

REPORT OF THE HEAD OF PLANNING SERVICES

SECTION 1: Planning Applications

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

1. PLANNING APPLICATIONS

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

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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.

Item 1.1

Reg. No. 9/2008/0197/SA

Applicant:

Mrs A Sammon
7 Dulverton Avenue
Stenson Fields
Derbyshire
DE24 3AT

Agent:

M J Harrison
7 Hall Park
Barrow On Trent
Derbyshire
DE73 1HD

Proposal: **The formation of animal sanctuary at land off Chapel Lane Barrow-on-Trent**

Ward: **Aston**

Valid Date: **02/04/2008**

Reason for committee determination

The application is brought to committee at the request of Councillor Watson because local concern has been expressed about a particular issue and unusual site circumstances should be considered by the committee.

Site Description

The site comprises two paddocks situated either side of Chapel Lane. A stream bisects the northern paddock. Vehicular access is gained via Chapel Lane, which is unmade adjacent to the site. The use has commenced and there are several buildings and structures on the land south of the lane.

The south and western boundaries of the site abut domestic gardens.

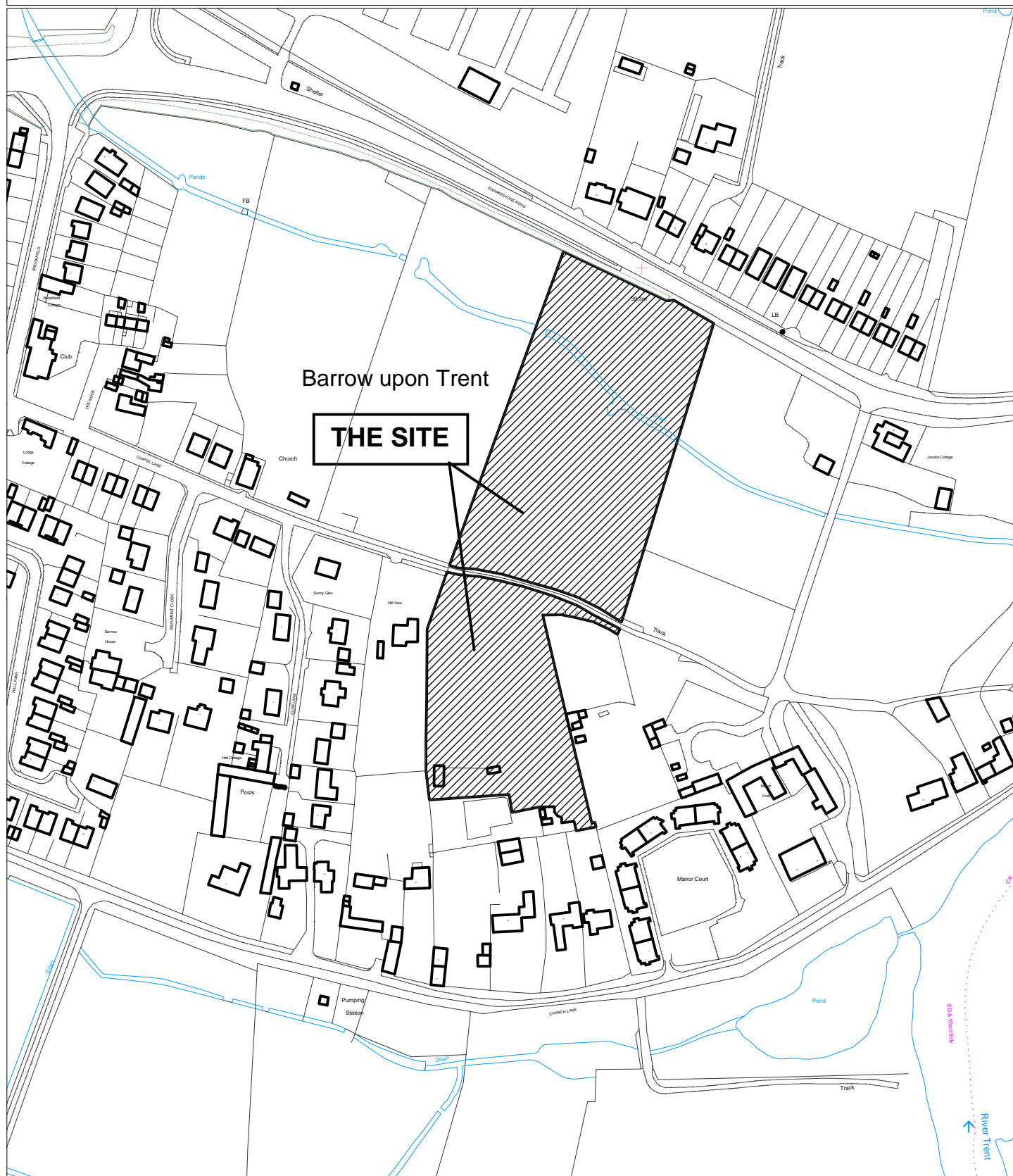
The site is adjacent to but not within the conservation area.

Proposal

The proposal seeks to regularise the current unauthorised use of the land and to construct a number of buildings and enclosures for animals and birds. Landscaping is proposed adjacent to the residential boundaries. The northern part of the site would be provided with surfaced paths to enable access to the paddock and proposed duck pond, along with a bridge over the stream.

Applicants' supporting information

- a) The Parish Council response could be biased [comment: no specific allegation is made].



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- b) The Homeward Bound Animal Rescue Centre has been in operation for 6 years, recently moving onto land at Barrow.
- c) The centre would only be open to visitors from Easter through to the end of September. Any visits would be by prior arrangement.
- d) Minimal parking for 6 vehicles would be provided to take into account the proposed levels of visitors.
- e) There are no plans for any shop or tearooms and no intention to introduce these.
- f) Open days would be held twice a year in summer months. Visitors would be asked to park in the village hall/playing field car park.
- g) A Christmas Carol Service may also be held, with similar parking arrangements.
- h) Community groups currently visit the site, including teenagers and people with learning difficulties who are able to experience looking after animals, and maintenance tasks, under the auspices of Derby City Council.
- i) The applicants are keen to work with young people who are on home tuition, in conjunction with the Local Education Authority to enable them to learn new skills.
- j) New planting would be undertaken.
- k) If permission were to be granted the applicants would be able to implement a vast improvement to the site.
- l) Letters of support from a disabled person who has benefited from working at the site, a home tutor and DART (trainers for the land-based sector) are included with the application.

Responses to Consultations

The Parish Council makes the following comments:

- a) The amount of land available is inadequate for horse grazing. The site is also subject to flooding and is muddy.
- b) There are issues concerning smell for neighbouring properties.
- c) The Parish Council questions whether the existing use and buildings are authorised.
- d) If permission is granted it should be a condition that Chapel Lane be resurfaced up to the site.

The Environmental Protection Manager has concerns about the close proximity of the site to several noise/odour sensitive properties and recommends conditions to control odour and noise.

The Highway Authority considers that it would be difficult to demonstrate harm to highway safety interests there is concern about the implications for opening the site to visitors.

The Environment Agency has no objection in principle.

Responses to Publicity

Letters from four households and a petition of 8 signatories have been received, objecting as follows:

- a) The use commenced about two years ago and has included several unsightly buildings. Debris manure, dirt and litter have been a problem during this time.

- b) Problems of noise from animals, bonfires, odours, flies and vermin have been experienced, which would be exacerbated by the development.
- c) During the winter the site is constantly muddy and the proposed stocking of the site would worsen this.
- d) The buildings would be detrimental to the rural character of the area.
- e) The application affects a right of way (used in times of flood) that would be subject to increased wear and tear and consequent maintenance expense for the other users.
- f) The risk of flood is higher than stated in the FRA. Both fields are subject to flooding.
- g) The proposed footbridge and pond in the north field could affect flood flows.
- h) The site is of insufficient size to accommodate the number of animals envisaged, especially in times of flood. Animals have been observed ankle deep in mud. There is concern that the use would be too intensive to meet animal welfare needs.
- i) The privacy of neighbours would be adversely affected, in particular from visitors to the site.
- j) It is questioned whether the applicants have the resources to implement the proposal.
- k) The site may be unsuitable for access by disabled people.
- l) Chapel Lane is inadequate to serve the proposal and the unmade section serving the site was never intended for use by vehicles.
- m) Increased traffic would cause a reduction of safety in Chapel Lane.
- n) Some of the animals may be dangerous to visitors and the level of health and safety training available to staff inadequate.
- o) The buildings proposed would reduce the amount of available grazing land for the animals.
- p) Continuing unauthorised building work calls into question the likelihood of the applicant complying with planning requirements.
- q) Landscaped areas could be a fire hazard.
- r) No provision is made for access to the site by emergency vehicles.
- s) There is no provision for adequate disposal of waste.
- t) The proposed toilet facilities may not be sufficiently hygienic.
- u) The site was previously used for grazing and not animal husbandry as stated in the application.

Development Plan Policies

The relevant policies are:

Local Plan: Environment Policy 1 and Transport Policy 6.

Planning Considerations

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

- The principle.
- Visual impact.
- Residential amenity.
- Highway safety.
- Flood risk.
- Pollution.

Planning Assessment

In principle the countryside is an appropriate place for an animal sanctuary.

Notwithstanding the current state of the site, the proposed buildings on the site would be low rise and, subject to conditions relating to materials and landscaping the impact on the countryside would not be demonstrably harmful. The hard surfaced trails and stock proof fencing would not have undue visual impact subject to detail control over their materials and design.

The presence of large numbers of animals in close proximity to residential properties could have a severely harmful impact on the amenities of the occupants, in particular due to noise and smells. In order to make the use acceptable, strict conditional control precluding dogs and cockerels at the site and measures to adequately control the disposal of animal waste would be essential but clearly the issues are finely balanced and would rely on the on-going enforcement of the conditions.

On the advice of the Highway Authority there would be no demonstrable harm to highway safety.

The Environment Agency is satisfied that the measures proposed in the flood risk assessment would be adequate to safeguard this interest.

Pollution control would be safeguarded by conditions relating to the disposal of foul sewage and animal waste.

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. Within two months of the date of this permission a schedule and methodology for the removal of all unauthorised structures from the site shall be submitted to and approved in writing by the Local Planning Authority. The buildings and structures shall be removed from the site in accordance with the approved schedule and methodology.

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

2. Within two months of the date of this permission there shall be 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.

3. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first available planting and seeding seasons following the date of this permission; 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.

4. Within 2 months of the date of this permission precise details of a scheme for the collection and disposal of all animal and bird faeces from the land and buildings shall be submitted to and approved in writing by the Local Planning Authority, along with a schedule for its implementation. The scheme shall be implemented in strict accordance with the approved scheme and schedule.

Reason: In the interests of residential amenity and pollution control.

5. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no fencing shall be erected 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 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.

6. Notwithstanding the particulars of the application, details of the proposed footbridge and duck pond including sections shall be submitted for approval in writing by the Local Planning Authority prior to their implementation. The bridge and pond shall be constructed solely in accordance with the approved details.

Reason: The submitted details are inadequate to assess their full impact.

7. There shall be no dogs or cockerels kept on the application site.

Reason: To reduce the risk of noise disturbance to neighbours.

8. No buildings shall be erected until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the buildings have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented using the approved materials only.

Reason: To safeguard the appearance of the buildings and the locality generally.

9. No animals shall be allowed into the areas shown hatched on the attached plan 9/2008/0197.

Reason: In the interests of residential amenity.

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

Reason: In the interests of pollution control.

11. The development shall be implemented in accordance with the submitted Flood Risk Assessment.

Reason: To ensure that flood risk issues are adequately addressed.

12. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos. B2140.1C, B2140.2C, B2140.3B and B2140.4C.

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

Informatives:

To note the attached requirements of the Environment Agency. You are advised to discuss the proposed bridge and pond with the Agency prior to submitting details pursuant to condition.

Item **1.2**

Reg. No. **9/2008/0819/FM**

Applicant:

Mr R Skelding
Silver Lane
Elvaston
Derby
DE72 3TQ

Agent:

Mr David Swann
Montague Architects
9 Vernon Street
Derby
DE1 1FR

Proposal: **Demolition of existing dwelling and outbuildings and the erection of a new dwelling and carport together with the formation of vehicular access at The Gables Kings Mills Lane Weston-on-Trent Derby**

Ward: **Aston**

Valid Date: **13/08/2008**

Reason for committee determination

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

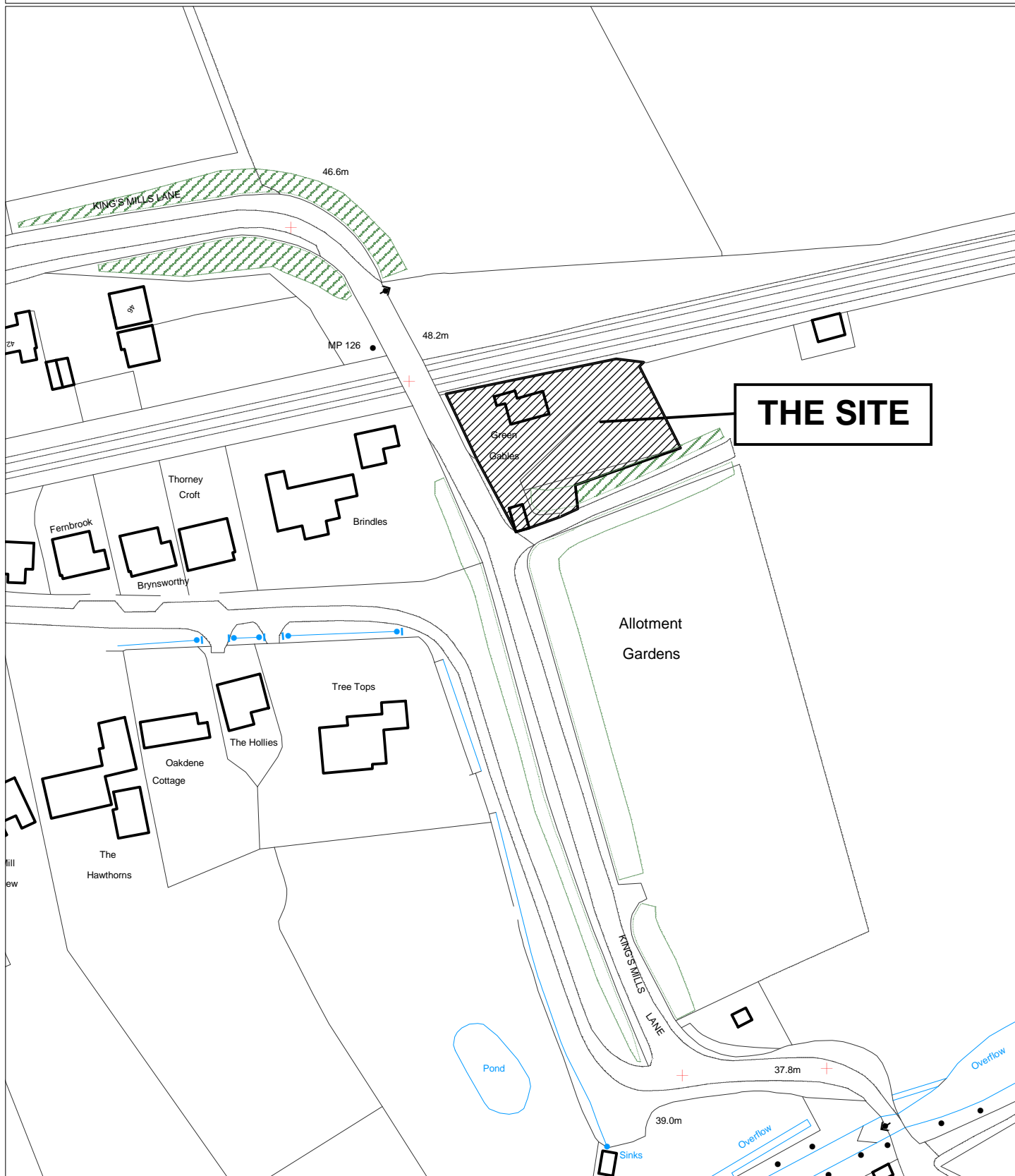
Site Description

The site is located adjacent to the Kings Mills Lane railway bridge. The site surface is about 7 metres lower than bridge parapet. Views are only available from the bridge and parts of the public footpath on the north side of the railway.

At present there is a timber clad dwelling on the site along with a number of outbuildings. Because of the secluded setting these buildings have little landscape impact but, intrinsically, are of no architectural distinction. There is vehicular access on the southern slope of the bridge embankment, with a garage set close to the street.

Proposal

The development would involve clearance of all the existing buildings, to be replaced with a two-storey 3 bedroom dwelling of 220 sq m, of which 96 sq m would be contained within the upper floor. This compares with 138 sq m for the existing buildings. The new dwelling would incorporate a narrow rectangular plan form, measuring 5 m to the eaves and 8.1 m to the ridge. Walls would be clad in timber and red brick with a plain tile or slate roof. A detached car port and garden store, also clad in timber, would be located between the new house and the bridge embankment.



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Applicants' supporting information

- The overall aesthetic is that of a contemporary barn conversion, which would improve and enhance the setting of the site.
- Overlooking onto and from the site is virtually non-existent, as the site is secluded and the top of the adjacent railway bridge is more or less level with the apex of the proposed dwelling.
- The actual site coverage would be about the same as the existing buildings.
- The dwelling would strive to achieve Level 4 in the Code for Sustainable Homes, featuring solar heating, biomass boiler, low E glazing units, FSC certified softwood joinery and water re-cycling facilities.

Responses to Consultations

The Parish Council has concerns as the existing buildings were originally temporary holiday homes, and also that the replacement dwelling would be two-storey. Allowing the development would create a precedent for similar properties.

The Council's Consultant Urban Designer has no objection in principle.

The Highway Authority has no objection.

Responses to Publicity

None received.

Development Plan Policies

The relevant policies are:

RSS8: Policy 3

Local Plan: Housing Policies 8 & 11

Structure Plan: Transport Policy 6

Planning Considerations

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

- The principle.
- Impact on the character of the countryside.
- Residential amenity.
- Highways and parking.
- Sewerage and drainage

Planning Assessment

The site lies in the countryside. Local Plan Housing Policy 8 allows for a replacement dwelling so long as its bulk and form does not substantially exceed that of the original, the design and materials are in keeping with the character of the surroundings, the new dwelling is on substantially the same site as the old, and there is no increase in the number of dwelling units. Available evidence is that the existing dwelling has been occupied as such for sufficient time for it to be lawful as permanent residential accommodation. Whilst the new dwelling would be two-storey it is on a similar footprint

and not substantially larger than the existing group that forms the living accommodation and incidental buildings. A condition removing permitted development rights would enable control to be exercised over the remainder of the substantial curtilage, to ensure that cumulative additions, which would otherwise not need permission, would not prejudice the policy. There would be no increase in the number of dwellings on the site. As such the proposal is acceptable as a matter of principle.

The building would have the character of a contemporary barn, and local distinctiveness is evident in the form and scale of the building and the proposed materials. These design qualities and its location against the substantial bridge structure and general lack of prominence would enable the building to fit in comfortably with its surroundings. As such the development would achieve the aspiration of PPS1, to take an opportunity to improve the character and quality of an area through good design.

No neighbours would be affected.

There would be no material change in traffic or drainage matters compared with the existing situation.

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

Recommendation

GRANT permission subject to the following conditions:

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the appearance of the existing building and the locality generally.
3. Large scale drawings to a minimum Scale of 1:10 of eaves and verges and external joinery, including horizontal and vertical sections, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The eaves and verges and external joinery shall be constructed in accordance with the approved drawings.

Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.
4. External joinery shall be in timber and painted/decorated to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted/decorated in accordance with

the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.

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

5. Gutters and downpipes shall have a black finish.

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

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, the dwelling hereby permitted shall not be enlarged or extended, and no buildings (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.

7. All the existing buildings on the site shall be demolished and the resultant material removed prior to the first occupation of the dwelling.

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

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

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

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

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

Informatives:

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 3 months prior notification should be given to the Director of Environmental Services at County Hall, Matlock (telephone 01629 580000 and ask for the District Highway Care Manager on extension 7595) before any works commence on the vehicular access within highway limits.

Item **1.3**

Reg. No. **9/2008/0872/CC**

Applicant:

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

Agent:

Katie Tatler
Property Services
South Derbyshire District Council

Proposal: **The demolition of the garage Garage Adjacent South
Derbyshire Snooker Centre 42-44 Grove Street
Swadlincote**

Ward: **Swadlincote**

Valid Date: **20/08/2008**

Reason for Committee determination

The Council is the applicant.

Site description

The building lies within the Swadlincote Conservation Area.

The garage building is now unoccupied and has an asbestos cement sheet roof which has been damaged.

Proposal

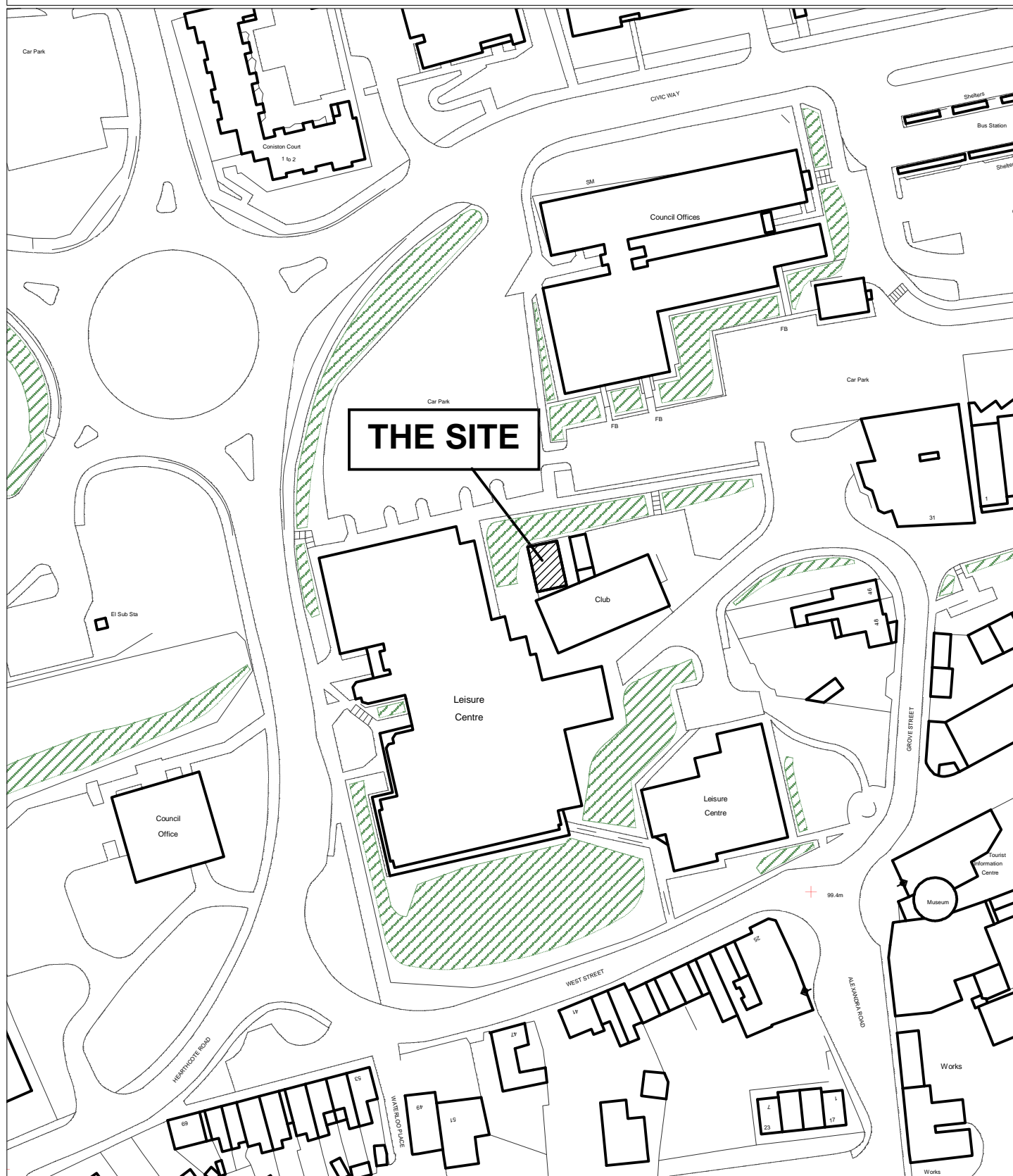
The building has dimensions of 7m x 10.7m and lies close to the rear of the Snooker Centre and Leisure Centre off Grove Street.

Responses to Consultations

The Council's consultant Archaeologist states that there are no historic remains affected.

Responses to Publicity

None.



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Development Plan Policies

The relevant policies are:

Joint Structure Plan/Local Plan: EV12(LP)

Planning Assessment

The garage is constructed with timber doors, an asbestos cement roof and profiled concrete walls. It is accessed under a projecting part of the snooker centre and seems to be little used.

The building appears to date from the early 1970's and Property Services indicate that it has been damaged by vandals hence this application proposes its demolition. This will not result in loss of parking to users of the snooker centre, as it is not easily accessible by car.

The building is not listed or considered to be of a listable quality. Its demolition would not adversely affect the character and appearance of the conservation area.

Recommendation

GRANT conservation area consent subject to the following conditions:

1. The works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

Reason: To conform with Section 18(1) of the Planning and Listed Buildings and Conservation Area Act 1990.

Item 2.1

Reg. No. 9/2008/0749/FM

Applicant:

Mr Mrs John Tivey
Long Lane
Dalbury Lees
Ashbourne
Derbyshire
DE6 5BJ

Agent:

Mrs Sylvia Harris
Anthony Short & Partners
34 Church Street
Ashbourne
Derbyshire
DE6 1AE

Proposal: **The erection of a dwelling at Thurvaston Stoop Long Lane Dalbury Lees Ashbourne**

Ward: **North West**

Valid Date: **24/07/2008**

Reason for committee determination

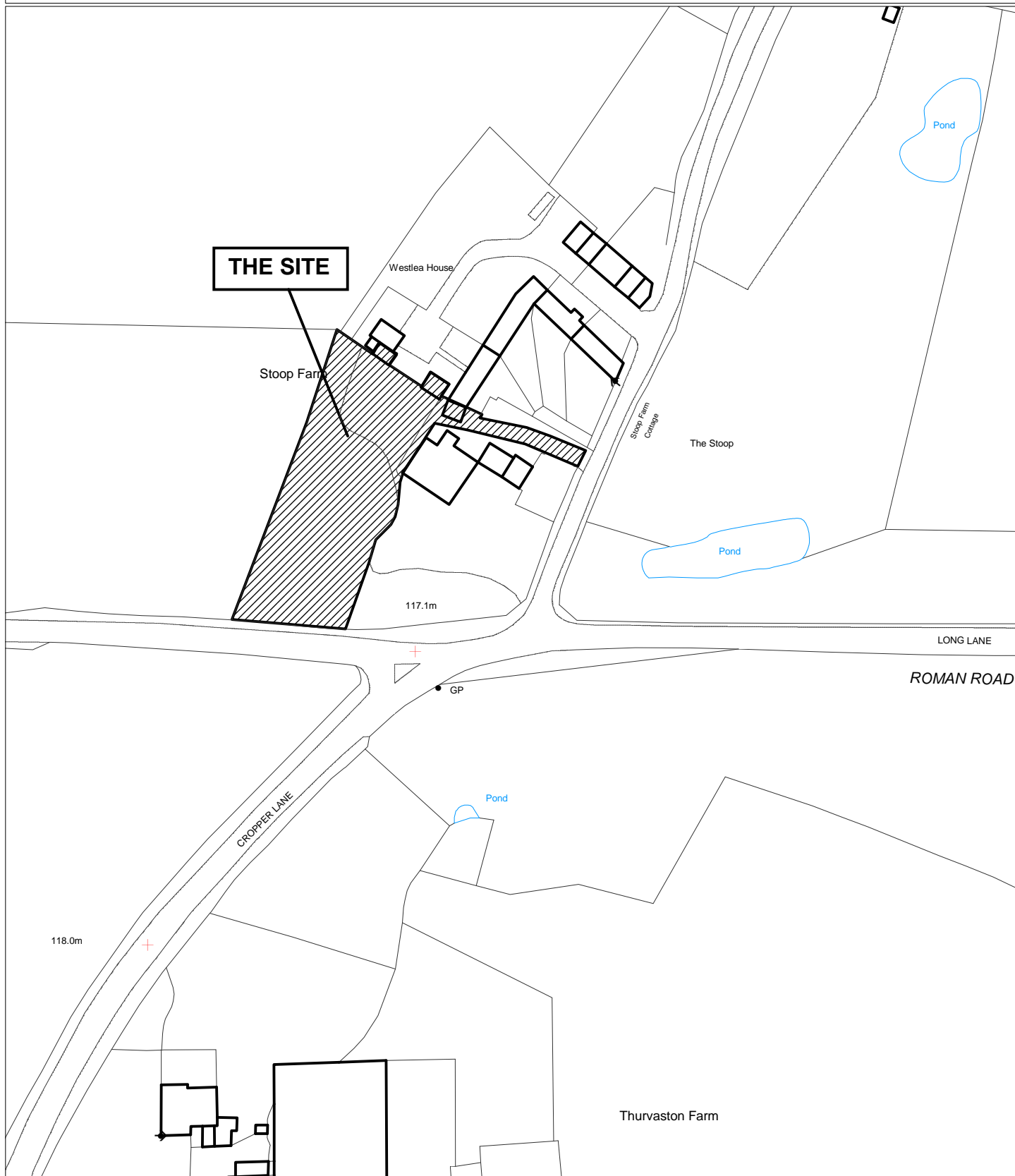
Councillor Bale has requested that Committee determine this application, as there are special personal circumstances of the applicant, which Members should consider. *The application was deferred at the Committee meeting on 26th August to enable a site visit to be undertaken. The report has been updated in italics to take account of the response from the County Highway Authority resulting in an amended reason for refusal as reported verbally at the last meeting.*

Site Description

The site occupies part of the garden to Thurvaston Stoop. The site has a substantial hedge and trees along part of the west boundary but the area where the dwelling would be located is open albeit that a holly hedge/trees has recently been severely pruned and is now regenerating for part of this site. The north boundary is formed by the outbuildings and gardens to the barn conversions whilst the south and east boundaries are open to the rest of the house curtilage.

Proposal

The proposal is to build a purpose-built dwelling to accommodate the personal needs of one of the applicants who is confined to a wheelchair. Whilst there is accommodation proposed in the roof space of the dwelling, this would be used to accommodate visitors/family. Access to the site would be via the existing drive to Thurvaston Stoop that would be widened to allow two vehicles to pass one another.



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Applicants' supporting information

A letter from the applicants' doctor supports the application in which it is stated that there is full backing for the applicants' case. There is no prospect for an improvement to the health of one of the applicants who is confined to a wheelchair and is likely to remain so for the rest of his life. Easy access provided by a single storey dwelling with wheel chair friendly spaces would improve the situation for the applicants, particularly his wife who is a full time carer. They are unable to cope in the existing house.

The applicants bought the property some 20 years ago. Recently a rare debilitating disease that has left one of the applicants entirely dependent on a wheel chair. The existing house has been temporarily adapted to take account of his needs but the house does not lend itself to permanent adaptations. Indeed the costs of adaptation would be significant for very little benefit. The current house is too large for the applicant's needs and with the large garden, is no longer suitable for the applicants and they consider it would be better used as a family dwelling.

One of the applicants requires long periods of bed rest but also likes to cook and make use of his computer. It is the body that is affected by the illness not his mind. A new dwelling would enable the applicant to live a better life whilst allowing more freedom for the carer and not putting a significant drain on savings.

It is stated that a farm building used to occupy the site of the proposed dwelling, a map extract from the 1970's is submitted to prove the point. It is claimed that had the building remained in position it is likely that it would have been converted to residential use along with the remaining farm building. Evidence of the presence of the building has been found when gardening has taken place but it is accepted that the building no longer exists. However, it is requested that the current case be viewed as an exceptional one rather than just receiving blanket consideration. No other persons would be affected by the erection of the dwelling and to deny the applicants the right to a purpose-built home that would improve their quality of life seems harsh.

The dwelling has been designed to have the appearance of a barn conversion with spacious accommodation to cater for the wheel chair. The height of the building has been kept to 1.5 storeys and the materials would match the existing barn conversions. It has been designed to take account of the views available to the west that is particularly important when bed rest is required. It also helps to control the aspect of the dwelling so there is no overlooking of Thurstaston Stoop.

It is acknowledged that bats are present at the site and the applicants would work with English Nature to ensure that roosts are not adversely affected. A letter from English Nature to the applicants accompanies the application. Highways issues have been addressed but full compliance with the County Highway Authority requirements is not possible. The County Highway Authority is undertaking speed-readings but the results are not yet available.

It is asserted that over the years, the width of the junction onto Long Lane has been extended due to over-running so it is in effect wider than it appears on the plans.

The applicants undertook pre-application discussion with the Area Planning Officer and the proposals have been drawn up to take account of those discussions. However it is recognised that the proposal does not fall in line with planning policy and that the only way to test the personal circumstances issue is to make the planning application.

Planning History

There is no planning history for this site.

Responses to Consultations

The County Archaeologist has no comment, as it is unlikely that the development would affect archaeological remains.

The County Highway Authority has objected to the development as submitted as there is insufficient information to ascertain if a satisfactory access can be provided. *Having considered the revised details submitted by the applicant and the findings of the speed survey the Authority maintains that the development will result in the introduction of vehicular movements at a location where visibility is substandard contrary to the best interests of highway safety. (If Members are minded to permit the development conditions are requested that will minimise impact – however the grounds for objection will not be removed)*

Responses to Publicity

Any responses will be reported at the meeting.

Development Plan Policies

The relevant policies are:

RSS8: Policies 1,2, 3, 4, 6 and 30

Saved Local Plan Policies: Environment Policy 1, Housing Policy 8

Planning Considerations

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

- Development Plan Policies and Government advice
- Personal circumstances
- Highway considerations.

Planning Assessment

Development Plan policies strictly control development in the countryside to preserving the countryside from unnecessary housing development. Exceptions are permitted to meet the needs of established rural businesses and with regard to housing it is usually limited to meeting the requirements of agricultural enterprises. The replacement of existing dwellings is also a means of building new dwellings in the countryside.

Government advice in PPS 1 is that new development should aim at protecting and enhancing the natural and historic environment, the quality and character of the countryside, and existing communities. The erection of new dwellings in isolated countryside locations does not conform to countryside protection policies or the tenet of Government advice.

Whilst one can have sympathy with the personal health circumstances of the applicant, planning policies seek to protect the countryside from unnecessary housing development. Houses are present for a long time after the particular personal circumstances of an applicant no longer apply and the result is an unjustified dwelling in the countryside that is detrimental to the character of the area. Financial considerations, although important to applicants, are not a material planning consideration.

The planning policy considerations are paramount in this case. At the time of writing the response from the Highway Authority had not been received and will therefore be reported verbally at the meeting.

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

REFUSE permission for the following reason:

1. In the countryside new housing development is limited to that which meets the needs of established rural enterprises, usually agricultural workers dwellings. Accordingly, for a dwelling to be permitted there has to be a reasoned justification for it to be located in the countryside and that the business it is intended to support should have a viable long-term future. In this application the case for the dwelling is based on the personal needs of the applicant to meet a long-term debilitating illness. Whilst there is sympathy for the personal circumstances of the applicants the justification for the dwelling is not sufficient to outweigh the normal presumption against housing development in the countryside and the erection of a house in this location would represent an unwarranted intrusion into the countryside to the detriment of the rural character of the area.
2. As the visibility achievable at any proposed access into the site is significantly below recommended standards, even taking into account the results of a speed survey, the development would result in the introduction of vehicular movements at a location where visibility is substandard contrary to the best interests of highway safety.

Item **2.2**

Reg. No. **9/2008/0676/F**

Applicant:

Mr Kevin Ellis
c/o Gainsborough Property
Mickleover
Derby
DE3 5SH

Agent:

Mr Kevin Ellis
Gainsborough Property
Mickleover Manor
Mickleover
Derby
DE3 5SH

Proposal: **The erection of a dwelling on Land at Red Lane Repton**

Ward: **Repton**

Valid Date: **25/06/2008**

This report also relates to application 9/2008/0840 at 2.3.

Reason for committee determination

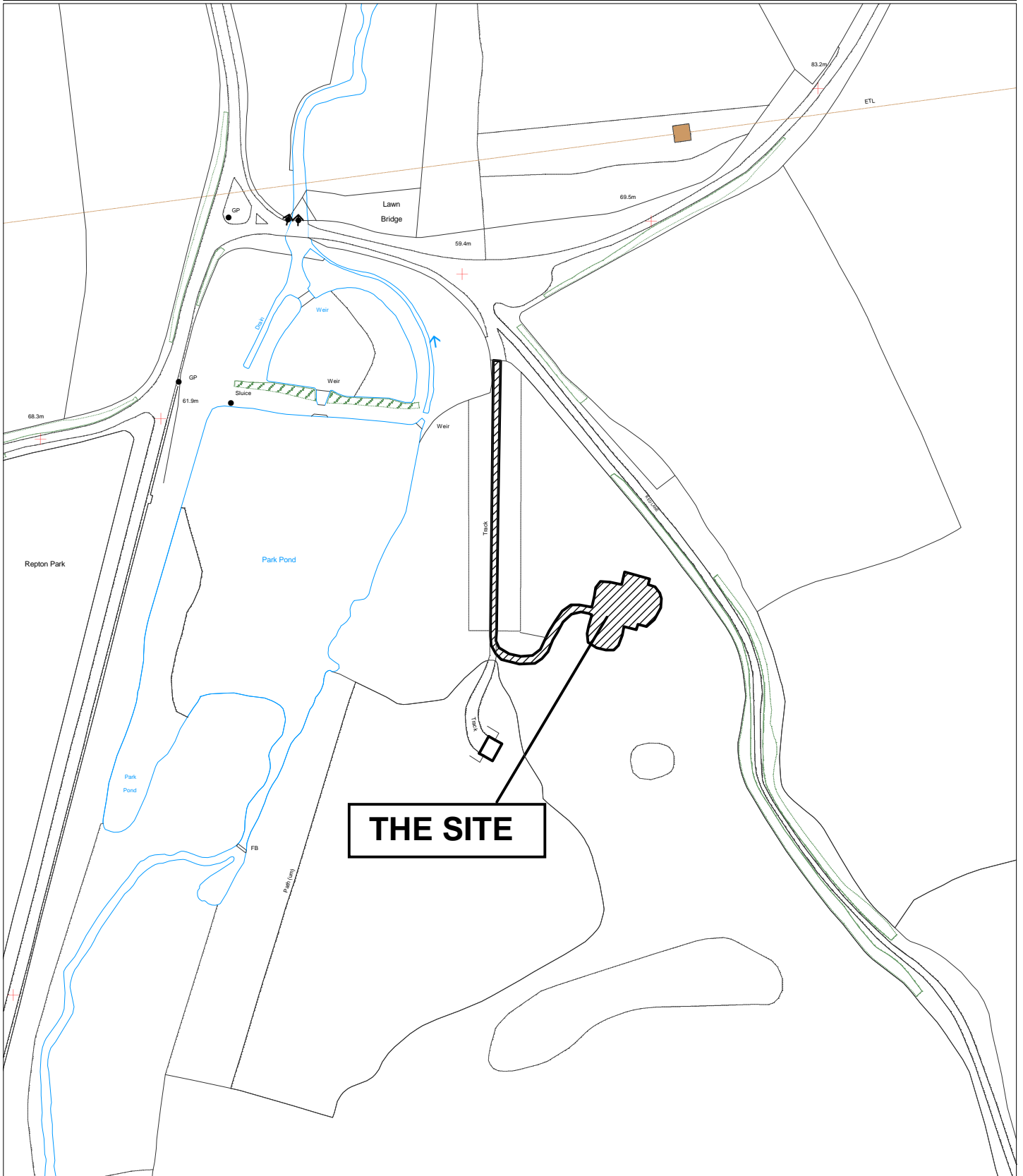
The application is brought to Committee at the request of Councillor Heather Wheeler (ward member) so that the committee can debate issues which she feels are very finely balanced, and circumstances that are unusual. Councillor Wheeler considers that the application should be supported.

Site Description

The application site lies within the countryside and comprises an area of open land forming part of the historic Repton Park, an area of enclosed, undulating parkland consisting of artificial ponds, trees, woodlands and two listed buildings (Lawn Bridge and the remains of stables). The ownership of the park is split; with the application site and surrounding open land under separate ownership from the areas of woodland and water, which include the site of Repton Park House (demolished in the 1890s) and the park's main landscape features.

The site for the proposed dwelling lies in a natural hollow within an area of open grassland. The rear boundary of the site to the east is bordered by Red Lane, a narrow lane carved into the hillside with a steep bank up towards the application site bordered by trees and high hedges. The front of the site faces towards an existing lime tree avenue which dissects the area of open land as the land drops away to the west to the ponds beyond.

The site is accessed via the lime tree avenue from an existing gated entrance on Red Lane. The lime avenue leads towards the site of the former Repton Park House.



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Proposal

The proposal is to incorporate the salvaged external stonework of the demolished Grade II listed Burnaston House into a new, single-family residence. The house was formerly located at the site of the Toyota development and the external stonework was carefully dismantled and logged in order to enable its re-erection.

The house would be sited within a natural hollow in Repton Park with the rear of the property facing towards Red Lane. Access to the house would be from Red Lane via the existing gated entrance along the lime tree avenue. The access would deviate from the avenue to the site of the proposed dwelling.

The proposal is to build the new house to the same dimensions as the old one but without the original ancillary buildings. The proposal includes a single storey stone built extension to the rear in place of the previous rear brick built addition.

Part of the existing natural hollow would be excavated to provide underground car parking at basement level and form a plateau on which the house would sit.

Despite its demolition in 1990, English Heritage has confirmed that no request was made for delisting the house at the time of demolition. Burnaston House therefore remains listed because some remains are still extant. This being the case the applicant has subsequently submitted a listed building application which is also the subject of this report. It is therefore necessary to retrospectively consider the unauthorised changes and alterations made to the listed fabric since it was dismantled.

Applicant's supporting information

The applicant has submitted a Design and Access Statement (a full copy of which is available for inspection on the file) which makes the following assertions:

- a) Burnaston House was built as a classical 'Soanian' villa of true Sir John Soanes design of which only a handful still exist. The house is of significant cultural significance.
- b) The house was meticulously dismantled with all removed blocks coded and stored in numbered pallets for ease of reassembly and detailed drawings and schedules prepared.
- c) The current proposal intends to rebuild the main house in its entirety, but not rebuild the original ancillary buildings, which contribute nothing to the period design. Underground parking will avoid any additional structures on site and keep the footprint down to an absolute minimum (that of the footprint of the rebuilt Burnaston House) of 360m².
- d) The applicants are willing to enter into an agreement to ensure that Burnaston House remains as a single household residence only.
- e) The appeal Inspector acknowledged that Burnaston House was a building of significant interest and that the 'benefits from the re-erection of the building may well justify a siting where new residential development would not normally be acceptable'.
- f) It is intended that the rebuilt Burnaston House will achieve a low carbon status aiming to achieve a level 4 or higher in the Code for Sustainable Homes standards.

- g) The proposed scheme is to include a greywater collection and re-cycling system and the applicant is considering the implementation of a combined heat and power plant, the installation of which would be supervised by the Carbon Trust. If implemented it is intended to allow for educational visits during the design and installation stage.
- h) By locating and concealing the building in a natural hollow between two rises with the rear elevation screened by trees and hedges along Red Lane the building is in a much less intrusive position on the site and the applicant is confident that they have overcome the Planning Inspector's previous concerns of the building's prominence.
- i) On the previous appeal the Inspector considered a greater level of detail was required to ensure both accurate re-erection and restoration of the house. To that end the applicant has commissioned Peter Eaton and Associates, Civil and Structural Engineers, to oversee the construction and ensure and confirm that the materials kept in storage are correctly used during construction.
- j) No trees on the boundary of the site are scheduled for removal.
- k) The site is perfectly placed to give access to the country's main transport network.
- l) Burnaston House is a rare example of an almost extinct style, and as such, its reconstruction is seen as highly desirable for historic and cultural reasons. Several previous attempts to rebuild Burnaston House have failed, and because of this, the possibility of its survival is diminishing.

An additional statement submitted by the applicant makes the following points:

- a) Once Burnaston House is re-constructed its planning permission will set a precedent, as nobody else will be able to re-create this property. It is truly a one off and it is an exceptional application and should also be considered under PPS7 as an exceptional property built in the countryside.
- b) The property is in close proximity to the now demolished original property built at Repton Park and the entrance gates and tree-lined driveway still in existence will be utilised for the new property.
- c) The entrance onto the driveway is abused with litter and parking and it is hoped this proposal will improve the situation.
- d) The property will not be visible from the highway and will be well screened within the site.

The applicant has submitted a letter from the Ancient Monuments Society from 1993 commenting on the previous application for the re-erection of the house at Etwall which they "applaud and welcome".

The applicant has submitted a further letter dated 11 August 2008 which states that they consider that should the application be successful it would generate an enormous amount of publicity for South Derbyshire not only because of the reconstruction of such an important building but also the fact that the building is still listed despite its demolition.

The applicant has confirmed that they have secured the services of conservation architect Adam Bench (RIBA) of Buxton to oversee the project and it is likely that William Anelay of York, the building and restoration contractors who were involved in the detailed logging of the stonework of the demolished house, would be contracted to re-construct Burnaston House. William Anelay has already in effect re-built the house dry, repaired all the stones as necessary and engraved and logged the stones.

Whilst the original staircase was re-used in the construction of Egginton Hall a piece of the original balustrade does exist and will be re-created together with a new stone staircase identical to the original Burnaston House. The original cornices are not in the applicant's possession but cornice moulds will be made where possible and used in the completed building.

Floor plans have been submitted showing that the principal rooms relate to the principal windows and the supervising architect will ensure that the house is generally in keeping with the period.

Planning History

Planning approval was sought in 1990 to rebuild Burnaston House on a site adjacent to Ashe Hall in Etwall. The Committee had resolved to grant planning permission subject to the signing of a Section 106 Agreement to limit occupation to a single family and to ensure the controlled re-erection of the building. However, following a lengthy planning process the application was not pursued and was withdrawn.

A second application was reported to Committee in 1993 further down the site and subsequently refused. The Local Planning Authority were not satisfied that the building had sufficient architectural or historic interest to warrant a significant intrusion into the countryside and considered that the proposal would be detrimental to the rural character of the area due to loss of hedgerow to provide the necessary sightlines.

The application was subsequently dismissed at appeal. The Planning Inspector acknowledged that Burnaston House was a building of "significant interest" and it would be "desirable to re-erect the building in the interests of architectural conservation". The Inspector commented that "the benefits from the re-erection of the building may well justify a siting where new residential development would not normally be acceptable." However, the Inspector considered the elevated position of the proposed site which lacked tree cover made it particularly prominent over a considerable area and concluded that the proposal would detract from the character and appearance of the rural area. He considered that the benefits or re-erection did not outweigh the harm identified. The Inspector further added that had the principle of re-erection been acceptable a greater level of detail would have been required to ensure both accurate re-erection and restoration of the house and appropriate treatment of the space around the building.

Responses to Consultations

English Heritage does not wish to comment in detail on the application but has the following observations:

- Sufficient elements of the designed landscape of the former house of Repton Park survive including the original approach to the earlier house and some tree planting. Evidence suggests that this is a potentially important landscape, which, in the least, deserves further research and perhaps inclusion on English Heritage's Register of Parks and Gardens of Special Historic Interest.
- Whilst little information is provided about proposed landscaping within the application given the loss of the original Repton Park house, the proposed reuse of the approach and relatively discreet proposed location of the rebuild within the existing site such work could take place alongside the rebuild to inform

appropriate future landscaping around the house and take the form of a condition of any consent given.

- The application is seriously deficient in terms of detail and it will be essential for the Local Planning Authority to assess if the stone façade of the house can be reconstructed accurately utilising the original fabric in its entirety so that the building is, as near can be, Burnaston House, rather than a copy of it. Only if the fabric re-used is the historic original could the building be considered 'outstanding in terms of architecture' thus responding to guidance in PPG7. The letter from Peter Eaton Associates is not sufficient evidence that the building is capable of reconstruction.
- Much more information is required regarding the building's historic features. If the reconstruction is to be more than the erection of a façade it will be important to ensure that the proposed plan form reflects the historic plan form and that principal rooms respond to principal windows etc. The survival and incorporation of historic features could be an argument in favour of rebuilding, ie. a heritage benefit in allowing an accurate reconstruction of Burnaston House as a whole, not just a façade. Much more information is required on these important points in order to assess if the proposals represent the exceptional circumstances required to allow this development.
- Burnaston House remains listed. No application to de-list the building can be considered whilst the current application is still live. An application for listed building consent is required. In the event that planning permission and listed building consent are granted, once the house has been re-erected, it will be re-assessed by English Heritage to establish whether it merits retention on the statutory list.
- English Heritage recommends that the application be determined in accordance with national and local policy guidance and on the basis of the Council's specialist conservation advice.

The Ancient Monument Society supports the rebuilding of the house and is in no doubt that its architectural quality will meet the 'exceptional' criterion for new building in the countryside. The Society is content that the new elevation, necessary for making good the part not salvaged, is appropriate. The Society understand that there are concerns about the effect on the historic landscape of place a rebuilt Burnaston House on the site chosen but do not have the necessary information to reach a conclusion on that issue. The Society believes that it is desirable to for the house to be rebuilt and it may be that there is no better site available. The Society believes that the benefits of rebuilding Burnaston House should be given great weight against the disbenefits to the existing historic landscape.

The Development Control Archaeologist advises that Repton Park is a wholly inappropriate location for the reconstruction of Burnaston House and that consideration be given to alternative locations. Repton Park is a significant example of a landscape park, representing a palimpsest of landscape development from the medieval period to the present. The significance of the Park resides in the interrelation of landscape features and the surviving elements of built heritage such as the footings and part of the undercroft of the Harpur Crewe house and the part of the gatehouse which survives as a single storey Grade II listed ruin to form a cohesive historic landscape. The proposed rebuilding would have a detrimental impact on the setting and interpretation of the listed gatehouse and the interpretation of the cohesive historic landscape of Repton Park. It is also likely that the proposed re-building will impact upon buried archaeological

deposits and should the Authority be minded to grant consent an archaeological evaluation of the site should be carried out prior to any development.

The Georgian Group support the proposal to reconstruct Burnaston House but are concerned about the lack of information relating to the impact of the reconstruction in the proposed location. The group recommend withdrawal of the application and resubmission with the relevant information in order for the LPA to assess the likely impact of the proposals on the landscape at Repton Park.

The Council for British Archaeology (CBA) recommends refusal of the application. The CBA expresses concern that in essence the proposed building will not be Burnaston House. The carefully numbered stone will be re-used but the plan of the historic structure is apparently not known, the staircase has been used elsewhere and the rebuilding does not extend to the original roof structure, windows and doors. The associated stables will not be rebuilt and the changes to the building include the incorporation of an underground car park (implying extensive excavation). The group also has concerns about the proposed siting which will dominate the historic landscape that has its origins possibly as a small deer park in the 17th century with relict signs of formal gardens, the park and lakes and a magnificent avenue of lime trees marking the original driveway. The proposal has no direct link with the planned historic landscape and will introduce an alien structure.

The Environment Agency has no objection.

Repton Parish Council and Repton Village History Group object as follows:

- a) The site is outside the village envelope.
- b) The site is a greenfield site.
- c) There will be an unspecified number of trees felled to gain access.
- d) The proposal has no historic attachment to Repton.

Repton Village History Group add:

- e) The application suggests that the re-erected Burnaston House would be a replacement for the former house on Repton Park but the proposed house is a reasonable distance from the original and is on land not connected with the original house and grounds.

The Highway Authority has commented that whilst Red Lane is not suitable to serve any further development, in view of the location of the access with Robins Cross Lane and the lightly trafficked nature of Red Lane, it is not considered that a highway safety issue could be demonstrated.

Responses to Publicity

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

- Burnaston House is of little architectural merit.
- It seems unlikely that any significant, original interior features have survived and the re-erection could be more pastiche.
- Repton Park has a more local, overriding historical importance and the surroundings ought to be preserved as such.
- The application site is on the land of Park Farm and not on land that has ever been part of Repton Park.

- The local Repton history particularly that of the former mansion house at Repton Park, its architectural merit and its estate is what is relevant to Repton.
- The application places the wrong building in the wrong place. The architectural style is totally different to the previous house and is not even within the bounds of what has been recognised through the 20th Century as the park.
- The proposal will seriously detract from unique quality of the historic Repton Park tree-lined entrance drive and gateway by taking a diversion from it.
- Why develop on a prominent sloping Greenfield site, requiring considerable excavation with an alien property of dubious architectural quality and suitability when the actual neglected brownfield site (of the former mansion house) has been crying out to be reinstated?

Two letters of support have been received and are summarised as follows:

- The restoration of a house to the sequestered and delightful small park at Repton would not only be highly appropriate but would embellish the romantic broken countryside and enhance the security of the area, which has had its problems with vandalism.
- The former Burnaston House matches the vanished house at Repton Park in period and in its associations.
- Whilst the house does not quite lie on the same orientation as the house lost in 1893, its relationship to the landscape will be sufficiently close to allow the park to be read as a piece of planned landscape once again.
- The site would be an ideal spot to rebuild Burnaston House, as it is a beautiful area with natural surroundings.
- The proposed siting would not affect any neighbouring properties.
- The house would only be used as a family home and would not create a great amount of traffic.
- It would be nice to have a piece of history rebuilt within Repton village.
- There is a problem with youths congregating at the bottom of Red Lane and subsequent discarded litter. A private driveway would deter this.

Development Plan Policies

The relevant policies are:

RSS8: Policy 2 & 3

Local Plan: Housing Policy 8 & Environment Policy 1

Planning Considerations

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

- The principle of development.
- The historic and architectural merits of Burnaston House.
- The historic and architectural merits of the parkland.
- The impact of the erection of the house on its location.

Planning Assessment

Environment Policy 1 of the Local Plan seeks to protect the countryside from new development that would have an adverse impact on the landscape quality and historic features that contribute to the character of the countryside. Housing Policy 8 contains similar requirements and seeks to ensure that dwellings are only allowed in such locations provided they are necessary to a rural based activity.

PPS7 'Sustainable Development in Rural Areas' advises that isolated new houses in the countryside require special justification for planning permission to be granted. This justification may occasionally be provided by the exceptional quality and innovative nature of the design of a house. The value of such a building will be found in its reflection of the highest standards in contemporary architecture, the significant enhancement of its immediate setting and its sensitivity to the defining characteristics of the local area.

It is the view of the Council's Heritage Officer that the historic and architectural merit of Burnaston House is very dubious. The house remains listed by default only. Permission to demolish the house was granted by the DoE in August 1989, with no requirement for any salvage, but the formal process to de-list the house was not put in place. It is unclear whether this process should have been initiated centrally or locally. However it is extremely unlikely that the house will remain a listed building once the current applications are determined.

The assertions concerning the age and merits of Burnaston House have been made without recourse to some of the most basic sources of historic evidence. The statutory consultees have in turn placed great dependence on second-hand information, both about the proposed site and about the history of Burnaston House. In line with English Heritage's recommendation that a decision should be based on policy and the Council's own specialist advice, the Council's Heritage Officer has conducted some new research to properly inform that advice. The house was listed on the basis of suppositions which can now be shown to be false.

The house was thought to have been built around 1825 to designs either by Samuel Browne or Francis Goodwin, both of Derby. For 1825 its design would have been fashionable. However, new research shows that the house had still not been built in 1849, which rules out the involvement of either of the two suggested architects in its design. Moreover, the house as it stood at the time of listing was not a unified and harmonious design of a single date, as has been claimed. The side wings were built later still and were not part of the original design concept. Externally these side wings gave added interest and 'movement' to a plain house, but internally the extra space did nothing to improve the plan form. The layout of the house was in fact made inelegant by the additions, and bore no resemblance to the expert handling of internal spaces by Sir John Soane, whose influence has been claimed on the house but which is only superficially present in the austerity of the external design.

For the mid 19th century the house was old fashioned and its listing may not have occurred in the first place if the true facts had been available. It is the policy of English Heritage not to recommend buildings for listing if they were built after 1840, unless they are works of merit by identified architects.

Whilst the applicant has submitted further details showing the proposed floor plans with principal rooms facing principal windows, and has indicated that the stone staircase and cornicing will be re-created, the case for listing is weaker still now that so little of the original house survives, particularly in terms of internal features. If the rebuilding were to be permitted, the internal plan form including the staircase would be totally different to the original. Therefore the proposed interior would be contrary to English Heritage's advice. The plan of the house as proposed bears little resemblance to the original which in turn would have an impact on the exterior. For instance, the fireplaces are

located differently and there are no chimneys shown. Two sash windows in the front elevation are shown as doors in the proposed plan, which would inevitably affect the regularity of the glazing pattern that is a significant feature of the design.

In this context the historic and architectural merits of Burnaston House are not considered so significant as to warrant special justification for the erection of a new house in the countryside.

Repton Park has considerable natural beauty and historic interest on account of the artificial ponds, trees and woodlands and two listed buildings. The park is a heritage asset and is part of a particularly attractive part of South Derbyshire which tracks the brook from Hartshorne via the lower end of Bretby Park to Repton. English Heritage has acknowledged that the park merits further research and perhaps inclusion on their Register of Parks and Gardens of Special Historic Interest. This research is currently in progress.

Repton Park forms part of an area of land formerly designated as an Area of Local Landscape Value under the Local Plan within which previous planning policy advised that development will not be permitted unless it is necessary in such a location and that the development is well related to the main features of the landscape. Whilst the related Environment Policy 3 expired in September 2007 under the Secretary of State's Direction, this former designation is still considered to be of some historic relevance to the site's importance.

The designed landscape at Repton Park evolved around the demolished house at its centre, which stood in a grassy clearing among woodland, approached by a tree-lined avenue. The proposed site for Burnaston House is situated away from the site of the original house off to one side of the tree-lined avenue that forms the historic approach road. The site represents the best site available to the applicant and is not a focal point of the historic landscape. There is plenty of space to erect a new house on or near the site of the old one, which would be the logical place for it, but this does not seem to be an option for the applicant.

The house itself would be situated within a natural hollow that would require further excavation works in order to provide the underground car parking and provide a plateau for the proposed house. Burnaston House was a house to be viewed in the round with the end elevations being more decorative than the front, with larger, tripartite windows and tapered architraves showing an Egyptian influence, giving the end elevations an architectural impact almost as great as the front elevation. The design ethos of Burnaston House was, therefore, suited to an expanse of more level ground than is currently proposed. In its original setting the parkland wrapped generously around the front and both ends of the house.

Whilst the proposed site for the re-erection of Burnaston House is situated within an enclosed parkland with only partial views of the house from the access point on Red Lane and as such addresses the previous concerns of the Planning Inspector with regard to the prominence of the house in a rural area, the house in the location proposed would have an adverse impact on the character of the surrounding landscape which is considered to be of significant historic importance.

It is acknowledged that Burnaston House has some residual merit. The interesting recent history of the house, involving its dereliction, rescue as a nursing home,

demolition prior to completion of the conversion, salvage of the stone and abortive proposed rebuilding in Japan, makes the rebuilding desirable on that account alone, if for no other reason. However, its merits are not such as to warrant rebuilding in such a location which is considered to be so damaging to an existing historic parkland. Rebuilding in Etwall was refused on account of the effect on the location, and there are similar concerns here. At Repton Park, the setting is not publicly prominent; it is equally sensitive because of the history and importance of the designed landscape.

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

REFUSE permission for the following reasons:

1. Housing Policy 8 and Environment Policy 1 of the South Derbyshire Local Plan seek to protect the countryside from harmful development and restrict new development to that which is necessary in such a location for the operation of a rural based activity. The proposed development clearly is not justified in this regard. Consideration has been given as to whether there is special justification for an exception to the above policies because of the architectural or historic importance of Burnaston House in line with PPS7: Sustainable Development in Rural Areas which advises that justification for an isolated new house in the countryside may occasionally be provided by exceptional and ground breaking design quality. Although the now demolished Burnaston House remains a Grade II listed building on the Statutory List of Buildings of Architectural and Historic Interest, the Local Planning Authority is not satisfied that the building is of sufficient architectural or historic merit to warrant an exception to the above policy. The erection of a new dwelling would therefore be contrary to the above policies and result in an unwarranted intrusion into the countryside.
2. Environment Policy 1 seeks to protect the countryside from development outside settlements that would adversely affect the landscape quality and historic features that contribute to the character of the countryside. Repton Park is a significant example of an historic landscape park due to the interrelation of landscape features and the surviving elements of built heritage. The siting of the re-built Burnaston House in the location proposed would appear as an alien feature out of character with and to the detriment of the historic pattern of the surrounding rural landscape contrary to Environment Policy 1 of the South Derbyshire Local Plan.

23/09/2008

Item **2.3**

Reg. No. **9/2008/0840/L**

Applicant:

Mr Kevin Ellis
c/o Gainsborough Property

Agent:

Gainsborough Property Ltd
The Gatekeepers Cottage
Mickleover
Derby
DE3 0SH

Proposal: **The proposed rebuilding of the former Burnaston
House at Land at Red Lane Repton**

Ward: **Repton**

Valid Date: **21/08/2008**

The issues for this item are considered in the Committee Report for 9/2008/0676 (2.2 above).

REFUSE listed building consent for the following reason:

The reduction of the building to three dismantled facades only, followed by loss of the staircase to another house since the building was dismantled, means that re-erection of the house to a level of authenticity worthy of continued listed status is no longer possible.

No attempt has been made to recreate the original house behind the facades, where the proposed layout is entirely different from the original, including absence of the original service wing. The status of the demolished house, which remains listed by default, is insufficient to outweigh the harm to the proposed location.