

REPORT OF THE DIRECTOR 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
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9/2013/0472	1.3	Melbourne	Melbourne	26

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

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

06/08/2013

Item 1.1

Reg. No. 9/2013/0351/SMD

Applicant:
MR MICK GOODWIN
GOODWIN BUILDING CONTRACTORS
98 MAIN STREET
LINTON
SWADLINCOTE

Agent:
MR ANTHONY RICE
URBAN DESIGNS LTD
CLAY HOUSE
5 HORNINGLOW STREET
BURTON ON TRENT
DE14 1NG

Proposal: THE ERECTION OF 16 DWELLINGS, ROADS, SEWERS
AND ANCILLARY WORKS AT 32B MOIRA ROAD
WOODVILLE SWADLINCOTE

Ward: WOODVILLE

Valid Date: 20/05/2013

Reason for committee determination

The application is brought to Committee at the request of Councillor Murray as local residents have expressed concern about a number of issues and because it is a major application with more than two objections.

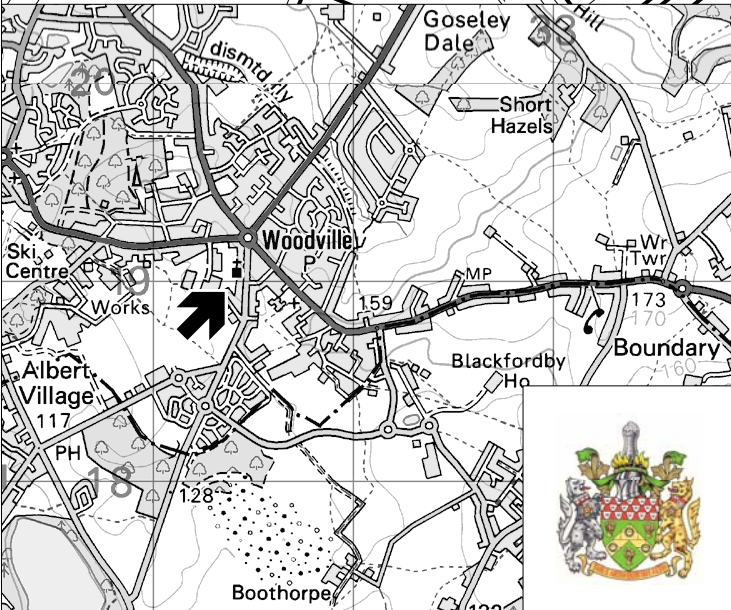
Site Description

The application site is situated within Swadlincote urban area and was the site of No.32B Moira Road (now demolished) and associated small holding. It is substantially surrounded by development on all sides with B2/B8 employment sites to the west and residential to the south and east. The northern boundary is marked by a ditch course beyond which is a parking area and residential garages. The site slopes gradually down to the northern boundary and ditch course. There are a number of trees within the site.

The site is considered to be a mix of both brownfield land (the previous dwelling) and greenfield land (the small holding).

Proposal

It is proposed to re-develop the site with a 100% affordable housing scheme by the erection of 16 two and three bedroom dwellings, together with associated parking, landscaping and drainage. Access would be via the existing access which is located between Nos. 26 and 36 Moira Road. The submitted plans show four blocks of two-



storey terraced dwellings and a pair of semi-detached, two-storey dwellings positioned around a central square. Parking would be located to the front or side of the terraces.

Applicants' supporting information

The application is supported by a Design and Access Statement, which highlights the following points: -

- Residential development is the most compatible use of the site.
- A noise survey has been undertaken to identify the necessary attenuation to guard against noise from adjacent commercial uses.
- The dwellings would be delivered to a Housing Association, with a need being identified within the area for affordable housing.
- The development equates to 36 dwellings per hectare, which is in keeping with the existing density of the area.
- Separation distances accord with the Council's Housing Design and Layout supplementary planning guidance.
- It is proposed to provide a possible future link through to the adjacent site to the north.
- The design of the dwellings has been influenced by the surrounding Victorian architecture, with similar window proportions, simple brick and stone detailing and the use of red brick and plain tiles.
- A tree survey has identified several trees that are suitable for retention within the proposal.
- The current access would be upgraded to an adoptable standard and managed by the Housing Association management company.

A viability assessment has been submitted in order to justify the lack of Section 106 contributions towards recreation, health and education (which would usually be expected to amount to £85,646.00). The applicant is a local building firm that would be assured of a further year's work for all its employees by winning this contract, as well as providing work for other subcontractor companies and suppliers, all of which operate within South Derbyshire. The supporting letter also makes the point that substantial contracts in the construction industry are hard to come by and making a reasonable profit is harder still, therefore the need for contributions would jeopardise job security within the company.

In response to the Council's Urban Design Officer's comments, the agent has submitted further supporting information with regard to the layout and makes the following points: -

1. Parking spaces are to be 2.4m x 5m, which is the standard size.
2. It is proposed that the view of the church spire/tower would be from the square not from plots 1 to 4 as assumed by the Urban Design Officer.
3. The area between plots 12 and 13 would be maintained by the Housing Association. Part of it would be landscaped, which, it is assumed, would be covered by a landscaping condition.
4. Root easements are indicated in the Arboricultural Report.
5. With exception of plots 13 and 14, garden paths are not shared and, although quite long, they should be secure and will form part of the garden space associated with each plot. As such, they would be more secure than a shared ginnel running between plots, which tend to be dark vulnerable areas that are

- usually discouraged in 'Secure by Design'. Plot 1 has a garden area of 85 sq.m including land to the side, which is in excess of what would normally be required.
6. Existing residential properties have off-street parking in the form of garages and hard standings. The County Highway Authority has not asked for additional off-street parking.
 7. No road markings are proposed for the square.

Given the size of the frontages low brick walls could be too oppressive. As such iron railings are preferred but could be omitted if the Local Planning Authority would prefer open frontages. Boundary treatments are usually controlled by condition.

Planning History

Outline permission for the erection of two dwellings was permitted in 1980 with subsequent renewals, the latest one being in 2005 which has since expired.

9/2009/1073 – Outline application (all matters reserved except layout and access) for the erection of thirteen dwellings and associated access – granted permission 30/06/2010.

Responses to Consultations

Derbyshire County Council has requested the following provisions/contributions: -

- On-site provision of infrastructure to enable high-speed broadband.
- £459.36 towards the provision of additional waste management capacity at Newhall HWRC.
- £5760 for 16 dwellings for additional library service revenue costs.
- £34,197.03 for primary school education contribution.

The County Highway Authority considers that the access is suitable to serve the development but advises the applicant that the Authority has no intention of adopting the internal layout. A condition has been requested requiring the developer to submit details of a management company or similar which would be responsible for the future maintenance of all shared/non allocated areas within the site, i.e. roads, footways, parking bays, etc. prior to the commencement of development. The Highway Authority also requires conditions in respect of storage of plant and machinery during construction, laying out of the access and provision of visibility splays and the provision of turning areas, parking and manoeuvring space prior to occupation.

The Environmental Protection Officer (Contaminated Land) requires conditions in respect of ground gas ingress.

The Environmental Protection Officer (Noise) has no objection to the proposals.

The Coal Authority has no objection subject to a condition regarding intrusive site investigation works prior to commencement of development.

Severn Trent Water has no objection to the proposals subject to a condition requiring the submission and implementation of a drainage scheme for the disposal of foul and surface water.

The Council's Drainage Officer's comments from the previous application have been transferred to the current application, namely that the land adjacent to the northern boundary of the site has a history of flooding which affects the adjacent garage site. This is caused by a ditch course that overflows following prolonged rainfall. The developer should design the proposed dwellings so that they are not affected by flooding and should not assume that surface water could drain into the ditch without further investigation.

Woodville Parish Council is concerned as the current application is incomplete in its determination of cars as an option is left to extend into the adjacent land. Accordingly, there is significant concern at the increased movement of cars indicated, plus what may be developed afterwards. The nature of the development as proposed represents an over-development of the site, the view of Woodville Parish Council is that the previous application as approved is a maximum the site can reasonably contain to retain sustainability and balance at this location. The residents believe that the actual flood record is not considered in the application and advice should be sought from Severn Trent Water on this.

The Strategic Housing Officer has stated verbally that there are no objections to the proposals subject to a condition to ensure the dwellings are not to be occupied other than as affordable housing and details to be provided of the transfer to a registered provider, the arrangements to ensure the housing remains affordable for first and subsequent occupiers, and the occupancy criteria controlled.

The Council's Tree Officer considers that the submitted Tree Survey is accurate and agreeable; the suggested retained trees are suitable and the trees to be removed are also acceptable. He recommends a condition that the Method Statement is adhered to and any issues regarding trees during construction works should be referred to the Council's Tree Officer. The developers should ensure a list of tree species are plotted on a design map in the proposed locations and are planted as per the Method Statement and ensure root protection is included in the statement for all newly planted trees. A tree aftercare plan is also requested.

The Crime Prevention Officer does not have any major issues with the proposals but raises the point that the green area between plots 12 and 13 could be a source of nuisance by being used for additional, random parking, an unofficial play area and/or unwanted congregation. He also advises that properties that share a boundary with the industrial estate should have boundary fencing of 2m in height as a minimum to prevent easy climbing from unobserved areas. He notes that the proposed gates are to be Secure by Design compliant and key lockable from both sides to prevent ease of access to the private garden areas by opportunist criminals and recommends that this be fully adopted to ensure South Derbyshire remains one of the safest places in which to live, work and visit.

Responses to Publicity

Twelve letters and a 12-signature petition have been received, all of which object to the proposals on the following grounds:

- a. Loss of privacy
- b. Increased flooding

- c. Increased traffic will cause problems for Moira Road, which already has parking issues and is already reduced to one line of traffic owing to parked cars. This can lead to aggressive behaviour and cars mounting the pavement
- d. The scheme should revert back to bungalows which would suit more elderly residents thereby reducing car ownership
- e. The plans show a proposed access through to the adjacent site which has a substandard access further along Moira Road not suitable for heavy traffic
- f. Inadequate access to serve the proposed development
- g. Adverse impact on the environment and amenity
- h. Increased chance of accidents
- i. Developments should be suitable, safe and beneficial to the community but this proposal is none of these.
- j. Increased congestion along Moira Road
- k. Overlooking of adjacent properties
- l. Lack of notification to neighbours
- m. Density of the development is too much for the location
- n. The additional housing is not necessary and not in keeping with the area
- o. The weight limit for vehicles using the road is ignored
- p. Overdevelopment
- q. The local schools would be unable to cope
- r. Incorrect completion of the application form
- s. The site is subject to flooding from the ditch
- t. The sewage pipe that crosses the site emits raw sewage in times of flood
- u. An elderly people's scheme should be considered for the site
- v. Access and turning facilities for emergency vehicles
- w. Adverse impact on public safety
- x. As soon as the access road is made good parking will occur on the access making it more difficult to enter and exit the road
- y. Illegal parking along Moira Road has already resulted in the police being called on several occasions and this proposal will exacerbate the problem

Development Plan Policies

The relevant policies are:

Local Plan: Saved Housing Policies 4, 9 and 11, Transport Policy 6

Housing Design and Layout SPG

National Guidance

The National Planning Policy Framework (NPPF), paragraphs 14, 17, 49, 50, 56, 57, 61, 121, 123

Planning Considerations

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

- The principle of the development
- Design and layout
- Impact on highway safety
- Neighbours' amenities
- S106 contributions
- Other issues

Planning Assessment

The principle of the development

Local Plan Saved Housing Policy 4 allows for residential development within the built-up area of Swadlincote provided, amongst other things that it does not involve the development of valuable open spaces, is of suitable scale and character and does not prejudice the continued viability of adjacent industrial uses. The site has a history of planning permissions being granted for residential development for thirteen dwellings in 2010. In light of this the principle of the development of the site for residential purposes has been well established and it is considered therefore that the proposal is in accordance with Local Plan Saved Housing Policy 4 and the sustainability objectives of the NPPF.

Design and layout

The proposed dwellings would be positioned around a central square, which, together with a terrace of three dwellings, would provide the main focal point when entering the site from Moira Road ensuring a 'sense of arrival'. A parking area would be provided to the south of the square, which has been designed around an existing Willow tree, which is better suited to a public area rather than a private garden, owing its size. A spur access would be provided through to the adjacent land, which is currently occupied by garages. This allows for views through to the church tower beyond and also allows for possible future access to the adjacent site. The dwellings located at the corner of the square would have dual aspects in order to provide natural surveillance of the public areas.

The design of the proposed dwellings has been influenced by the Victorian architecture of the surrounding area, with similar window proportions and stone detailing.

The scheme has been assessed against the Council's Housing Design and Layout SPG and an amended plan now shows that all the minimum distance standards would be met.

It is considered, therefore, that the proposed design of the layout and the individual terraced dwellings are acceptable and in line with the advice in Local Plan Saved Housing Policy 11 and paragraphs 56 and 57 of the NPPF.

Impact on highway safety

Many of the objections received relate to the impact of the proposed development on Moira Road, which, they state, is a very busy road and is often reduced to single line traffic owing to on-street parking by existing residents. It should be noted, however, that planning permission was previously granted for 13 dwellings on this site, and therefore a refusal on the basis of an increase in traffic likely to be generated by an additional 3 dwellings would more than likely fail at appeal, particularly as the County Highway Authority has not expressed concern with regard to this issue. It is considered, therefore, that the proposal is acceptable on highway safety terms.

Neighbours' amenities

As already stated above, the layout of the proposed scheme makes provision for the safeguarding of existing neighbouring residents' amenities in terms of overlooking, overbearing and over-shadowing. Plots 13 to 16, which would face the rear of properties on Vicarage Road to the southwest of the site, would be located a minimum of 21m from No.28 Vicarage Road, which is the minimum distance required in the SPG. Agreed boundary treatment along the southwest boundary of the site would further reduce any impact at ground floor level. The blank side elevation of plot 1, which would face the side elevation of No.30b Moira Road would be 9m from the side window of that property, which, again, meets the minimum standard. It is considered, therefore, that the impact on residential amenity is not an issue.

Section 106 contributions

Derbyshire County Council has requested contributions towards additional library provision, additional waste management capacity and primary education provision. However, as the site is to be developed for 100% affordable housing, the viability assessment suggests that there is no residual value in the scheme that would create sufficient surplus to enable any extra contributions to be made. This will be further discussed at the meeting.

Other issues

Increased flooding

Severn Trent Water has assessed the proposal and has no objection. Both foul and surface water drainage is to go to the main sewers, which cross the site. Water will also be attenuated on site to limit the rate of discharge to the main sewer. There is no intention or need to direct surface water to the ditch course.

Lack of neighbour notification

As well as notifying residents of all the adjoining properties, a site notice was posted on Moira Road on 30th May 2013 and an advertisement placed in the Burton Mail. It is considered that this level of publicity meets the requirements of the General Development Procedure Order and the Council's SCI.

Housing Density

The proposed development equates to a density of 36 dwellings per hectare, which is appropriate to the surrounding area and is considered to be in line with Government advice, and subsequently the proposed development is not considered to be overdevelopment.

Preference for elderly persons' bungalows

Notwithstanding the previously approved scheme, the Local Planning Authority must deal with any application as submitted. This scheme meets all the relevant criteria in terms of the principle of the development, parking provision (two spaces per dwelling), design and minimum distances there is no reason why it should not be approved.

Access for emergency vehicles

There is adequate space within the site for emergency and service vehicles to access all the proposed dwellings and leave the site in a forward gear. In any event, access by fire appliances is covered by the Building Regulations.

No need for the development

According to the most recent study there is a continuing need for affordable housing in the district. Local Plan Saved Housing Policy 9 advises on the need to ensure there is an appropriate mix of housing to meet the needs of different types of households and encourage the development of mixed communities. Furthermore, paragraph 50 of the NPPF specifically requires local planning authorities to deliver a wide choice of high quality homes for rent and to widen opportunities for home ownership for people who would not normally be able to afford open market housing.

In conclusion, the development of the site for affordable housing is considered to be acceptable, and meets the criteria in Local Plan Saved Housing Policies 4, 9 and 11, Transport Policy 6, the advice in the Housing Design and Layout SPG and paragraphs 14, 17, 49, 50, 56, 57, 61, 121, 123 of the NPPF.

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

Recommendation

GRANT permission subject to the following conditions:

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

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

2. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the buildings have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

Reason: To safeguard the appearance of the surrounding area.

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

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

4. No development shall take place until detailed plans of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the

Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.

Reason: To ensure the development is provided with a satisfactory means of drainage and In the interests of flood protection and pollution control.

5. 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.

6. Prior to the development hereby approved commencing, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

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

7. All planting, seeding or turfing comprised in the approved details of landscaping under condition 5 above 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.

8. This permission shall relate to the amended drawing No. 2012-226-01D Revision D received on 18th June 2013 showing Plots 1 - 4 repositioned.

Reason: For the avoidance of doubt and to safeguard the amenities of the adjoining residents.

9. Prior to the commencement of development intrusive site investigation works shall be undertaken in order to establish the exact situation with regard to coal mining legacy issues associated with the site. In the event that the site investigation works confirm the need for remedial works to treat the areas of shallow mine workings to ensure the safety and stability of the proposed development, the remedial works shall be carried out before the commencement of the development hereby approved.

Reason: To ensure the site is made safe, in the interests of the health and well being of the future residents of the development.

10. No development shall take place until a suitable scheme for the prevention of ground gas ingress has been submitted to and approved in writing by the Local Planning Authority (LPA). Alternatively, the site shall be monitored for the presence of ground gas and a subsequent risk assessment completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Upon completion of either, verification of the correct installation of gas prevention measures (if any) shall be submitted to and approved in writing by the LPA prior to the occupation of the development hereby permitted.

Reason: In the interests of the health of the future occupiers of the development.

11. 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.

12. Before any other operations are commenced (excluding demolition and/or site clearance and site investigation works) space shall be provided within the site curtilage 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 details designs to be submitted in advance to the Local Planning Authority for written approval 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.

13. Prior to the occupation of the first dwelling, the access onto Moira Road shall be laid out in accordance with the application drawing, having a minimum width of 4.8m, provided with 2m x 2m x 45 degree pedestrian intervisibility splays and 2.4m x 60m visibility sightlines, the area forward of which shall be cleared and maintained in perpetuity clear of all obstructions exceed 1m in height (600mm in the case of vegetation) relative to the nearside carriageway edge.

Reason: In the interests of highway safety.

14. Prior to the occupation of the first dwelling the access road, turning area, parking and manoeuvring space shall be laid out and constructed in accordance with the application drawings and maintained thereafter free from any impediment to its designated use.

Reason: In the interests of highway safety.

15. Prior to the commencement of development, details of a management company or similar, which shall be responsible for the future maintenance of all shared/non-allocated areas within the site, i.e. roads, footways, parking bays etc., shall be submitted to and approved in writing by the Local Planning Authority in consultation with the County Highway Authority. The approved arrangement shall then be retained for maintenance purposes throughout the life of the development.

Reason: In the interests of highway safety and because the County Highway Authority will not be adopting the internal layout.

16. The dwellings hereby permitted shall not be occupied other than as 'affordable housing' as defined in Annex 2: Glossary of the National Planning Policy Framework and prior to the following details having been submitted to and agreed in writing by the Local Planning Authority: -

- i) the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing] (if no RSL is involved);
- ii) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- iii) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

The properties shall thereafter be occupied and managed in accordance with the approved details.

Reason: The development was assessed and evaluated and the normal Section 106 contributions waived on the basis of the applicant's supporting letter entitled Section 106 dated 19th July 2013 that specified the development would be owned and managed by a Housing Association. The details of securing such provision were not submitted as part of the planning application.

17. The development hereby approved shall be carried out in strict accordance with the Method Statement (paragraph 1.3) of the Arboricultural Survey Report and any issues that arise during construction works regarding the trees to be retained on the site shall be reported immediately to the Local Planning Authority's Tree Officer, Martin Buckley who can be contacted on 01283 228774.

Reason: To safeguard the future health of the trees within the site that are to be retained.

18. As part of the landscaping scheme under Condition 5 above the proposed new tree species shall be plotted on a design map in the proposed locations and planted as per the details in the Method Statement, and shall include details of all root protection measures.

Reason: In the interests of the long term health of the trees.

19. Prior to the occupation of the first dwelling a Tree Aftercare Management Plan shall be submitted to and approved in writing by the Local Planning Authority and the management of the trees shall be carried out in accordance with the approved details.

Reason: To ensure the future health of both the existing and newly planted trees within the site.

20. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, none of the dwellings hereby permitted shall be enlarged or extended and no new windows installed without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.

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

Informatives:

Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 12 weeks prior notification should be given to the Environmental Services Department of Derbyshire County Council before any works commence on the vehicular access within highway limits; please contact 01629 538537 for further information.

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 against the householder.

For assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from

http://www.south-derbys.gov.uk/environment/pollution/contaminated_land/default.asp.

The administration of this application may be expedited if completion or verification evidence is also submitted to the Environmental Protection Officer (Contaminated Land) in the Environmental Health Enforcement department: thomas.gunton@south-derbys.gov.uk.

Further guidance can be obtained from the following:

- " CIRIA C665: Assessing the risks posed by hazardous ground gases into buildings
- " CLR 11: Model Procedures for the Management of Contaminated Land.
- " CLR guidance notes on Soil Guideline Values, DEFRA and EA.
- " Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
- " Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.
- " Guidance for the Safe Development of Housing on Land Affected by Contamination Environment Agency. ISBN 0113101775.

The Crime Prevention Officer, Derbyshire Police recommends that the Secure by Design scheme and physical security measures should be fully adopted as a simple measure to ensure South Derbyshire remains one of the safest places to live and work. The provisions of condition 16 shall not apply to:

A charge or mortgagee, receiver or administrator of the Affordable Housing Provider (AHP) that is the freehold owner of the Affordable Dwelling Units or any part thereof or a receiver or administrative receiver of the AHP to the intent that such mortgagee in possession receiver or administrator shall be entitled to dispose of the Affordable Dwelling or part thereof free of the obligations contained in the condition.

Where development is proposed over areas of coal and past coal workings at shallow

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

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from the Coal Authority's website at: www.coal.gov.uk/services/permissions/index.cfm.

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, seeking to resolve planning objections and issues and suggesting amendments to improve the quality of the proposal. As such it is considered that the Local Planning Authority has implemented the requirements set out in paragraphs 186 and 187 of the National Planning Policy Framework.

06/08/2013

Item 1.2

Reg. No. 9/2013/0370/MSF

Applicant:
MR A NEAL
KEYSTONE LINTELS LIMITED
RYDER CLOSE
CASTLE GRESLEY
DE11 9EU

Agent:
MR. S. GREAVES
S. G. DESIGN STUDIO LTD
202 WOODVILLE ROAD
HARTSHORNE
SWADLINCOTE
DE11 7EX

Proposal: **THE ERECTION OF 3 BUILDINGS TO FORM
ADDITIONAL FABRICATION UNIT, SPRAY SHOP,
STORAGE & DISTRIBUTION UNIT AND ADDITIONAL
PARKING AT KEYSTONE LINTELS LIMITED RYDER
CLOSE CASTLE GRESLEY SWADLINCOTE**

Ward: **CHURCH GRESLEY**

Valid Date: **24/05/2013**

Reason for committee determination

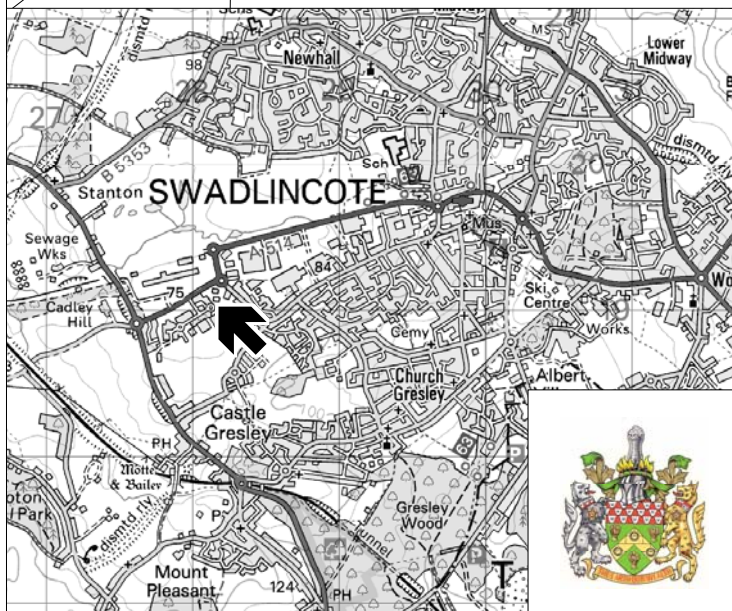
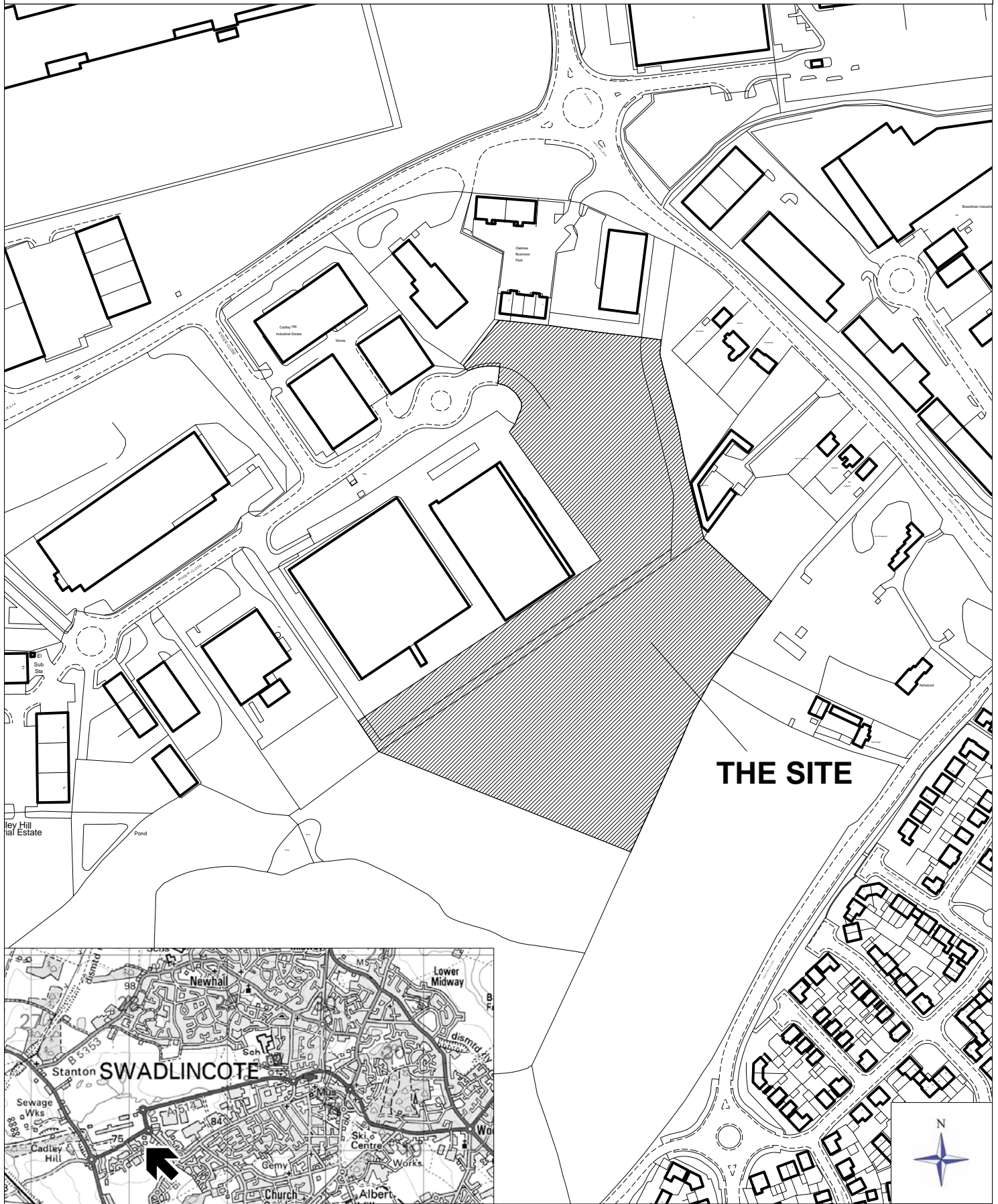
This is a major application to which more than two objections have been received.

Site Description

The site comprises the existing Keystone Lintels site including the land with planning permission for the open storage of goods. To the south of the site, looking towards Swadlincote Lane, it has an open boundary albeit the yard area is at a lower level than the land to the south. To the east of the partially formed yard is an area of spoil that forms a part of the permitted yard and beyond that is land with planning permission for a mix of housing and employment uses (St Modwen). The west boundary with the houses on Cadley Hill Road is formed by a substantial belt of trees that separate the residential curtilages from the application site. The area of trees in the south east corner of the site are protected by South Derbyshire District Council TPO 367, these trees are outside the application site. Access to the development site would be via the existing access on Ryder Close.

Proposal

The application relates to three phases of development – a workshop building to the north east corner of the development site, a storage warehouse to the south west corner and a smaller spray shop between the new warehouse and the existing fabrication building. Phase 1 is the spray shop, Phase 2 would be the fabrication



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building and Phase 3 would be the storage and distribution warehouse. In each phase, the colour and profile of the cladding would match those of the existing buildings.

Phase 1 – the spray shop is the smallest of the proposals, it would measure 23m x 10.5m x 5.0m to eaves and 6.0 m to the ridge – *[the application documents state 2.5m and 3.0m respectively this is probably a misreading of the scale.]*

Phase 2 – the fabrication shop would measure 83.5m x 46.5m x 6.5m to the eaves and 11.6m to the ridge – it would have a single span roof.

Phase 3 – the warehouse would measure 117m x 60m x 13.5m to the eaves and 16.3m to the two ridge lines of the building.

The total new floor space would equate to 11,130sqm compared to an existing floor area of 10,000sqm but that does not include the first floor space in the office part of the development.

The application has been amended since submission to reflect discussions about the Phase 2 Fabrication Shop regarding minimising noise breakout from the building.

Applicants' supporting information

The applicants note that the site and immediate surroundings are either developed for industrial use, have planning permission for employment and residential use or land is allocated for employment use. It is noted that the employment/housing planning permission has not yet been granted but is waiting the signing of an S 106 Agreement; employment uses on that site would adjoin the applicant's development site [*Permission now in place*]. It is acknowledged that there are houses on Cadley Hill Road but it is argued that the existing boundary trees screen those houses from the proposed development, in particular the Phase 2 building.

The 5.0m wide strip on the edge of the south side of the site is partially formed but the 1.0m high bund within that strip is not yet in place; this 5.0m strip would be extended around the part of the site currently used to store spoil. The bund would be planted with a mix of tree and shrubs. Once the land levels are formed across the whole of the permitted yard area, the site level would be between 1.5m and 2.5m below that of the existing field between the site and Swadlincote Lane. The significance of this is that the apparent height of the proposed warehouse would be reduced when viewed from Swadlincote Lane and the documents point out that the ridge height of the new warehouse would be 0.3m lower than the existing warehouse on the land.

There are practical operational reasons for the buildings proposed being in the positions shown in that the logistic operation is separate from the production side of the operation. The two sides of the business require being in close proximity to each other.

It is contended that adequate access and land for parking have been allocated in the proposed layout to meet the whole of the development requirements for the site. The existing access roads, Ryder Close, Cadley Hill Road and the A444 provide more than adequate highway links to the application site.

Planning History

Planning applications for development of the Keystone Lintel site started in 2002 with further expansion in 2005 and subsequent expansion since that time culminating in the permission granted for the expansion of the yard to provide open storage upon which the buildings would be sited.

Responses to Consultations

The County Highway Authority has no objection subject to parking and manoeuvring areas being provided before the occupation of the buildings.

The Coal Authority notes the Coal Risk Assessment Report accompanying the planning application and requests the imposition of a condition requiring on site investigation works prior to building works generally commencing and, if such works find shallow coal workings, then a scheme to remediate these should be implemented again prior to the commencement of building operations.

Severn Trent Water has no objection subject to the foul and surface water drainage details being submitted. *[Surface water details have been submitted and are acceptable to the Environment Agency].*

The Environment Agency has no objection to the development subject to the surface water drainage scheme being implemented.

The Environmental Health Manager is satisfied that concerns about the noise impacts from the workshop buildings can be addressed through a suitably worded planning condition requiring the submission of further details to ensure that noise from the building is not audible at the nearest dwelling.

The Environmental Health Manager (Contaminated Land) note that there is a contaminated land issue relating to the development and requests the imposition of conditions.

The Economic Development Manager states that the Keystone Group is a very rapidly growing company manufacturing and supplying products to the construction industry, including merchants and national house builders. The manufacture and supply of construction products is one of the key sectors of South Derbyshire's economy. The Group has a number of divisions producing an ever-expanding range of products, from loft ladders to insulated roof panels. Many of the company's products are innovative and patented, and promote site safety, efficiency of construction and energy saving. The Company has won numerous awards, most recently winning the Best Building Fabric Product category in the House builder Product Awards 2013 with the 'Hi Therm Sustainability Lintel', which uses a hybrid of GRP and galvanised steel to deliver outstanding thermal performance. This product is manufactured by Keystone Lintels which has been based in Swadlincote since 2002, having outgrown its previous premises. In 2005 the Swadlincote site also became home to the UK distribution warehouse for another of the Group's products, Keylite Roof Windows. Today, the Keystone Group states that it is the UK & Ireland's largest steel lintel manufacturer and Keylite Roof Windows the UK & Ireland's fastest growing roof window manufacturer. The Company's facility on the Cadley Hill Industrial Estate has grown to become one of the town's largest employers, with some 130 staff employed in design, manufacturing, sales and administration. This new investment would help to embed the company in

Swadlincote, safeguarding the existing workforce and providing the opportunity for further growth in the future.

The National Forest Company notes the change in levels in the north east corner adjacent to the trees and there is the potential for impact on those trees, the application should therefore be accompanied by an arboricultural impact assessment. The lack of tree planting is also noted and the company is concerned that the planting proposed is insufficient to meet company requirements. A minimum belt 15m wide is requested but a minimum 12m should be required. The trees proposed would take some 20 years to screen the buildings and the buildings would be visible for a considerable period within the landscape particularly when viewed from the north. A financial contribution from the applicant company of £20,000 per hectare should be sought to assist with offsite planting within the National Forest area if the necessary on site planting cannot be achieved.

Responses to Publicity

7 objections/comments have been received in response to publicity about this planning application and are summarised as follows: -

- a) Noise is a significant factor for residents that overlook the site as it exists and the proposal would bring buildings closer to houses making the noise situation worse. Assurances are sought that a good sound barrier will be put in place. The noise is like rolling thunder with numerous sudden noise events and constant beeping from the fork lift trucks. Working hours should be limited to minimise noise impacts. A previously imposed bund that was to be 2 – 5m high is now replaced with a 1.0m high bund. Adjacent business premises have sensitive production processes and any vibration from heavy machinery may affect that production.
- b) Landscaping is important and it is hoped that trees would be planted to disguise the buildings as this is an important factor. Boundary screening to the north should be implemented as soon as possible
- c) Swadlincote Lane is subject to speeding traffic as people are unaware that there is now a 30mph speed limit on the lane.
- d) Properties on Swadlincote Lane were bought because they overlook green fields, not an industrial estate; the proposal brings buildings closer to the houses to the detriment of visual amenity.
- e) There would be an increased risk to children who live in the housing area.
- f) Light pollution from the site is also a problem particularly in the winter months. There are many empty units without taking green land into industrial use.
- g) Wildlife would be adversely affected.
- h) Surface water drainage is very important and must not be allowed to flow towards the north boundary as this would affect businesses on the Oaktree Business Park. The enclosure of the previously permitted swale with storage pipes needs careful consideration to ensure other business premises are not affected by flood flows at times of heavy rain.
- i) Any paint or other emissions should be filtered prior to discharge to the atmosphere.
- j) Compensation will be sought if this planning application is permitted; the Council only seems interested in the money it makes from these companies.

Development Plan Policies

The relevant policies are:

Local Plan: Employment Policies 1, 2, 3 & 8.

National Guidance

The NPPF at paragraphs 7, 8, 17, 18, 19, 21, 160 and 187.

Local Guidance

Industrial & Office Design & Layout – September 2004.

Planning Considerations

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

- The Development Plan in the context of the NPPF.
- Noise impacts and potential mitigation of impact.
- Landscaping as a mitigation measure.
- Land drainage.

Planning Assessment

The Development Plan in the context of the NPPF

The land on which this development would take place is allocated for employment uses in the adopted Local Plan under the provisions of Employment Policy 2. The allocation also covers the land between the application site boundary and Swadlincote Lane.

The proposal is also for the expansion of an established business and the provisions of Employment Policy 1 & 3 apply to the consideration of the planning application. In the light of this the principle of the development is acceptable within the context of the objectives of employment policies subject to the impact of the development being acceptable in terms of its impact on the character of the locality or residential amenity in terms of environment or traffic problems.

These aspects are considered in the following paragraphs by reference to Employment Policies 8 and the Supplementary Planning Guidance – Industrial and Office Design and Layout. Where relevant the objections received will be referred to in this section of the report.

This advises that where development is in accord with the provisions of the Development Plan and those policies are up to date or if not, comply with the advice in the NPPF, then planning applications should be determined as soon as possible when development would bring economic, social or environmental benefits to an area.

The above-mentioned Development Plan policies are considered in line with the provisions of the NPPF and as such carry weight in determining the planning application. The Local Planning Authority has worked with the applicant to overcome potential noise impact on the area arising from the development and has sought to address objections to the development through the use of planning conditions to secure

earlier implementation of bunding and landscaping around the perimeter of the development site. All this accords with the NPPF.

Noise impacts and potential mitigation of impact

This is a prime concern of objectors who are concerned about the impact of noise on their amenity from bringing built development closer to dwellings on Cadley Hill Road and Swadlincote Lane.

The fabrication shop proposed would be sited close to the boundary of houses on Cadley Hill Road. The applicants have submitted a report that sets out the noise levels within a building on another company site as the proposed building would contain similar machinery. The Environmental Health Manager has received this report and there is concern that if the building housed some of this machinery and was constructed in the traditional manner, then noise breakout could be a problem for occupiers of the nearest properties.

This issue has been discussed with the applicants who agree that the best way forward would be to address noise issues through the construction method of the Fabrication Shop. An amended plan has been received that shows the construction of the building altered to ensure it would contain noise within the building rather than allowing breakout. The access door in the south elevation has also been omitted to assist with this objective. A condition is also recommended requiring approval of the detail of the construction to ensure that the measures are adequate to prevent noise impacts on the Cadley Hill Road dwellings.

The Phase 1 & 3 buildings are unlikely to cause noise impacts, but the internal storage of products rather than open storage are considered likely to reduce some of the noise issues raised by objectors. Doors to the warehouse would face away from the houses on Swadlincote Lane and the building itself would assist in masking lorry manoeuvring in front of the existing warehouse.

Subject to the above and the recommended conditions, this aspect of the development is considered to comply with the provisions of the Development Plan.

Landscaping as a mitigation measure

This is an area of concern to objectors to the development. The dwellings on Cadley Hill Road are screened by existing trees and landscaping. Objectors refer to the lack of a bund on the southern boundary and the views available to the site from properties on Swadlincote Lane.

The development of the open storage yard is not complete and there is no obligation on the applicants to complete the landscaping works whilst this is the case. Where works have taken place the finished level of the yard lies below that of the adjacent land by a minimum of 1.5m. There is a 5m wide strip of land behind the retaining wall upon which a 1.0m high bund is to be constructed in the permission for the yard area prior to planting taking place.

An early establishment of the bund and planting in the area already completed would benefit the view from the Swadlincote Lane properties and a condition requiring the implementation of the bund and landscaping scheme on the already retained area is

recommended to be completed prior to the occupation of the Phase 1 building. The early establishment of the remaining bund around the rest of the site is recommended with the planting taking place in the first planting season following the completion of the retaining wall rather than the completion of the development which is the normal requirement of the implementation condition. This would ensure an earlier completion of the screening of this part of the site from Swadlincote Lane prior to development on the remaining allocated land.

National Forest Company planting requirements for 20% on site planting in comparison to floor space created are met by the proposals accompanying this application.

Subject to the above and the recommended conditions this aspect of the development is considered to comply with Development Plan policy.

Land drainage

The proposed surface water disposal system has been designed to trap any pollutant from the site prior to discharge to the local land drainage system and in terms of this occupier, there are no significant pollutants to the air as a result of the production process, any spraying of components would have to take place in a booth to comply with Health and Safety requirements prior to discharge to the atmosphere. This addresses the concerns of an objector. The Environment Agency is satisfied that the submitted surface water drainage scheme is acceptable provided it is implemented in accordance with the submitted details, a condition to this effect is recommended.

A condition for the submission of a lighting scheme is recommended that should address concerns about light pollution.

Subject to the above and the recommended conditions, this aspect of the development is considered to comply with the Development Plan.

Other Employment Policy 8 Considerations

Access and parking – the application makes provision for access and parking to a standard that is acceptable to the County Highway Authority provided these facilities are in place prior to the occupation of the buildings in each phase of the development, a condition is recommended to this effect. The construction of the Phase 1 building will not require any additional provision as there is currently a surplus of parking provision in accordance with adopted standards and manoeuvring would take place on the existing yard.

Servicing – the site has adequate provision as extended to ensure that it can be serviced by all vehicles likely to visit the site and the application states all services are available to meet the requirements of the business.

There would clearly be an impact on the character and appearance of the area but in view of the fact that the site occupies a location within an established employment area; the height of the buildings is no greater than exists on the site, as illustrated in the submitted section drawings, and materials of construction are the same or similar to materials already on the site, these impacts are acceptable in terms of the requirements of Development Plan policies.

Conclusion

On the advice of the Council's Economic Development Manager, the development would represent the expansion of a major manufacturing employer in the town that is a major contributor to the economy of the area. It is on land that is allocated for employment use and the development accords with Development Plan policies for the reasons set out above. In the light of this and the advice in the NPPF planning permission is recommended subject to the recommended conditions.

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 Drawing Nos: 212-53.01, .02, .03 Rev A, .04, .05, .06 and .07 together with the reports by JMP dated April 2013 - Transport Assessment, GRM Development Solutions dated February 2013 - Mining Risk Assessment, , Clear Environmental dated January 2012 Flood Risk Assessment as amended by SG Design Studio letter received on 17 May 2013 and the D Costello report dated March 2013 - Design of Attenuation of Storm Water.
Reason: For the avoidance of doubt.
3. 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.
4. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.

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

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

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

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

5. The development shall be implemented in accordance with the recommendations of the submitted Coal Mining Risk Assessment, in particular with regard to intrusive site investigation works (which shall be undertaken prior to the commencement of any other development) and any resultant remedial works identified by the site investigation.

Reason: To ensure the stability and safety of the development, having regard to the Coal Mining Risk Assessment undertaken.

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

Reason: In the interests of pollution control.

7. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor, designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

Reason: In the interests of pollution control.

8. No floodlighting shall be erected until precise details of the intensity, angling and shielding, and the area of spread of the lights have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity with them. The submitted scheme shall comply with the Institute of Lighting Engineers "Guidance notes for the Reduction of Obtrusive Light" (2005).

Reason: To preserve amenity.

9. The premises, subject of the application, shall not be occupied until space has been provided within the application site in accordance with the application drawings for the parking of both the existing and proposed buildings vehicles, laid

out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: To ensure that adequate parking and manoeuvring space is available within the site to prevent parking and manoeuvring on adopted highway.

10. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated 19 January 2012, Ref: CL1113/05/01 as amended by the letter from SG Design and the report by D Costelloe dated March 2013 and the following mitigation measures detailed within the FRA that proposes the limiting the surface water run-off generated by all rainfall events up to the 100 year plus 20% (for climate change) critical rain storm such that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site. The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing /phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: The condition is imposed to prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to reduce the risk of flooding of the proposed development and future occupants.

11. The landscaping on the north, east and part of the south boundary of the site comprising a 1.0m high bund, planting and seeding as approved under application 9/2011/0685 as illustrated on the attached plan 9/2013/0370A shall be carried out in coming planting season (i.e. October 2013 - April 2014). 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.

12. The landscaping on the remaining part of the south and west boundaries of the site comprising a 1.0m high bund, planting and seeding as approved under application 9/2011/0685 and as illustrated on the attached plan 9/2013/0370B shall be carried out in first planting season (October - April) following the completion of the retaining wall on that part of the site. 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.

13. Notwithstanding the submitted drawing 213-53.03 Rev A, no part of the construction of the Phase 2 building shall be commenced until a detailed scheme for the mitigation of noise emanating from that building has been submitted to and approved in writing by the Local Planning Authority. The approved details shall then be used to construct the Phase 2 building and the noise mitigation measures incorporated in the approved details shall be retained in place for the duration that the building occupies the site.

Reason: The use of the building for purposes within Class B2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) has the potential to cause disturbance to the occupiers of nearby dwellings. The local Planning

Authority seeks to ensure that the construction method used in erect the building is of a standard where no noise from within the building is audible in the nearest dwelling.

14. The use of the buildings and yard area hereby permitted shall not be used outside the following times, or at any time on Sunday, Bank or Public Holidays: 7am to 9pm Monday - Friday and 8am to 4pm on Saturday.

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.

Informatives:

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, seeking to resolve planning objections and issues, suggesting amendments to improve the quality of the proposal and meetings and negotiations to address these issue. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

Where development is proposed, the developer is responsible for ensuring that development is safe and suitable for use for the purpose for which it is intended. The developer is thus responsible for determining whether land is suitable for a particular development or can be made so by remedial action. In particular, the developer should carry out an adequate investigation to inform a risk assessment to determine:

- whether the land in question is already affected by contamination through source - pathway - receptor pollutant linkages and how those linkages are represented in a conceptual model;
- whether the development proposed will create new linkages, e.g. new pathways by which existing contaminants might reach existing or proposed receptors and whether it will introduce new vulnerable receptors; and
- what action is needed to break those linkages and avoid new ones, deal with any unacceptable risks and enable safe development and future occupancy of the site and neighbouring land.

A potential developer will need to satisfy the local authority that unacceptable risk from contamination will be successfully addressed through remediation without undue environmental impact during and following the development. In doing so, a developer should be aware that actions or omissions on his part could lead to liability being incurred under Part IIA, e.g. where development fails to address an existing unacceptable risk or creates such a risk by introducing a new receptor or pathway or, when it is implemented, under the Environmental Liability Directive (2004/35/EC). Where an agreed remediation scheme includes future monitoring and maintenance schemes, arrangements will need to be made to ensure that any subsequent owner is fully aware of these requirements and assumes ongoing responsibilities that run with the land.

The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

For further assistance in complying with planning conditions and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: pollution.control@south-derbys.gov.uk. Where development is proposed over areas of coal and past coal workings at shallow depth, The Coal Authority is of the opinion that applicants should consider wherever possible removing the remnant shallow coal. This will enable the land to be stabilised and treated by a more sustainable method; rather than by attempting to grout fill any voids and consequently unnecessarily sterilising the nation's asset.

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from the Coal Authority's website at: www.coal.gov.uk/services/permissions/index.cfm.

06/08/2013

Item 1.3

Reg. No. 9/2013/0472/L

Applicant:
MR JIM HEWLETT
THOMAS COOK'S MEMORIAL TRUST
16 THE LILYPOL
MELBOURNE
DE73 8GL

Agent:
MR JIM HEWLETT
THOMAS COOK'S MEMORIAL TRUST
16 THE LILYPOL
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Proposal: THE INSTALLATION OF SECONDARY GLAZING
PANELS TO ALL EXTERNAL WINDOWS AT THOMAS
COOK MEMORIAL COTTAGES 33-59 HIGH STREET
MELBOURNE DERBY

Ward: MELBOURNE

Valid Date: 18/06/2013

Reason for committee determination

The application is brought before committee as the applicant is a member of the Council (being the ward member for Melbourne).

Site Description

The Thomas Cook Memorial Cottages (33-59 High Street) is a Grade II listed building located within the historic core and conservation area of Melbourne.

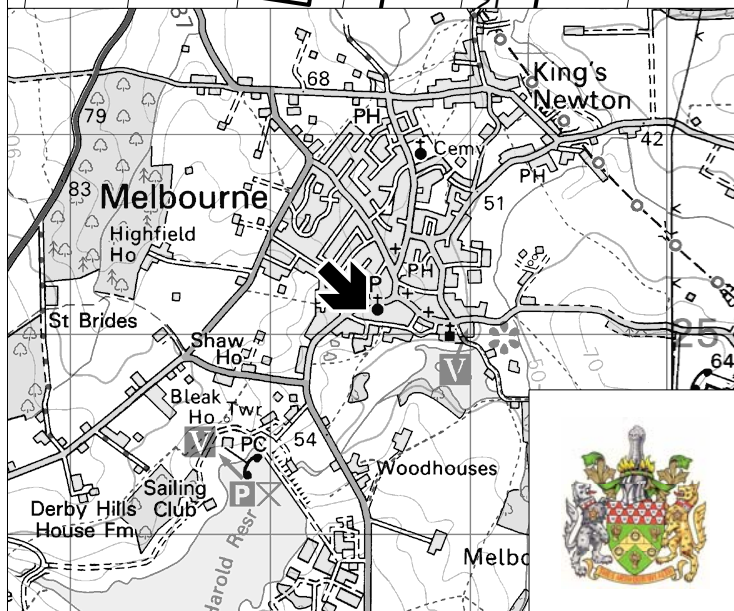
The application building is U-shaped in form, surrounds a landscaped amenity space and faces High Street. Its design is typical of the Arts and Crafts movement.

The cottages were built in 1890-1891 to provide accommodation for deserving poor persons connected with the Baptist Chapel or residing within a 25-mile radius, today the building is owned by a board of Trustees and the residential units are rented out on a private basis.

Proposal

The application seeks Listed Building Consent for the installation of secondary glazing to all external windows of the building (with the exception of those windows to No. 49a – see Applicant's supporting information below).

Applicants' supporting information



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Impact Assessment Statement:

The Almshouses were open in 1891 by Thomas Cook, the first travel agent, and little has changed externally since that time, with the exception of a bungalow built in 1994 on the “drying ground” to the east of the site and the Mission Hall. The Mission Hall is not included in this application and neither is the bungalow, which was double glazed as part of its construction.

The windows are typical of the period and are made of painted softwood with small single glazed panes.

The tenants of the Almshouses are fairly elderly and complain of cold draughts in winter as well as difficulties in paying the cost of keeping the rooms comfortably warm.

The horizontal parts of the roof have recently been insulated and the Trustees would now like to make the cottages more comfortable and pleasant in winter by installing sliding secondary glazing panels.

The installation would reduce fuel poverty and help reduce carbon emissions in the District. Studies have shown that secondary glazing with low emissivity glass, together with the original glazing, has an insulation value equal to standard sealed double glazed units.

Following discussions with the Council’s Conservation Officer, the panels would be fairly close to the existing frames to reduce the parallax effect of the framing when seen from the outside at an angle. The slim white finished aluminium framing would be level with existing mullions and transoms to conceal them from outside as much as possible.

The glass would be toughened Pilkington “K” low-emissivity to reflect heat rays back into the rooms and the panels would be easily removable for cleaning.

Design and Access Statement:

Physical access to the buildings will not be affected.

The secondary glazing panes slide behind each other to allow access to the opening lights for ventilation and cleaning when needed.

This type of glazing has been accepted by the Planning Authority elsewhere in the Melbourne Conservation Area, most recently at Wisteria House in Church Street. Examination of these buildings shows that secondary glazing makes a minimal visual difference to their external appearance.

All the secondary glazing panes would be horizontally sliding except for the following variations:

- The bay window of the Caretaker’s Cottage (33 High Street), would have a fixed central pane against the pane, covering the 2 central flat lights, with vertical sliding panels on each side light, separated from the central pane by 15 x 45mm timber uprights which are necessary to hold the spring balancers of the panes. These glazed panels follow the shape of the bay window;

- The three bay windows on the first floors of the three central cottages would have the panes going straight across the opening, not following the line of the bay;
- The single light window of No 59 is not required to open so would have a fixed glazed panel fitted;
- The first floor windows of the Caretakers Cottage (No. 33) would have a three part arrangement of horizontally sliding panels fixed to the inside face of the wall in order to eliminate the sight of meeting rails from the outside. This will enable both ventilation and access for cleaning;
- The 1st floor window to the cupboard/boxroom of No. 33 does not require secondary glazing. The other 2 windows on this floor will be covered by a 2-part arrangement of horizontally sliding panels fixed to the inside face of the wall to enable ventilation and access for cleaning.

The back doors have glazed viewing apertures which are currently single glazed and secondary glazing will be installed to these as well.

The one exception to this application is No 49a where the tenant refuses to have the scheme in her house. This is the ground floor flat underneath the overhanging central portion of the building so any visual discrepancies with other windows would be minimal as these windows are overshadowed by the overhang.

Planning History

There is no planning history that is of relevance to the current proposal.

Responses to Consultations

Melbourne Parish Council and Melbourne Civic Society have raised no objections.

The proposal was subject to pre-application discussions with the Conservation Officer and the application submission is as expected and is of sufficient detail to not require the inclusion of any specific conservation conditions.

Responses to Publicity

Regulation 5 (advertisement of applications) of Statutory Instrument 1990 No. 1519 of The Planning (Listed Buildings and Conservation Areas) Regulations 1990 states that where an application for Listed Building Consent affects only the interior of a Grade II (unstarred) listed building there is no requirement to publish an advert in a local newspaper or to display a site notice on or near the application building.

No neighbour notification has been carried out as the proposal has been judged to not impinge in a detrimental fashion on any neighbours that are within 4 metres of the site.

Development Plan Policies

The relevant policies are:

Local Plan: Saved Environment Policies 12 and 13

National Guidance

National Planning Policy Framework: Section 12 Conserving and enhancing the historic environment.

Planning Considerations

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

- i) The impact of the proposal on the character and appearance of the conservation area; and
- ii) The impact of the proposal on the historic fabric, character and setting of the listed building.

Planning Assessment

The proposed internal works are to be carried out in a way that would be the most sensitive to the historic fabric of the Grade II listed building and one that could be reversed with minimal damage.

The installation of secondary glazing that lines up with the pattern of the existing windows would be the least intrusive on the external character and setting of the Grade II listed building and on that of the character and appearance of the conservation area.

The proposal therefore conforms to Saved Environment Policies 12 and 13 of the Adopted Local Plan in that the proposed works would have a negligible, if any, impact on the character and appearance of the conservation area and would not adversely affect the internal integrity, external appearance or setting of the Grade II listed building.

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 listed building consent subject to the following conditions:

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

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

Informatives:

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions and quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.