologist considers that the site is likely to have been within the open field of the medieval village and records of ridge and furrow from the surrounding area seem to bear out this conclusion. The potential would be of small-scale historic coal extraction. However, given the relatively modest scale of the proposal and low background potential an archaeological requirement is not justified.

The National Forest Company identifies that the 30m in depth area of woodland planting would be reduced in the south east corner where plots 39 and 40 are proposed. Whilst they would not be expecting any new planting as part of the scheme they do not want existing young woodland planting to be lost.

The County Highway Authority has no objection, however, amendments to the layout are required prior to any recommendations being made.

The County Education Authority states that the development of 45 dwellings would generate 9 primary and 7 secondary age pupils. This is calculated on the basis of a minimum of 20 primary places and 15 secondary places per 100 dwellings. They would therefore request a S106 Education Contribution of £222,824.28 (£11,399.01 per primary pupil and £17,176.17 per secondary pupil).

Natural England has no objection as the site would utilise the Stanton sewerage treatment works which is outside the Mease catchment and is thus unlikely to have a significant effect on the River Mease Special Area of Conservation (SAC). Protected species are not likely to be adversely affected by the proposal subject to the works being carried out in accordance with the Ecological Appraisal.

Derbyshire Wildlife Trust has no objection.

The Police Architectural Liaison Officer made comments in terms of removal of some pathways through grassed areas, removal of the access to the open space to the east and extending the opening that links to Gresley Old Hall. The comments on the amended plan are that the links and access points that may have provided opportunist access for crime and anti social behaviour have now been designed out and the whole layout is far more crime resistant, safer and more secure. The opening to the existing

desire lines and trodden route is wide with clear surveillance views through the gap to ensure the safety of users and make the connection legible and logical. The proposed bench adjacent to Hall Wood may be a source of anti social behaviour unless it is well lit. All rear boundaries should be enclosed by 1.8m boundary treatment.

Responses to Publicity

Five letters of objection have been received and are summarised below:-

- a) The site was for a school and not housing.
- b) The dwellings would overlook their garden and rear windows which is increased by the higher land level of the site.
- c) Their decision to buy their property was based on it being a dead end.
- d) The proposal would generate increased traffic with increase danger to local children.
- e) They were told the site would not be built on.
- f) The dwellings would involve loss of privacy to their lounge window.
- g) The roads are not built to cope with such an increase in traffic.
- h) There is a 30m planting barrier which originally separated the school site from neighbouring dwellings and it appears that in the south east corner this would be built on.
- i) The proposed building area is too close to the bank and should be moved further into the site.
- j) No existing planting should be removed as it allows privacy and enhances the area.
- k) The site is one of the few remaining open spaces remaining within the development and is frequently used by walker and dog walkers.
- l) The site is popular with bats during the summer months.
- m) The young tree planting does not provide a sufficient form of screening.

In relation to the amended plans re-notification, two residents who originally made comments have stated their reasons for objections still stand. One resident stated that in granting permission for the retail complex more traffic is using Glamorgan Way and this scheme would increase this further showing little duty of care to vulnerable road users and children. Another resident felt their property would be overlooked.

Development Plan Policies

The relevant policies are:

East Midlands Regional Plan: Policies 2, 3, 12, 14, 26 and 48.

Local Plan: Housing Policies 2 & 11, Environment Policy 10,
Transport Policies 6 & 8, Recreation and Tourism Policy 4

National Guidance

National Planning Policy Framework Section 6 para.49, Section 7 para.56 & 61, Section 10 para.100, Section 11 para.109, 120 and 121.

Planning Considerations

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

- Principle of Development

- Design, Layout and 'Building for Life'
- Residential Amenity
- Drainage
- Highways
- Section 106 contributions

Planning Assessment

Principle of Development

The original outline application granted in 2000 for the overall site included a masterplan which identified this land for the provision of a new school. However, a considerable period of time has passed and Derbyshire County Council no longer requires this land for a school. The background to this decision is that Church Gresley is served primarily by three schools in terms of primary sector provision; Church Gresley Infant and Nursery School, Pennine Way Junior School and St George's CE (C) Primary School. When the major housing development commenced in Church Gresley some years ago it was envisaged that a new primary school would be needed and a site was reserved for that purpose. However, extensions have already been built at Pennine Way Junior School and St George's CE (C) Primary School and the County Education Authority now plans to replace Church Gresley Infant and Nursery School with a larger building on a site at Pennine Way. Members will recall a consultation from the County Council in relation to their application for a new school considered at Planning Committee on 28 February 2012.

Given that the site is adjacent to existing housing and falls within the H2 allocation for housing in the adopted local plan, and the Education Authority's new proposals, the principle for residential development on this site is therefore acceptable and provision for a new school on Pennine Way with funding generated from this development in terms of Section 106 contributions is considered to be a reasonable resolution.

Design, Layout and Building for Life

The design of dwellings is similar to phases 5 and 6 albeit with larger house types to reflect its close proximity to the adjoining open space. The house type design is consistent with the agreed 'design code' that was formed at the start of this overall development. Gabled roof properties with various design features to add interest such as bay windows and dormers and gable features on the front of the larger dwellings serve to characterise the area. The larger properties on the edges are proposed to reduce the density adjacent to the open land.

The majority of dwellings are two storey and have a ridge height of just below 9m and four house types proposed are two and a half storeys, although these would only add 0.2 metres to the ridge. Dual aspect dwellings are used to ensure streetscenes are not dominated by blank gables. Houses orientate themselves to face the existing perimeter hedgerows and grass verges and landscaping proposed around these edges. Legibility is considered to be simple due to the main roads and then private drives served off them. This could be enhanced by the use of materials such as render on corner plots as has been used successfully elsewhere on the overall site and this can be controlled by condition. The main route terminates at Hall Wood which leads to the open space at

Gresley Old Hall and as such is likely to be the main pedestrian route through the development.

Amendments to the layout to remove the areas of open spaces in the corners of the site and along some boundaries adjacent to the hedgerows were required, as these areas could not be adopted as open space due to their size and location. Paths through these areas required removal as the Police were concerned with all the available routes through the development. These areas have now been incorporated within the curtilages of dwellings. In order for the development to improve its green context, hedgerows are now proposed on the front gardens of prominent plots. The precise plots where hedgerows are required can be controlled by condition.

In terms of connectivity, the site would create a main route from the south to Gresley Old Hall to the north east and the informal open space to the east. The existing path that is heavily used along the northern boundary with Hall Wood would be retained and surfacing improved.

Whilst no specific public space has been provided (there is a general excess on the overall development site), there are areas of paving with street trees proposed adjacent to the entrance and the turning head adjacent to the eastern boundary.

This new phase of the development (the current application) has been assessed by the Council's 'Building for Life' Design Excellence Officer and has achieved a score of 15. This exceeds the 'good' minimum score that the Council seeks to achieve.

Residential Amenity

The nearest residential properties are located on Greenmount Street and are 29-30 metres from the nearest proposed properties on plots 39 and 40. The properties are separated by the areas of woodland planting and the existing 3m wide pedestrian cycle/walkway. The difference in land levels between properties would be between 5.2 – 6.3m, the new properties being higher. Where houses are 5m higher there is a distance of 29-30m and where they are 6.3m higher there is a distance of 47-50m. The southern elevations of the properties on plots 39 and 40 are secondary windows with the main aspects of the dwellings facing east and west. The proposed dwellings have been assessed against the Council's Space standards taking into account the land level differences and have found to be compliant.

Drainage

The drainage scheme for the overall site was agreed by the Environment Agency, Severn Trent Water and this Council in 2006. The new development proposals and outfall rates fall within the tolerances set out in the approved drainage scheme.

Highways

At the time of writing the County Highway Authority has no objection, although it recommends that certain amendments are made relating to among other details, carriageway widening on inside of bends and footways required adjacent to carriageways. A commuted sum would be required to cover future maintenance costs of extra-over carriageway, trees and non-standard materials. These requests have been made and the outcome will be reported at the committee.

Section 106 Contributions

The proposed school, which is now favoured by the County Education Authority, would be in place of a school originally proposed on this allocated site. The extensions at Pennine Way Junior School and St George's CE (C) Primary School and the proposed new school at Pennine Way would continue to address the need to cater for additional pupils generated by the housing development at Castleton Park. The proposed replacement school would provide the additional school places adjacent to the existing Junior School together with addressing the Authority's and the school's desire to replace the Church Gresley Infant and Nursery old school building which has detached temporary buildings and other significant 'suitability' issues relating to its current site and buildings. The budget cost for the replacement Infant and Nursery School is £6.6m and it is anticipated that a significant financial contribution for the project will be sought via a Section 106 Agreement relating to this development from the applicant David Wilson Homes who are the principle developer of the overall site.

The County has requested that the normal Section 106 contributions that would be generated by the development be consolidated into a single payment towards the new school at Pennine Way. The payment would be thus in lieu of the provision of the land in order to maximise the financial contributions available to the school project. Members therefore need to consider this request and determine if they can agree to the 'rolled up' contribution going exclusively to help fund the new school.

Other matters raised during consultation

There is a small area of young woodland planting that would be lost as part of the development. However, this is due to the boundary of the site not being marked when it was planted and the forester erring on the side of caution. Woodland planting on the overall scheme far exceeds that envisaged or controlled by planning permission and thus this small loss is considered acceptable. In addition, the applicants have agreed that because these trees are young, they can be transferred for use elsewhere on the site so that there would be no overall loss of trees.

Conclusion

Residential development is considered acceptable in this location and the house type design and layout is considered to fit well with the existing development in terms of its character and context. The proposed dwellings would not have a significant impact on the residential amenity of neighbouring properties or in terms of highway safety.

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

Recommendation

A. That the contributions normally accruing from the development be re-directed in their entirety to assist in the provision of a new school at Pennine Way by way of an agreement under Section 106 of the Town and Country Planning Act (as amended), and;

B. That subject to the satisfactory conclusion of 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 layout drawing no. S4624/100/04 E.

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

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

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

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

B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

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

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

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

5. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the LPA without

delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

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

6. 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 dwellings 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.

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. Prior to the first occupation of any of the dwellings 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.

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

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

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

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

11. Before any operations commence involving the movement of materials in bulk to or from the site, facilities shall be provided that have previously been approved in writing by the Local Planning Authority, to prevent the deposition of mud or extraneous material on the access roads to the site.

Reason: In the interests of highway safety.

12. The proposed private vehicular access driveways shall be surfaced with a solid, bound material (i.e. not loose chippings) prior to the occupation of the dwelling to which they relate.

Reason: To prevent the deposition of extraneous material on the public highway in the interests of highway safety.

13. Before any other operations are commenced (excluding site clearance), space shall be provided within the site curtilage for storage of plant and materials/ site accommodation/loading and unloading of goods vehicles/ parking and manoeuvring of site operatives and visitors vehicles, laid out and constructed in accordance with detailed designs 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: To ensure the free flow of traffic on the adjoining highway.

14. Prior to the commencement of development further detail of the construction of the entrance feature and turning heads in terms of materials and levels shall be submitted and agreed in writing by the Local Planning Authority and implemented in accordance with the approved details.

Reason: In the interests of highway safety.

15. Notwithstanding the submitted details, Plot No's 2, 3, 5, 11, 13, 17, 19 and 42 shall be rendered.

Reason: To accord with the design concept of the overall development and improve the character of the area.

16. Development shall not begin until a surface water drainage scheme for the site (Phase 7), 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 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.
- Where necessary, provision of surface water run-off attenuation storage within Phase 7 to accommodate the difference between the allowable discharge rate into the Phase 2A drainage system at Manhole S17 and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm.

- Detailed design (plans, cross sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.
- 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, improve habitat and amenity, and ensure future maintenance of the surface water drainage system.

Informatives:

In respect of condition 7, the front boundaries on all plots should be boxed hedges of a species to be agreed with the exception of plots 15 and 41.

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

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from the Coal Authority's website at: www.coal.gov.uk/services/permissions/index.cfm. The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

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

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

During construction you are requested to ensure that your or any other contractors' vehicles are parked legally and in a manner that shows consideration to the occupiers of adjacent and nearby properties. Thank you for your co-operation.

The Environment Agency advises that:-

During the period of construction, oil and fuel storage will be subject to the Control of Pollution (Oil Storage) (England) Regulations 2001. The Regulations apply to the

storage of oil or fuel of any kind in any kind of container which is being used and stored above ground, including drums and mobile bowsers, situated outside a building and with a storage capacity which exceeds 200 litres. A person with custody or control of any oil or fuel breaching the Regulations will be guilty of a criminal offence. The penalties are a maximum fine of £5000 in Magistrates' Court or an unlimited fine in Crown Court. Further details of the Regulations are available from the Environment Agency.

Site operators should ensure that there is no possibility of contaminated water entering and polluting surface or underground waters.

Item **1.4**

Reg. No. **9/2012/0180/FM**

Applicant:

Mr Mark Jones
Sunrise Homes Limited
3 Trent Lane
Weston-on-Trent
DE72 2BT

Agent:

Mr Mark Blood
Mark Blood Building Design
Manor Farm House
London Road
Shardlow

Proposal: **THE ERECTION OF A DETACHED DWELLING ON LAND
AT ASKEW GROVE REAR OF 44 & 46 MILTON ROAD
REPTON DERBY**

Ward: **REPTON**

Valid Date: **05/03/2012**

Reason for committee determination

The application is brought to Committee at the request of Councillor Stanton as local concern has been expressed about an issue.

Site Description

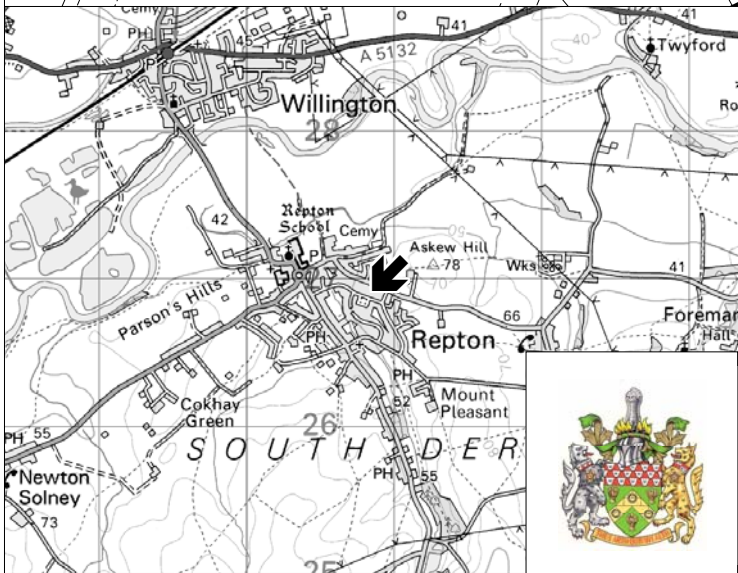
The application site is located within Repton village confines and consists of part of the gardens to the rear of Nos 44 & 46 Milton Road. The site is set back from Askew Grove behind an existing residential development of four dwellings accessed from Askew Grove situated to the south and currently under construction. The surrounding development is predominantly two-storey dwellings but varied in character. The area of The Crescent and Askew Grove are pre-dominantly semi-detached c1950s pre-fabricated properties. Properties along Milton Road are predominantly semi-detached with long gardens to the rear. Askew Grove and The Crescent have been subject to considerable redevelopment by the applicant in recent years providing a mix of both traditional and more contemporary dwellings within the vicinity of the site.

Proposal

The application proposes the erection of a three-bedroom dwelling and attached garage with access from Askew Grove via an access permitted for the existing residential development currently under construction. The dwelling would measure 7.5m to the ridge with first floor accommodation contained within the roofspace lit predominantly by rooflights. An additional parking space would be provided to the front of the garage.

Applicants' supporting information

9/2012/0180 - Land at Askew Grove, Rear of 44 & 46 Milton Road, Repton, Derby DE65 6FZ



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South Derbyshire District Council. LA 100019461. 2010

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

- The proposed dwelling will comprise of a detached dwelling of 1½ storey construction with first floor accommodation provided partially within the roof space.
- The ridge height will be 7.5m with an eaves height of 4.02m.
- The site will accommodate two on-site parking spaces (one being a garage) with vehicle turning provided within the site.
- The development is intended to provide a degree of additional affordable housing within this very popular residential area.
- Careful attention has been given to ensure that the layout and design of the proposed dwellings will accord very closely with the previously approved schemes on the adjacent sites and will therefore compliment these recently completed developments.
- The proposed dwelling will not be unduly prominent in the streetscene, and will ensure adequate private garden space is retained to serve the dwelling.
- The redevelopment of the site as proposed will provide adequate and more manageable garden areas to the existing dwellings on Moira Road.

Planning History

9/2011/0794 – The demolition of two dwellings and the erection of four detached dwellings. Permitted 21.11.11.

Responses to Consultations

The Highway Authority consider that the access previously approved under application 9/2011/0794 to serve the four new dwellings is adequate to serve an additional dwelling and has no objection subject to the provision of the previously approved access as agreed and the provision of parking and manoeuvring space as submitted.

The Environmental Health Manager has no comment.

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

Repton Parish Council has raised the following concerns:

- Development on Askew Grove appears to be taking place in a piecemeal manner. If new applications had to be considered as a whole this would have resulted in S106 funding being made available to the Parish Council.
- To allow further development would lead to a high concentration of housing in this area.
- Removing and replacing existing housing stock is resulting in the loss of affordable housing for this area.

Responses to Publicity

One letter of objection has been received raising the following concerns:

- The construction of this property does not comply with SDDC's proposals that any development in Askew Grove/The Crescent should maintain a similar street view to that currently visible and front the roadway.
- Given the piecemeal nature of the development the community does not appear to be benefiting greatly from S106 monies or community facilities.
- I understand that construction in gardens is not something that is likely to be favoured by planners in the future.
- The house will become part of an increasingly dense development. There is no other part of the village which contains so many buildings with little or no gardens.
- It does not provide affordable housing.
- There are already parking issues with the primary school on Springfield Road and the developer is only providing one car parking area.
- Increased vehicular access on Askew Grove - existing dangerous parking on Askew Grove reduces the road to a single lane with access and visibility for the owners of properties reduced.
- Adjacent occupiers are distraught with worry that the developer is forcing them out of their home by building around their entire home and garden.

Development Plan Policies

The relevant policies are:

East Midlands Regional Plan: Policies 1, 2, 3 & 48

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

National Guidance

National Planning Policy Framework

Paragraphs 17, 49 & 53

Planning Considerations

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

- The principle of development
- Design
- Impact on residential amenity
- Access and parking
- S106 Contributions

Planning Assessment

The principle of development

Paragraph 49 of the National Planning Policy Framework (NPPF) advises that housing applications should be considered in the context of the presumption in favour of sustainable development.

Housing Policy 5 allows for new housing development within the village confines providing it is in keeping with the scale and character of the settlement.

The application site is situated in a sustainable location within Repton village confines and surrounded by residential development on all sides with easy access to local facilities. Residential development of the site would accord with the above policies subject to acceptable design and appearance.

In June 2010 the Government amended the definition of 'previously-developed land' under Annex B of PPS3: 'Housing' to exclude private residential gardens in order to allow Local Planning Authorities an element of control over 'garden grabbing'. The National Planning Policy Framework has now replaced PPS3 but at paragraph 53 advises that Local Planning Authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area. Whilst the proposal would involve the development of previously undeveloped land in the form of residential gardens, the acceptability of the development in this regard is as to whether there would be any harm to the character and appearance of the local area.

The application site is relatively enclosed by existing development and is not prominent within the streetscene. Properties along this part of Milton Road are predominantly semi-detached with rear gardens approximately 40m in length. Whilst the open character of these rear gardens can be viewed to some degree from Springfield Road situated to the east the application site is situated approximately 85m away from the road and the proposed dwelling would be relatively low in height being 7.5m to the ridge and not visually prominent. An element of 'backland' development has previously been accepted within the vicinity of the site with recent developments along Askew Grove including a development of two dwellings in the garden of Nos 32 & 34 Milton Road situated a few properties down to the west of the site. Any subsequent applications for 'backland' development would be subject to planning approval and assessed on their own merits with particular regard to their impact on the character of the area.

Design

The proposal has been designed to be in keeping with recent development on Askew Grove and to meet the Council's minimum distance requirements in terms of overlooking and overbearance in relation to neighbouring properties. Whilst the design is therefore somewhat contrived in this regard, due to the enclosed nature of the site the property would not be a prominent feature within the street. The dwelling would be set back approximately 47m from the road frontage of Askew Grove and views of the dwelling from the road would be in keeping with the existing new development and acceptable aesthetically.

The Design Brief for Askew Grove and The Crescent, February 2010 predominantly focuses on the development of sites fronting onto Askew Grove and The Crescent and is not considered specifically relevant to this development proposal.

Impact on residential amenity

The proposal complies with the Council's space about dwelling standards in relation to neighbouring properties and sufficient private amenity space has been provided for the proposed occupier. The dwelling would be situated in excess of 24m from the rear elevation of Nos. 44 & 46 Milton Road, with these dwellings retaining a garden 22m in length. The predominant use of rooflights to serve the first floor bedrooms has been accepted in adjacent developments and it is not considered that this would have any

significant adverse impact on the amenity of the proposed occupiers. The proposal is therefore considered to be in accordance with the Council's Guidance on new housing development and Housing Policy 11.

Access and parking

Access to the site would be via a recently permitted access to serve the new dwellings on the adjacent site. Sufficient on-site parking and manoeuvring space would be provided in accordance with Transport Policy 6 and the Highway Authority has no objections subject to conditions as above.

S106 contributions

The development follows on from a number of developments carried out by the applicant over recent years none of which has thus far exceeded five dwellings, the Council's standard minimum figure for seeking S106 developer contributions. However, it is recognised that the amalgamation of developments by the applicant along Askew Grove and The Crescent is likely to impact on local infrastructure. In view of this it is considered appropriate to seek S106 contributions towards healthcare and open space commensurate with the dwelling by way of a Unilateral Undertaking. The Education Authority has confirmed that an education contribution is not required.

Conclusion

The development would have minimal impact on the character and appearance of the streetscene and sufficient access and parking provision would be provided and could be required by condition. The development is in accordance with the above planning policies and the Council's Housing Design and Layout Guidance, particularly in relation to neighbouring properties, and is considered acceptable.

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

Recommendation

- A. To secure the signing of a Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 (as amended) for contributions towards healthcare and recreation provision;
- 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. 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. 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. 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.

5. The first floor windows in the side elevation serving the Bedrooms 1 & 2 shall be permanently glazed in obscure glass.

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

6. The previously approved access, including geometry and visibility splays, approved under application 9/2011/0794, shall remain unaltered and unobstructed for the life of the development, the subject of this permission.

Reason: In the interests of highway safety.

7. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the application drawing no. 11042.05 for the parking and manoeuvring of residents' 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.

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

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

Informatives:

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

Item 1.5

Reg. No. 9/2012/0273/NM

Applicant:
VODAFONE LIMITED
VODAFONE HOUSE
THE CONNECTION
NEWBURY
BERKS

Agent:
MS KATY JESSOP
TYCO ELETRONICS
PHEASANT OAK BARN
HOB LANE
BALSALL COMMON
WALSALL

Proposal: **THE INSTALLATION OF A 13.8 METRE HIGH STREET
POLE WITH 3 SHROUDED ANTENNAE, 1 VULCAN
CABINET AND ANCILLARY DEVELOPMENT AT
SAINSBURY'S CAR PARK HIGH STREET NEWHALL
SWADLINCOTE**

Ward: **NEWHALL**

Valid Date: **28/03/2012**

Reason for committee determination

The application is brought before Committee at the request of Councillor Bambrick 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

The site is a small landscaped area on the eastern part of the frontage of the Sainsbury's Store at High Street, Newhall. There are shrubs within this area and trees of a height of 14m together with an 8m high lamppost and telegraph pole in the near vicinity. Newhall surgery is to the east and there is a pharmacy opposite the site.

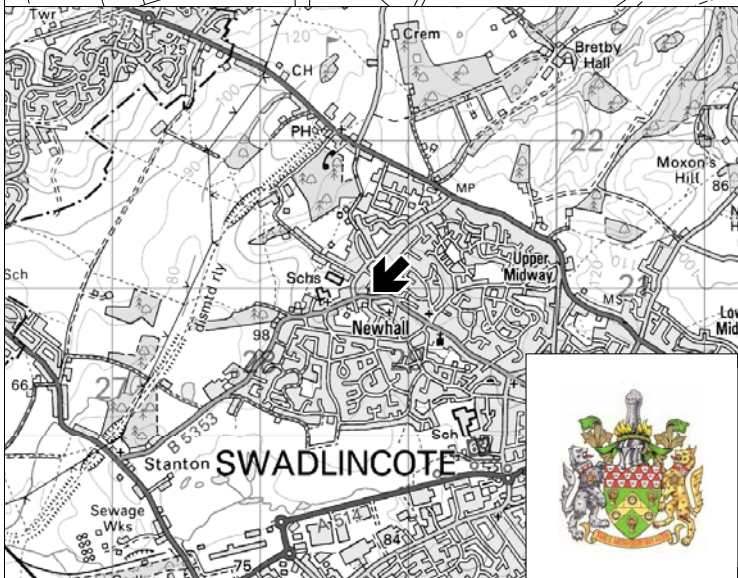
Proposal

Prior approval is sought for the siting and appearance of a 13.8 metre high street pole with 3 shrouded antennae, 1 vulcan cabinet and ancillary development. The vulcan cabinet would measure 1.8m x 0.9m of a height of 1.5m. The length of the shroud would be 4.4m.

Applicants' supporting information

The applicant has included:

**9/2012/0273 - Sainsbury's Car Park, High Street, Newhall, Swadlincote
DE11 0HU**



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

Planning History

None

Responses to Publicity

Two letters of objection have been received and their reasons are summarised as follows:

- a) Previous applications for similar proposals have been rejected in the Newhall area.
- b) The adjacent surgery has health concerns as potentially 600 patients would pass this pole every week and patients may choose other surgeries on this basis.
- c) The mast may disrupt their TV signals.
- d) It is a health hazard and a risk to children.

Responses to Consultations

None

Development Plan Policies

The relevant policies are:

Saved Local Plan: Community Facility Policy 4

East Midlands Regional Plan: Policies 2 and 3

National Guidance

National Planning Policy Framework 45 and 46.

Planning Considerations

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

Planning Assessment

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

The applicant has submitted evidence to show that 6 other sites were considered in the area, which has been demonstrated to require coverage. The reasons that these sites were discounted range from:

- The LPA has previously confirmed that some options are unsuitable or inferior in planning and environmental grounds
- The building is structurally unsuitable or not conducive and there is no space available for a ground based installation.
- The presence of first floor accommodation renders the building unsuitable.
- Planning permission was refused at Newhall Social Club

Community Facilities Policy 4 advise that telecommunications development would be acceptable provided there are no satisfactory alternative means of telecommunications available and the siting of the development does not result in an unduly prominent intrusion in the countryside or damage the character of areas of local landscape value, conservation areas or the setting or fabric of listed buildings. The applicant has demonstrated that there are no satisfactory alternative sites available. The siting in a predominately commercial area is acceptable and there character of the area would not be unduly damaged by the proposal. Accordingly the application is in accordance with Saved Community Facility Policy 4.

National Planning Policy Framework paragraph 45 outlines the information and consultation processes that should be followed as part of a submission together with consideration of other sites. This application has followed these guidelines and all relevant information has been supplied.

Paragraph 46 states that “*Local planning authorities must determine applications on planning grounds. They should not seek to prevent competition between different operators, question the need for the telecommunications system, or determine health safeguards if the proposal meets International Commission guidelines for public exposure*”.

The proposed mast and equipment would be within an established landscaped area set back 5.8 m from the High Street road frontage. The proposed 13.8m mast would be viewed in context with 14m high trees and 8m high telegraph pole and street light either side. In contrast to other sites in the area that have been recently tested, this proposed mast benefits from being better assimilated into its immediate surroundings by merit of the landscaped area in which it would sit. It is therefore considered that the proposal would not have a significant adverse impact on the visual amenity or character of the area. The application is accompanied by a certificate verifying that the equipment and installation meets International Commission guidelines for public exposure.

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 prior approval.

2. PLANNING AND OTHER APPEALS

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

Reference	Place	Ward	Result	Cttee/Delegated
9/2011/0514	Sutton-on-the-Hill	Hilton	Dismissed	Delegated



Appeal Decision

Site visit made on 7 March 2012

by Stuart Hall BA(Hons) DipTP FRTPI MCIHT

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

Decision date: 15 March 2012

Appeal Ref: APP/F1040/A/11/2163367

Cropper Farm, Sutton on the Hill, Ashbourne DE6 5JJ

- 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 D Bailey against the decision of South Derbyshire District Council.
 - The application Ref 9/2011/0514, dated 16 June 2011, was refused by notice dated 24 August 2011.
 - The development proposed is erection of a dirty water lagoon to serve dairy unit.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The lagoon has been constructed and is in use. The need for additional storage capacity in some form is not at issue. That capacity is required to meet legislation that came into effect on 1 January 2012, and is not related to any intensification of farming activity. The main issue in this appeal is the effect of smell arising from the lagoon on the living conditions of the occupiers of Glebe Cottage, Back Lane, Sutton on the Hill.

Reasons

3. The lagoon has a surface area of around 225 square metres, and an excavated depth of some three metres (m). Surrounded by a low earth bund and stock-proof fence, it is sited to the south-east of the main farm complex, close to its cattle housings, yard and manure store areas. It is used to collect by gravity the parlour washings, run-off from silage pits and open yards, and rainwater. Glebe Cottage stands approximately 20 m almost due east of the lagoon, some 40 m to the south-east on the main farm complex.
 4. At the time of my site visit it was agreed that the lagoon was about one quarter full. A strong wind was blowing, veering between west and south-west. On the bund around the lagoon, a "farmyard" smell was most noticeable on its downwind side, suggesting that the lagoon was the main source. A similar smell was discernible outside Glebe Cottage, also downwind of the lagoon. In Back Lane some 40 m to the north of the cottage and due east of the main
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- farm buildings, a more pungent smell prevailed. This was also evident within the main farm complex of buildings and yard, but less so in the immediate vicinity of the lagoon. This is consistent with the appellant's view that the smell from run-off and diluted effluent in the lagoon is less pronounced than that from the manure stores, cattle housings and yard.
5. However, my observations cannot take account of the effect of any seasonal variations, for instance in temperature, the volume and duration of effluent storage and manure, and whether the cattle are housed or at pasture. The appellant states that the Glebe Cottage occupiers are wrong in saying that the lagoon was decommissioned in August 2011. However, their evidence is that their first cause for objection, after 18 years living close to the farm, coincided with the filling of the lagoon in November 2010 and continued until August 2011. It may be that the mistaken belief that the lagoon was subsequently not in use arose from it containing relatively low levels of liquid since then. This would suggest that the intensity of smell may be related to seasonal factors, and would undermine reliance on my observations of a single event.
 6. Individuals' responses to smells will vary. This is perhaps illustrated by the lack of objection from other residents nearby. Alternatively, this may be because their dwellings are further from the lagoon and to the south-east of it, and therefore less subject to the effects of prevailing winds. Though it appears that the lagoon has been in use for well over a year, the Council appears to rely on the view that slurry lagoons in general are likely by their nature to give rise to odours and flies. There is no indication that the Council has investigated the alleged effects of this dirty water lagoon, or has monitored its actual effects on Glebe Cottage.
 7. Though the Council refers to the absence of odour or fly control measures, there is no evidence from either main party as to whether such measures are justified or could be applied effectively. Whilst ground levels will dictate the scope for locating a gravity-fed lagoon, there is no survey evidence to substantiate assertions that the lagoon could not be located further from Glebe Cottage without requiring unreasonably long runs of pipe work or causing significant inconvenience to the operation of the farm. In addition, there is no economic or environmental analysis of the option of storing dirty water in an enclosed container, either above or below ground.
 8. Whilst the aim of saved Environment Policy 5 of the *South Derbyshire Local Plan*, adopted in 1998, is to balance the needs of agriculture and environmental protection, it opposes agricultural development that creates an excessive level of smell. It is common ground that smells are to be expected in close proximity to a dairy farm. However, the above considerations point to there being insufficient evidence from which to conclude with confidence as to whether the incidence, strength and duration of smells arising from use of the lagoon cause unacceptable harm to the living conditions of occupiers of Glebe Cottage. Neither does the evidence clarify whether there are other practical ways in which any such harm could be adequately mitigated.
 9. It does not follow that an observed increase in flies at Glebe Cottage amounts to a material adverse effect on living conditions or, taking account of the proximity of the farmyard, that this is a permanent feature directly attributable to the lagoon. Occupiers' concerns about possible ground migration of gases

from the lagoon are not substantiated, and are not reflected in the observations of the appellant's and the Council's professional advisers. These other matters do not attract significant weight. However, on the main issue a cautious approach is justified by the lack of clear evidence and the risk that smells from the lagoon may have a permanent adverse effect on living conditions. To allow the appeal on the basis of the evidence available now would not reflect the balance of interests that saved Environment Policy 5 seeks to achieve. It follows that the appeal should not succeed.

Stuart Hall

INSPECTOR