

REPORT OF THE HEAD OF COMMUNITY AND PLANNING SERVICES

SECTION 1: Planning Applications SECTION 2: Planning Appeals

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

1. PLANNING APPLICATIONS

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

Reference	Item	Place	Ward	Page
9/2012/0132	1.1	Scropton-Egginton	Etwall, Hilton, Hatton	1
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When moving that a site visit be held, Members will be expected to consider and propose one or more of the following reasons:

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

Item 1.1

Reg. No. 9/2012/0132/MAF

Applicant:

LYNN FOORD
ENVIRONMENT AGENCY
OLTON COURT
10 WARWICK ROAD
OLTON
SOLIHULL

Agent:

DAVID PEARCE
HALCROW
LYNDON HOUSE
62 HAGLEY ROAD
EDGBASTON
BIRMINGHAM

Proposal: **THE CONSTRUCTION OF NEW FLOOD EMBANKMENTS
AND WALL AND IMPROVEMENT WORKS TO EXISTING
FLOOD DEFENCES IN THE VILLAGES OF SCROPTON,
HATTON, TUTBURY AND EGGINTON AT LAND
BETWEEN SCROPTON, HATTON, TUTBURY AND
EGGINTON DERBY**

Ward: **HILTON, HATTON, ETWALL**

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

Reason for committee determination

This report relates to an application for a Flood Relief Management Scheme for the River Dove and its tributaries as it flows through South Derbyshire including the Foston, Hilton and Egginton Brooks. It is a major application to which more than 3 letters of objection have been received and as such it falls to be determined by the Planning Committee.

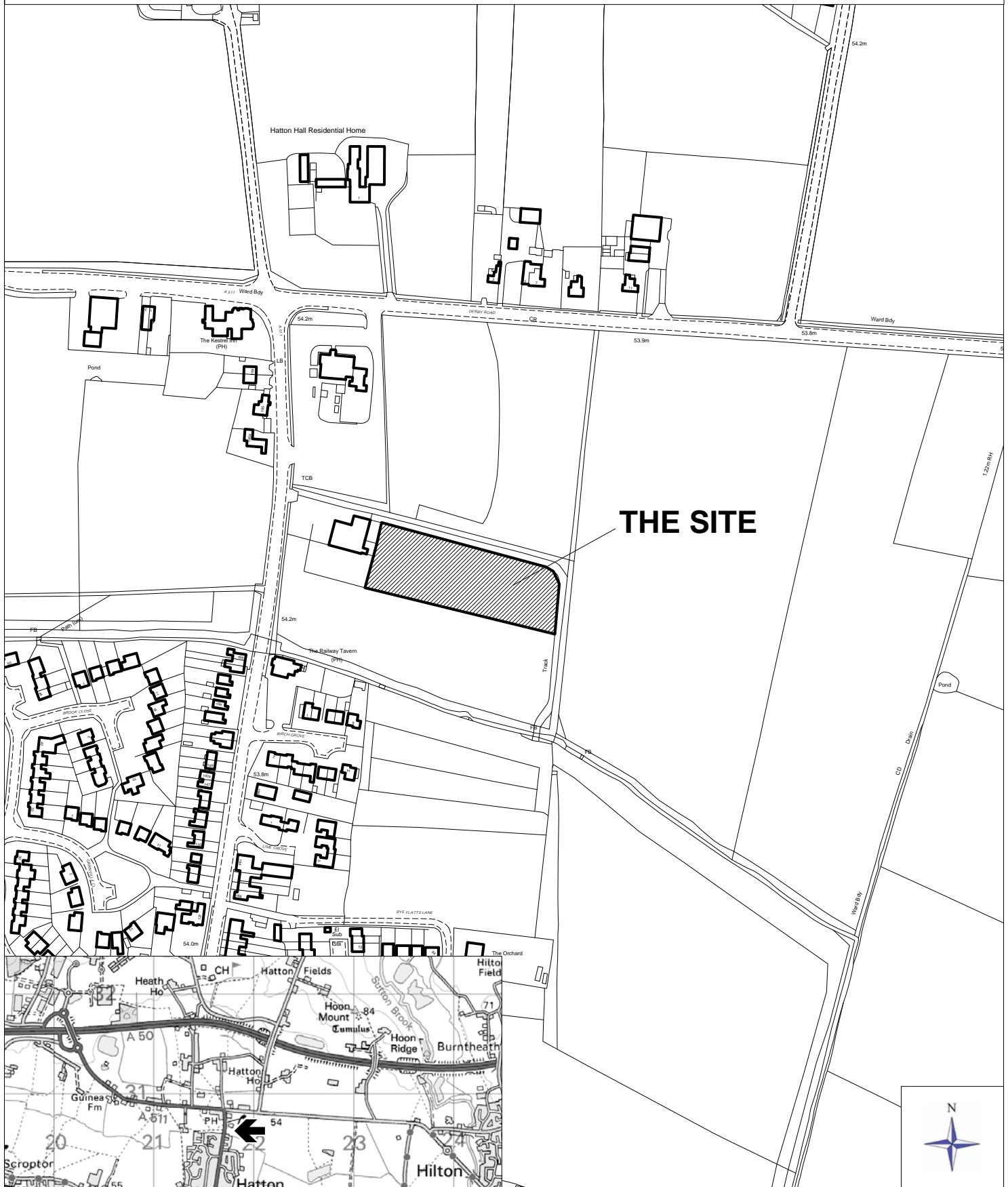
There is a concurrent application for the works with East Staffordshire Borough Council for that part of the scheme that falls within that Borough. A separate application for Listed Building Consent for works to the Derbyshire side of the Tutbury Bridge has been permitted under delegated powers.

Site Description

This is a linear planning application that is crossed in various places by public rights of way and in places the highway network as described below. Plans to be displayed at the meeting will illustrate the extent of the proposed development as it affects the various Parishes.

Various tree and hedges would have to be removed to implement the scheme and given the programme of works described below, the Environment Agency using its powers as

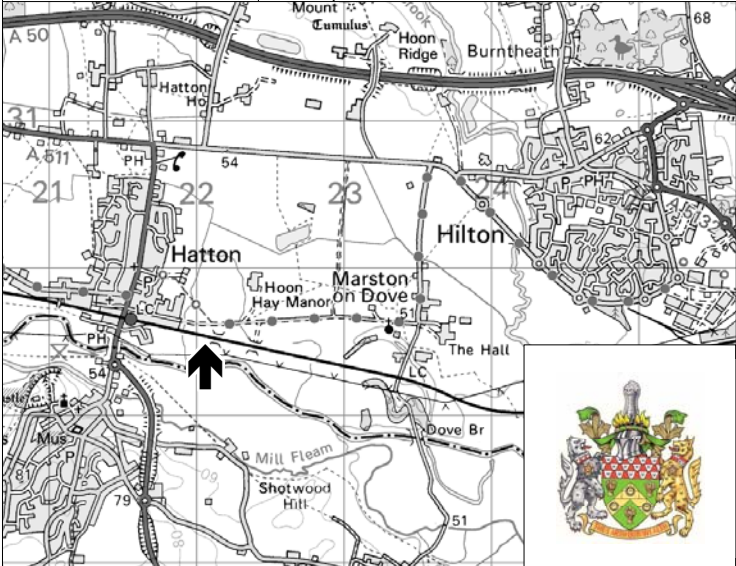
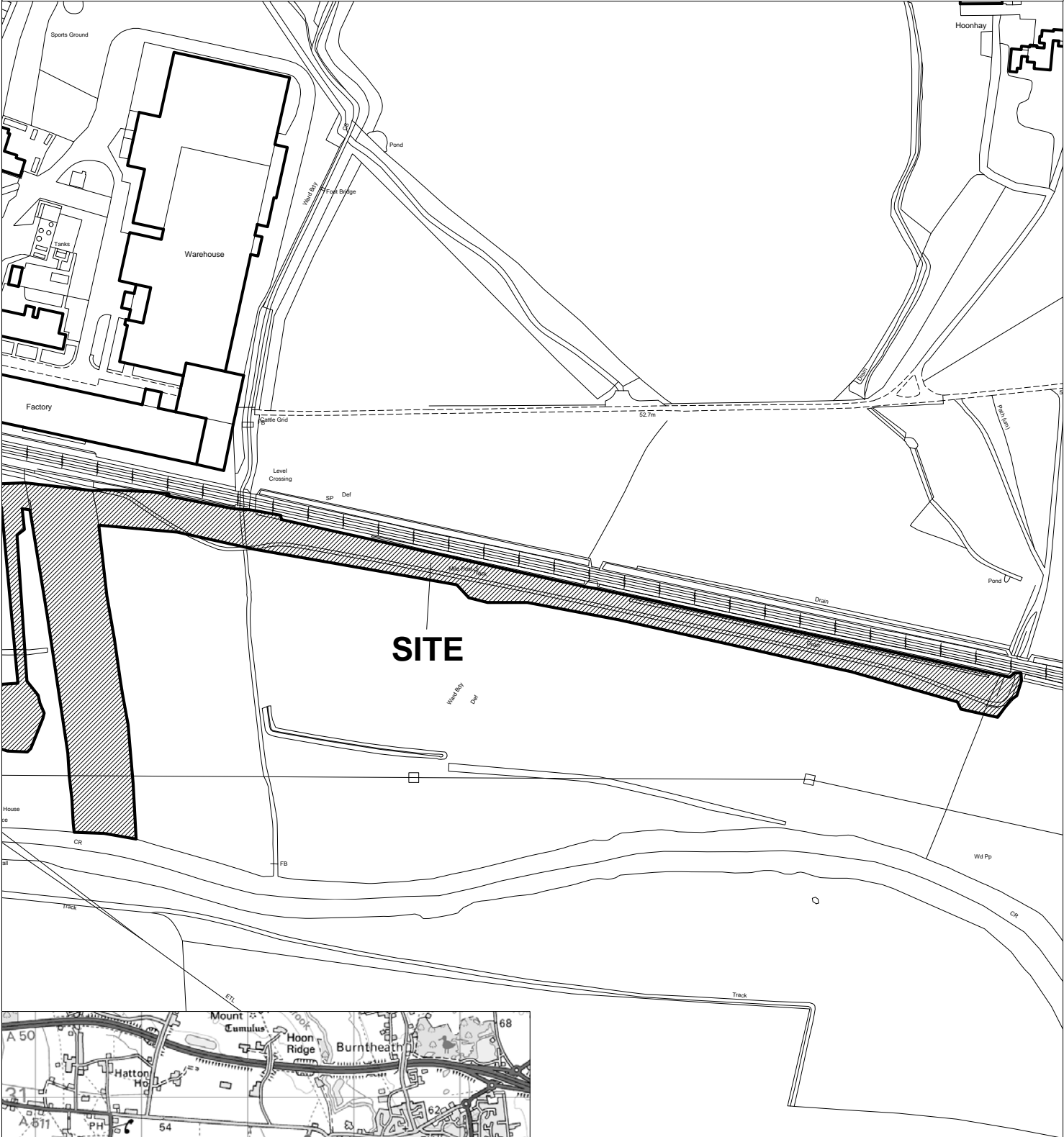
**9/2012/0132 - Land between Scropton, Hatton, Tutbury and Egginton,
Derby (DE65 5PT)**



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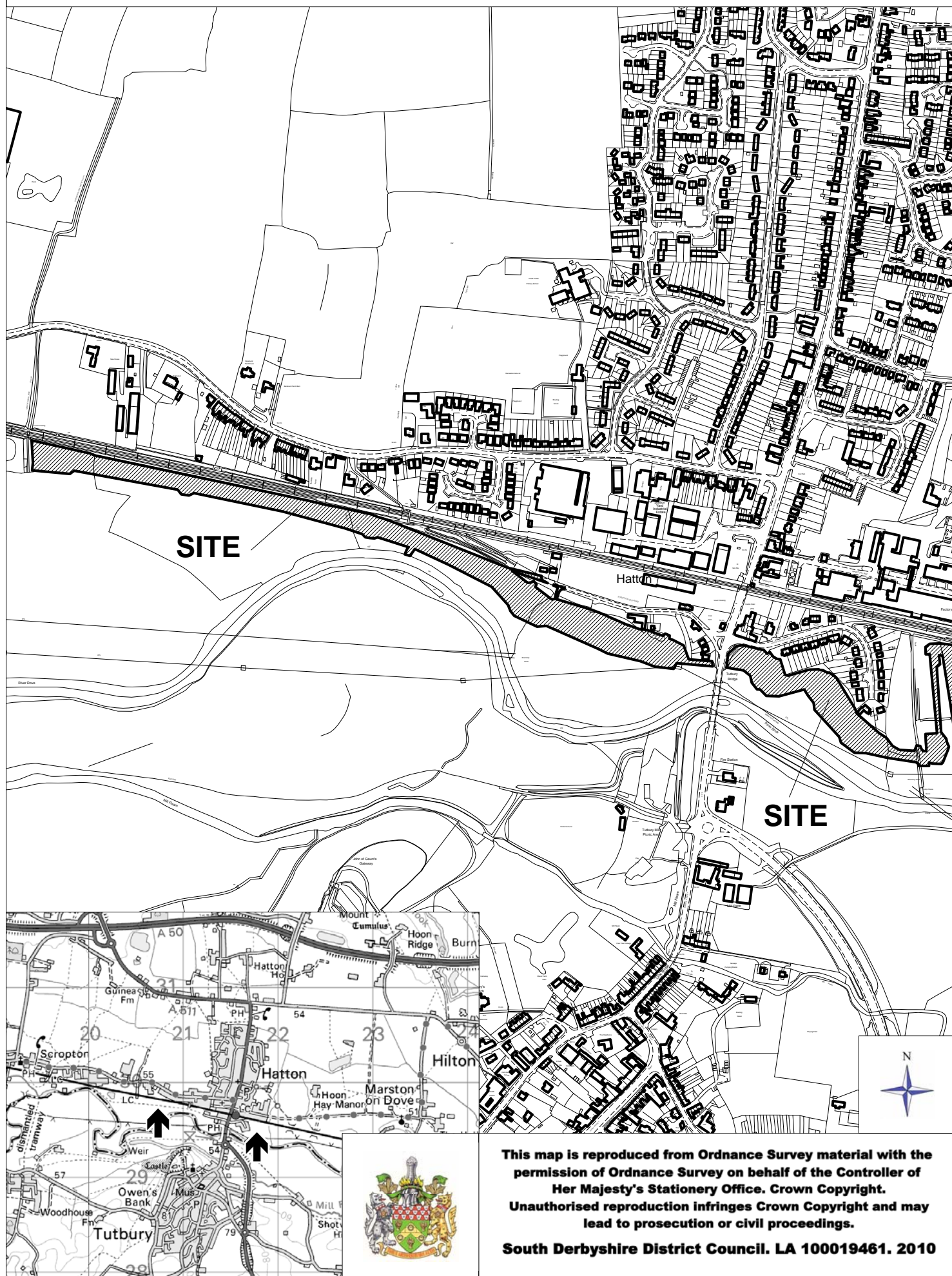
**9/2012/0132 - Land between Scropton, Hatton, Tutbury and Egginton,
Derby (DE13 9LY)**



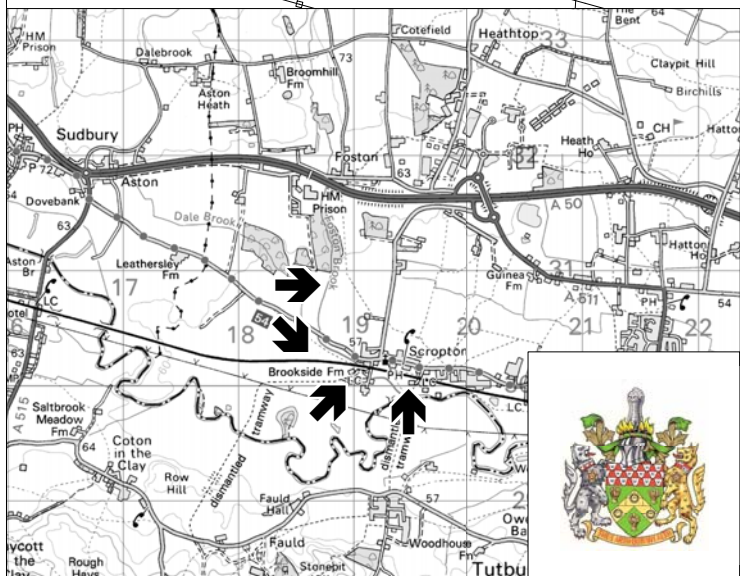
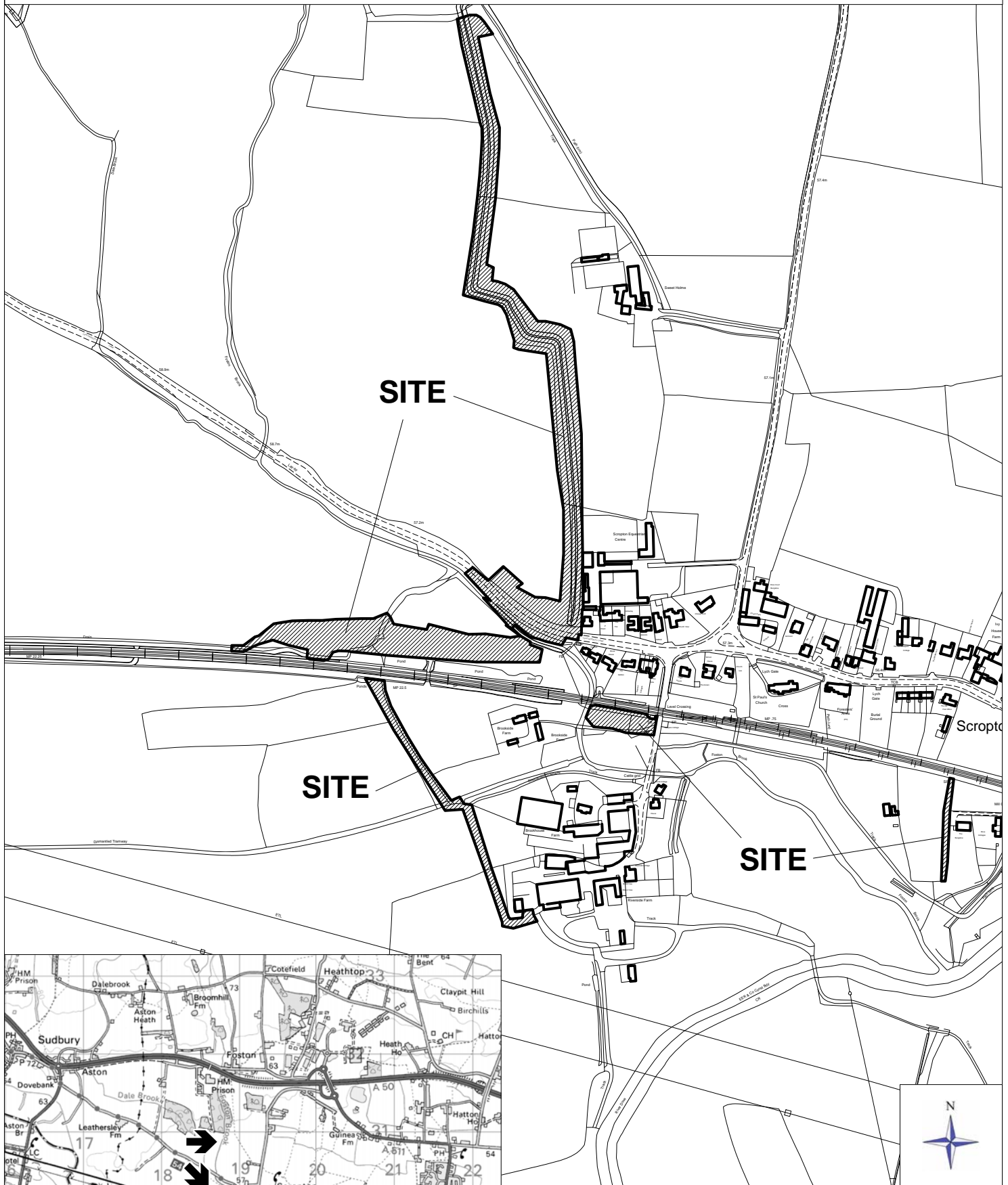
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9/2012/0132 - Land between Scropton, Hatton, Tutbury and Egginton,
Derby (DE65 5DX, 5DY, 5DZ)



**9/2012/0132 - Land between Scropton, Hatton, Tutbury and Egginton,
Derby DE65 5PN**



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a statutory undertaker has carried out some of this removal work in order to facilitate the development should permission be granted.

Proposal

What follows is a summary of the works in order to establish the basic principles of the proposals in each location. The proposals can be broken down into the following locations:

Scropton

The works include:

- Raising the existing embankment (approximately 750m long) to the west of the stables on Watery Lane by 0.1m at the upstream end, increasing to 1.45m at Leathersley Lane end;
- Construction of a new embankment (approximately 50m long) on north side of Leathersley Lane (between 2.0m and 2.5m high);
- Raising road levels (Leathersley Lane), by up to 2.0m, at the west end of Scropton (design to be undertaken by Derbyshire County Council (Highways Department)). Extent of works to be confirmed but estimated at 120m;
- Construction of a new control structure (flume) to limit the flow downstream. Located approximately 100m upstream of Scropton Railway Bridge;
- Re-alignment of approximately 100m of the Foston Brook Channel adjacent to Leathersley Lane upstream of Public Right of Way footbridge to accommodate new flume structure (new channel bed approximately 5m below top of embankment and off set 5.0m from existing channel) across the Brook;
- Construction of approximately 250m new flood embankment (approximately 2.5m high) between new flume structure across Foston Brook and a tie-in to the railway embankment upstream of existing drainage ditch, west of Scropton;
- Diversion of approximately 200m length of existing drainage ditch to facilitate construction of new embankment;
- Construction of approximately 80m new flood defence embankment (approximately 2.0m high) between Scropton Railway Bridge and the farm access track level crossing.
- Localised raising of existing Mill Lane flood embankment between the railway embankment and River Dove to west of properties on Mill Lane by up to approximately 0.2m; and
- Localised raising of existing ring embankments around Riverside, Brookhouse and Brookside Farms by up to approximately 0.2m.

Hatton

- Construction of approximately 700m of new embankment (approximately 1.5m to 2.0m high) adjacent to the riverward side of the railway between Green Ends Lane (track) to the west and the existing flood embankment in Hatton to the east. This will formalise the embankment into a flood defence asset;
- Raising approximately 250m of existing embankment (by approximately 0.3m to 0.6m) to the south of Scropton Old Road west of Tutbury Bridge;
- Raising approximately 40m of existing wall by 0.6m tying into the existing embankment in the west and Tutbury Bridge to the east;

- Raising of approximately 300m of existing embankment around Thistley Place Meadow, off Marston Old Lane, from Tutbury Bridge in the west to access track adjacent to the allotments to the east, by approximately 0.2m to 0.6m along its length;
- Raising of access track by approximately 0.2m;
- Raising of approximately 200m of existing embankment to east of allotments behind properties at Dove Side (by up to approximately 0.2m);
- Construction of approximately 150m of new flood defence embankment (approximately 1.5m high) running parallel to the south side of the railway line from existing embankment in the west to Salt Brook;
- Potential removal of the outfall flap at Salt Brook; and
- Construction of approximately 450m of new flood defence embankment (approximately 1.5m to 2.3m high) running parallel to the south side of the railway line from Salt Brook in the west to Hoon Hay Manor track underpass in the east.

Egginton

- Raising of the downstream section of the existing embankment along the right bank of Egginton Brook for approximately 170m, to be raised by 0.2m at upstream end and 0.6m at the downstream end;
- Extension of embankment by approximately 500m adjacent to right bank of Egginton Brook, turning south west across fields to Church Road, with an average height of approximately 1.5m (ranging from approx 1m adjacent to Egginton Brook to 2m at Church Road);
- In order to maintain a continuous flood defence, it is necessary to raise a section of Church Road between Egginton and the A38. Raising of Church Road by approximately 2m (design to be undertaken by Derbyshire County Council Highways Department). Actual extent of works is estimated at 200m to achieve required approach gradients.
- Construction of approximately 150m of 1.7m high embankment to east of Benby House [*The Old Rectory is the current name of this dwelling*];
- Outfall structure for ditch flowing through Benby House gardens with flapped outfall;
- Construction of approximately 350m of 2.0m high embankment from outfall structure, around woodland to south of Benby House and St Wilfrid's Church, to new inlet structure for ditch;
- Inlet structure (with automatic closure mechanism) to maintain flow in existing ditch through St Wilfrid's Church woodland and Benby House garden;
- Construction of a new embankment approximately 200m long to west of St Wilfrid's Church from inlet structure with an average height of approximately 1.0m (ranging from 2.0m high to 0m where it ties into higher ground at Egginton Hall access road);
- Raising of access track (Egginton Hall to plantation area) over existing embankment, by approximately 0.2m and raised extension (approximately 50m) of track adjacent to plantation area and Oak House boundary by up to 0.3m; and
- Localised raising of approximately 150m of existing embankment west of Catherine Jonathan playing fields by up to approximately 0.2m.

Tutbury

The River Dove through Tutbury forms the boundary between South Derbyshire, to the north, and East Staffordshire to the south. Tutbury Bridge is a Grade II Listed Structure and 'bridges' the boundary between the two administrative authorities, although the works that will connect into this structure are proposed on the South Derbyshire side of the river. The main works at Tutbury are required to protect the Fire Station and to prevent the backflow of water into Tutbury. These works include:

- Construction of approximately 100m of new flood wall (up to approximately 0.8m high) and a short section of embankment (approximately 60m long by 0.8m high) around the buildings to the east of the approach to Tutbury Bridge (A511), tying into high ground adjacent to the bridge and adjacent to the A511 road embankment;
- Construction of a small ring bank around the farm track beneath the A511;
- Raising by approximately 250mm of an approximate 60m length of wall and construction of an extended 25m length of wall, adjacent to the Mill Fleam/A511; and
- Construction of new heavy duty kerbs to west of Mill Fleam, tying into Tutbury Mill Bridge parapet and high ground adjacent to the parking area.
- A lime tree with a TPO needs to be removed to complete the construction of the new floodwall around the fire station. However the Environment Agency has sought advice from the Planning Department at East Staffordshire and has been advised that as a statutory undertaker, permission is not required to remove this tree.

Works Programme

In the event that planning permission is granted the following the following indicative programme is proposed:

- Mobilisation and site preparation – this is expected to last 4 weeks and commence if planning permission were granted shortly after that date
- Scropton Works – 24-week duration between September 2012 and February 2013.
- Hatton – 24-week duration between July 2012 and December 2013.
- Tutbury – 21-week duration between August 2012 and January 2013.
- Egginton – 17-week duration between December 2012 and April 2013.

Various points of access are shown on the submitted plans to be utilised to facilitate undertaking the works.

Applicants' supporting information

The application is accompanied by a variety of documents upon which this section of the report are based these are a Planning Statement, a Design and Access Statement, including details relating to the historic character of Tutbury Bridge necessary to support the Listed Building Consent application, a Flood Risk Assessment, an Environmental Report that looks at the impact on protected species and a Heritage Statement. There is a statement of community involvement that states various public exhibitions of the proposals have been undertaken in compliance with this Council's policy and comments made arising from those consultations have been incorporated into the scheme as now presented.

The various elements of these documents can be summarised as follows:

The Construction Phase

The following impacts are anticipated when the works are constructed should planning permission be granted:

- The temporary loss of agricultural land during construction due to working area and access requirements;
- The temporary disruption to Public Rights of Way (PRoW), national cycle route 549 through Scropton and cycle route 54 through Egginton and the local road network;
- The temporary disruption to use of open spaces including Thistley Place Meadow, (Hatton);
- The temporary adverse impacts on local residents through noise, vibration and dust nuisance, and traffic disruption;
- The potential disturbance to legally protected species and/or their habitat including bats, otter, reptiles, badgers and breeding birds through loss of cover and construction activities;
- The permanent loss of individual trees, hedgerow trees, small groups of trees (Scropton, Hatton and Tutbury), scrub and species poor hedgerow, along with temporary loss or disturbance of grassland and ditch habitats throughout the scheme;
- The potential risk of spread of invasive species (Japanese Knotweed and Himalayan Balsam);
- The temporary adverse impacts on the landscape character of the area and visual amenity of local receptors due to large-scale construction activity for the duration of the works. Including disruption due to site compound and storage areas, material import, construction operations and movements of plant and contractors' vehicles;
- The localised compaction of soils from construction vehicles;
- The potential adverse impact on undiscovered archaeological finds;
- The potential impact on the setting of the Tutbury Conservation Area in the vicinity of the Fire Station and Tutbury Bridge and on Tutbury Bridge (Grade 2 listed) as raised wall ties into bridge; and
- The potential impacts on water quality due to construction activities in proximity to watercourses and disturbance of sediment during re-alignment and/or in-channel works.

Operation

The applicants state that the following benefits/costs would apply once the scheme becomes operational:

- Increased level of flood protection and improved health and safety for local residents and businesses giving rise to a major beneficial impact;
- Permanent reduction in flood risk and improved water quality;
- Permanent loss of agricultural and grazing land beneath the footprint of new embankments and walls for the most part along field margins;

- Permanent reduction in size and/or division of productive agricultural field area by location of defences impacting on land use and operational efficiencies at Scropton, Hatton and Tutbury);
- Residual effect of introduction of new elements (flood embankments and walls) will result in permanent adverse impacts on the landscape character of the area. This will be particularly evident at Leathersley Lane, Scropton (road raising and new structures on the west side of Scropton); and Church Road, Egginton (road raising and new embankment south east of Egginton); and
- Permanent changes in visual amenity from mature vegetation loss and/or introduction of new flood embankments and walls will result in adverse visual impacts on particular local receptor groups. These include residential receptors and Public Right of Way users on the west and south west side of Scropton with views of the road raising, control structure and embankment across the fields; the residents at No 1 Station Road, Hatton, where wall raising will result in loss of light and river views; residents at No 4 Scropton Old Road, Hatton, where embankment raising will impact on the outlook from their property; and residents at Rectory Mews, Egginton where there would be views of the road raising and new embankment north of Church Road.

Mitigation

In order to address some of these anticipated impacts (costs) the following mitigation measures are proposed:

- Minimising working areas and limiting access routes to reduce temporary land take, whilst new flood embankments will be tied into existing structures i.e. the railway embankment; subject to agreement with Network Rail and/or reseeded with access for grazing subject to landowner requirements.
- Enforcement of footpath diversion orders for the minimum period required, together with community liaison and suitable signage.
- Pre-construction species surveys / visual inspection in some locations (bats, otters, reptiles, badgers and water vole) and replacement habitat creation;
- Replacement planting of hedgerows and/or laying, gapping up and replenishment with native species of existing hedgerows;
- Reinstatement of grassland with appropriate seed mixes according to land use and landowner requirements;
- Use of coppicing and pruning to limit the number of trees felled and to allow rapid re-growth to maintain vegetation cover;
- Replacement tree planting, including black poplar (in appropriate locations) from locally sourced cuttings;
- The provision to the Local Planning Authority of method statements for all construction activities prior to construction activities being commenced.
- The sensitive design of structures and the use of quality materials that fulfil the requirements of SDDC and ESBC.
- Adherence to the mitigation strategy agreed with Derbyshire and Staffordshire County Council Planning Archaeologists.
- Foston Brook realignment designed and constructed to capture Water Framework Directive requirements.

The applicants state that provided mitigation measures have been successfully implemented the Scheme would, in most instances result in no more than short-term or temporary negligible to minor adverse residual impacts during construction. However,

not all of the anticipated construction impacts can be fully mitigated and there will be some major to moderate adverse residual effects. These residual impacts will primarily be associated with landscape and visual effects arising from site clearance and construction activities within and adjacent to the main work locations in Scropton, Hatton, Tutbury and Egginton.

In addition to the negative impacts above, a number of positive impacts have been identified and are described in part above and include a reduced risk of flooding of residential property and consequent improvement of quality of life for residents of Scropton, Hatton, Tutbury and Egginton. In addition the implementation of the scheme would also reduce disruption caused as a result of road flooding and economic loss as a result of industrial and commercial property flooding.

Whilst not part of this application the applicants assert that the Scheme would contribute funding to the Environment Agency Fisheries for works to improve fish passage at Dovecliff Weir on the River Dove. This scheme has been identified by the Environment Agency Area Fisheries Team as one of the largest potential benefits of any environmental enhancement works on the Lower Dove as it links with the Agency's current policy for focussing on Water Framework Directive improvements and to open the river to improve access for all species of fish.

In addition a number of environmental improvements or enhancements have been recognised with benefits to the wildlife and community, and will be pursued as the scheme develops should planning permission be granted. It would be necessary to discuss some of these matters with landowners but it is anticipated that the following enhancements would arise should the scheme be implemented:

- Habitat creation and/or change in grassland management within area of field affected by new embankment between Foston Brook and railway embankment at Scropton;
- Opportunity to create riverine scrub habitat and otter holt along the right bank of the Foston Brook between new control structure and the Scropton Railway Bridge;
- Improvements to the footpath stiles and surfacing of Foston Brook pedestrian bridge;
- Potential for laying, gapping up and enrichment planting of existing field boundary hedgerows and improve green corridor connectivity;
- Improvements to riverbank habitat (River Dove) by regrading of riverbank to east of Hatton;
- Replacement/repair of fences along right bank of River Dove upstream of Tutbury Bridge and native tree planting along some sections of the riverbank to provide shading to the river;
- Contribution of funds or services to Thistley Place Meadow Nature Reserve;
- Habitat creation by change of management of existing ruderal grassland on land east of Thistley Place Meadow Nature Reserve between river and railway;
- Opportunity to install bat boxes on mature trees.
- Potential for habitat creation in area of field identified for site compound to east of Egginton;
- Option for planting an understudy oak tree in field (Egginton) to accompany veteran oak; and

- Wetland/habitat creation to extend Egginton Brook habitat in area segregated from surrounding fields by the defence line (including potential otter holt and native scrub planting).

An Environmental Action Plan (EAP) will be used to manage the environmental issues and mitigation measures identified in the ER with actions relating to three stages, prior, during and after construction.

Flood Risk Assessment

The Flood Risk Assessment concludes as follows:

The modelling undertaken for the purposes of this scheme has shown the proposed FRMS at Scropton, Hatton and Egginton will provide a 1%AEP standard of protection. Mitigation works are required at Tutbury in order to maintain the current standard of protection against a 2%AEP flood event. This represents a significant improvement to the level of protection afforded to some 1600 houses and businesses along the course of the River Dove.

As the scheme is a “Water Compatible” development in Flood Zone 3b, it is considered as an appropriate development from a flood risk perspective given the number of properties that will be protected and the minimal impacts on upstream and downstream water levels.

Conclusions

The applicants conclusions are that the proposals are required due to flood events in the recent past that have caused damage to property (both residential and commercial) and cut communities off by road leading to severe concerns on safety due to access issues for the emergency services.

The proposals broadly comprise the raising of existing, and the construction of new embankments and walls in the villages of Scropton, Hatton, Egginton and Tutbury, part of the latter being located in East Staffordshire.

One end of a wall that is proposed would be raised in Tutbury will need to connect to Tutbury Bridge, which is a Grade II listed structure, hence, the need for not only a planning application but also listed building consent. The works for this are in South Derbyshire, although the bridge is on the border of East Staffordshire also and straddles the boundary, which is formed by the River Dove.

In conclusion it is considered that the benefits that this scheme would bring to the area in terms of the level of flood protection provided would greatly outweigh any negative impacts that the scheme would cause. These impacts will be mainly during the construction phase and so will be temporary. Mitigation and enhancement measures included in the Environmental Report will negate the majority of permanent impacts and in many cases enhance the environment. With this in mind the applicants request that planning permission and listed building consent be granted to allow the Environment Agency to undertake the proposals in the current financial year.

Planning History

There are various parts of the development, for example the flood bank in Hatton, where previous planning permission has been granted for flood defence works in the recent past (post 2000). Other areas of flood defence have been long established and there is now no record of when they were undertaken but they form an established part of the landscape along the Dove Valley and its tributaries.

Responses to Consultations

Tutbury Parish Council has no comment.

Egginton Parish Council supports the application.

The County Highway Authority has some reservations about some of the construction accesses but as these could be formed as permitted development, does not consider that an objection to these could be justified. In the light of this conditions are recommended that include the use of temporary traffic signals where a safe junction cannot be formed.

The Derbyshire Wildlife Trust has no objection to the principle of the works subject to the imposition of conditions to secure the mitigation measures proposed in the application documents together with the pre construction inspection of working areas to ensure no protected species are harmed by the development.

The Development Control Archaeologist has no objection subject to conditions.

Network Rail states that it has no objection to the principle of the development but has submitted a holding objection pending consideration of the works on its assets. *[When this report was prepared it was understood that the holding objection would be removed by the date of the Committee and as the issues related to Network Rail assets rather than planning principles, this report was completed without the response – further comments will be reported at the meeting if available.]*

Responses to Publicity

7 letters have been received, 2 for the Trustees of Thistley Meadow, Hatton, that initially had objection to the development but that objection was removed following a consultation meeting with the Environment Agency. The 5 other letters were received from residents of Egginton, 3 from one household concerned about their location outside the protected areas and that the increased flood levels arising from the alleviation measures would have on their properties.

These objections were forwarded to the Environment Agency as some of the concerns could only be addressed through a detailed examination of the allegations. The response from the Environment Agency was that the dwellings themselves should not be flooded but the grounds of the houses may suffer more water inundation.

Other points of objection:

- a) There would be a loss of outlook from properties.
- b) Stables and recently laid gravel and coral would be at risk of flooding.
- c) There have been improved standards of maintenance and the risk of flooding is therefore less, it would be better if more money were spent improving drains.

There is a hole in the existing flood bank that should be repaired. However in the last flood event a brick prevented the flood valve open, when it was removed the flood plain operated satisfactorily.

- d) Horses would have to be relocated and there would be much disruption during building operations.
- e) An office proposal in the grounds of Egginton Hall would be at greater risk of flooding.
- f) When Egginton Hall was constructed, floor levels were set to keep the property out of a flood event. The house will be put back into the floodplain as a result of these works
- g) There has been no consultation on the proposed works or about the planning application.
- h) There are no new flood banks proposed in the grounds of Egginton Hall, which a neighbour to the Hall finds hard to understand.
- i) Previous flood events have occurred at the bridge into the village.
- j) Other people have been allowed to build into the flood bank.
- k) The increased road level will drive floodwater into adjacent houses.
- l) The Environment Agency should recompense people who suffer financial losses as a result of their proposed works.

Development Plan Policies

The relevant policies are:

EMRP: Policies 27, 28, 29, 31 and 35,

Local Plan: Environment Policies 1, 9, 13 & 14

National Guidance

The NPPF does not add much to the policy background other than to confirm that development should be properly assessed against flood risks through the sequential and exception tests that are set out in the technical guidance that accompanies the NPPF.

Planning Considerations

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

- EIA Considerations
- The East Midlands Regional Plan
- South Derbyshire Local Plan
- Planning Policy Issues arising from the introduction of the NPPF and the implications for the Development Plan.
- Protected Species
- Short and long term impacts arising from the development and the consequences of the development on the properties on the outside of the proposed flood defences, and those abutting the proposals where there is an impact on outlook.
- Consideration of the mitigation measures proposed.
- Objector considerations
- Potential conditions

Planning Assessment

EIA Considerations

The application has been screened in accordance with the requirements of the EIA Regulations 2011 and the conclusion is that an Environmental Impact Assessment is not required for this development. This opinion has been forwarded to the applicant and the screening opinion placed on the public record in accordance with the Regulations. As stated above, the application is accompanied by a number of supporting documents that address issues such as flood risk, ecology, archaeology and a Design and Access Statement. All these have been taken into account in determining this planning application.

The Regional Plan

Policy 35 is not specific about flood management schemes but it does allow for the acceptance of development that would preserve or enhance or mitigate the overall flooding regime and on this basis the application is considered to conform to the requirements of this policy. The other policies referred to relate to the protection of historic assets and the improvement of the green infrastructure in the region.

South Derbyshire Local Plan

The policies quoted in the applicant's statement are still a relevant consideration in that they generally accord with the provisions of the NPPF as at paragraph 215 and as such the policies remain a relevant consideration in determining this application.

The NPPF and its Technical Guidance

Given that the proposals here would reduce the risk of flooding to a considerable number of houses and businesses in the locality, it is considered that the proposals are generally in accord with the NPPF and its technical guidance in that the proposals provide an enhanced level of protection to the area of proposed flood defence that would allow the settlements to continue to function at times of potential flooding in line with the guidance for ensuring a healthy rural economy.

Protected Species

There is potential for bats, otters and other protected species have been identified along the length of the river and as such Local Planning Authorities' have a duty in coming to planning decisions to approach the discharge of the three tests set out in the Conservation and Habitat Species Regulations 2010 that should be considered when harm to European Protected Species (EPS) is likely. These tests are as follows:

1. There must be no satisfactory alternative

The works are proposed to minimise the risk to life and property along the lower Dove and its tributaries. In this regard the works have to be located in a particular area alongside the Dove and its tributaries. Thus it is considered that there is no satisfactory alternative.

2. That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

The submitted information indicates that where protected species do occur the impact of works would not be significant and that the works proposed have the potential to enhance the habitat for the species mentioned. Bats are likely to be present in some of the older trees along the route and these should be inspected prior to the commencement of other works, as are the areas close to the rivers where there is a potential for otter and badger. The proposed mitigation measures outlined in the ecology reports and habitat enhancements proposed in the application would help to ensure that the proposed works are not detrimental to protected species and habitat would be improved in the long-term. A condition to secure the enhancements is recommended.

3. The development is undertaken for imperative reasons of overriding public interest) or for public health and safety reasons. The works are necessary for health and safety of a considerable number of residents and property if a flooding event took place. Nothing in this assessment obviates the need for the applicants to obtain any necessary licenses from Natural England in the event that it is found that a protected species would be directly affected by the development. In the light of the above the Planning Authority has undertaken a reasonable assessment of the impact of the development on European Protected Species and according to Natural England Standing advice is free to determine the planning application subject to ensuring mitigation and habitat enhancement is secured through the imposition of conditions.

Short term Impacts

There would be short-term disturbance to houses and businesses in the vicinity of the proposed works whilst they are being undertaken. This would primarily be from construction traffic, potential noise and dust from building operations and the after effects of the development pending the regeneration of the site once operations are completed in terms of landscaping and other mitigation measures. By their very nature, these impacts are temporary and ultimately the landscape will recover from the impact of the construction works. However in the short term these impacts may be significant but last for a short term. The maximum estimated construction phase for any one part of the development is listed as 24 weeks.

Long-term Impacts

There are two main impacts to consider – 1 - the impact on property outside the protected area that may suffer an increased depth of flooding than previously experienced and 2 - the change to the landscape arising from the increased height of the flood defences in some areas and their formation in others where none currently exist.

Impact of the development on properties outside the proposed defences

The raising of and installation of new flood defence barriers would have some impact flood level on land outside those defences. In the majority of cases, the land affected is in open use and has no material impact on property. However, there are areas where there are houses that lie outside the defended areas that would in the event of a flood,

experience raised water levels. This issue has been examined by the applicants and assessed against the Lower Dove Flood Model. Whilst there would be some increase, given the expanse of the flood plain along this application site, the increases would be negligible and according to the modelling occupiers should not suffer from flooding in their properties albeit in some cases the flood levels would be just below the house threshold. Some residents have suggested that existing flood defences would be removed but the applicants have confirmed in writing that this is not the case.

Impact on properties adjacent to the proposed defences

Scropton

In the main the works will have little or no impact on the outlook from dwelling given the raising of embankments and new embankments are remote from most properties. Barley Croft Cottage on Leathersley Lane, would be most directly affected by the proposed embankment works to its side, the raised embankment would be visible from rear windows extending north towards Sweetholme Farm.

Hatton

The majority of properties in Hatton would be unaffected by new embankments and raised embankments and would be separated from those works by the railway line. Properties on Marston Old Lane and Dove Side would suffer some loss of outlook from the raised embankments to the rear of their properties but the overall impact is not considered severe enough to justify refusing planning permission. The Trustees of Thistley Meadow had initial objections about the proposed works on the Meadow but following discussion with the Environment Agency those objections were withdrawn. 1 Scropton Old Road would see an increase in the height of the boundary wall adjacent to their bungalow but there are no habitable room windows in the side elevation and as such there would be no significant detriment to the amenity of the dwelling.

Egginton

The works at Egginton comprise in the main new embankment stretching from the Egginton Hall access Drive, around St Wilfreds Church to the rear of The Old Rectory and then stretching to the north across Church Road and through the fields to the rear of Pear Tree Farm as illustrated on the submitted plans as amended. None of the works to form the new embankment or raise the levels of the existing banks would directly affect the residential amenity of the affected properties. There would be some loss of outlook from houses on Fishpond Lane from the raised bank.

Road Raising at Scropton and Egginton

The application plans state that the detailed design for these parts of the scheme are being prepared by the County Highway Authority and are not yet available. In these circumstances it is considered that a condition requiring their precise design to be submitted is considered appropriate. However, if the detailed design shows works to land that lies outside the current planning application site, then a fresh planning application would be necessary for these elements of the scheme.

Consideration of the mitigation measures proposed

A detailed scheme of replacement landscaping is proposed in each of the working areas involving the replacement of disturbed areas of grass land, tree and hedge planting and, where possible, habitat enhancements that would help to mitigate the temporary impacts of the development works. Bird and bat boxes are proposed and the overall impact of the development once completed with the mitigation measures is considered to be neutral in environmental terms and would provide enhanced protection to people and properties currently at risk of flooding. Conditions to secure replacement planting are proposed and there would be an obligation to maintain those features for a period of 5 years from the implementation of the scheme.

Objector considerations

Objectors points have been put to the Environment Agency and it is considered that whilst there would be some impact arising from the works on objectors properties, it is unlikely, based on the information supplied in response to the objections, that the objectors dwellings would be inundated at a 1 in 100 year (+ climate change) event but accepting that the dwellings may be surrounded by water at such a time. The conclusion on this issue is set out below.

Potential Conditions

In addition to the usual planning conditions requiring a start to the development and landscaping, various conditions are recommended to secure the mitigation measures set out in the planning application relating to habitat improvements such as bat boxes, bird boxes and habitat creation as described above. In addition other conditions are recommended to secure the requirements of the County Highway Authority and other consultees.

Conclusions

Having weighed all the submitted information, the objections received, and the responses from consultees, it is considered that the wider public benefits arising from the flood alleviation scheme outweigh the impact on properties that lie outside the proposed defences that may suffer from raised flood levels in the event of a severe flood. Subject to the recommended conditions, the grant of planning permission is recommended.

The application for listed building consent for works to the bridge has been granted. Planning permission for works in East Staffordshire has also been permitted to allow the scheme to proceed if this planning permission was granted.

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 following drawings received on 21 May 2012 as set out in the Drawing List referenced 9/2012/0132 - Approved Drawing List except where other conditions in this planning permission state that more detail is required.

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

3. Before any other operations are commenced in each location, space shall be provided within the various sites for the storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives and visitors vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority, and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

Reason: In the interests of highway safety.

4. Throughout the period of the development vehicle wheel cleaning facilities shall be provided and retained at each of the active construction locations. All construction vehicles shall have their wheels cleaned before entering the public highway.

Reason: In the interests of highway safety and in order to prevent the deposition of mud or other extraneous material on the highway..

5. Notwithstanding the submitted drawings, each temporary access created to the public highway for construction purposes shall be laid out in accordance with application drawing No. GN/LDDD/DD/503 and be provided with visibility sightlines in accordance with Table 1 below. The area forward of the sightlines shall be within controlled land and shall be cleared of any obstruction exceeding 1m in height relative to the nearside carriageway edge - all in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority in consultation with the County Highway Authority.

Table 1

Speed Limit	Visibility Splays
30mph	2.4m x 43m
40mph	2.4m x 103m
50mph	2.4m x 149m
60mph	2.4m x 203m

Reason: In the interests of highway safety.

6. In the event that the construction access cannot be created in accordance with Condition 5 above, access shall be controlled by traffic management measures, i.e. temporary traffic signals or, where very light traffic flows can be demonstrated, a banksman, all in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority in consultation with the County Highway Authority prior to any works commencing on site.

Reason: In the interests of highway safety.

7. Notwithstanding the submitted drawings, each permanent, maintenance access onto the public highway shall be laid out in accordance with application drawing No. GN/LDDD/DD/503 and provided with visibility sightlines in accordance with Table 1 (see Condition 3). The area forward of the sightlines shall be within controlled land and shall be cleared and maintained thereafter clear of any obstruction exceeding 1m in height (600mm in the case of vegetation) relative to the nearside carriageway edge. Each access shall be laid out and constructed in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority prior to any works commencing on site.

Reason: In the interests of highway safety.

8. Any gates shall be set back at least 10m into the site from the highway boundary and open inwards only.

Reason: In the interests of highway safety.

9. The gradient of any access shall not exceed 1 in 20 for the first 5m into the site from the highway boundary.

Reason: In the interests of highway safety.

10. Prior to building works being commenced in any part of the development site the proposed mitigation measures and habitat formation in respect of protected species set out in Sections 5 of the Halcrow Extended Phase 1 Habitat survey and Bat Survey Report both dated November 2011 in terms of tree retention, timing of works, night time working, design of landscaping and lighting and enhancement of habitat and roosting opportunities shall be undertaken all in accord with an Environmental Action Plan that shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. In the event that European Protected Species are found, works shall cease and the advice of Natural England sought and acted on prior to the commencement of building operations. No building or construction activities shall be undertaken if protected species are found.

Reason: The potential for the presence of European Protected Species has been identified in the reports that accompany the planning application. In the event that a particular species has established in the application site, the Local Planning Authority needs to be satisfied that no building operations are commenced that may affect a protected species in advance of the necessary permits being sought and obtained from the relevant Authority in order to comply with its obligations under the Conservation of Habitats and Species Regulations 2010.

11. Notwithstanding the submitted details and prior to the commencement of building operations, areas adjoining the black poplars on Leathersley Lane Scropton and the Egginton Church Wood Local Wildlife, site shall be fenced with steel mesh fencing to 2.3m high supported by steel scaffold poles staked at 3 metre centres in accordance with the guidance found in BS 5837:2012. The fencing shall be retained in position until all building works on adjoining areas have been completed unless otherwise agreed in writing with the local planning authority.

Reason: To protect the tree and Local Wildlife Site from undue disturbance

12. A) No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the Local Planning Authority in writing and until any pre-start element of the approved scheme has been completed to the written satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and
1. The programme and methodology of site investigation and recording;
 2. The programme and provision to be made for post-excavation analysis and reporting;
 3. Provision to be made for publication and dissemination of the analysis and records of the site investigation;
 4. Provision to be made for archive deposition of the analysis and records of the site investigation; and
 5. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
- B) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under Part A.
- C) The development shall not be occupied until the archaeological site investigation and post investigation analysis and reporting has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Part A and the provision to be made for publication and dissemination of results and archive deposition has been secured.
- Reason: To enable items of archaeological interest to be recorded/and or preserved where possible.
13. 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 completion of the operations 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.
14. Before development is commenced and as part of submission of details of access and site compounds required above, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include details of the materials of construction to be used to facilitate the development. The development shall then be undertaken in accordance with the approved details of the Construction Management Plan.
- Reason: In order to ensure that the construction phase of the development and the materials of construction are such that the impact of the development and its ultimate appearance are undertaken in accordance with best practice in the interests of the amenity of nearby residents.
15. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and

appropriate remediation proposals, and shall be submitted to the LPA without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

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

Informatives:

The application and conditions above are considered to be in accord with the following policies of the Development Plan (and any other material considerations as set out in the officer report): EMRP: Policies 27, 28, 29, 31 and 35, Local Plan: Environment Policies 1, 9, 13 & 14. EIA Considerations - the application has been screened in accordance with the requirements of the EIA Regulations 2010 and the conclusion is that an Environmental Impact Assessment is not required for this development. The application is accompanied by a number of supporting documents that address flood risk, ecology, archaeology and a Design and Access Statement. All these have been taken into account in determining this planning application. The application documents make reference to protected species and for the reasons set out in the report the Planning Authority has undertaken a reasonable assessment of the impact of the development on European Protected Species. In the light of Natural England Standing advice the application can be permitted subject to conditions ensuring mitigation and habitat enhancement are provided. Having weighed all the submitted information, the objections received, and the responses from consultees it is considered that the wider public benefits arising from the flood alleviation scheme are such that planning permission is granted subject to the recommended conditions.

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

Pursuant to Section 278 of the Highways Act 1980, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Director of Environmental Services at County Hall, Matlock (tel: 01629 580000). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.

Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action.

Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the

applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness. The application site is affected by a public Right of Way (Footpaths 10, 21, 22 in the parish of Scropton, Footpaths 4, 23, 25, 26 in the parish of Hatton and Footpaths 13, 15, 17, 18, 21 in the parish of Egginton as shown on the Derbyshire Definitive Map). The routes must remain unobstructed on their legal alignment at all times and the safety of the public using them must not be prejudiced either during or after development works take place. Please note that the granting of planning permission is not consent to divert or obstruct a public right of way.

- If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact 08456 058058 for further information and an application form.
- If a right of way is required to be permanently diverted then the Council that determines the planning application (the Local Planning Authority) has the necessary powers to make a diversion order.
- Any development insofar as it will permanently affect a public right of way must not commence until a diversion order (obtainable from the planning authority) has been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the Council.
- To avoid delays, where there is reasonable expectation that planning permission will be forthcoming, the proposals for any permanent stopping up or diversion of a public right of way can be considered concurrently with the application for proposed development rather than await the granting of permission.
- Further advice can be obtained by calling 08456 058058 and asking for the Rights of Way Duty Officer.

Item 1.2

Reg. No. 9/2012/0353/FH

Applicant:

MR P & J BROCKLEY
DFD (UK) LTD
UNIT 28-29 HILTON INDUSTRIAL
ESTATE
SUTTON LANE
HILTON
DERBY

Agent:

MR MATT KING
MAKING PLANS
IVY LODGE
5 TWYFORD ROAD
WILLINGTON
DERBY

Proposal: **THE FORMATION OF A LOFT CONVERSION INVOLVING
ALTERATIONS TO THE EXISTING ROOF TOGETHER
WITH THE ERECTION OF AN EXTENSION AT 19 TRENT
LANE KINGS NEWTON DERBY**

Ward: **MELBOURNE**

Valid Date: **26/04/2012**

Reason for committee determination

The Head of Community and Planning Services requests that the Committee determine this case as a detailed interpretation of the application of the standards set out in supplementary planning guidance requires the Committee's endorsement.

Site Description

Trent Lane is a residential street outside the village Conservation Area. Dwelling types are mixed, some bungalows, some two storey.

The property in question here is a bungalow, accessed off a private way (Sleepy Lane). It sits above the level of the road and affords both front and rear garden space and is currently vacant.

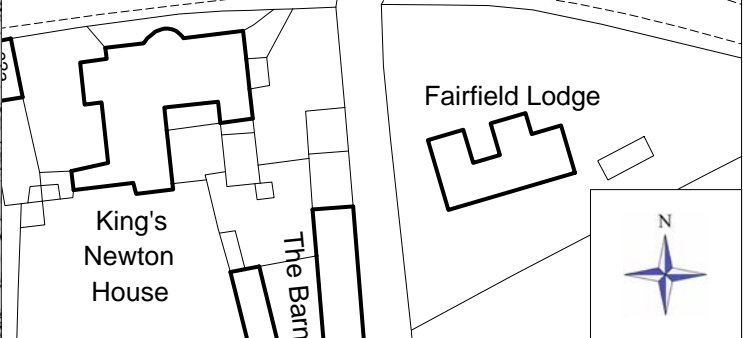
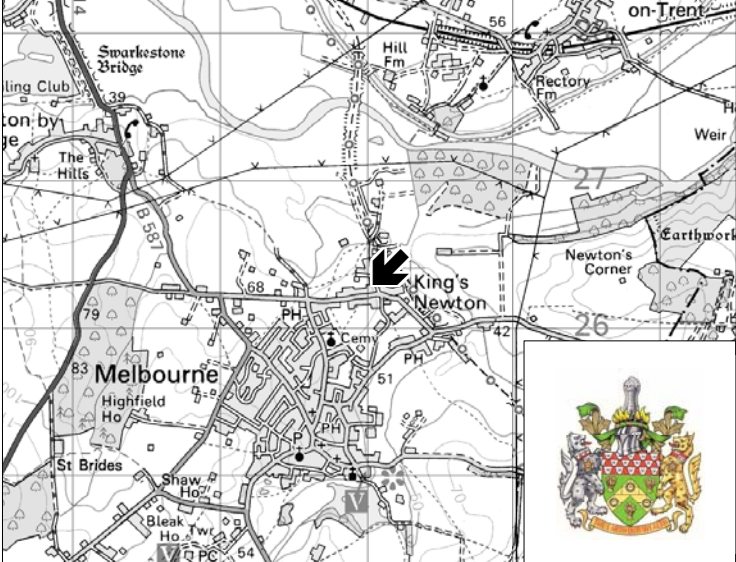
Proposal

The proposal is in two main parts and includes: a remodelling of the roof form (to provide some liveable loft space) and a rear extension.

Applicants' supporting information

None.

Planning History



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South Derbyshire District Council. LA 100019461. 2010

South Derbyshire District Council. LA 100019461. 2010

No relevant history.

Responses to Consultations

Melbourne Civic Society whilst having no objection in principle comment on a possible loss of privacy and how this could be reduced if glazing was obscure or if offending windows were omitted.

Melbourne Parish Council has no objection.

Responses to Publicity

Three separate objections have been received from an adjacent neighbour summarised as follows:

- The proposal is not a loft conversion, it is a major development of the site, the end result - a two storey dwelling;
- The development would upset the harmonious mix of the street scene creating something more akin to a row of terraced houses;
- New windows on the northern wall will cause a loss of privacy to the lounge window, two side bedroom windows;
- The proposal will cause a loss of light to the lounge, two bedrooms as well as the adjacent patio space;
- Minimum SPG requirements are not complied with (side bedrooms to two storey mass);
- Proposal will impact adversely on the existing drainage network.

Development Plan Policies

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

National Guidance

NPPF paragraph 17.

Planning Considerations

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

- The impact on the character and appearance of the locality
- The impact on neighbours assessed against the Council's adopted standards

Planning Assessment

The impact on the character and appearance of the locality

The street scene here, especially on the western side of Trent Lane is varied. There is no discernable 'pattern', a mix of single and two storey detached 'accommodation'. The host and the adjacent bungalow are not similar in form, not a matching pair, wholly 'individual' in their appearance.

The objector mentions a terraced effect. That though is debateable as the proposal involves minimal change to the footprint, works mainly upwards as opposed to sideways (i.e. not closer to neighbours). The new height may make it more 'prominent' in the street scene but not to any detriment in this instance.

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

There is a case for loss of privacy here. After negotiation, amended plans as such have omitted all 'new' windows on the northern elevation. Privacy is maintained at the existing acceptable level, the retained window on that flank being existing and obscure glazed.

SPG advises that a 45 degree splay (from the centre of a primary window) must be maintained free of any two-storey development for a particular minimum distance. SPG also defines that side windows are secondary windows. The design of the alterations also here calls into question what constitutes single storey and what is two storey. As this development is seen to sit somewhere in between – more akin to a 1.5 storey property, some flexibility can be given to those minimum requirements.

Regardless, the 45 splay is wholly maintained to the lounge (primary) space with its main aspect not unreasonably unaffected. Given that the side bedroom windows are seen to be 'secondary' and that the proposal is seen to be 1.5 storey in its form, some flexibility can be given to minimum distances in respect of the 'merits of the case'. The bedroom windows (noted these are the only lights to these spaces) are at least 6.25m from the new gable and it would be over zealous to seek a minimum of 9m given the case presented.

In regards the possible impact on the patio area, the SPG does not protect exterior space from overshadowing. That particular space will still however be afforded a reasonable level of amenity.

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 plans - Drg No. J1594-4 Revision A and J1594-5 Revision A.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.

3. Notwithstanding the submitted drawings, no part of the new rooflights in the rear bedroom (loft space) space shall be lower than 1.7 metre above the floor level of the room that they serve.

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

Item 1.3

Reg. No. 9/2012/0359/RSD

Applicant:

MR MARTYN PASK
3 ROMULUS COURT
MERIDIAN EAST
MERIDIAN BUSINESS PARK
LEICESTER

Agent:

MR MARTYN PASK
3 ROMULUS COURT
MERIDIAN EAST
MERIDIAN BUSINESS PARK
LEICESTER

Proposal: **THE VARIATION OF CONDITION 1 (SITE LAYOUT) AND
CONDITION 13 (HEDGES) OF PLANNING PERMISSION
9/2010/0238 AT PHASE 6 LAND OFF BRUNEL WAY
CHURCH GRESLEY SWADLINCOTE**

Ward: **CHURCH GRESLEY**

Valid Date: **27/04/2012**

Reason for committee determination

The application is brought before Committee at the request of Councillor Southerd because the committee should debate the issues in this case which are very finely balanced and unusual site circumstances should be considered by the Committee. This is also a major application that has attracted more than two objections.

Site Description

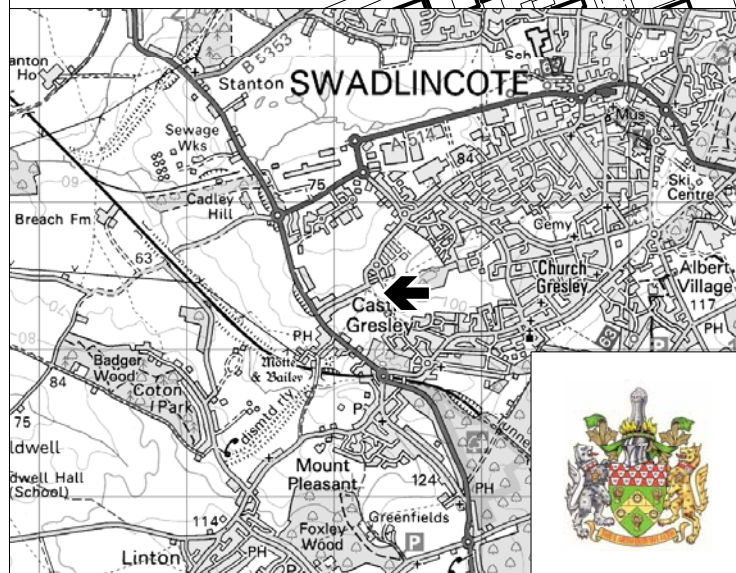
This 1.5 Ha site is located to the south east of Swadlincote Lane and fronts onto the Brunel Way the main distributor road through Castleton Park. The site is on the right hand side of Brunel Way and is surrounded by dwellings. Phase 5 of the development, which adjoins part of the site to the south west.

The site is relatively flat and there are existing hedgerows along the south western and south eastern boundaries with sections of hedging in places on the all of the boundaries. There are seven trees on the south western and north western boundaries of the site. There are completed dwellings on previous phases to the north and south and dwellings recently constructed to the east.

Proposal

This is a variation of condition for a previous approval 9/2010/0238 made by David Wilson Homes granted at committee on the 11th May 2010 for the erection of 53 dwellings on Phase 6 part of the Castleton Park development. This application involves

**9/2012/0359 - Phase 6, Land off Brunel Way, Church Gresley,
Swadlincote (DE11 9BL)**



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South Derbyshire District Council. LA 100019461. 2010

changes to the layout, house types and the trees than previously approved. This application is made by Bellway Homes which has now purchased the site.

The layout is split by a curved access road that links with Phase 5 of the development. Along the Brunel Way frontage there would be semi-detached and detached properties. The tree lined boulevard is retained along Brunel Way as with the previous phases and all of the plots on the frontage would be served by a private drives running parallel with Brunel Way and Paisley Walk, similar to the earlier phase opposite. Dual aspect properties are proposed at the entrance to the site framing the access road and in the centre of the site is a feature area framed by properties and differentiated by paving, which has been successfully used in earlier phases to provide focal points.

A balancing lagoon is proposed to serve the site as the lagoons to the south of the overall development do not have sufficient capacity for this phase. The proposed lagoon would be located adjacent to the western boundary with properties on Hope Way and Phase 5. The storage capacity of the lagoon is 380m³ and it would have a base level of 86.3m and finished floor levels of the proposed properties would have to be 600mm higher.

Detached houses with detached garages to the sides and shared private mews areas ensure that parked cars do not dominate the area. The access road is 5.5m wide with two 2m wide pavements either side.

The streetscene along Brunel Way from south to north would be two 2 ½ storey detached properties 9.6m in height, then a detached dwelling, then two detached dual aspect dwellings either side of the access road and the five detached 2 storey dwellings of similar heights and appearance. Severn detached properties overlook the existing cycle / pedestrian route which runs along the northern boundary and a private drive runs along the front of these properties. In the north western corner an ash tree would be removed and an oak tree on the western boundary would be retained. All the remaining existing trees and hedging would be retained apart from on the Brunel Way frontage where they would be replaced by new tree planting.

The breakdown in properties would be as follows:

24 three bedroom dwellings
27 four bedroom dwellings
2 five bedroom dwellings

Applicants' supporting information

Arboricultural Survey Report & Method Statement – This report assesses the two trees in the north western corner of the site, an ash and a oak tree. It recommends that the ash is a category U tree which is infected with decay and should be felled. The oak on the western boundary is category C and has extensive deadwood throughout the canopy. Category C trees should not be allowed to impose a constraint on development.

GRM Coal Mining Risk Assessment – This report concludes there are negligible risks of workings, mines or opencast workings.

Environment Management Plan – This report outlines the construction management plan relating to working hours, community relations, noise, dust and wheel washing controls.

A schedule of external materials has been submitted with the application.

Planning History

9/2010/0238 - Approval of reserved matters of application 9/0890/0515 for the erection of 53 dwellings, Granted 11/2/2010

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

Responses to Consultations

The County Highways Authority states that the revised layout does not have any significant changes in highways terms from the previously approved layout. Therefore all highway conditions on the previous consent should be attached to any further consent. A further comment relates to the Walton housetype which has a drive through and if gates were attached would cause obstruction of the footway, particularly on plot 43. A condition restricting gates is recommended. The Environment Management scheme for prevention of debris on the highway is acceptable provided measures are maintained throughout the construction period. Amendments in respect of plots 1 and 2 are acceptable. The reduction in the visibility sightlines in the southern direction from 2.4m x 60m to 2.4m x 56m is acceptable as it continues to comply with the Manual for Streets. This amendment should be detailed on a layout plan and conditioned accordingly.

The Council's Tree Officer concurs with the Arboricultural Report in relation to the ash but considers that the oak tree should be retained. It is acknowledged that it has deadwood and requires work and considers that this is the reason for its category C. It is considered to have a 20-40 year retention span and contributes to the visual amenity of the area. The amended scheme which indicates its retention is considered acceptable.

Severn Trent Water has no objection subject a drainage condition.

The Coal Authority has no objection and no specific mitigation measures are required.

The Police Crime Prevention Design Advisor makes comments with regard to the footpath along the western boundary and that the hedges should be part of private boundaries. There are links through the hedges, which are not secure. The lagoon area should have more properties overlooking it for natural surveillance to avoid anti-social behaviour. Lockable gates are required for all rear accesses. The scheme should comply with Secure By Design.

The Environmental Health Manager has no objections to the application.

Responses to Publicity

Seven letters of objection were received and are summarised as follows:

- A property on Paisley Walk would have a loss of view and light.
- The amended plans do not indicate which hedges are to be removed.
- The hedges to the south of the lagoon provide houses on Hope Way with privacy and act as a noise filter.
- If the hedging were removed it would mean a loss of habitat for birds.
- A property on Paisley Walk would be overshadowed, as it is lower than road level.
- The properties opposite the site on Brunel Way were not notified.
- It is not clear whether any trees and hedges would be removed.
- The oak tree on the western boundary should be retained, as it is a major asset in the local area and thought it was covered by a TPO.
- A neighbouring owner is concerned about the location of the lagoon in relation to the safety of their small children.
- A neighbouring owner requests that the gaps in the hedges be planted to avoid residents cutting through and using it as a footpath.

Development Plan Policies

The relevant policies are:

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

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

National Guidance

National Planning Policy Framework 32, 49, 56, 57, 61, 109

Planning Considerations

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

- The principle of the development
- Residential amenity
- Appearance and Brunel Way streetscene
- Landscaping and Public Open Space
- Highways issues
- Other issues raised by objectors

Planning Assessment

The principle of the development

The principle of residential development on this land was established in the granting of outline consent in 2000 (9/0890/515) and the subsequent reserved matters approval in 2010, which considered the appearance, layout and scale of the development. This proposal involves changes to the layout, house types and trees.

Residential amenity

The proposed dwellings in the south western corner have been assessed in relation to existing adjacent properties on Hope Way and Westminster Drive and meet the SPG

space standards. The relationship with the existing three storey properties on Brunel Way would be identical to that previously approved. The existing tree on this boundary would screen the ground floor windows of plot 37 and additional planting is proposed. On this basis the relationship is considered acceptable.

Due to the requirement of dwellings being 600mm above the balancing pond's top water level, proposed properties would require a finished floor level of 88.3m. Existing properties adjacent have slab levels between 88.10 – 89.5m. Taking this level information into account, the space standards between dwellings are considered acceptable. The proposed properties along the northern boundary would be 21 metres from the front elevations of properties on Paisley Walk and this accords with the SPG's standard. The proposed dwellings that would be opposite the properties currently under construction on Brunel Way would be in excess of 30 metres away (i.e. well in excess of minimum standards).

Appearance and Brunel Way streetscene

The appearance of the development is considered to knit well with the existing parts of the development that surround it and house types compliment those approved by different house builders. Overall the design is similar to those approved on other phases. The streetscene along Brunel Way would continue a strong tree lined street with properties set 6 – 10 m from the existing footway. Two and half storey properties are proposed adjacent to the existing properties to the north and south as these are 3 – 2 ½ storey properties. Dual aspect properties frame the entrance and the central focal point of the shared surface where properties are close to the footways ensuring the buildings are dominant and provide a sense of enclosure of the area. The design principles accord with the overall concept of the development approved previously are therefore considered to be acceptable.

In relation to the Police comments regarding natural surveillance of the lagoon area, there are more properties overlooking this area than previously approved.

Landscaping and Public Open Space

The landscaping of the overall site was approved at outline stage and the layout incorporates what was envisaged in the landscaping masterplan. The tree-lined boulevard is incorporated with open space in front of the dwellings on the main spine road. All existing hedges (apart from the hedge on Brunel Way) are to be retained and gaps shall be filled as part of the landscaping scheme. Two trees would be removed, the diseased ash tree in the north western corner of the site and smaller insignificant tree on the Brunel Way frontage. The newly amended version of the scheme has retained the oak tree on the western boundary and a suitable separation distance has been achieved due to a change to the house types of plots 22, 23 and 28. The balancing lagoon is a strong landscaping feature of the development as it has the opportunity to become a wildlife area and as such is likely to be adopted by the Council.

Highways issues

The Highways Authority has confirmed they have no objection to the amended scheme which indicates a 2.4m x 56m visibility splay to the south. Conditions that were attached to the 2010 permission would be reiterated together with an additional condition in

relation to gates within 5m of the highway. The parking and manoeuvring areas are considered acceptable.

Other issues mentioned by objectors

Properties on Brunel Way were not notified in writing as they were over 30 metres from the site and separated by a road and therefore do not fall within the criteria for neighbour notification; however, a site notice was posted on the Brunel Way frontage. The lagoon area was part of the previous approval in 2010 and is in an identical position on the proposed layout. This information should have been available to purchasers of plots adjacent to the site.

Conclusion

The current application shows the same number of dwellings on the site to that previously approved although designed to accommodate the applicant company's own house types which are in any event of a similar high standard to other phases on the site and closely follow the overall site ethos. The separation distances in relation to existing dwellings around the site have been tested against the Council's SPG and have been found to comply. An improvement to the scheme over that originally approved is the retention of the oak tree on the north western side.

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. Notwithstanding the originally submitted details, this approval shall relate to the amended layout drawing no. PC0284/100/01 Rev E.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
2. Before any other operations are commenced (excluding site clearance), space shall be provided within the site curtilage for storage of plant and materials/ site accommodation/ loading and unloading of goods vehicles/ parking and manoeuvring of site operatives and visitors vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority, and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.
Reason: To ensure the free flow of traffic on the adjoining highway.
3. Facilities shall be provided in accordance with the submitted Environmental Management Plan to prevent the deposition of extraneous material on the public highway and shall be maintained throughout the construction period of the development.
Reason: In the interests of highway safety.

4. No dwelling shall be occupied until the estate road serving the dwelling has been constructed to base level in accordance with the County Council's specification for new housing development roads.

Reason: To ensure that each dwelling is afforded access.

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

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

6. Notwithstanding the submitted details, no part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the dwellings 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.

7. 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.

8. 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.

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

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

10. Prior to commencement of development a surface and foul water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the

approved details before the development is completed. The scheme shall include details of how the scheme shall be maintained and managed after completion.

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

11. 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.

12. The junction onto Brunel Way shall be provided with visibility splays extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the access, for a distance of 60 metres in the northerly direction and 56 metres in the southerly direction, measured along the nearside carriageway edge in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. The area in advance of the sightlines shall be levelled, constructed as footway and shall not form part of any plot or other sub-division of the site.

Reason: In the interests of highway safety.

13. Dwellings shall not be occupied until space has been provided so as to accommodate two cars within the curtilage of each dwelling (apart from plots 21, 20, 39, 40, 41, 48, 49 which have integral garages) for parking for residents and visitors, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use. Garages & parking spaces shall be kept available for the parking of motor vehicles at all times, and shall be used solely for the benefit of the occupants of the dwelling of which it forms part and their visitors and for no other purpose and permanently retained as such thereafter, unless otherwise agreed in writing by the Local Planning Authority.

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

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

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

15. The construction of the balancing pond facility shall be in accordance with PBE drawing no.106 received on 14th June 2012, and completed prior to the first occupation of any dwellings on site unless otherwise agreed in writing by the Local Planning Authority.

Reason : To ensure that the site is properly drained to avoid flooding.

16. Notwithstanding the submitted details, prior to the commencement of building operations on adjoining areas, the boundary with the areas of trees identified for retention and the proposed landscape/lagoon areas shall be fenced with steel mesh fencing to 2.3m high supported by steel scaffold poles staked at 3 metre centres. The fencing shall be retained in position until all building works on adjoining areas have been completed unless otherwise agreed in writing with the local planning authority.

Reason: To protect the trees/landscape areas from undue disturbance

17. There shall be no tipping or deposition of materials within the area fenced under condition 16 above without the prior written authorisation of the local planning authority.

Reason: To protect the trees/landscape areas from undue disturbance

18. The 'Paisley Walk' and footpath 115 route identified on drawing PC0284/100/01E shall be completed and open for use by the public prior to the occupation of any of the plots 2 to 8 hereby permitted.

Reason: To ensure proper access for future occupiers and to secure this part of the public access network across the wider development.

19. Notwithstanding the submitted details, the additional screen planting on the rear/side boundaries of plots 31 and 37 as shown on drawing PC0284/100/01E shall be implemented prior to the occupation of the dwelling on plot 37 hereby permitted and retained as such under condition 8 above.

Reason: To protect the amenities of adjoining properties.

Informatives:

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.

C:\Scp\Planning\Gis\DNPD66.DOC 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.

This permission is subject to conditions on the outline planning permission approved under the Council's reference 9/0890/0515/O and to the agreement under Section 106 of the Town and Country Planning Act 1990 that accompanied that permission.

There is a public pressurised sewer which crosses the site. No building shall be erected or trees planted within 8 metres of this sewer. The applicant may wish to apply to Severn Trent Water to divert the sewer in accordance with Section 185 of the Water Industry Act 1991.

The Environment Agency advise that where developments are required to meet the design principals detailed in Chapter 10 of the National Planning Policy Framework, the drainage network drawings and supporting calculations to be submitted in support of any planning application will need to be more detailed than those required by the Sewers for Adoption process, see additional drainage information given below. Please refer to paragraph 5.47 of the PPS25 Practice guide which clarifies this requirement.

The proposed on site surface water drainage system should be designed to the Sewers for Adoption, 30 year standard or similar, which is acceptable in principal. However, we require additional details to confirm that surface water system will operate without flooding during the 30 year rainfall event, and not flood or leave the proposed site during the 100 year or 100 year plus 30% for residential, 20% for commercial (for climate change) rainfall event.

For site over 1ha in size, we will need to see the plan and calculations in support of the on site surface water drainage system (ie, microdrainage output for the 30 year, 100 year and 100 year plus 30% for residential, 20% for commercial (for climate change)

rainfall events, including pipeline schedules, network information and results), provided as part of the FRA. To demonstrate that no flooding occurs to the proposed development or surrounding area from the above rainfall events.

If the system surcharges we would wish to see a detailed plan (location of any surcharging should be identified as should any resultant overland flood flow routes) and calculations for any surface flooding, including flood flow routes, expected depths, and confirmation that this would not cause flooding to nearby properties. Any excess surface water should be routed away from any proposed or existing properties.

In addition we would like to see any calculations (ie, microdrainage output for the 30 year and 100 year plus 30% for residential, 20% for commercial (for climate change) rainfall events) in support of any on site surface water attenuation system including sizing and any hydrobrake details and design.

The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com. During construction you are requested to ensure that your or any other contractors' vehicles are parked legally and in a manner that shows consideration to the occupiers of adjacent and nearby properties. Thank you for your co-operation.

You are advised that all work should be carried out in accordance with the British Standards Institute's recommendations for tree work.

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

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

2. PLANNING AND OTHER APPEALS

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

Reference	Place	Ward	Result	Cttee/Delegated
9/2011/0977	Midway	Midway	Dismissed	Delegated



Appeal Decision

Site visit made on 29 May 2012

by C J Checkley BA(Hons) MRTPI

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

Decision date: 8 June 2012

Appeal Ref: APP/F1040/D/12/2173045

511 Burton Road, Midway, Swadlincote, Derbyshire, DE11 0DQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Gary Hudson against the decision of South Derbyshire District Council.
 - The application Ref 9/2011/0977/FH was refused by notice dated 7 February 2012.
 - The development proposed is the installation of posts and gates to the front of the property.
-

Decision

1. The appeal is dismissed.

Main issue

2. The main issue is the effect of the gates and associated posts that have already been erected upon the appearance of the street scene.

Reasons

3. This stretch of Burton Road includes a wide variety of different types of frontage enclosure to the front gardens including fences and walls made of different materials as well as hedges and some metal gates and railings. Although there are taller exceptions, especially on the other side of the road, most of the nearby frontages are relatively low in height.
4. The black-coloured curved metal gates and associated tubular gateposts have already been erected. They are grandiose in design and large in scale, being about 1.7m high and extending across only part of the frontage, the remainder being simply a low wooden fence above a dwarf wall, with the side boundaries also being only a metre or so in height. The frontages and side boundaries to the neighbouring properties are similarly modest.
5. There are metal gates of a not dissimilar height elsewhere within the general vicinity, but they tend to form part of a comprehensive scheme of frontage boundary treatment that takes account of its domestic setting. In this case the set of gates and posts together form an isolated feature and an abrupt visual intrusion that pays scant regard to its context and setting. The result is a prominent and incongruous element within the street scene that looks out of place.
6. I conclude that the gates and gate-posts have harmed the appearance of the street scene. This effect is contrary to the objectives of the National Planning

Policy Framework that include seeking to avoid inappropriate or poor design that fails to take the opportunities for improving the character and quality of an area.

7. The gated entrance is on the inside of a bend. Before the erection of the gates the neighbouring series of low frontage enclosures would generally have enabled a view of approaching vehicles for drivers exiting the appeal site. Although the tubular gatepost structures enable glimpses through, their position at the back of the narrow footpath adjoining this busy road does reduce mutual visibility between drivers on the road and those leaving the appeal site and the adjacent drive at No 509 Burton Road. Although the reduction in road safety is relatively minor, it does add cumulatively to the visual objections to retaining the gates and gateposts.
8. I have taken full account of all other matters raised. Gates of up to a metre in height could be erected without permission, but these would have a lesser visual impact and would not reduce visibility for highway users to the same degree. I have also taken account of the appellant's stated aim to increase the security of his property by erecting the gates. However, I find none of these or any other matters mentioned are sufficient individually or in combination to outweigh the objections cited. Therefore, the appeal must fail.

C Checkley

INSPECTOR