

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

## **SECTION 1: Planning Applications**

## **SECTION 2: Appeals**

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

## 1. PLANNING APPLICATIONS

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

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

07/03/2006

**Item** 1.1**Reg. No.** 9/2005/0893/F**Applicant:**

Mr Mrs D Bignall  
 Doveside Nursery  
 Burton Road  
 Egginton  
 Derby  
 DE65 6GZ

**Agent:**

P. Diffey  
 Peter Diffey & Associates  
 Cotesbach Villa  
 54 Woods Lane  
 Stapenhill  
 Burton On Trent  
 DE15 9DB

**Proposal:** **The erection of a permanent dwelling to provide workers accommodation at Doveside Nursery Burton Road Egginton Derby**

**Ward:** **Etwall**

**Valid Date:** **28/08/2005**

**Site Description**

The site lies in the countryside adjacent to the Trent and Mersey Canal Conservation Area. It is located in the flood plain of the River Dove and some of its tributaries. The access to the site is from a former lay by to the A38 that has since been replaced with an online lay-by adjacent to the A38 Carriageway. Thus whilst the property is accessed from the A38 it is no longer adjacent to it.

**Proposal**

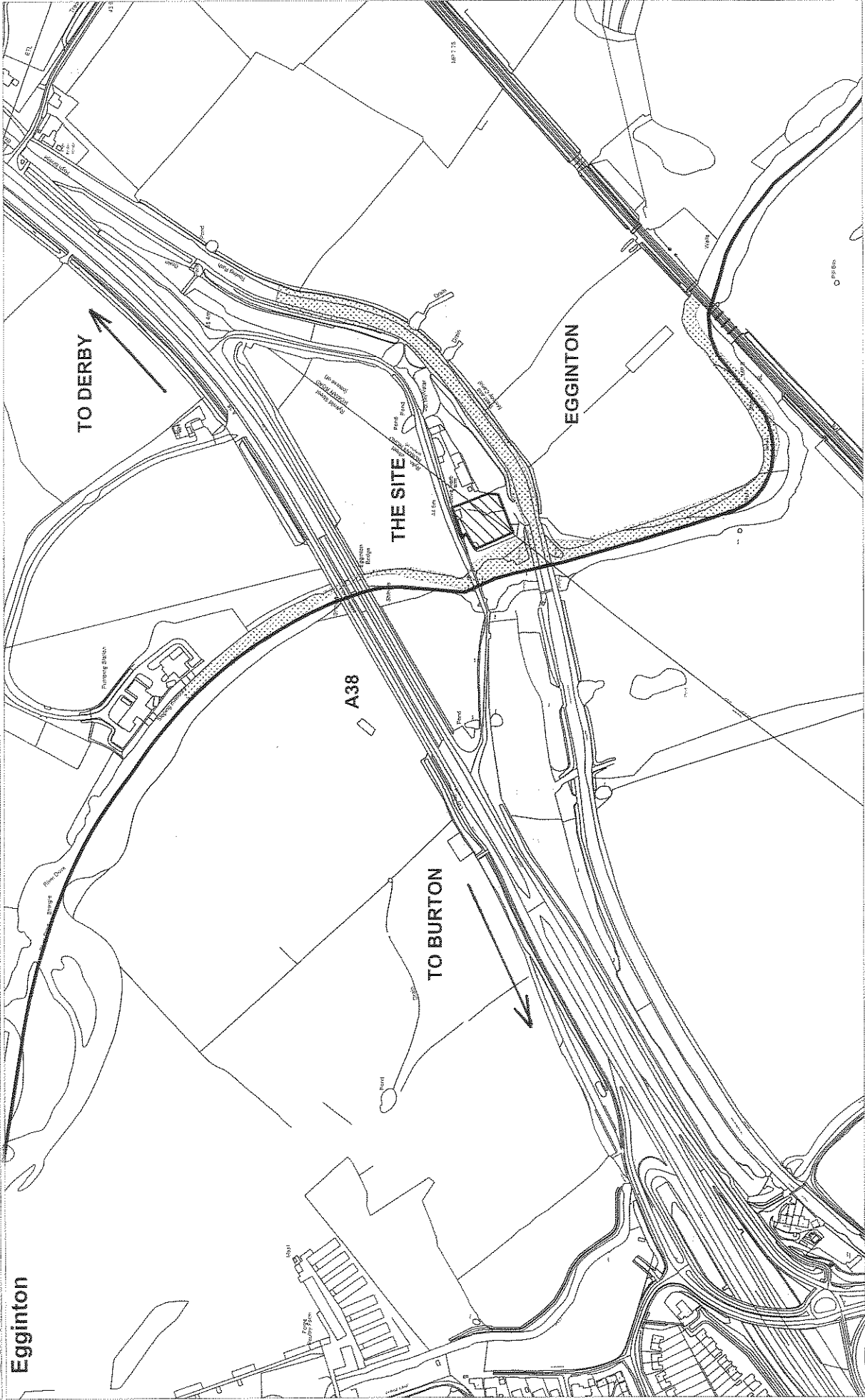
The proposal involves the erection of a three-bedroom bungalow to replace the existing temporary dwelling on the site. The bungalow has been designed to minimise its impact on the area so that the site remains screened from most public vantage points. Foul drainage would be to a sealed septic tank that would prevent the escape of foul water in the event that the site flooded again. (The applicants accept that the site is likely to flood again and have proposed that the finished floor level of the dwelling is set 600mm above the 1 in 100 year flood level on the site).

The temporary dwelling was permitted to assess the viability of a dog kennel business that was established in 2001. The business has been in existence since that time. The people who have established the kennel business would occupy the property.

**Applicants' supporting information**

In support of the application for the new dwelling, the applicants have submitted details of the operation of the business, its financial performance since it opened and the level of occupation of

9/2005/0893/F Doveside Nursery  
Burton Road  
Egginton



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the kennels throughout the year. The information below is a summary of the information, a full copy of which is available for inspection on the file.

Levels of occupation of the kennels (max capacity of 65 dogs) varies from 100% - July – September to 20% in January, February and November. The basis of the application is that the kennels operate at a level of 60% occupation. At this level of occupation the number of hours required to ensure that the premises operate effectively is 85 – 90 man-hours. This increases to 140 man-hours when 100% occupation is achieved. The operator and his wife run the premises and employ one other person full-time with a fourth person employed at times of full occupation. There is a need for a 24-hour presence on the premises.

Having operated for four years, the business has made a profit in each year. This profit is over and above the wages that the owners take from the business. It is contended that this level of profit is sufficient to fund the construction of the dwelling as this could be funded either from the wages the operators pay themselves out of the turnover or from the profit they have made since the business was set up.

PPS 7 requires that dwellings for new rural businesses should be granted temporary permission to allow the business to demonstrate that it is profitable. Where it is demonstrated that the business is profitable and there is a functional need for the dwelling on the site, then permission for a permanent dwelling should be granted. The applicant's contend that these conditions have been met in this instance and that a permanent dwelling would be in accord with Structure Plan Housing Policy 6 and Housing Policy 8 of the adopted Local Plan.

The proposed dwelling has the same number of bedrooms as the temporary dwelling (albeit slightly larger) plus an office/study and a utility room.

*[The reason that there has been a delay in bringing this application to Committee is because of an objection from the Environment Agency. The following is a summary of the applicant's initial information and subsequent responses to the Environment Agency in an attempt to resolve the issue.]*

The site and adjacent land in the applicants' ownership lies within the River Dove flood plain. It flooded in 2000 and is likely to flood again within the 100-year timescale that the agency works to. Persons and animals live on the site and the existing temporary dwelling is set at 600mm above the 100-year flood level. A similar floor level is proposed for the permanent dwelling and the below ground construction would be such that floodwaters would pass below the dwelling thus minimising the loss of flood plain.

In response to an objection to the development, the applicants met with the Environment Agency and agreed to submit a levels survey that was subsequently submitted to the Agency. The applicants suggested that the finished floor level of the dwelling would be 45.9, well above the 2000 flood level and significantly above the anticipated flood level the Agency would be working to. A dry route of escape would nearly always be available to the occupiers of the site via the canal side path. The applicants point out that the dwelling is to replace an existing one set at a lower flood level and that a dwelling is necessary on the site for the welfare and care of the animals. The alternative is for a further permission for the retention of the temporary dwelling that is in a much more vulnerable position in respect of flooding and has no potential dry means of escape in the event that flooding occurs.

The Environment Agency maintained its objection and the applicants sought once again to address the issue with the Agency. However, the Agency has continued to object to the development. In a final submission to the Authority, the applicants have stated again that: -

- a) The car park will flood in the event of a 1 in 100 year flood event.
- b) The existing temporary dwelling is set at a level below that of the proposed dwelling, it has no dry means of escape in the event of a flood; the proposed dwelling would have such an egress. The existing dwelling also is susceptible to flooding from the adjacent drainage ditch. The location of the new dwelling is significantly safer than the one it is intended to replace.
- c) The Environment Agency is concerned about the loss of flood plain capacity; the existing dwelling would be removed and the loss of flood plain would be minimal.

### **Planning History**

The site has been occupied residentially for a considerable number of years. Initially the occupation was from a canal barge moored adjacent to the site pending the establishment of an herb farm. Previous to that, gypsies had occupied the land. The Authority sought and obtained an enforcement notice to prevent the subsequent reoccupation of the land by members of the gypsy community.

Once the herb operators had moved on, the current owners purchased the land. They sought to use the land as a transport café. This was without planning permission and subsequent applications to obtain permission for that use were refused, mainly because of the use of the substandard access to and from the A38. The use as a café has ceased following the grant of permission for use of the site as a kennels and cattery in 2001. The permission for the mobile home was granted at the same time and is subject to an occupancy condition requiring it to be occupied by a person or persons employed or last employed in the operations of the kennels.

Since permission for the kennels and cattery were granted, the Highways Agency has carried out works to remove the use of the access to the site as a lay-by. A new on line lay-by has been constructed and the access and egress to the kennels is via this new lay-by.

### **Responses to Consultations**

Egginton Parish Council has no objection but would be significantly concerned if the dwelling is on the flood plain in which case it should not proceed.

The County Highway Authority has no objection provided that the occupation of the dwelling is tied to the operation of the kennels.

The Environmental Protection Manager has no comment.

The Environment Agency raised an initial objection arising from the lack of a flood risk assessment for the site. It is concerned that the site is flooded on a regular basis and that the proposed dwelling is significantly larger than the existing dwelling on the site. Thus there would be a loss of flood flow conveyance and floodwater storage capacity.

Following receipt of the additional information from the applicant, the Agency maintained its objection in a letter received in October. The information supplied by the agent was not considered to constitute a flood risk assessment that addresses the potential impact of a 1 in 100

year flood event. The Environment Agency acknowledged that it was carrying out modelling work on the River Dove and that it would make the information from this available to the applicant to help with the risk assessment. In the event that the application is refused the Agency is offering full support at an appeal. The Agency has reminded the Local Planning Authority of its obligation to be able to justify the grant of planning permission contrary to the Agency's advice.

The Environment Agency provided the applicants with the predicted level of flooding in the event of a 1 in 100 year storm. The applicant acknowledges that the site may be flooded but the proposed floor level of the dwelling would be 46.1 a.o.d., 600mm higher than the 45.5 level predicted by the Agency. The level is higher than the current site level of 45.3 in the area where the dwelling is proposed but the applicants argue that the higher level of the dwelling would be mitigated by the higher level of the canal and riverbank.

In response to this the Agency has stated that the raising of the levels to a height of 600mm above the predicted flood level would remove a significant area of flood storage capacity the cumulative effect of which would increase the risk of flooding elsewhere. In adopting the precautionary approach advocated in PPG 25, new development in such a location is unacceptable. Whilst the applicants claim that the canal side footpath could provide a dry means of escape, it is not included in the topographical survey submitted by the applicants.

### **Responses to Publicity**

None

### **Development Plan Policies**

The relevant policies are:

RSS8: Policy 36,

Joint Structure Plan: General Development Strategy Policy 4, Housing Policy 6

Local Plan: Environment Policies 1 & 2, Housing Policy 8.

### **Planning Considerations**

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

- The Development Plan
- The impact on the character and appearance of the Conservation Area and the wider countryside.
- The impact on the flood plain.

### **Planning Assessment**

National and local policy in respect of development in the countryside is that houses should only be permitted where there is a special justification for the use to meet the needs of an established rural business. The business has become established in accord with the requirements of PPS 7 and its predecessor document PPG 7. There is a functional need for the dwelling and the financial statement accompanying the application demonstrates that the unit has made a profit in each of the three years it has operated with a projected further increase in the current year. In this respect the development satisfies the requirements of the Development Plan policy.

The next relevant issue is impact on location. The site is more prominent than the site of the current mobile home. The proposed finished floor level that has been suggested by the applicant to address the flooding issue would increase the prominence of the proposed dwelling both from the A38 and the Canal, although views from the canal are somewhat mitigated by the presence of canal side vegetation. The erection of a bungalow (and the use of appropriately coloured bricks and tiles) would also help to reduce the visual impact of the development. It should be remembered that because the site lies in the floodplain, the planting of additional trees to screen the site may not be possible as they could obstruct flows of floodwater.

On balance, the needs of the business for residential supervision based on the functional requirement would outweigh the impact of the dwelling on the wider countryside and the conservation area, particularly if the materials of construction are in line with the South Derbyshire tradition and especially given that there is already an impact on both the countryside and the conservation area from the existing use of the site.

The flooding issue is not capable of resolution. It would be for the Committee to decide whether the case for the applicant is sufficient to overrule the objection of the Environment Agency. The Environment Agency has objected to the presence of the building on the site from its inception. The use nevertheless has planning permission and the business has proved that it has a viable long-term future. There has been a residential occupation of the site for the past 15 years many of them in temporary accommodation within the site.

PPG 25 does acknowledge that there may be special circumstances where other material considerations dictate that houses may need to be located in the floodplain. It is considered that there are such material considerations. In normal circumstances planning permission would not be granted for a dwelling in this location. It is the special needs of the business that mean that the Local Planning Authority will consider the special circumstance that pertain to allow a dwelling in the countryside.

Similarly it is considered that there are special circumstances here that outweigh the Environment Agency objection to this development. There would be some additional loss do flood plain storage capacity but conditions can be imposed requiring the removal of the existing mobile home, removing permitted development rights to extend the property and preclude development within the curtilage without planning permission. A condition can also be imposed that would require the construction of a dry route means of escape to the canal side so that people can escape in the event of an unexpected flood. Whilst reluctant to recommend that the Authority overrule the Environment Agency in an area that is clearly susceptible to flooding, it is considered that reasonable grounds for other material considerations outweighing that objection.

*However, given their prevailing comments, in accordance with the advice set out in PPG25, the Environment Agency has been notified of the recommendation to the committee to enable it to comment further. Any further comments received will therefore be reported at the committee.*

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



## Recommendation

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

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004), and to ensure that, having regard to the changing needs of countryside businesses and the general policy of the approved Structure Plan to restrict development in the countryside, the number and life of planning permissions for rural workers' dwellings in being at any one time is limited.

2. The occupation of the dwelling shall be limited to the family and/or dependents of a person employed, or last employed, wholly or mainly, the operation of the Doveside Boarding kennels.

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

3. Notwithstanding the originally submitted details, this permission shall relate to the the proposals to site the dwelling with a finished floor level of 46.1m aod.

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

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

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

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, the dwelling hereby permitted shall not be altered, enlarged or extended no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the application site (shown edged red on the submitted plan) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

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

6. Before development is commenced details of a dry means of escape to the adjacent canal bank shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of the dwelling and be thereafter maintained in place whilst there is a residential dwelling present on the site.

Reason: In the interests of ensuring that there is a means of escape from the site in the event of a flood.

7. Within one month of the first occupation of the dwelling hereby permitted, the existing mobile home on the site, its extension and all other domestic buildings associated solely with the occupation of the mobile home together with the existing septic tank shall be permanently removed from the site. The land upon which the mobile home and associated structures stood shall be restored to a level to be agreed in writing with the Local Planning Authority before works to construct the new dwelling are commenced and shall be thereafter retained at the approved level unless the Local Planning Authority has granted permission for any alteration in response to an application made in that regard.

Reason: In order to restore to the floodplain land that is currently occupied by buildings and other structures that will no longer be required on the site following the occupation of the new dwelling.

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

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

Informatives:

To note and act upon as necessary the comments of the Environment Agency (see attached letter).

07/03/2006

**Item** 1.2**Reg. No.** 9/2005/0931/U**Applicant:**

Mr D Brandon  
 Hamley House Farm  
 Moor Lane Colton  
 Rugeley  
 Staffordshire  
 WS15 3LT

**Agent:**

Alan Taylor  
 Talbot Associates Limited  
 Talbot House  
 Grange Close  
 Ticknall  
 Derbyshire  
 DE73 7LF

**Proposal:** The use of the site for B1/B8 (light industry and warehousing)  
 at Brandons Poultry Farm Heath Top Church Broughton  
 Derby

**Ward:** North West

**Valid Date:** 04/08/2005

**Site Description**

The site comprises the access, yard and buildings that used to comprise a turkey raising business on the land. The land was previously part of the runway when the site was used as an airfield in the Second World War. There is a dwelling on the site that was permitted as part of the turkey rearing operations. Access to the site would be from Heath Top.

**Proposal**

The proposal is as described above and would add to the storage/light industrial use facilities available at the site by making use of the remaining turkey rearing buildings.

**Applicants' supporting information**

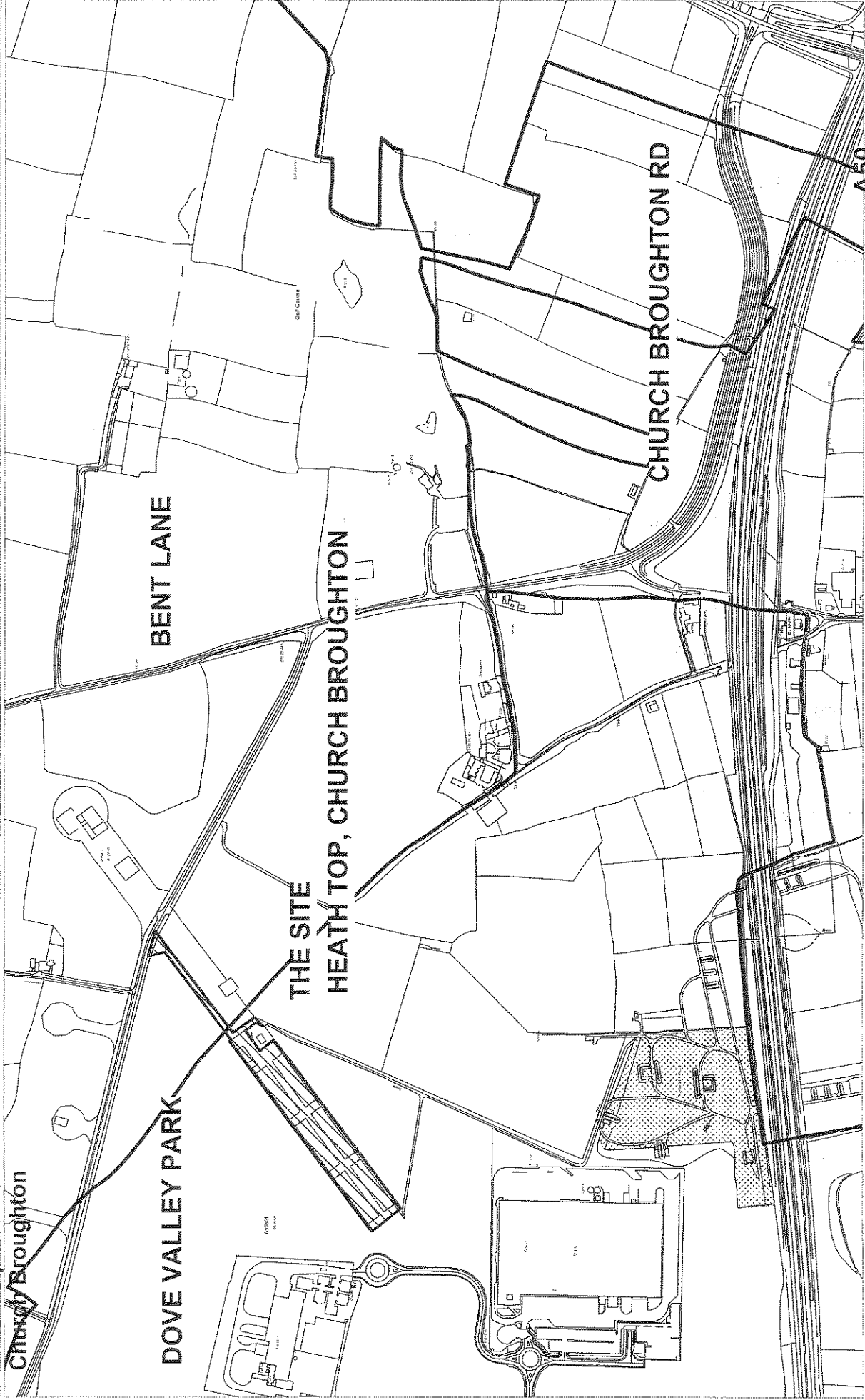
In support of the proposal the applicant is advocating the improvement of Heath Top at its junction with Woodyard Lane. A plan showing these improvements has been submitted. The applicants have also submitted a unilateral undertaking (under Section 106 of the Act) to secure the provision of the works.

In response to the County Highway Authority's request for a contribution to improvements to Woodyard Lane, the applicants note that other developments have made contributions to improve the carriageway edge. The applicants argue that they are to improve the junction at Woodyard Lane and Heath Top and requests that these works are taken as the applicant's contribution to the improvement to the carriageway on Woodyard Lane.

9/2005/0931/U Brandons Poultry Farm

Heath Top

Church Broughton



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## Planning History

A previous application to use all the buildings on the site was refused last year but a subsequent application to use part of the site based on the previous traffic generation from the turkey farm was permitted for the storage of caravans and boats unless the Local Planning Authority granted permission for any other use. The number of buildings that can be used was controlled by conditions along with a requirement to erect a fence to separate the two parts of the site.

## Responses to Consultations

Foston and Scropton Parish Council originally had no objection to the development but in response to the reconsultation about the improvements to the junction of Cote Bottom Lane with Heath Top has objected strongly on the ground of increased use of the lanes that are unsuited to additional HGV traffic likely to be generated by the increased use of the site. Foston and Scropton Parish Council fully supports the objections raised by local residents. Access to the site through Dove Valley Park would be preferable as the road surfaces on the lanes around here are poor.

Church Broughton Parish Council commented that it had no objection to the original application but expresses strong objections subsequently. This is on the grounds that the roads are unsuitable to take heavy goods traffic and the Parish Council is concerned that there may be accidents with car traffic coming down Cote Bottom Lane being confronted by an HGV trying to turn into Heath Top at what is a blind bend. It would wish to see lorries banned from entering the village particularly when Cote Bottom Lane is closed for sewer replacement.

The County Highway Authority noted that the original submission failed to address necessary improvements to the junction at Cote Bottom Lane and the need for highway improvements to the south on Woodyard Lane. However, having received the drawings relating to the junction improvements, the County Highway Authority has commented that these would provide some benefits to highway users in terms of improved visibility and ease of manoeuvring. Should the Local Planning Authority be minded to grant planning permission, the use of the additional buildings should not be allowed until the junction improvements have been carried out and completed. The detailed design would need to be approved by the County Highway Authority but the basic elements of the design on the submitted drawing are acceptable. In addition, if the Local Planning Authority were minded to grant planning permission the County Highway Authority would support the requirement to seek funds to finance further improvements to the condition of Woodyard Lane.

The County Highway Authority has also looked at the traffic situation and proposed improvements to the junction in the light of the comments from the objectors. It comments that the detailed design taking into account the width and radii will be considered by the County Highway Authority. In terms of vehicle speed and the nature of the traffic on the roads investigations found that the maximum vehicle speed recorded on Cote Bottom Lane for traffic heading south was 40mph (the 85<sup>th</sup> percentile speed being 34.8mph). A 12-hour traffic count was undertaken and revealed 339 vehicles (7HGV) using Woodyard Lane/Cote Bottom Lane. In addition there was a total of 161 movements at the Heath Top junction (18HGV). In the light of this the County Highway Authority is of the opinion that subject to the improvement works being undertaken, refusal of planning permission would be difficult to justify. The County Highway Authority would welcome a similar condition limiting the type of use that can occupy the buildings so that there remains a degree of control over their use. Details of the parking and manoeuvring space should also be submitted for approval before the buildings are brought into use.

The Environment Agency has noted that there is a landfill site within 250 metres of the site boundary. The licence was for inert materials from the building industry. The licence was surrendered in January 1990. There remains the possibility that landfill gas could be present and it is recommended that the Environmental Protection Manager be consulted about this possibility before making a decision.

The Environmental Protection Manager has commented on the response from the Environment Agency stating that the likelihood of landfill gas from the type of material that was tipped is remote. The chance of such gas permeating through the concrete runways on which the buildings stand is even more remote. He concludes that no contaminated land investigation is necessary and that the hours of operation should be limited to 0800- 1800 Monday to Friday and that on Saturdays the hours should be 0800 – 1600 with no working on other days. It is also suggested that the individual users of the building should be approved prior to their occupation of the buildings.

The Planning Policy Manager advises that if permission were granted, provision should be made for cycle storage in line with the Cycling Strategy.

### **Responses to Publicity**

In response to the application as originally submitted 4 letters of objection were received the objections can be summarised as follows:

- a) Access to the site is via minor roads that are in poor condition; the visibility from Heath Top onto Woodyard Lane is poor and large vehicles have difficulty in making the turn without reversing their vehicles at this blind junction. The use of the lane by more Heavy Goods Vehicles would exacerbate these problems and there is little room available to allow two vehicles to pass each other. The road surface in the location is worn to rubble; the edges on Woodyard Lane are falling away. This site should be accessed from Dove Valley Park.
- b) The Boggy Lane/Heath Top junction is used as a pickup point for school children; parents ferry children from outlying communities to this location and increased traffic would be putting them at greater danger. There are no speed limits on any of these roads.
- c) Rider, walker and cyclists use these local roads and would be put at danger from increased traffic that would inevitably lead to death and injury especially those that use the lanes on a regular basis.
- d) The existing permission is for limited storage use but the current proposal is for a much wider range of uses that would increase the traffic using the lanes; for all these reasons the proposal is considered to be contrary to South Derbyshire District Council Policy T1 as there is no public transport to the site and the site would cause environmental and highway safety problems in this rural area.
- e) There is an important toad-breeding pond in the locality and the local residents go to great lengths to ensure that the toads can reach this pond. This would be difficult if not impossible to achieve should the increased use of the road be permitted.

In response to the receipt of the plan showing the highway junction improvements, a further 5 letters were received and the additional objections made are summarised below: -

- a) The applicant has already started using the premises as warehousing and as an example, the other day some 13 HGV vehicles used the Old Airfield Road (Heath Top)

- b) Traffic has been observed queuing to get out of Heath Top onto Cote Bottom Lane and if the junction is blocked, then there is a greatly enhanced risk of an accident because traffic travelling south on Cote Bottom Lane approaches a blind bend and then the junction.
- c) The junction improvements will do nothing to relieve these problems and may make things worse as the space available for vehicles to pass into and wait on the old airfield road would be severely reduced. There would be no improvement in the visibility from the junction even with the improvements proposed.
- d) Some of the land required for the junction improvement is in someone else's ownership.

### **Development Plan Policies**

The relevant policies are:

RSS8: Policies 1, 2, 3, 6 & 15,

Joint Structure Plan: General Development Strategy Policy 4, Economy Policy 4,

Local Plan: Environment Policy 1, Employment Policy 4.

### **Planning Considerations**

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

- The Development Plan
- The impact of the development on the countryside
- The highway infrastructure
- The impact on neighbours

### **Planning Assessment**

General Development Strategy Policy 4 of the adopted Structure Plan and Environment Policy 1 seek to limit development in the countryside to that which is necessary in a countryside location. Economy Policy 5 of the Structure Plan and Employment Policy 4 of the Local Plan state that the conversion of existing buildings to employment use can be acceptable where injury is unlikely to be caused to local amenities or the environment and that the proposal is in keeping with the building and its surroundings. It can be argued that whilst the location of the buildings is relatively isolated, they could be reused and thereby make a contribution to the rural economy. In this way the proposal could be considered sustainable. Therefore, the reuse of redundant rural buildings for employment purposes is acceptable under the provisions of the above-mentioned policies.

The second issue is the effect of the conversion on the appearance of the building and the impact of that conversion on the character and appearance of the area. The intention is that the buildings should be reused in their existing state. Thus there would be no significant change to the external appearance of the buildings on the site and therefore on the location.

Traffic to and from the site is also a significant consideration in this application. The applicants have offered to undertake junction improvements at Woodyard Lane/Heath Top. This approach has been criticised by the objectors to the proposals who consider that the improvements will make little or no difference to the situation at the junction. They argue that the visibility for vehicles approaching the junction from the north would not be changed. It is also contended that

there would be slow moving traffic at the junction because HGV lorries would have difficulty in making the turn in one movement. Against this is the advice from the County Highway Authority that the level of traffic using the junction and the speed of traffic along Cote Bottom Lane/Woodyard Lane would make refusal of the application difficult to justify on highway grounds. The County Highway Authority would require that the junction improvements be undertaken before the extra buildings are brought into use.

The County Highway Authority is also seeking a contribution towards maintenance works along Woodyard Lane (£10,000) – a similar contribution has been sought and obtained from other developers along the Woodyard Lane frontage. The applicant's view is that the works to the junction of Heath Top with Woodyard Lane/Cote Bottom Lane represents a significant investment in the highway network hereabouts. Accordingly, the applicant is reluctant to contribute additional funds towards additional maintenance along Woodyard Lane when significant junction improvements are being paid for as part of any permission that may be granted.

Whilst others have contributed £10,000 towards maintenance along Woodyard Lane, none of the applicants that were asked to contribute had an additional requirement to carry out 'offsite' junction improvements. Thus to insist on an additional contribution would seem to place an unwarranted burden on this particular applicant. However, it is important that the necessary junction improvements are carried out before any additional buildings are brought into use. Accordingly, the applicant has been asked to submit a unilateral undertaking committing him to under take the junction works only: a) before the additional buildings are brought into use and; B) carry out the works within an agreed timescale that would give certainty to the community that the works will be carried out and not ignored. Using a unilateral undertaking would enable a quicker enforcement regime to be employed if the undertaking is breached. Members should be aware that the grant of planning permission would not in itself implement the unilateral undertaking, as the applicant would need to obtain the approval of the County Highway Authority before undertaking the works. The County Highway Authority has indicated that all the improvement works can be carried out within highway limits albeit that the scheme as indicated on the submitted drawing would require further detailing.

In the event that the undertaking is not received then it is recommended that permission should be refused on the basis that the highway network is not capable of accepting the additional traffic without the junction improvements being carried out.

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. Subject to the receipt of a signed and dated unilateral undertaking that ensures the alterations to the junction of Heath Top with Woodard Lane and Cote Bottom Lane are undertaken prior to the first occupation of buildings on the south part of the application site;
- B. **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 buildings within the application site shall be taken into use for the purposes hereby permitted before the access improvements to the junction of Heath Top with Woodyard Lane/Cote Bottom Lane have been undertaken in accordance with a scheme generally in accord with the details submitted under cover of your letter dated 14 September 2005

Reason: In the interests of highway safety.

3. There shall be no outside storage of any goods or materials within the curtilage of the application site.

Reason: In the interests of the visual amenity of the area.

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

Reason: In the interests of retaining the Local Planning Authority's control over alterations to the buildings and maintaining the character of the area.

5. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1995, the buildings shall not be enlarged or extended without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.

Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the site area and effect upon the character and appearance of the countryside.

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

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

7. 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.

#### Informatives:

Further to Condition 2 above, the completion of the works to the junction referred to the condition will be satisfied when the County Highway Authority accepts that the works have been undertaken in accordance with its Section 278 Agreement that is referred to in the Unilateral Undertaking accompanying this permission.

07/03/2006

**Item** 1.3**Reg. No.** 9/2005/1223/F

**Applicant:**  
Mr P Edwards  
173 Mount Pleasant Road  
Overseal  
Swadlincote  
Derbyshire

**Agent:**  
M Winfield  
60 Wilmot Road  
Swadlincote  
Derbyshire  
DE119BY

**Proposal:** The erection of a terrace of three dwellings on Land Adjacent  
To 29 Coronation Street Overseal Swadlincote

**Ward:** Seales

**Valid Date:** 18/10/2005

### Site Description

Number 29 Coronation Street is a detached single storey dwelling within an area of two storey properties. It has an extensive garden to the north eastern side and to the rear. There are no outbuildings in the garden and the land is generally flat across the frontage but slopes gently to the rear of the site.

### Proposal

This application, together with application 9/2005/1224, is for the development of the garden to number 29 Coronation Street with four dwellings. It is proposed that one dwelling will be sited on the frontage of the site alongside the existing property number 31 Coronation Street (9/2005/1224 refers) and a terrace of three dwellings will be sited in the rear garden (9/2005/1223 refers). A new access alongside the existing property, No. 29 Coronation Street, would provide a private driveway to the four new dwellings and number 29. Both this and application 9/2005/1224 (see next item) have been amended during the course of consideration. This application has been amended to reduce the number of dwellings from four to three for a variety of reasons including meeting minimum distances of separation, meeting the building regulations and improvements to the design. The other application has also been amended in terms of design.

### Planning History

A previous single application for the erection of five dwellings on the whole site (9/2005/0506) was withdrawn last year after extensive negotiations broke down.

9/2005/1223/F Land Adjacent to 29 Coronation Street  
Overseal



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## Responses to Consultations

The County Highway Authority, Severn Trent Water and the Pollution Control Manager have no objections subject to conditions.

Overseal Parish Council considers that development of the whole site is too dense and would exacerbate traffic problems. If the principle is acceptable then the number of dwellings should be reduced and be more in keeping with surrounding properties. The Parish Council has no objections to the amended design.

## Responses to Publicity

Five letters has been received objection to the development on the following grounds:

- a) There is no objection to one dwelling but together with the terrace is over development of the site;
- b) The road is too narrow to support access;
- c) Lack of parking;
- d) Visibility from the new access would be poor and further restricted by parked cars;
- e) Noise nuisance;
- f) Out of keeping with existing dwellings on Coronation Street;
- g) Overshadowing/loss of light;
- h) Loss of privacy;
- i) Problems would be exacerbated by the difference in levels;
- j) Contrary to the Council's adopted guidelines for space about dwellings
- k) Incorrect plans
- l) Questions whether connection can be made to the sewer
- m) Suggestions have been made for development which the neighbour considers would be acceptable

Five further letters have been received following notification of amended plans. They raise no new issues

## Development Plan Policies

The relevant policies are:

RSS8: Policy 3

Joint Structure Plan: Strategy Policies 1, 2 and 3; Housing Policy 3; Transport Policy 1 and 4

Local Plan: Housing Policies 5 and 11; Transport Policy 6.

## Planning Considerations

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

- The principle of development
- The design and character of the scheme
- Residential amenity

## Planning Assessment

Given that the site lies within the confines of a serviced village, the principle of development is acceptable.

The area is wholly residential and is characterised by two storey dwellings save for the single storey dwelling a number 29 which is the 'odd one out'. Whilst the rear gardens of existing dwellings have only single storey outbuildings within them, it is considered that a two storey building is acceptable given that the development would not make a material impact on the street scene and is similar to other developments in the locality.

As mentioned above, design has been amended and is now acceptable in broad terms; the window and eaves and verge details can be dealt with by condition. The style of the houses is consistent with the context of the site in the wider area.

As to minimum distances of separation, this is either met or exceeded in respect of the relationship of the terrace with the dwellings on Woodlands Crescent, Nos. 23, 29 and 31 Coronation Street provided the slab level for the proposed dwellings is not significantly greater than the slab level for existing dwellings on Woodlands Crescent.

With regard to the concerns of occupants of adjoining properties about inaccuracies on the originally submitted plans, a full survey drawing has been submitted indicating the positions of all existing buildings on and adjoining the site. It indicates distances of separation, spot heights and finished floor levels.

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

### **Recommendation**

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the amended house type drawings DOS/05-6 and DOS/05-7 received by the Local Planning Authority on 16 November 2005 and the amended layout shown on the site survey drawing number 080106 received by the Local Planning Authority on 23 January 2006.  
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. Notwithstanding the submitted plans, 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 have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.  
Reason: To safeguard the appearance of the existing building and the locality generally.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, the dwelling hereby permitted shall not be altered (including no new windows), enlarged or extended, no satellite dishes shall be affixed to the dwelling and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the application site (shown edged red on the submitted plan) without the prior grant of

planning permission on an application made in that regard to the Local Planning Authority.

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

5. The bathroom windows in the north western elevation of Plot B3 shall be permanently glazed in obscure glass.

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

6. Notwithstanding the submitted plans, large scale drawings to a minimum Scale of 1:10 of eaves and verges and heads and cills details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The development shall be constructed in accordance with the approved drawings.

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

7. 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.

8. The finished ground floor levels of the dwellings hereby approved shall not be greater than 108.50 (as referred to as the dpc level of 10 and 12 Woodlands Crescent) unless otherwise approved in writing by the Local Planning Authority.

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

9. Prior to any other works commencing, two replacement parking spaces shall be provided for the existing dwelling, No 29 Coronation Street. The spaces shall measure at least 2.5m x 5m, be surfaced in a solid, bound material, provided with a splayed vehicular crossover and 2m x 2m x 45° pedestrian intervisibility splays. The area forward of which shall be maintained in perpetuity clear of any obstruction exceeding 1m in height (600mm for vegetation) relative to the nearside carriageway edge. The spaces shall thereafter be maintained free of any impediment to their designated use.

Reason: To ensure that adequate off street parking is available for use in conjunction with the existing dwelling in the interests of highway safety

10. Prior to any other works commencing, except those detailed in Condition 9 above, the new access road/private drive shall be formed with Coronation Street. The access shall have a minimum width of 4.1m, be surfaced in a solid bound material (ie not loose chippings) for the first 5m into the site from the highway boundary, be provided with a splayed vehicular crossover and 2m x 2m x 45° pedestrian intervisibility splays, the area forward of which shall be maintained in perpetuity clear of any obstruction exceeding 1m in height (600mm for vegetation) relative to the nearside carriageway edge.

Reason: In the interests of highway safety

11. Prior to the occupation of the first dwelling, the driveway, parking and manoeuvring space shall be laid out in accordance with the application drawing and be maintained in perpetuity free of any impediment to their designated use.

Reason: In the interest of highway safety.

12. Notwithstanding any details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

Informatives:

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

There is a difference in the information provided on your survey drawing and the Council's records for the sewer depth in Coronation Street. Prior to commencement of work you are advised to ensure that there will be adequate fall to make a connection to the sewer. To contact the Area Engineer South, Trent Valley Area, Derbyshire County Council, Director of Environmental Services, County Hall, Matlock, Derbyshire (Tel. 01629 580000 ext 7595) at least six weeks before the commencement date of the proposed works in order to arrange the necessary supervision of works on the highway crossing.

The applicant must ensure that measures are taken to prevent surface water from private driveways and parking spaces from being allowed to flow onto the footway.

You are advised to contact the Area Planning Officer prior to the submission of details for the purposes of Condition 6 as the detail shown on the submitted drawing is not in accordance with the local distinctiveness for the area.

07/03/2006

**Item** 1.4**Reg. No.** 9/2005/1224/F

**Applicant:**  
 Mr P Edwards  
 173 Mount Pleasant Road  
 Overseal  
 Swadlincote  
 Derbyshire

**Agent:**  
 M Winfield  
 60 Wilmot Road  
 Swadlincote  
 Derbyshire  
 DE119BY

**Proposal:** **The erection of a detached dwelling on Land Adjacent To 29 Coronation Street Overseal Swadlincote**

**Ward:** **Scales**

**Valid Date:** **14/10/2005**

Much of the first four sections of this report are identical or similar to the preceding report. The details are reproduced below for convenience.

### **Site Description**

Number 29 Coronation Street is a detached single storey dwelling within an area of two storey properties. It has an extensive garden to the north eastern side and to the rear. There are no outbuildings in the garden and the land is generally flat across the frontage but slopes gently to the rear of the site.

### **Proposal**

This application, together with application 9/2005/1223, is for the development of the garden to number 29 Coronation Street with four dwellings. It is proposed that one dwelling will be sited on the frontage of the site alongside the existing property number 31 Coronation Street (9/2005/1224 refers) and a terrace of three dwellings will be sited in the rear garden (9/2005/1223 refers). A new access alongside the existing property, No. 29 Coronation Street, would provide a private driveway to the four new dwellings and number 29. Both this and application 9/2005/1223 have been amended during the course of consideration. The terrace has been reduced from four to three dwellings for a variety of reasons including meeting minimum distances of separation, meeting the building regulations and improvements to the design. This application has also been amended in terms of design and depth.

### **Planning History**

A previous single application for the erection of five dwellings on the whole site was withdrawn (Ref. 9/2005/0506).



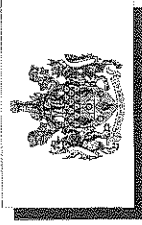
9/2005/1224/F Land Adjacent to 29 Coronation Street  
Overseal



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## Responses to Consultations

The County Highway Authority, Severn Trent Water and the Pollution Control Manager have no objections subject to conditions.

Overseal Parish Council considers that development of the whole site is too dense and would exacerbate traffic problems. If the principle is acceptable then the number of dwellings should be reduced and be more in keeping with surrounding properties. The Parish Council has no objections to the amended design.

## Responses to Publicity

One letter has been received objecting to the application:

- There is no objection to one dwelling but together with the terrace is over development of the site;
- The road is too narrow to support access
- Lack of parking
- Noise nuisance

## Development Plan Policies

The relevant policies are:

RSS8: Policy 3

Joint Structure Plan: Strategy Policies 1, 2 and 3; Housing Policy 3; Transport Policy 1 and 4

Local Plan: Housing Policies 5 and 11; Transport Policy 6.

## Planning Considerations

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

- The principle of development
- The design and character of the scheme
- Residential amenity

## Planning Assessment

Given that the site is located within a serviced village, the principle of development is acceptable.

As mentioned above, the design has been amended and is now acceptable in broad terms; the window and eaves and verge details can be dealt with by condition. The depth of the building has also been reduced to improve the distance of separation between the rear of this property and the front of proposed terrace. The dwelling would be in line with existing frontage development and there are no principle windows in the side elevation of number 31. As to 29 a window in that dwelling faces the new dwelling and would be at a distance of 6.5m from the side wall of the new house. However, such a window is not automatically protected by the Council's supplementary planning guidance and is considered on merit. Had the window been protected the distance of separation between a kitchen window and a blank elevation would be 9m. Given that the kitchen faces north east it is considered that there would not be significant additional overshadowing. In terms of overbearance, the dwelling is currently vacant and lies within the

same ownership as the proposal. It is therefore considered that in all of these circumstances that the shortfall of 2.5m is 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**

**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 house type drawing no. DOS/05-1A received by the Local Planning Authority on 13 February 2006 and the amended layout shown on the site survey drawing number 080106 received by the Local Planning Authority on 23 January 2006.  
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. Notwithstanding the submitted plans, 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 have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.  
Reason: To safeguard the appearance of the existing building and the locality generally as the submitted details are unacceptable.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, the dwelling hereby permitted shall not be altered (including the indertion of new windows), enlarged or extended, no satellite dishes shall be affixed to the dwelling and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the application site (shown edged red on the submitted plan) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.  
Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the site area and effect upon neighbouring properties and/or the street scene.
5. The landing window in the south west wall of the building shall be permanently glazed in obscure glass.  
Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.
6. Notwithstanding the submitted plans large scale drawings to a minimum Scale of 1:10 of eaves and verges and heads and cill details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The eaves and verges and heads and cills shall be constructed in accordance with the approved drawings.  
Reason: In the interests of the appearance of the building, and the character of the area.

7. 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.

8. Prior to any other works commencing, two replacement parking spaces shall be provided for the existing dwelling, No 29 Coronation Street. The spaces shall measure at least 2.5m x 5m, be surfaced in a solid, bound material, provided with a splayed vehicular crossover and 2m x 2m x 45° pedestrian intervisibility splays. The area forward of which shall be maintained in perpetuity clear of any obstruction exceeding 1m in height (600mm for vegetation) relative to the nearside carriageway edge. The spaces shall thereafter be maintained free of any impediment to their designated use.

Reason: To ensure that adequate off street parking is available for use in conjunction with the existing dwelling in the interests of highway safety

9. Prior to any other works commencing, except those detailed in condition 8 above, the new access road/private drive shall be formed with Coronation Street. The access shall have a minimum width of 4.1m, be surfaced in a solid bound material (ie not loose chippings) for the first 5m into the site from the highway boundary, be provided with a splayed vehicular crossover and 2m x 2m x 45° pedestrian intervisibility splays, the area forward of which shall be maintained in perpetuity clear of any obstruction exceeding 1m in height (600mm for vegetation) relative to the nearside carriageway edge.

Reason: In the interests of highway safety

10. Prior to the occupation of the new dwelling, two car parking spaces shall be provided within the plot curtilage, each space measuring at least 2.5m x 5m. Any space taking access from Coronation Street shall be surfaced in a solid, bound material, provided with a splayed vehicular crossover and 2m x 2m x 45° pedestrian intervisibility splays, the area forward of which shall be maintained in perpetuity clear of any obstruction exceeding 1m in height (600mm for vegetation) relative to the nearside carriageway edge.

Reason: In the interests of highway safety

11. Notwithstanding any details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

#### Informatives:

The proposed development lies within a coal mining area. In the circumstances Applicants should take account of any coal mining related hazards to stability in their proposals. Developers must also seek permission from the Authority before undertaking any operations that involves entry into any coal or mines of coal, including coal mine shafts and adits and the implementation of site investigations or other works.

07/03/2006

**Item** 1.5**Reg. No.** 9/2005/1312/F**Applicant:**

Kieran Mullin Developments Limited  
58 Babbington Lane  
Derby  
DE1 1SX

**Agent:**

Concept Planning Design Limited  
15 Godfrey Street  
Heanor  
Derbyshire  
DE75 7GD

**Proposal:** The demolition of the existing dwelling and the erection of a residential development at 3, South View Cottage Common End Etwall Derby

**Ward:** Etwall

**Valid Date:** 08/11/2005

**Site Description**

The site comprises a house with gardens to both sides and the rear. Access is from an unmade track off the old route of Egginton Road (now separated from the new road that was constructed as part of the works to build the A50). The track leads to allotment gardens that serve the village. Two recently constructed dwellings lie opposite part of the site and there is a 1990's dwelling at the entrance to Common End.

**Proposal**

The proposal is as described above but please also see the planning history section below.

**Applicants' supporting information**

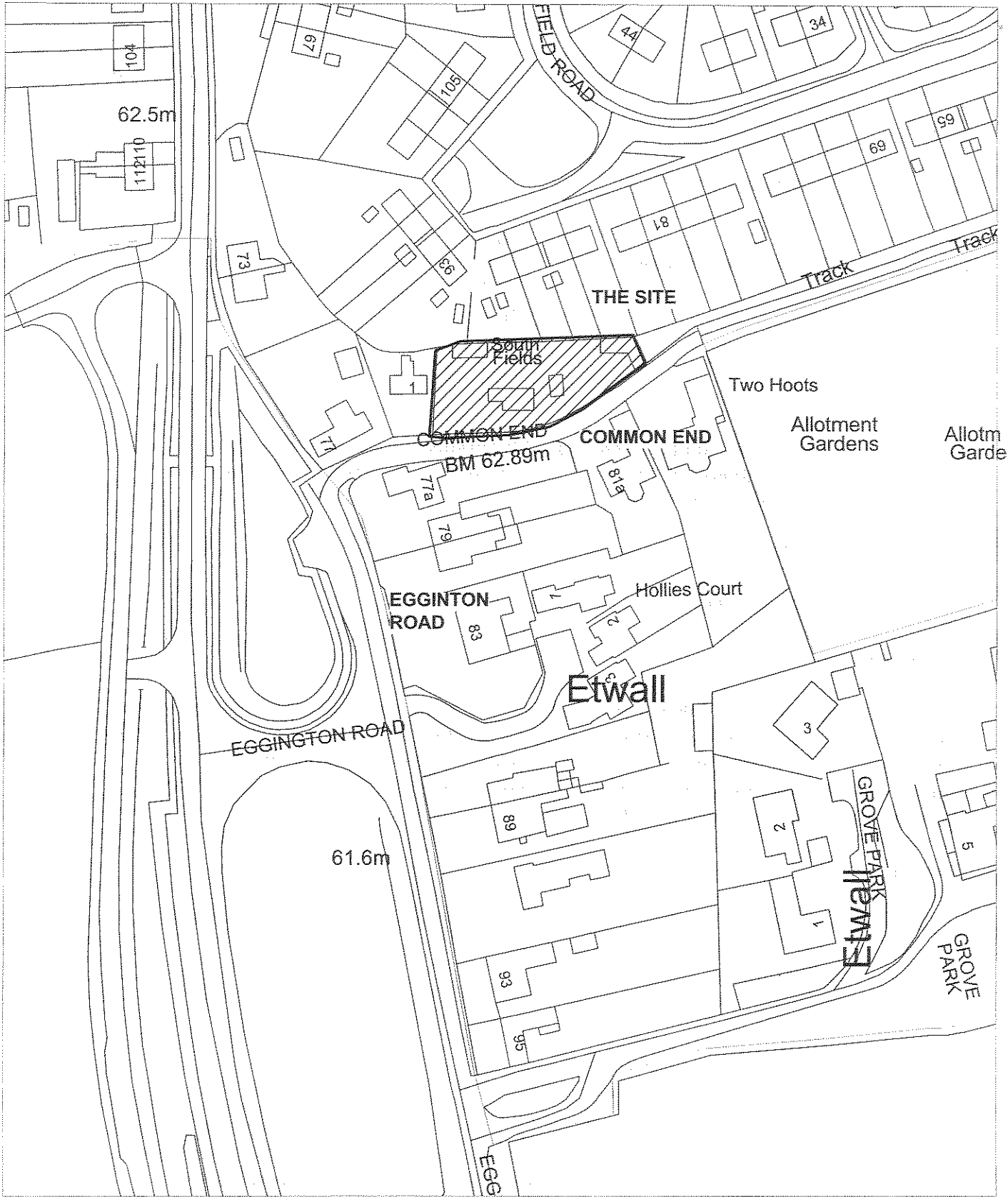
None

**Planning History**

Outline planning permission for the erection of two dwellings to each side of the original house was granted in 2002. The following year reserved matters approval was given for the erection of the two houses. Planning permission to extend the existing cottage was refused on two occasions in 2003 and again in 2005.

**Responses to Consultations**

Etwall Parish Council objects to the loss of the existing house, as it appears to be in good order and is distinctive. The Parish Council is also of the opinion that the site is simply not large enough to take 3 dwellings and that plot 3 has insufficient land and is too close to the land and houses on Springfield Road. In response to an amendment to the scheme the Parish Council



  
**South Derbyshire  
 District Council  
 Civic Offices  
 Civic Way  
 Swadlincote  
 DE11 0AH**

**9/2005/1312/F 3 South View Cottage  
 Common End  
 Etwall**  
  
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Date Plotted 24/2/2006  
  
 Plot centred at 426900 331038

NORTH ↑  
  
**Scale 1:1250**

maintains its objection as above and notes that the application plot includes land that appears to be in the ownership of the adjacent dwelling.

The County Highway Authority has no objection subject to conditions to ensure that adequate visibility sight lines and parking provided. A plan was submitted and the County Highway Authority has confirmed that the layout shown would meet its requirements for visibility sight lines.

Severn Trent Water and the Environmental Protection Manager have no objection or comments on the application.

### **Responses to Publicity**

Two letters from one household have been received objecting to the development for the following reasons:

- a) The plot is too small to take the development – the erection of 2 houses would be better as each dwelling would then have a reasonable garden.
- b) The access is via a narrow lane that is unable to cope with the traffic that uses it already.
- c) The application site extends into land owned by the neighbouring dwelling.

### **Development Plan Policies**

The relevant policies are:

RSS8: Policies 2 & 3

Joint Structure Plan: Housing Policy 5

Local Plan: Housing Policy 5 & 11

### **Planning Considerations**

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

- The Development Plan
- The loss of the original dwelling
- Access
- Compliance with Development Control Standards
- Land ownership

### **Planning Assessment**

The site lies in the built confines of Etwall that is a serviced settlement and the development is therefore acceptable in principle.

The loss of the house as raised by the Parish Council is not a material consideration as it is not listed and is not any particular local historic or architectural merit. The site is bounded on three sides by modern development and whilst there would be a marginal change of character arising from the loss of the dwelling this is not considered to be sufficient reason to refuse planning permission.

The proposal boils down to the replacement of an existing cottage with a new dwelling within the confines of Etwall that is a serviced village for the purposes of PPG 3 and Structure and Local Plan purposes. The houses in the side gardens already have full planning permission. The difference with this application is that the applicants have been requested that the dwelling on Plot 1 be handed to move some of the mass of the dwelling away from the plot boundary. The secondary bedroom would need to be obscure glazed so that there is no overlooking of the side windows of the neighbours extended dwelling.

There is also an issue regarding the relationship of the dwelling on Plot 2 to the dwelling at 77a Etwall Road. The application as now amended proposes that the front elevation of the dwelling on this plot be set on the line of the existing dwelling. Notwithstanding this amendment, the front of the proposed dwelling would be some 14.5 metres from the rear of the adjacent dwelling where there is a bedroom window. The upper floor window would also look towards the ground floor windows at a distance of 18 metres. This is less than the standard required in the adopted SPG – Housing Layout and Design. In normal circumstances, this would result in a recommendation of refusal but in this case the degree of overlooking would be no greater than exists from the present house on the plot. In these circumstances, it would be difficult to justify a refusal based solely on the lack of appropriate separation of the new dwelling when the existing dwelling has a similar effect.

On the land ownership issue the plans have been amended to take account of the actual property boundaries at the site.

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

### **Recommendation**

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

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

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

2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no. 4037/001 Rev D, /003/Rev A and the amended garage details received on 23 November 2005. \* \* Any further amended plans that are received.\* \*

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

3. The window in the upper part of the west wall of the dwelling on Plot 01 on amended drawing 4037/1 Rev C shall be permanently glazed in obscure glass and have no opening lights facing No 1 Common End. The south flank windows in the dwelling on Plot 03 shall be permanently glazed with obscure glass.

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

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



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

5. 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.

6. Prior to the first use of the development hereby permitted, parking facilities shall be provided so as to accommodate two cars within the curtilage of each dwelling, or in any alternative location acceptable to the Local Planning Authority or as may otherwise be agreed by the Local Planning Authority in accordance with its published standards. Thereafter, (notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995), two parking spaces, measuring a minimum of 2.4m x 4.8m, shall be retained for that purpose within the curtilage of each dwelling unless as may otherwise be approved in writing by the Local Planning Authority.

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

7. Prior to the first use of the development hereby permitted, the land in advance of the sight lines shown on Drawing 4037/001/Rev C shall be cleared and thereafter retained free of all obstructions to visibility over a height of 1 metre above the adjoining carriageway level.

Reason: In the interests of highway safety.

07/03/2006

**Item** 1.6**Reg. No.** 9/2005/1453/M**Applicant:**

R Hewitt  
 Dunnsmoor Farm  
 Dunnsmoor Lane  
 Hartshorne  
 Swadlincote  
 Derbyshire  
 DE117AP

**Agent:**

Sansom Clarke (SMC)  
 Barns Heath Farm  
 Appleby Magna  
 Swadlincote  
 Derbyshire  
 DE127AJ

**Proposal:** **Change of use of part of farm to golfercross facility at  
 Dunnsmoor Farm Dunnsmoor Lane Hartshorne Swadlincote**

**Ward:** **Hartshorne & Ticknall**

**Valid Date:** **09/12/2005**

**Site Description**

The site occupies a large swathe of gently undulating open farmland roughly rectangular in shape, with its northern side bounded by Dunnsmoor Lane for some 620m and its western boundary by Sandcliffe Road for some 200m. Dunnsmoor Farm is on the eastern edge of the site.

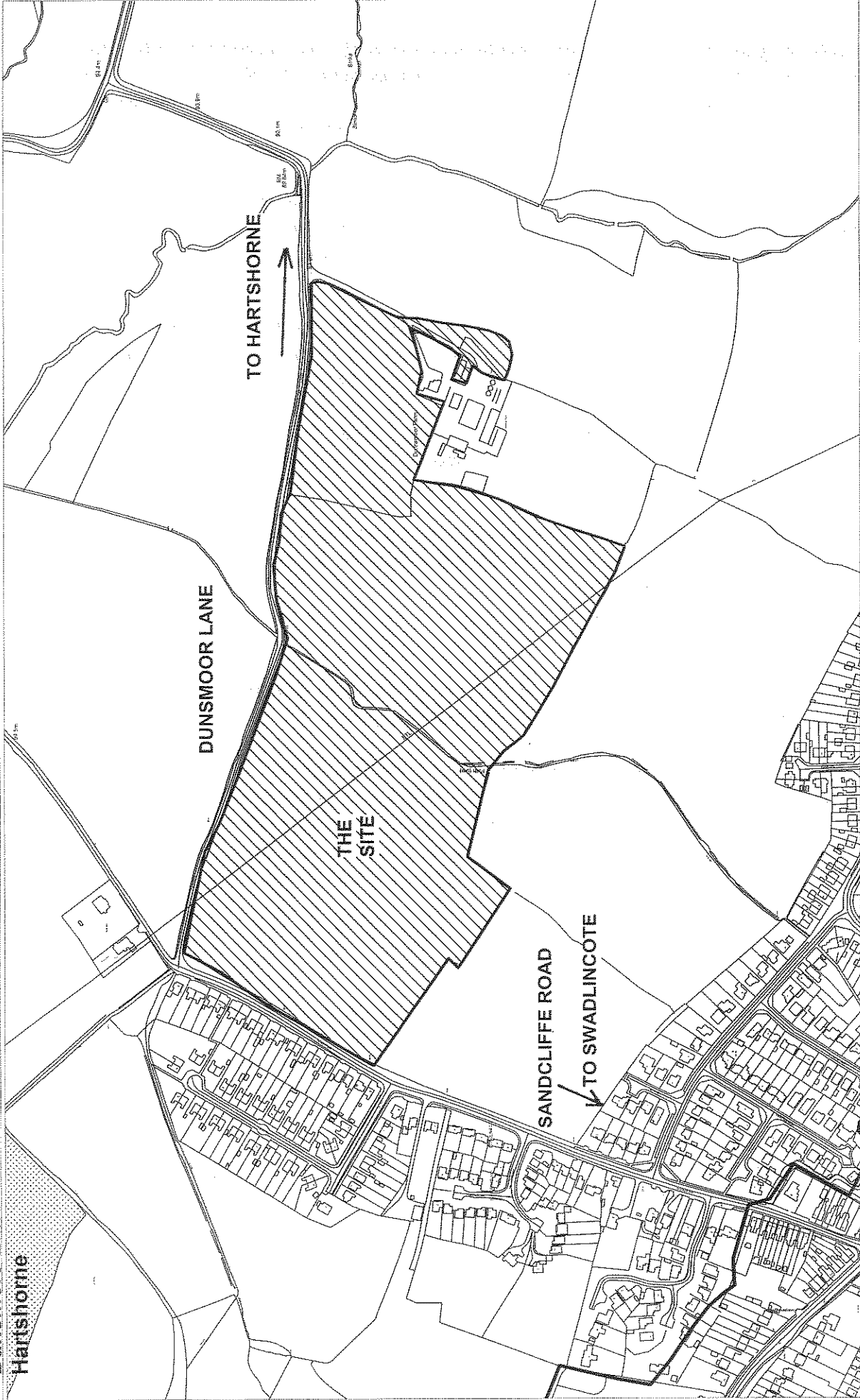
**Proposal**

The proposal is a farm diversification project utilizing some 15 hectares of land adjacent to the farmstead.

It is proposed to grass the entire site to provide a Golfercross course. Golfercross is a new outdoor activity originating from New Zealand. It differs from golf in that the ball is oval shaped and is hit into nets rather than holes. The course, unlike a golf course, does not require permanent landscape features such as mounds, bunkers, greens etc. It is intended that some temporary, moveable obstacles will be introduced around the course by placing large tubs of shrub planting or possibly groups of round straw bales on pallets, which can be moved around with ease. This is to ensure that the teeing off areas and goal nets are placed in the best possible positions, according to play experience, and will provide a test bed for the future design of permanent landscape features.

Two of the three enclosures (both adjoining the farmstead) have already been sown to grass with the intention that if planning permission is granted, the grass will be sufficiently established to be playable by the spring of this year. It is then intended to grass down the remaining enclosure (with frontage to both Sandcliffe Road and Dunnsmoor Lane) in the autumn, so that it can become playable by Summer 2007. If this is not possible, then the seeding down will be delayed

9/2005/1453 Dunsmoor Farm  
Dunsmore Lane  
Hartshorne



SOUTH DERBYSHIRE  
DISTRICT COUNCIL  
CIVIC OFFICES  
CIVIC WAY  
SWADLINCOTE DE11 0AH

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Date Plotted 24/2/2006  
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until the following autumn, becoming playable by Summer 2008. At this point it is likely that the entire layout of the course will be changed, both to accommodate the additional acreage and to take account of the playing experience in the interim. It is also proposed to introduce a short course and a long course at this time, sharing some of the tees and goals, to provide a greater choice for the playing public.

Two course layouts have been submitted, one for the smaller initial phase and the other for the final extended phase. Both layouts would have nine tees and nets. The nets, supported by a frame, would be 3m high by 1.9m wide. The arrangement of the courses is of an informal nature and can be altered to different configurations.

A small traditional farm building adjacent to the farmhouse is proposed for the facilities building which requires only minor alterations to the exterior. Thirty-five parking spaces are proposed on the east side of the building and access would be from the existing farm entrance. It is proposed to open the "pay and play" course to the public in April/May, by which time the alteration works to the building to create the permanent facility are unlikely to have been completed. The temporary siting of two portacabins is therefore proposed on a section of the proposed car park, which would be used in the short term until the new permanent facility is ready for use.

The proposal would provide informal recreation for the general public and for the more serious sports person. There would be no formal membership and all the kit would be provided so that anyone interested can turn up and play.

### **Applicants' supporting information**

The following statement has been provided by the course designer to address concerns raised about balls overshooting the site boundary into the public highway:

*"There are three important safety considerations concerning GolfCross:*

- *GolfCross Balls do not travel as far as conventional ones (typically 80%)*
- *The object of the game is to deliver the ball to within 'lobbing range' of the net, i.e. within the 'Yard' – not to score a hole in one by aiming straight at it. The last shot needs to be a gentle, lob into the net, which can be done from a distance without fear of significant 'overshoot'.*
- *The aerodynamic design of the ball makes it impossible to hook or slice, when played in the upright position.*

*Despite these advantageous characteristics, within the GolfCross course design we adopt the basic parameters of the minimum requirements used within traditional golf course layouts. Consequently bigger safety margins than those universally accepted for conventional golf courses are automatically built in. When there are 'hazards' to the side of a teeing area or fairway, and/or to the rear of a golf green, the 'safe zone allowances' used as standards for conventional golf courses are:*

1. *For a fairway, a 30% sideways tolerance is greatly allowed, so for instance a 150-yard shot would require a 45-yard allowance to the side of the fairway.*
2. *For an 'overshoot' of a green 50 yards is allowed.*

*The plans prepared reflect the general layout of the goals/yards and the general direction of the fairways, but on installation these parameters would be strictly adhered to and should any criteria become compromised, the length and direction of that goal will be changed to comply.*

*The main area of concern seems to be with the area to the West of the course, near to the housing along Sandcliffe Road. The tolerance detailed above have been used in that area, and so problems should not be experienced by local residents."*

### **Planning History**

Planning permission to convert the farm outbuildings to office use was granted in August 2002.

### **Responses to Consultations**

Hartshorne Parish Council makes the following comments:

- Assurance are needed that if the venture fails the land and buildings will revert back to agricultural use
- There are concerns about the number of parking spaces
- The width of Dunnsmoor Road is restricted
- There should be the provision of a sufficiently high fence to protect pedestrians and vehicles.

The County Highway Authority comments that vehicle speed readings on Dunnsmoor Lane have revealed that an access with appropriate standards of visibility can be provided within controlled land. It therefore raises no objections subject to various conditions in the interests of highway safety.

The Environmental Protection Manager recommends that opening hours be restricted to 0800 at all times. He is concerned that evening use may affect local residents and recommends that last admission is 7pm.

The Leisure Services Manager comments that the activity would provide a useful additional facility in the District. His only concern is that users of the highway and footpath are adequately protected.

Sport England East Midlands supports the principle of farm diversification for sporting activities particularly if they are sited in an easily accessible location.

The National Forest Company raises no objections.

The Environment Agency raises no objections subject to conditions to safeguard the water environment.

### **Responses to Publicity**

Fourteen letters of objection and comment have been received which are summarised as follows:

- Any perimeter nets would be unsightly
- There would be a loss of privacy for residents living opposite the course
- Disturbance would be caused to local residents
- It would increase traffic on already inadequate roads particularly the Dunnsmoor Lane/Sandcliffe Road junction
- There would be possible danger from balls straying beyond the boundary onto the highway

- Any flood lighting would be unacceptable
- It would result in the suburbanisation of the countryside and may open the way for further more extensive development to the detriment of its location.

A further letter of objection in response to additional information received sets out similar concerns to those listed above.

### **Development Plan Policies**

The relevant policies are:

RSS8: Policy 6, 24 and 32

Joint Structure Plan: Leisure and Tourism Policy 1 and 2

Local Plan: Environment Policy 1, Recreation and Tourism Policy 1

### **Planning Considerations**

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

- Visual impact on the appearance of the countryside
- An appropriate location for the proposed use

### **Planning Assessment**

Government policy (PPS7) recognises that farm diversification into non-agricultural activities is vital to the continuing viability of many farm enterprises. Development Plan policies seek to ensure that leisure and tourism facilities are capable of being served by a range of transport modes, are close to centres of population, and are accessible to and provide opportunities for greater participation by all sections of the population. In general facilities are acceptable provided their impact on other land uses and local communities is acceptable and that the volume of traffic likely to be generated is in keeping with the capacity of the local transport network.

Due to the extent of land involved, the proposed use cannot be located in an urban area, which leaves an appropriate rural location as the only feasible option. The proposed use and the location of the site offer a number of benefits in terms of achieving sustainable development objectives. The use itself is designed to be accommodated on relatively unprepared ground, other than it being grassed, and, unlike the manicured landscape of a normal golf course, would assimilate more readily into the surrounding rural landscape. In addition, the site is in close proximity to a large urban population and therefore reliance on the private car to access it would be reduced or at least shortened trips would be involved. The proposal would add to the recreational portfolio of Swadlincote and improve the opportunity for healthy outdoor activity in the countryside and sought by development plan policy.

The applicant has satisfactorily addressed concerns raised about stray balls and the course layout can be easily adjusted if the need arises. Due to the low-key nature of the use, the amenities of local residents are unlikely to be unduly affected in terms of disturbance or loss of privacy. On the advice of the Highway Authority, the development would not be detrimental to highway safety.

Any possible future development of the site for whatever use (none is envisaged at this stage) would need to be considered at the appropriate time and is not for consideration here.

No details have been submitted for the artificial illumination of the course but for the avoidance of doubt a relevant condition is recommended to control this.

In view of the above, the proposal should be supported.

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

### **Recommendation**

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. No development shall commence on site until samples of materials for the external surfaces of the buildings to be converted have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved materials.  
Reason: To ensure the materials are appropriate to safeguard the appearance of the countryside.
3. The two portable buildings hereby approved shall be removed from the site within 2 years from the date of this planning permission.  
Reason: This type of building due to its design and appearance would not be appropriate in the countryside and have only been allowed for a temporary period due to the special circumstances of the case.
4. No artificial light shall be used to illuminate the course hereby approved.  
Reason: To safeguard the appearance of the countryside and the amenities of local residents
5. Notwithstanding the details submitted, the formation of the car park shall not commence until there has been submitted to and approved in writing by the Local Planning Authority a scheme of tree planting, which shall include indications of all existing trees and hedgerows.  
Reason: To mitigate any adverse visual impact the car park may have in this rural location.
6. All planting associated with condition 5 shall be carried out in the first planting and seeding season following the formation of the car park hereby approved 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: To safeguard the appearance of the countryside.
7. A tree planting scheme for the course shall be submitted to and approved in writing by the Local Planning Authority before 1st September 2009.

Reason: To enhance the appearance of the countryside which is within the National Forest.

8. Further to conditions 5 and 7 above, tree planting details shall include planting plans; written specifications including cultivation and other operations associated with tree establishment; schedules of trees (noting species, plant sizes and proposed numbers/densities where appropriate).

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

9. All approved tree planting in connection with condition 7 shall be carried out in the first planting and seeding seasons following the approval of the tree planting details and any trees which within a period of five years from the planting date 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: To enhance the appearance of the countryside which is within the National Forest.

10. The opening hours of the facility shall be restricted to 8am at all times and the last admission shall be 7pm at all times.

Reason: To safeguard the amenities of local residents.

11. No tipping of material shall occur on the site.

Reason: To prevent pollution of the water environment.

12. There shall be no buildings, structures (including gates, walls and fences) or raised ground levels within 8 metres of the top of either bank of the watercourse which crosses the site unless otherwise agreed in writing by the Local Planning Authority.

Reason: To maintain access to the watercourse for maintenance or improvements and provide for overland flood flows.

13. No development shall commence on site in connection with this approval until a scheme for the provision of foul drainage has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out before the building is brought into use.

Reason: To prevent pollution of the water environment.

14. No development shall take place on site in connection with this approval until access to the site has been constructed in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. The details shall include radii of 10m and visibility sightlines extending from a point 4.5m back from the Dunsmoor Lane carriageway edge, measured along the centreline of the access, for a distance of 90m in each direction measured along the nearside carriageway edge of Dunsmoor Lane, or such other alternative dimensions as may subsequently be agreed in writing by the Local Planning Authority. The land in advance of the visibility sightlines shall be maintained permanently free of all obstructions above ground level.

Reason: In the interests of highway safety.



15. The development shall not be taken into use until the car parking and manoeuvring space has been provided, surfaced and marked out in accordance with the scheme shown on submitted drawing no. H/258/001, or such other scheme as may be approved in writing by the Local Planning Authority. Thereafter the approved facilities shall be maintained free of any impediment to their designated use.

Reason: In the interests of highway safety.

16. The layout of the course shall comply with the course layout safety criteria as defined in the Golf Cross letter received by the Local Planning Authority on 6th February 2006.

Reason: In the interests of highway safety.

#### Informatives:

The applicant is made aware of the contents of the letter from Central Networks.

To note and act upon as necessary the comments of the Environment Agency (see attached letter).

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

07/03/2006

**Item** 1.7  
**Reg. No.** 9/2006/0068/FH

**Applicant:**  
 Miss L Outhwaite  
 8 Maple Drive  
 Aston on Trent  
 Derby  
 DE72 2DF

**Agent:**  
 Ian Williamson  
 21 Briar Gate  
 Long Eaton  
 Nottingham  
 NG104BN

**Proposal:** The erection of an extension at 8 Maple Drive Aston on Trent Derby  
**Ward:** Aston  
**Valid Date:** 23/01/2006

This application is brought to Committee at the request of Councillor Atkin.

### Site Description

The site is a detached dwelling located on a residential estate within the village. Along the eastern boundary of the site is a private driveway serving three detached properties situated to the rear of No 8 Maple Drive. Although the front elevation of the application site faces north onto Maple Drive, the main aspect for the ground floor windows faces towards the east and west respectively with the existing and only lounge window overlooking the private driveway beyond which is situated No 16 Maple Drive.

### Proposal

The application proposes a two-storey extension along the eastern boundary extending out 2.9 metres towards the private driveway.

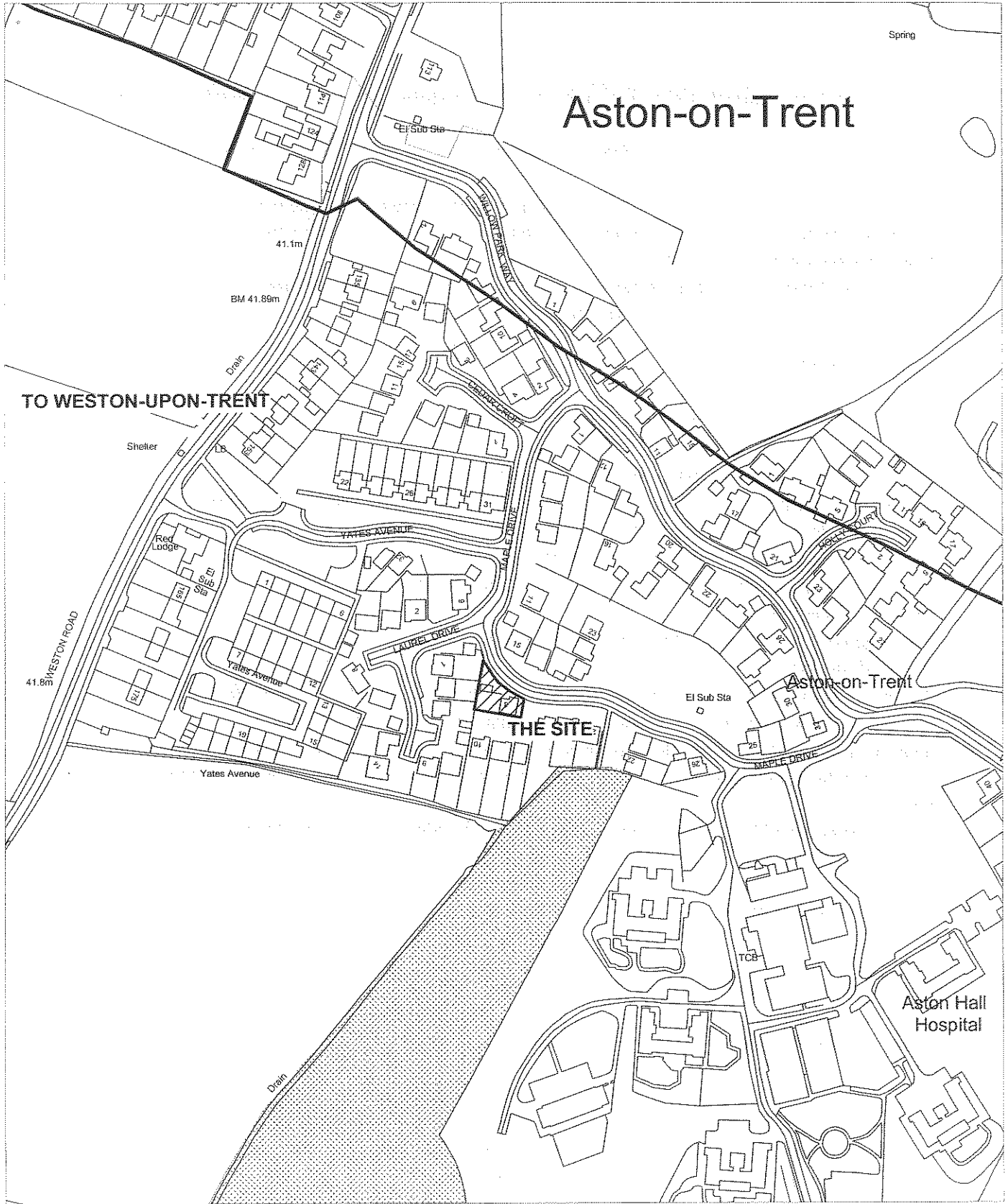
### Planning History

There is an existing conservatory built under permitted development rights on the western elevation (side) of the dwelling.

### Responses to Consultations

The County Highway Authority has no objections providing there is no requirement for a visibility splay at the adjacent access.

Weston-on-Trent Parish Council commented on the following:



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

9/2006/0068/FH 8 Maple Drive  
Aston-on-Trent

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Date Plotted 24/2/2006

NORTH ↑

Plot centred at 441186 329054

Scale 1:2500

- Concern over the impact of the size of the proposed extension and over-development of the site.
- The extension extends over the property boundary and would have a detrimental impact on sight lines.
- Concern of residents of No 10, 12 and 14 Maple Drive accessed by the private driveway regarding impact on access for emergency vehicles and damage to driveway during construction and storage of materials.
- Reduced sightlines and concern regarding safety of children of occupiers of No's 10-14.
- Concern regarding privacy of No 16 Maple Drive.

### **Responses to Publicity**

Four letters of objection have been received. The objections are summarised as follows:

- The extension will transgress over the existing property boundary.
- Reduced visibility for vehicles entering and leaving No's 10-14 Maple Drive and potential hazard to pedestrians and children playing on private driveway.
- Restricted access for delivery and emergency vehicles.
- Reduced access on the private driveway and disruption during construction including storage of materials.
- The extension will obscure the existing streetlight and reduce the amount of light during hours of darkness.
- The proposal will create an expanse of solid brick wall facing No's 10-14 Maple Drive.
- The proposal will be out of keeping with the character of the existing estate.
- The extension will increase the footprint of the dwelling in respect of the front elevation distorting the appearance and proportions of the dwelling in relation to the surrounding land and area.
- The proposal would infringe on the privacy of No 16 Maple Drive and the privacy of the occupiers of No 8.

### **Development Plan Policies**

The relevant policies are:

Local Plan: Housing Policy 13

### **Planning Considerations**

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

- The impact of the extension on highway safety
- The amenity of the occupiers of the neighbouring dwellings
- The design and external appearance of the extension.

### **Planning Assessment**

The proposed extension will extend 2.9 metres out towards the private driveway serving No's 10, 12 and 14 Maple Drive. Although visibility for vehicles entering and leaving the driveway will be reduced, the driveway is privately owned and does not come under the jurisdiction of the County Highways Authority. The proposal is not considered to interfere significantly with the

2m x 2m x 45° visibility splay on the main entrance/exit to the driveway onto Maple Drive and as such the Highway Authority has raised no objection.

The proposed extension has been designed to compliment the existing dwelling reflecting the existing style and window patterns. It would not be detrimental to the character of the dwelling as viewed in the street scene or from the dwellings to the rear.

Although the rear blank elevation facing No's 10, 12 and 14 Maple Drive will be widened, the proposal complies with the requirements of the Councils Supplementary Planning Guidance meeting the minimum distance requirement of 12 metres. The existing bay window serving the lounge on the eastern elevation of the house faces the blank side elevation No 16 Maple Drive beyond which extends the side of a bay window situated to the front of the property through which there is minimal overlooking into the side of the bay window only from No 8. The proposed extension will shorten the distance between these main room windows. However, the angle of view is relatively acute and therefore unlikely to be of significant detriment to the occupiers of No 16.

The proposed extension is not considered to be of significant detriment to the amenities of adjoining properties or the general character of the existing dwelling and surrounding area and therefore is considered to comply with the requirements of Housing Policy 13 of the Local Plan.

The concerns raised regarding specific ownership of boundaries/driveways, potential damage to the driveway, disruption and storage of materials during construction and the obscuring of the existing streetlight are not planning issues.

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.

07/03/2006

**Item** 1.8**Reg. No.** 9/2006/0173/MR**Applicant:**

Aspects Developments Ltd  
 12 Arches Business Centre  
 Mill Road  
 Rugby  
 Warwickshire  
 CV21 1QW

**Agent:**

Fellows Burt Dalton & Associates Ltd  
 The Old Telephone Exchange  
 Gipsy Lane  
 Balsall Common  
 Coventry  
 CV7 7FW

**Proposal:** The demolition of the existing dwelling and the erection of eleven terraced houses and twelve apartments together with parking and ancillary site works at 132 Moira Road Woodville Swadlincote

**Ward:** Woodville

**Valid Date:** 13/02/2006

The application is brought to the Committee at the request of Councillor Taylor.

**Site Description**

This kite shaped site at the junction of Moira Road and Occupation Lane is currently occupied by the house and garden of 132 Moira Road. The Phase 1 development of Woodville Woodlands is in an elevated position on the opposite side of Moira Road and residential development continues beyond the site boundary on Moira Road and Occupation Lane, beyond which will be Phase 3 of Woodville Woodlands, as recently approved.

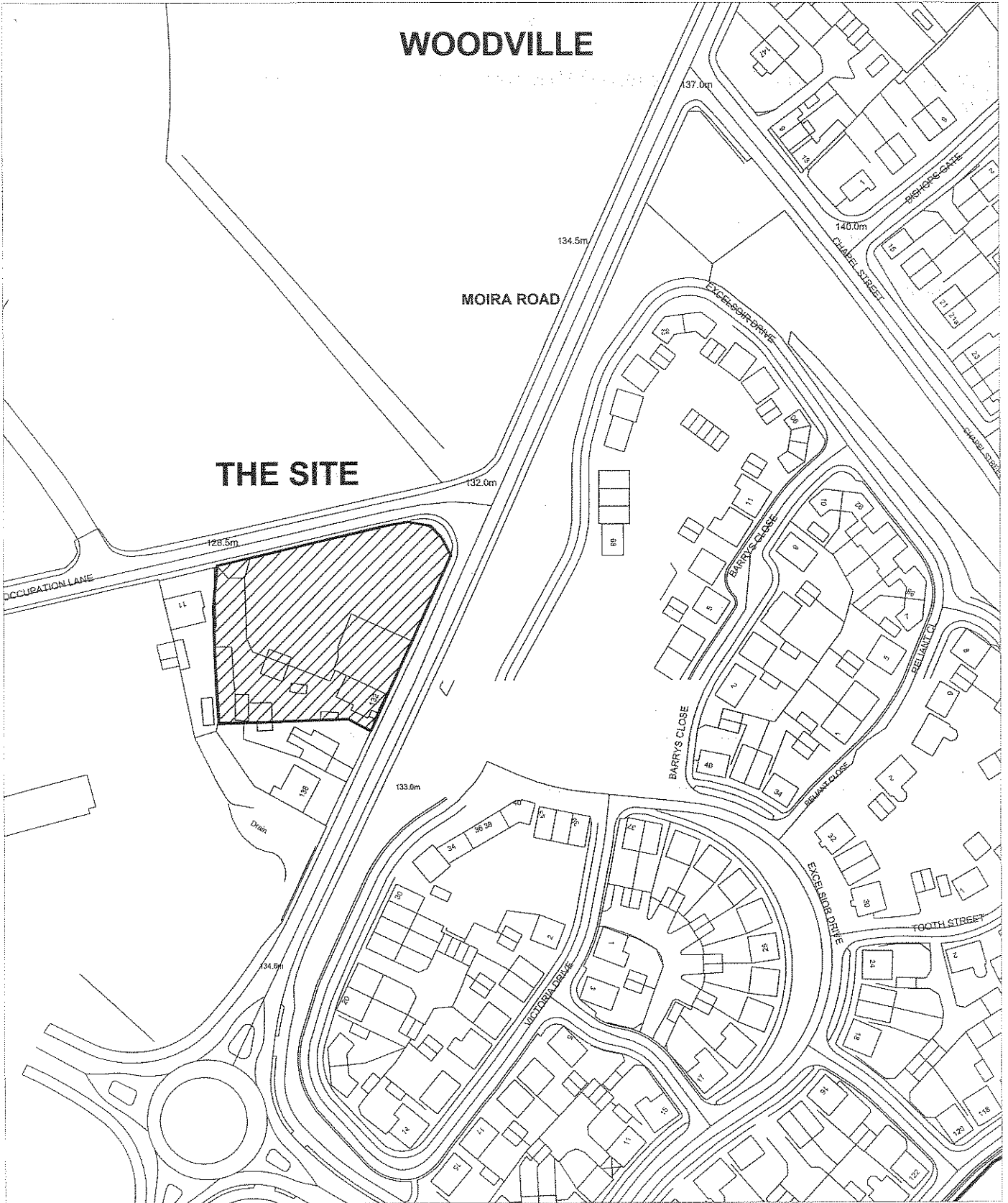
**Proposal**

Although as originally proposed the scheme showed a four storey apartment building and two rows of terraces of four units each, it is now amended to show a three-storey apartment building on the corner of Moira Road and Occupation Lane with four apartments on each floor. The building, some 9m high, would be of a contemporary design set within the acute angle of the junction.

The proposed terraced housing would now be in two rows, one of five units facing Moira Road and the other of six units facing Occupation Lane. The houses would be 8m to their ridgelines and would be of traditional design, incorporating plain brick eaves and verges and brick arch lintels.

To the rear of the apartment block would be an area of public open space, which would also serve to provide a visual break between the apartment building and the terraced housing.

# WOODVILLE



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

9/2006/0173/MR 132 Moira Road  
Woodville

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Date Plotted 24/2/2006

NORTH ↑

Plot centred at 431353 318521 Scale 1:1500

Access to the site would be off Occupation Lane between the apartment building and row of terraces and would serve a rear parking court of 35 parking spaces. A cycle store and bin store would also be provided.

The applicant has entered into a Section 106 Unilateral Undertaking to pay £10,656 towards local medical facilities, £8,870 towards local education facilities and £15,000 as a youth and adult play space contribution. An Open Space maintenance contribution is also to be agreed.

### **Planning History**

The proposal follows a recently withdrawn application showing a four-storey apartment building with two rows of terraces of four units each.

### **Responses to Consultations**

Woodville Parish Council objected to the withdrawn proposal on the grounds that four storey apartments would be out of character with the area and unsightly in this prominent location. It added that it wished to maintain the village identity and for it not to become a town of high rise buildings.

The County Highway Authority raised no objection to the scheme submitted subject to additional parking and various highway safety conditions. However, no comment has yet been received to the amended scheme (this will be reported at the committee).

The PCT response to the current proposal was not available at the time this report was prepared (but it has been assumed that the sum required per unit will remain unchanged).

Severn Trent Water and the Environment Agency raise no objection subject to satisfactory foul and surface water drainage.

The Pollution Control Officer recommends that the site be surveyed for any contaminated material and remediation undertaken accordingly.

### **Responses to Publicity**

A local resident has raised concerns about additional traffic generated on Moira Road and further congestion at the Tollgate roundabout.

A Woodville resident raised similar concerns on the withdrawn application.

### **Development Plan Policies**

The relevant policies are:

RSS8: Policy 2, 3 and 4

Joint Structure Plan: Housing Policy 3

Local Plan: Housing Policy 4 and 11.

### **Planning Considerations**

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



- The principle of residential development in this location
- The appropriateness of three storey development in this location
- The impact on neighbouring residents
- On-site parking provision/highway safety

### Planning Assessment

The site is outside the Housing Development Boundary for Swadlincote as defined in the Local Plan. However, following the Inspector's report on the now abandoned draft Local Plan, the Council resolved to extend the boundary to include the Woodville Woodlands development, which would also include this site. The principle of developing this brown field site is therefore acceptable.

Following concerns raised by the Parish Council, the apartment building has been reduced to three as opposed to four storeys. The architect has combined genuinely contemporary design, in the form of the apartment building with the more traditional terrace and intends to unite them visually with a facing brick that is suitable to both and the area. The dynamic elevations of the apartment building respond well to this prominent corner setting and the overall perimeter block layout with rear parking and open space follows good urban design principles. In terms of scale, the apartment block would only be 1 metre higher than the houses and would be further reduced to 0.5m due to the apartment being sited in the dip in Moira Road. Further mitigation to its impact would arise due to the site being about 1m lower than Moira Road and it being below the elevated houses on Phase 1 of Woodville Woodlands.

There are a number of windows on the side elevation of the detached property known as The Elms, one of which is the only window to a living room. Part of the outlook from this window would be affected by the end elevation of the proposed terraces facing Occupation Lane being 7m away. The Council's guidance for housing layouts states that side windows will be dealt with on their merits but generally will not be protected. The normal required distance between a lounge and two-storey blank elevation is 12m. However, in view of it being a side window that is only partially affected by the development 7m away and the fact that there are two other living rooms at ground floor in the house suggests that to refuse the application on these grounds would be unreasonable.

The Highway Authority has recommended that 40 parking spaces be provided. The abandoned draft Local plan would have required 23 spaces and national policy (PPG3) requires 35 spaces. The proposed 35 spaces are therefore considered acceptable.

In view of the above and the financial contributions that have now been secured, the proposal should be supported.

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 committee delegate authority to the Head of Planning to deal with any further comments received in the consultation period;
- 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. This permission shall relate to the amended drawings, nos 308/40, 308/42, 308/43, 308/44 received on 21st February 2006 and 308/41 and 308/45 received on 23rd February 2006.

Reason: To safeguard the appearance of the area.

3. No development shall commence on site in connection with this approval until samples of materials for the external elevations of the development, which shall include small plain tiles or similar for the terraces, have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved materials.

Reason: To ensure the materials are appropriate for the development and the locality

4. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping.

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

5. Further to condition 4 above, soft landscape details shall include planting plans; written specifications including cultivation and other operations associated with plant and grass establishment; schedules of plants (noting species, plant sizes and proposed numbers/densities where appropriate).

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

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

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

7. Notwithstanding any details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

8. 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.

9. Plain brick eaves and verges shall be used on the terraced houses with no soffits, fascias or bargeboards.

Reason: To contribute to the local distinctiveness of the area.

10. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on brackets.

Reason: To contribute to the local distinctiveness of the area.

11. No development shall commence on site in connection with this approval until details of foul and surface water drainage for the development has been submitted to and approved in writing by the Local Planning Authority and the development shall not be occupied until the approved drainage has been provided in full.

Reason: To prevent pollution of the water environment.

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

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

13. No development shall take place until a site investigation to determine whether the land is contaminated and any associated remedial works have been carried out to the satisfaction of the Local Planning Authority. This will include:

- A. A desktop study of the area of the proposed development.
- B. An intrusive site investigation, its scope to be confirmed with the Local Planning Authority, prior to its commencement. The report should contain recommendations for any remedial or further works at the site.
- C. A remediation method statement, to be agreed with the Local Planning Authority, prior to its commencement at site.
- D. A remediation validation report along with a signed copy of the attached certificate. This should be supplied prior to the occupation of any buildings at site.

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.

14. The cycle and bin stores as shown on the approved plans shall be available prior to the first occupation of the development hereby permitted and retained as such for the users of the development.

Reason: To ensure that sufficient such facilities are available.

15. Any other reasonable conditions as recommended by the County Highway Authority.

## Informatives:

The applicant is advised of the attached information form from the Environment Agency. This permission is the subject of a unilateral undertaking under Section 106 of the Town and Country Planning Act 1990.

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

For the discharge of the site investigation, as a minimum, the report should include:

- a) Details of an overview of the initial walkover survey to including the identification of contaminants from other sources e.g. gases emitted from natural organic deposits such as coal, or structures such as disused drains.
- b) Detailed on site sampling to identify any contamination.
- c) The locations of any contaminated zones within the site including details of more extensive and geographically wider investigation of these zones. This will provide a more reliable picture of the distribution of contamination on the site and reduce the risk of failing to discover a hot spot of contamination.
- d) An assessment of any off site impacts such as the effect on watercourses etc.
- e) A thorough explanation of the chosen remedial measures including depth, breadth of excavation and details of soil replacement.
- f) Plan of action if further contamination is identified during remediation.
- g) Details of the measures to verify that the contaminant has been removed to an acceptable level.
- h) The identification as to whether a long-term monitoring and maintenance programme is required, if so, details of the plans.
- i) Details of the long and short term risk to human health including the construction phase and post-development.
- j) Details of the British Standards or other guidelines used in both the assessment and remediation measures proposed.

Further guidance can be obtained from the following:

- I. Model Procedures for the Management of Land Contamination CLR 11
- II. CLR Guidance notes on Soil Guideline Values, DEFRA and EA
- III. Sampling Strategies for Contaminated Land, CLR4 1994, DoE.
- IV. Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
- V. Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.
- VI. Guidance for the Safe Development of Housing on Land Affected by Contamination' Environment Agency. ISBN 0113101775.

Soil contamination or the potential for it is a material planning consideration and must be taken into account by a local planning authority in the determination of a planning application. This site is suspected to be contaminated with chemicals associated with farming. The responsibilities for providing information on whether and how a site is contaminated rests with the developer, as does the subsequent safe development and secure occupancy of the site. Under these circumstances, you should undertake a site investigation and submit the results and remediation proposals as part of the planning application.

If a reclamation strategy is submitted and agreed by the planning authority compliance with it will be condition of any subsequent approval.

The developer will also be required to sign a completion certificate confirming that the works of reclamation have been carried out in accordance with the agreed strategy.

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

