

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

**SECTION 1: Planning Applications**

**SECTION 2: Appeals**

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

-----

## **1. PLANNING APPLICATIONS**

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

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
9/2009/0893	1.1	Etwall	Etwall	1
9/2010/0131	1.2	Ticknall	Hartshorne & Ticknall	12
9/2010/0153	1.3	Burnaston	Etwall	25
9/2010/0171	1.4	Weston on Trent	Aston	29
9/2010/0193	1.5	Hartshorne	Hartshorne & Ticknall	37
9/2010/0238	1.6	Castle Gresley	Church Gresley	41
9/2010/0324	1.7	Overseal	Seales	51
9/2010/0329	1.8	Barrow on Trent	Aston	57
9/2010/ 332	1.9	Swadlincote	Swadlincote	60

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

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

**Item** 1.1

**Reg. No.** 9/2009/0893/FX

**Applicant:**  
Mr Ed Dorris  
Piers Ridding  
Church Hill  
Etwall  
Derby  
DE65 6LQ

**Agent:**  
Mr Paul Knifton  
Matthew Montague Architects  
70 Friar Gate  
Derby  
DE1 1FP

**Proposal:** **THE DEMOLITION OF LITTLE CROFT, THE ERECTION OF FIVE DWELLINGS AND THE FORMATION OF A NEW VEHICULAR ACCESS TO PIERS RIDING AT LITTLE CROFT SUTTON LANE ETWALL DERBY**

**Ward:** ETWALL

**Valid Date:** 23/10/2009

### **Update**

*This application was deferred at the meeting on 15 December 2009 to establish whether the wall that forms the east boundary of the site was listed. The wall was clearly once associated with the Old Rectory, which has been a Grade II listed building since 1985. However, as the southern part of the grounds had subsequently been split off to provide a site for the former village hall (demolished) and the northern part had been disposed of for housing. The listing does not, therefore, cover the wall.*

*Subsequent to the application being deferred new case law meant that a different approach to the consideration of the presence of bats on the site necessitating further survey work had to be taken to that initially considered appropriate.*

*An amended plan has also been received relating to relocation of the turning head to the front of Plot 4. The amendment has moved the proposed dwelling further back into the site to allow for the retention of the existing trees between Plot 4 and the rear of Deben House. There is no material impact on adjoining properties save for the retention of the trees as requested by the occupiers of Deben House in their representations on the application.*

*The matter of the bats and other changes are highlighted in italics in the main report under the relevant headings.*

### **Reason for committee determination**

Councillor Lemmon has requested this application be brought to Committee as issues of local concerns have been raised.



**This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. South Derbyshire District Council. LA 100019461. 2010**

## **Site Description**

The proposal site can be broken down into two distinct parts. One is the site and curtilage of “Little Croft”, which is a modern house of no special merit or interest; hedges and fences enclose its curtilage, the rear hedge having been partially removed to join the two parts of the site. This part of the site is outside the Etwall Conservation Area

The other, to the south, is the former rear garden of “Piers Ridding”, an 18<sup>th</sup> and 19<sup>th</sup> century house. This part of the site is enclosed by substantial brick boundary walls to the east and south, together with lower brick walls to the west boundary both of which reflect the status of the house. This part of the site is inside the boundary of the Etwall Conservation Area as it forms part of the historic curtilage of a notable conservation area property.

The site slopes downwards from south to north towards Sutton Lane that forms the north boundary of the site, beyond that the ground slopes more steeply. Dwellings or their curtilage about the rest of the site to all sides. The site contains numerous trees some of which are indicated as removed to facilitate the development.

## **Proposal**

The proposal is to demolish the dwelling known as Little Croft and erect 5 detached dwellings within its curtilage and part of the adjacent dwelling Piers Ridding. The scheme has been amended since submission to remove a large side window from Plot 5 and move Plot 4 further away from the rear of Deben House (an adjoining property fronting Sutton Lane). The applicants have also been asked to review the probability of retaining the trees shown in the rear gardens of Plots 3 and 4 as both would be in close proximity to the proposed houses. They have since confirmed that these 2 additional trees are to be removed.

## **Applicants’ supporting information**

The application is accompanied by a tree survey/assessment, a Design and Access Statement as well as the usual application documents.

The Design and Access Statement makes reference to the advice in PPS 3 to make best use of brown field land within the confines of well-serviced settlements. Attention is drawn to the location of the site within the defined village confines, the presence of a range of shops and services in close proximity to the site, the bus route through the village on Main Street and the fact that there is a major secondary school in the village. The applicants draw attention to the Development Plan and its policies in favour of such development.

The design of the buildings is said to reflect the local vernacular and appropriate materials of construction would be sourced to carry out the development.

The existing access would be widened to facilitate the access to the site. The drawings indicated that non-mechanical excavation beneath the frontage trees would be employed to minimise impact. Access to the houses themselves has been designed to comply with Part M of the Building Regulations.

Sustainability Issues – the applicants state that the houses have been designed to ensure that they are 10% more energy efficient than a house built under the 2006 Building Regulations. Grey water recycling is proposed and all building materials would achieve an A/B rating in the Green Guide to Housing Specification.

*In April qualified personnel undertook an emerging bat survey. An assessment was also undertaken of an ecology study undertaken last year as part of the initial consideration of the application site.*

*The original ecology study identified bat droppings on the north facing tile hangings on the dwelling. The new study could find no evidence of the bat dropping on the tile hanging and surmises that they have eroded over the winter. The potential roost is identified as being north facing and is shaded by trees and for this reason it is considered unlikely that it functioned as a breeding roost. Based on experience it may have been used by a particular species as a temporary roost in the summer months and then only on an occasional basis. Observations indicated bat activity in the vicinity of the house but no bats were observed entering or leaving the house.*

*No further survey work is considered necessary as the limited value of the building has been adequately assessed. There is no need to apply to Natural England for a licence to cover the demolition of the building. As a precaution it is recommended that the tile hanging be removed by hand and, in the unlikely event that bats are encountered, the tile hanging should be restored and all works stopped pending contact with the survey consultants. Operatives removing the tile hangings should be made aware of the potential to find a bat. An appendix to the report sets out the actions required should bats be found in the building.*

*It is recommended that two groups of three bat boxes be sited in the trees on the site and this would be viewed as an enhancement to the ecological value of the area in line with Government advice. (PPS 9)*

## **Planning History**

There is no relevant planning history on this application site.

## **Responses to Consultations**

Etwell Parish Council has no real objections to the development but has concerns that the sewage system may not be adequate to deal with the development. They query whether there is a need for yet more 4-bedroom houses in Etwell and express concern about the loss of trees. They would wish to see a condition that requires all materials to be stored within the site to ensure that the problems that occurred when Broadlands and Pandora were developed should not be repeated should this permission be granted.

*Prior to the last meeting Etwell Parish Council discussed possibility of a Section 106 agreement being applied to the site. It examined the regulation defined for the district, and formed the view that as five dwellings are to be constructed, a section 106 agreement should apply. The word 'net' does not feature in the definitions and there are to be 5 houses constructed once the site has been cleared. The fact that site clearance turns on the removal of a dwelling rather than a barn or the loss of agricultural land seemed to the Parish Council not to be relevant.*

The County Highway Authority has no objection subject to conditions that include a requirement for on site storage of materials and vehicles. Other conditions require the site to be developed in accordance with the submitted drawings.

Severn Trent Water has no objection subject to details of foul and surface water disposal being submitted prior to the development commencing.

*Natural England has been consulted on the original bat survey and the more recent one that has assessed the existing dwelling as a bat roost given that bat droppings were found on its roof in the first survey. Natural England accepts the findings of the latest bat survey and subject to the recommendations in that report and subject to the mitigation measures outlined in the recent report has no objection to the development.*

## **Responses to Publicity**

10 letters have been received objecting/commenting on the development in the following terms. The comments on the application are in addition to those made by the Parish Council:

- a) The development would impinge on conservation land within the village and would set a dangerous precedent for the future that would prejudice the future of the village. Recent development on the other side of Sutton Lane has had a detrimental impact on the character of the village. Conservation means keeping from change, giving protection, and careful management, allowing this development does not substantiate these principles. The density is too great for this part of the village. The village should be extended out to the new boundaries formed by the roads around the village rather than developing sensitive sites within the village.
- b) It would change the character of the locality that was one of the reasons for people buying houses in the village – i.e. old buildings providing character. There would be a loss of privacy and overlooking would be the outcome affecting the amenity of occupiers of those properties.
- c) There would be a loss of trees removing some of the essence of the rural village. Any trees that are lost should be replaced for ecological and screening reasons. It is noted and welcomed that the hedge on the front of the property is retained as this is important to the character of the Lane – its retention should be secured.
- d) The development would result in an increase in traffic and pollution. The refuse vehicle already has to reverse down the lane because of parked cars. The lane provides access to the National Cycle Route and as a consequence many young people use it as well as horse riders accessing the bridleway. Parked cars frequently block the turning area at the bottom of Sutton Lane and make it difficult for service vehicle drivers to turn their vehicles.
- e) Sufficient parking space should be provided if this is not provided then the Council should be satisfied that cars associated with this development do not park on Sutton Lane.
- f) Sutton Lane should be widened to Main Street. There is poor visibility at the Sutton Lane/Main Street junction
- g) The fire service and South Staffordshire Water should be consulted, as it is understood that there is insufficient capacity in the water supply/hydrant. 17 dwellings will become 22.
- h) There are nesting birds that use the site and bats are also present in the vicinity.

- i) Electricity supply can be unreliable.
- j) Natural drainage will be compromised and flooding may result.
- k) Boards and flags to market the site should be carefully controlled.
- l) The majority if not all the letters support the view that construction activities should be limited to within the site and to a lesser extent the hours when construction hours should be controlled; this is given the experience residents had when the site at Broadlands was undertaken.
- m) One of the properties suggests that current foul drainage problems could be overcome if a connection through the site to Main Street could be achieved; the applicant has told this commentator that he would be willing to consider this. The trees to the rear of Deben House should be retained to act as a screen.
- m) Plot 5 has the potential to overlook on main room windows in the adjacent house where there are main room windows that fall within the minimum distances to be acceptable. It would also result in a loss of light. 4 dwellings would be more appropriate as it would remove development from the boundary.
- n) There is a recreation room and conservatory immediately adjacent to the boundary and the erection of a dwelling in the position shown would adversely affect these elements of the adjacent dwelling.
- o) There would be a loss of value in property albeit that is not a material consideration only the developers would gain. It is sad that quiet leafy lanes can be transformed with tightly packed modern architecture that only lines the pockets of the developers.

*The receipt of the bat survey has been publicised and when this report was prepared, one further letter of objection had been received that raised no new issues. Any further responses will be presented verbally at Committee.*

## **National Guidance**

PPS 1, 3, & 9; PPG 13 & 15

## **Development Plan Policies**

The relevant policies are:

RSS8: Policies 1, 2, 3, 12 & 27

Local Plan: Housing Policy 5 & 11; Environment Policy 9 & 12

## ***Other Supplementary Planning Guidance***

*Housing Design and Layout*

## **Planning Considerations**

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

- The Development Plan.
- Impact on the Etwall Conservation Area.
- Impact on trees, particularly the frontage trees and hedgerow and the effect on the street scene.
- Impact on adjoining dwellings.
- Access to the Site.

- Foul Drainage.
- Bat Roost considerations.

## **Planning Assessment**

The provisions of the development plan in terms of the acceptability of housing development within the Etwall confine favours development that makes full use of brown field land for housing development. The applicants are correct in stating that the village is well served by shops, community facilities and bus services. The issues relating to the loss of trees and the impact on the Etwall Conservation Area are also matters addressed in the Development Plan.

The part of the site that lies within the conservation area is entirely secluded from public vantage points, and a similar modern development in the former gardens of The Gables immediately to the west has been accepted (in the 1990s). Moreover, Piers Ridding does not overlook the application site and is severed from it by an outbuilding and attached wall. It is considered that the selling off of this garden space may make the grounds of Piers Ridding seem unbalanced and incomplete for a house of such high status and as such it might have been better to omit plot 4, leaving an area of garden for Piers Ridding bounded by the old brick wall to the east. However, it is acknowledged that the effect on the character and appearance of the conservation area from public viewpoints would be neutral under the submitted scheme and therefore there are no grounds for requiring this.

*To confirm, the wall to the old Rectory is not part of the curtilage of the listed building and that there was no requirement to advertise the application as affecting the setting of a listed building.*

The Design Excellence Officer has drawn attention to the need to retain the frontage hedgerow and trees as a means of maintaining the character of Sutton Lane. This is a view shared by the objectors and people who have commented about the development. Securing the retention and protection of the trees is a matter that is capable of being controlled through the imposition of an appropriate tree preservation order that will be in place before the Committee meets. Retaining the hedge is more difficult to achieve. There is no legislative procedure that requires consent before a hedge is removed. Hedges abutting residential curtilage are specifically excluded from control. However, the applicants have stated that they would retain the hedge and that it would form part of the formal landscaping scheme required to be submitted under the condition. The suggested landscaping condition contains a clause requiring that details of a management scheme for the hedge be submitted and approved for the frontage and other retained hedges.

The layout of the houses has been carefully assessed against the provisions of Housing Policy 11 and the advice in adopted Supplementary Planning Guidance – ‘Housing Layout and Design’ (SPG). At an early stage, the applicants were asked to amend the scheme to meet the requirements of the SPG in respect of Deben House and 18 Church Hill. The other dwellings directly affected by the development are Nether Ashe and 20 Church Hill. Piers Ridding and properties on Main Street and other dwellings on Church Hill and Sutton Lane are not directly affected by virtue of the minimum separation distances required in SPG being exceeded. The amended scheme meets the minimum separation distances required in the SPG. Although the residents at 18

Church Hill identified that the property lay some 6 or 7 metres from the side of their house that contains habitable room windows, the actual distance is 9 metres. This meets the minimum separation distance but a condition is recommended safeguarding this in the future. The minimum separation distances to Deben House are also satisfied. Nether Ashe abuts the site boundary and presents a blank gable to the site. Rear windows are either not overlooked or the minimum separation distance is far exceeded. In the light of this, the impact on neighbours complies with the requirements of the SPG.

The County Highway Authority recommends permission subject to conditions including one that requires on-site storage of materials and plant. Given the issues raised during the development of the site nearby, the conditions below have been drafted to give the local planning authority greater control and thus reduce the impact on the amenities of the occupiers during construction.

Severn Trent does not concur with the view that serious drainage problems will occur as a result of the development raising no objection subject to a condition that requires foul and surface water disposal be agreed prior to development commencing. It is understood that the applicant is investigating a new scheme that would assist neighbours who are currently on a pumped rising main system.

A neighbour has made reference to the possibility of bats being present on the site. *The applicants have since undertaken an initial Bat Survey and the results indicated that there is a possibility of a summer roost in the roof of Little Croft. The Local Planning Authority has a duty to engage with the requirements on the European Habitats Directive that was incorporated into English law in Regulations published in 1994. Bats are a protected species under the Directive and disturbing a roost without the necessary licence is a criminal offence. Consideration of the application was therefore deferred to allow a further survey to be prepared at the appropriate time of year.*

*That survey has now been undertaken to assess if Little Croft is a roost for bats. The survey has confirmed that there is bat activity in the vicinity of the property but the house is **not** a roost for any of these bats. Natural England has confirmed that the survey results are satisfactory and that the mitigation measures suggested in the report should be secured by conditions. Appropriate conditions are recommended.*

In conclusion the development is considered acceptable 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 amended drawing no. 691/P - 01 Rev E; -05 Rev B

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

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

Reason: To safeguard the appearance of the Etwell Conservation Area.

4. Further to the requirements of Condition 14 below the areas for storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives' and visitors' vehicles shall be laid out and constructed in accordance with detailed designs set out in Drawings 691/P-08 and P-09 received on 9 December 2009 under cover of your e-mail and shall thereafter be maintained available throughout the contract period in accordance with the approved designs free from any impediment to their designated use.

Reason: In the interests of highway safety.

5. Prior to any other works commencing the access shall be laid out in accordance with the application drawing, having a minimum width of 4.1m, be provided with 2m x 2m x 45° pedestrian intervisibility splays and the entire site frontage cleared and maintained in perpetuity clear of any obstruction exceeding 1m in height.

Reason: In the interests of highway safety.

6. Prior to the occupation of the first dwelling, the shared driveway and manoeuvring space shall be laid out in accordance with the application drawing and maintained thereafter free of any impediment to its designated use.

Reason: In the interests of highway safety.

7. No gates shall be erected within 5m. of the highway boundary and any gates shall open inwards only.

Reason: In the interests of highway safety.

8. Prior to the occupation of the first dwelling, the car parking and manoeuvring space shall be laid out in accordance with the application drawing and maintained thereafter free of any impediment to its designated use.

Reason: In the interests of highway safety.

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

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

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 the garage accommodation/parking space

to be provided in connection with the development shall not be used other than for the above stated purpose except with the prior permission of the Local Planning Authority granted on an application made in that regard.

Reason: To ensure that adequate parking/garaging provision is retained available to service each dwelling and to minimise the risk of on street parking.

11. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping of the site the submitted scheme shall include indications of all existing trees and hedgerows on the land to be retained and the tree protection measure outline in the landscape report shall be implement prior to anyother works being undertaken on the site. These protection measures shall be retained in place pending the completion of the dwellings where trees are to be retained.

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

12. No development shall take place until a schedule of landscape maintenance for a minimum period of 5 years has been submitted to and approved in writing by the Local Planning Authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.

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

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 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.

14. Prior to the development being commenced details of the no dig construction of the access to Sutton Lane shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the whole access road into the site shall be constructed in accordance with the approved details and the roadway into the site shall be surfaced in a solid bound material to base course level during the course of the construction of the site. Upon the completion of the last dwelling within the development the final surface to the access shall be completed in accordance with the approved details during the course of the construction of the site. Upon the completion of the last dwelling, the final surface to the access shall be completed in accordance with the approved details.

Reason: In the interests of highway safety and to minimise the risk of any transfer of mud and other debris onto the highway during the construction phase of the development.

15. 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 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 and the street scene.

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

Reason: To control the ability of occupiers to insert additional windows in blank elevations that may otherwise be permitted development. This is to allow the Local Authority to retain control over such alterations because of their potential impact on the occupiers of adjacent dwellings.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, no fence or other means of enclosure shall be erected where the site abuts Sutton Lane Etwall as illustrated on the attached plan 9/2009/0893/A without the prior grant of planning permission in response to an application made to the Local Planning Authority in that regard.

Reason: To maintain control over the erection of fences on this important road frontage to Sutton Lane in the interests of maintaining the rural character of the lane.

18. Gutters and downpipes shall have a black finish.

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

19. During the ground preparation and construction periods, the site shall not operate outside the following hours 0730 - 1900 Monday to Friday and 0730 - 1400 on Saturdays with no working on Sundays or bank or public holidays. Further to this condition any necessary piling operations shall be carried out only between 9am and 5pm Monday to Friday with no such operations on Saturdays, Sundays, Bank or Public Holidays.

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

20. 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.

21. The removal of the tile hangings to the dwelling known Little Croft shall be undertaken by hand and in the event that bats are found to be roosting in the space behind the tiles, the tiles shall be replaced in accordance with the procedure set out in the Appendix 1 to EMEC Ecology Report dated April 2010 the subsequent measures set out in that procedure shall then be implemented prior to any other works of demolition being undertaken. Operatives removing the tiles should be trained as to what can be expected if bats are present behind the tile hanging as set out in that Appendix.

Reason: Bats are a protected species and as such disturbance of their habitat is a criminal offence. The Local Planning Authority seeks to ensure that if bats are present within the building measures are undertaken to protect their habitat in the interests of the bio diversity of the area.

22. Prior to the occupation of the last dwelling on the site, a total of 6 bat boxes shall be sited within the application site within the trees on a variety of aspects (north south east and west) on the trees at a height of 4.0metres above ground level.

Reason: The provision of bat boxes within the site would represent an enhancement of the biological interest in the site where bats are known to forage in the interests of biological conservation as advocated in PPS 9.

Informatives:

The County Highway Authority advises that: -

a) 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 shall be given to the Environmental Services Department at County Hall, Matlock (telephone 01629 580000 extension 38595) before any works commence on the vehicular access within highway limits.

b) The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (ie 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.

c) 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 applicant should also ensure that all materials are deliver to an area within the site curtilage and are not stored on the public highway in accordance with the requirements of Condition 4 above.

The alternative to removing the bats is to retain the building within the site should a bat roost be shown to be present in the structure of Little Croft.

**Item** 1.2

**Reg. No.** 9/2010/0131/FM

**Applicant:**  
Mr Hollingworth  
C/O Agent

**Agent:**  
Mr. S. Greaves  
S. G. Design Studio Ltd  
202 Woodville Road  
Hartshorne  
Swadlincote  
DE11 7EX

**Proposal:** THE DEMOLITION OF EXISTING BUNGALOW AND THE  
ERECTION OF TWO DETACHED DWELLINGS  
INCLUDING REFURBISHMENT OF EXISTING STABLE  
BUILDING AND ASSOCIATED ACCESS AND PARKING  
AT 10 HIGH STREET TICKNALL DERBY

**Ward:** HARTSHORNE AND TICKNALL

**Valid Date:** 16/02/2010

#### **Reason for committee determination**

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

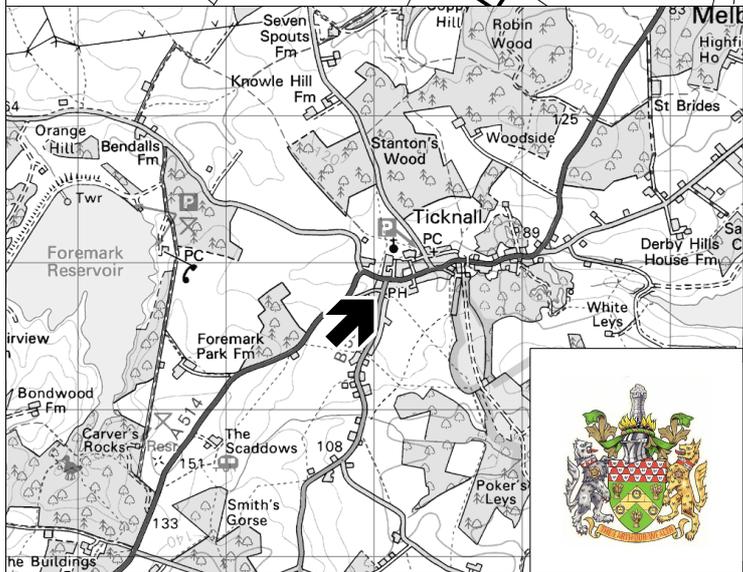
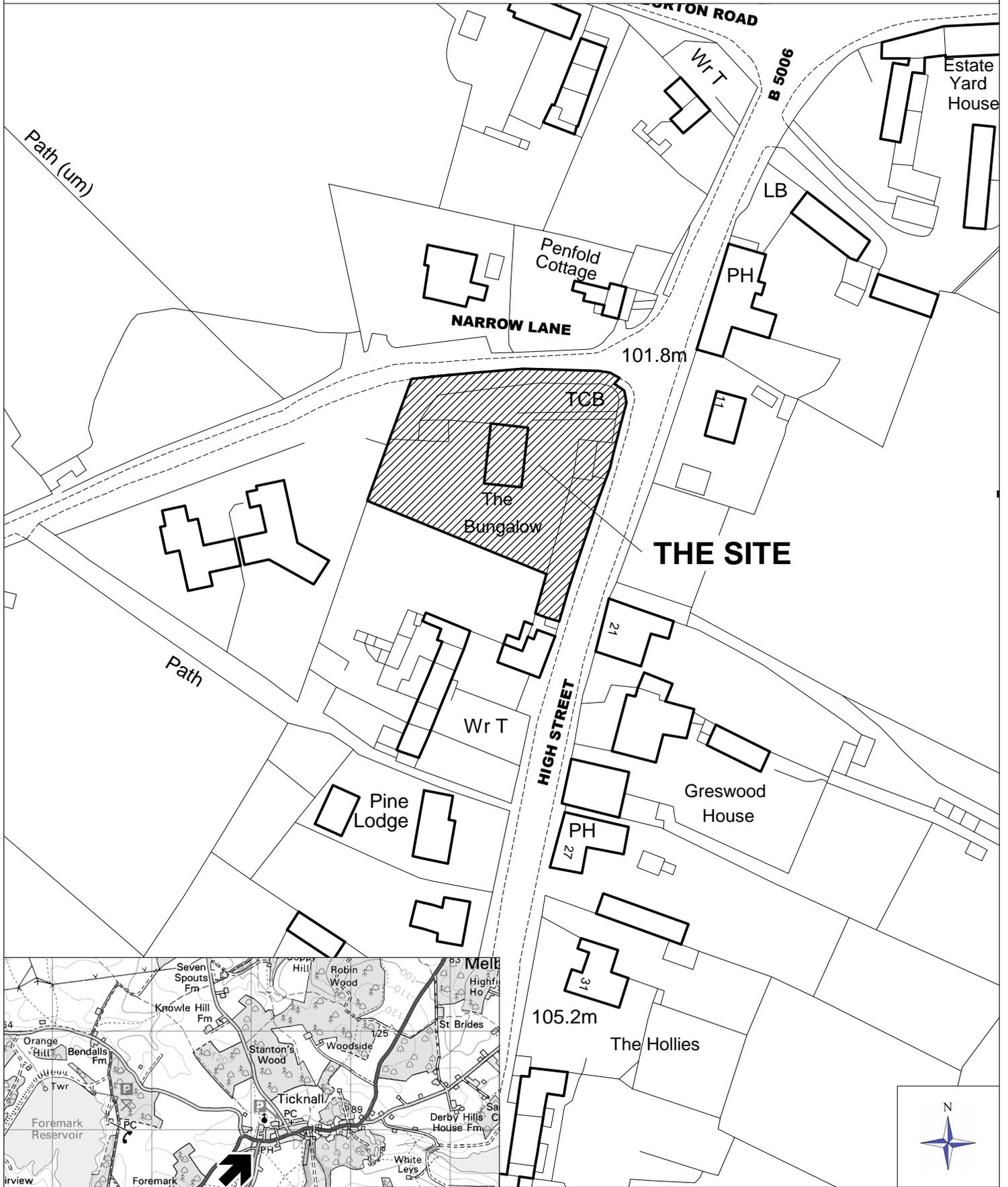
#### **Site Description**

The application site is a corner plot situated within Ticknall village confine occupied by an existing bungalow, detached garage and stable building set within a mature garden. The stable building, a stone wall and two protected mature Corsican pines form the site frontage with High Street. With the exception of this frontage the majority of the site lies outside of Ticknall Conservation Area. A beech hedge forms the western and southern boundaries of the site with a low stone wall inset from a highway verge forming the northern boundary with Narrow Lane. The site is in an elevated position from High Street and continues to rise up with the rising gradient of Narrow Lane. Access to the site is from Narrow Lane with a stepped pedestrian access from High Street.

Residential development surrounds the site on all sides. The surrounding properties are varied in style and heights but are traditional in character. A more recent development of two dwellings is situated to the west of the application site and accessed from Narrow Lane. A sewer easement crosses the southern boundary of the site.

#### **Proposal**

The application proposes the demolition of the existing bungalow and garage and the erection of two detached dwellings together with the refurbishment of the stable building



**This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.**

**South Derbyshire District Council. LA 100019461. 2010**

for residential use and associated access and parking. The dwellings would consist of one three-storey five-bedroom property and one two-storey four-bedroom property with basement accommodation both with integral garages and situated in a courtyard formation accessed from Narrow Lane. The proposed dwellings would be set back from High Street and consist of varying eave and ridge heights with single storey elements located towards the boundaries, Plot 1 linking to the existing stable building, and subsequent ridge heights gradually increasing towards the rear of the site.

The existing ground levels would be reduced, outside of the tree root protection zone of the protected trees, such that the proposed height of the three storey elements would be tantamount to a two-storey dwelling based on existing ground levels. Due to the change in levels external steps are proposed to the front of Plot 1 to allow access to the ground floor level. The existing vehicular access would be modified to serve Plot 2 with a new vehicular access created to serve Plot 1. The existing stone boundary walls would be retained and extended along parts of Narrow Lane to match the existing.

The application follows on from pre-application discussions and the submission is as expected.

### **Applicants' supporting information**

The applicant has submitted a Design and Access Statement and Supporting Statements that include the following information:

- The site is a brownfield site located within the village envelope of Ticknall in a predominantly residential area and close to all services and to public transport routes.
- The existing bungalow is a chalet style bungalow with no architectural style and is out of keeping with the traditional style of properties in Ticknall.
- The style would be in keeping with the traditional Ticknall detail, preferably including a mixture of stone and brickwork, with plain tiled roofs.
- With the positioning of Plot 1, taking into account the varying elevational formats, Plot 2 would be mainly screened by this proposal.
- Stone walls are to be constructed along Narrow Lane to replicate the existing wall, with a grass verge reinstated incorporating landscaping.
- Facing brickwork would be used to compliment the Conservation Area and roof tiles would be of clay hand made style, in either red or Staffordshire Blue colour.
- By improving the existing access arrangements in terms of gradients, this would provide better pedestrian and disabled access into the local village.
- The use of additional landscaping will further enhance the visual appearance of the development.
- Towards the south of the site is a Severn Trent Water main water pipe 1066 diameter, which has a 12.2 easement, this prevents any building over this area.
- The proposed scheme offers a unique architectural approach to maintain the existing heritage values of Ticknall, enhancing the area and providing spacious accommodation which blends with the site contours, offering interesting aesthetic styles.

### **Planning History**

There is no relevant planning history.

## Responses to Consultations

The Design and Conservation Officer has no objection to the demolition of the bungalow and considers that the dwellings are well designed, relate well to the plot and the village character and recommends approval.

The Highway Authority has no objections subject to conditions including the provision of the new access and parking and manoeuvring space within the site in accordance with the application drawings. The verge along the northern boundary of the site fronting Narrow Lane is part of the highway (although it is a “private street” and therefore not maintainable at public expense). A small section of the Plot 2 building would encroach into this verge and landscaping is also indicated therein. Whilst the Highway Authority does not consider it necessary for the entire width of the verge to be retained as highway a stopping up order would be required for an area of verge retaining a 1.8m width alongside the Narrow Lane carriageway.

The Development Control Archaeologist has advised that the application site lies within the vicinity of two known potteries listed on the Derbyshire Historic Environment Record (HER). Whilst the application site is not within a known pottery site the boundaries of the HER are approximate only, and it is possible that activity, particular in the form of waste tips, extended into the proposal area. The proposed buildings extend outside of the footprint of the existing bungalow and may therefore impact upon archaeological evidence associated with the nearby medieval and post-medieval potteries. The implementation of a programme of archaeological work in accordance with a written scheme of investigation should be required by condition.

The Contaminated Land Officer has no objection subject to the submission and appropriate implementation of a scheme to identify and control any contamination of land, or pollution of controlled waters.

The Council's Drainage Officer has no objection subject to a condition requiring the submission and implementation of a scheme for a Sustainable Urban Drainage System for the control of surface water relating to the development of the site.

Severn Trent Water has no objection.

The Parish Council objects to the proposal and has commented as follows:

- The existing bungalow, when built, had a condition stipulating that it had to be built on the same footprint of the old farmhouse that was originally there and this condition should stay in place.
- The plan claims that Plot 1 is a three storey house and the window in the roof is a 'sun tube' but the existence of the rooflight on the front roof leads the Parish Council to believe that conversion of the roof space would eventually take place.
- New buildings in Ticknall should only be designed with two storeys unless there is an overriding reason. We would much prefer single storey buildings for this plot.
- The plan is too urban and is out of keeping with Ticknall.
- We totally reject the use of outside steps to the Plot 1 house and the veranda; they are ugly, and not at all in keeping with Ticknall design.
- The cat slide roof on Plot 1 is a poor attempt to increase the floor area. Ticknall properties are normally narrow-gabled.

- The design is confused.
- The design and access statement is not full enough, and has not explained how the scheme has been devised.
- There is concern that the true position of the underground water culvert is not as it shows on the plans and independent advice should be sought from Severn Trent Water.
- The foundations of the buildings might undermine the roots of the two pine trees at the front of the site.
- The submitted plans do not show the historical barn at all, except in dotted outline. There is a suspicion that the intention is to make the lower section of the house on Plot 1 into a separate dwelling sometime in the future.
- The historical building at the back of the site is being pulled down which must be quite old and have historical merit.
- The houses are 4 and 5 bedrooms. If the garages are used for storage there could be parking on Narrow Lane or High Street. Inadequate access from Narrow Lane for the additional vehicles.
- There is regular flooding on High Street at the bottom of Narrow Lane caused by the volume of water being shed by house plots and coming off the fields behind High Street and Ashby Road. The proposed development significantly increases the amount of hard landscaping which will result in increased water run-off with consequential impact further down the village.
- There is confusion about the proposed disabled access; it only appears to provide access to the lower end of Plot 1.
- Any building should be built with reclaimed bricks.
- The owner/developer has indicated that he will be living in one of the houses for some time and we request that you impose a condition that he does own on of the houses without sub-letting it for a period of 10 years.

## **Responses to Publicity**

Eleven letters of objection have been received which include the following comments:

- The dwellings are far too big and obtrusive for the site and will cause overlooking, overshadowing and loss of privacy.
- The design is entirely unsuitable for a rural setting.
- The existing bungalow has a style of its era and sits very well on the plot.
- The previous owners had to have their bungalow built on the foundations of the old farmhouse, because of the huge Severn Trent water pipe which crosses the site.
- One of only two virtually unspoiled, country lanes within the village will lose its rural character because of this development.
- The design appears to have been developed in isolation to maximise the density and use of the land area.
- The properties completely dominate the location in height and spread and should be limited to the same height as the property to be demolished.
- The individual details (steps, balconies, porches etc.) are typical of an urban new build development.
- The design does not compliment the present buildings on High Street and seems confused in its make-up being neither cottage, Victorian or Georgian.
- The buildings are excessively high and not in keeping with the skyline on High Street or indeed the rest of Ticknall.

- The stable building is a very old and historic feature on the High Street and to change its appearance would be detrimental to the historic view and setting of the conservation area of the High Street.
- Plot 1 is clearly intended to be a 4-storey house as there is a roof light in the front elevation.
- The car parking is totally inadequate as such large houses are very likely to be occupied by people with many vehicles.
- Narrow Lane is not wide enough for vehicle parking and therefore vehicles will park on High Street causing traffic congestion and danger.
- The ground level must be reduced by up to 3m in depth to allow for such high houses.
- This excavation must cause considerable damage to the root system of the very large pines.
- The contours of the ground will be completely different and this is not in keeping and alters the appearance of the conservation area.
- The plot is crying out for improvement but this should be limited to allowing a single house with a low overall elevation and the design should compliment the nature of this village.
- The proposed development does not take into account the overall view from High Street and the height of the new properties overwhelms properties adjacent to the plot.
- There is a lack of clarity regarding the intended use of the existing barn.
- The design is confused and ill judged and will not enhance the High Street.
- The design is confusing over four levels and is extremely large for the plot.
- Within 50 yards of the development are 4 new homes at Harpur Crewe Estate Yard plus two on Narrow Lane. (With the proposed development) traffic movement and parking will only add to the increasing problem at this end of High Street.
- Detrimental effect on Ticknall Conservation Area.
- Over development of the site.
- Inadequate parking provision and access.
- The existing trees will not obscure the site from High Street.
- The area at the junction of High Street and Narrow Lane is prone to flooding from surface water running from the higher ground, this development will add to the problem.

Six letters of support have been received which include the following comments:

- The scheme is interesting and provides differing levels of materials to fit in with the village scene.
- The heights follow the rising contours of the site and blend in with the two new properties to the west of the site.
- The existing building is of no particular style and lends nothing to the style of the village.
- The proposed development would be more in keeping with recent development on Narrow Lane and can only add to the style of that part of the village.
- Care has been taken to ensure the style and materials used are in keeping with the village scene.
- Consideration has been made for the grading of the properties as viewed from High Street and the house look to have sensible proportions from Narrow Lane.

## **National Guidance**

PPS 1, 3 & 5

## **Development Plan Policies**

The relevant policies are:

EMRP: Policies 2, 3 & 27

Saved Local Plan: Housing Policies 5 & 11, Environment Policies 9 & 12 and Transport Policy 6

## **Other Supplementary Planning Guidance**

Housing Design and Layout

## **Planning Considerations**

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

- Principle of development
- Design and impact on the character of the Conservation area.
- Impact on amenity
- Highway issues
- Trees
- Drainage

## **Planning Assessment**

### Principal

The site is situated within the confines of Ticknall village where new housing development is acceptable in principle in accordance with Housing Policy 5 of the Local Plan providing it is in scale and character with the settlement.

### Design and impact on the character of the conservation area

The existing bungalow is a 20<sup>th</sup> century somewhat alien form of building that does not harmonise well with the local vernacular style but which sits low on the plot and has minimal visual impact.

A distinctive character of High Street is the variety of building types, building lines, heights and shapes, the only truly unifying feature being the character of the boundary walls. This varied character does mean that the street can accommodate variety in building form and alignment quite well.

The proposed development has been designed to retain and integrate the existing stable. The existing historic stable building, the topography, protected trees and boundaries would continue to define the character of the land. The two proposed dwellings are located towards the back of the site with single storey elements situated towards the boundaries. The proposed dwellings would relate to the size and height of

two existing recent houses to the west and create a pleasing grouping on to Narrow Lane.

The massing of the houses has been skilfully broken up with the variation in ridge heights and building form, rising gradually with the land successfully reducing their apparent scale. The land rises almost 5m from front (High Street) to back and thus though partly cut into the ground the houses would be visually more dominant than the existing bungalow. This change in level is echoed a short distance to the south on the site of the three-storey dwelling 18 High Street and thus this configuration is not without precedent in the vicinity.

The use of appropriate brick and tile and integrated stonework on the proposed elevations and the style of the houses would harmonise sympathetically with the predominant character of Ticknall. Views of the proposed development from High Street would be mainly blank wall and roof with the use of off-centre ridge lines allowing for 'cat slide' roofs with low eaves lines thus softening the visual impact. On the Narrow Lane side boundary walls would be constructed in stone and stone is incorporated in the construction of the dwellings that helps further in reducing the apparent mass.

Whilst it is acknowledged that the visual impact of the proposal would be more prominent than that of the existing bungalow on site the dwellings have been sympathetically designed to respond to the variation in levels and the varied traditional character of the surrounding properties within the conservation area such it is not considered that the proposal would have any adverse impact on the appearance or character of the conservation area. The proposal is considered to be in accordance with the requirements of Housing Policy 5 and Environment Policy 9 of the Local Plan.

#### Impact on Amenity

The proposed dwellings would be situated in excess of the Council's minimum distance requirements from the neighbouring properties adjoining the site and there is not considered to be any adverse impact in this regard.

#### Highway Issues

Access to the proposed dwellings would be via Narrow Lane. The existing access would be altered to allow access to Plot 2 with a new access providing access to the courtyard area and Plot 1. Four parking spaces including a double garage would be provided for each dwelling. Due to the encroachment of part of the building and the landscaped area onto the grass verge along the northern boundary of the site which is 'highway' land the applicant would need to apply for a stopping-up Order which could be required by condition. The Highway Authority has no objection and the proposal is considered to be in accordance with Transport Policy 6 of the Local Plan.

#### Trees

The two Corsican pines situated on the High Street frontage are protected by Tree Preservation Order Number 77. The trees would be retained with any proposed excavation to alter the site levels being situated outside of the root protection zone. A retaining wall is proposed to the rear of the garage for Plot 1 to allow for the reduction in land levels at this point whilst maintaining the protection zone. The Council's Landscape Consultant has no objection and it is not considered that the proposed

development would cause any undue harm to the trees in accordance with Environment Policy 9 of the Local Plan.

### Drainage

The proposed development would be located outside of a sewer easement which crosses the southern boundary of the site. Severn Trent Water has no objection. The High Street is an area prone to historic flooding from surface water runoff. The Council's Drainage Officer has no objection to the proposed development subject to the submission of a scheme for a Sustainable Urban Drainage System which can be required by condition.

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

### **Recommendation**

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing nos. 210.01.02 rev A, 210-01.03 rev A received on 21st April 2010 and 210-01.04 rev B received on.....  
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
3. No part of the development shall be carried out until samples of the facing materials to be used in the execution of the works have been submitted to and approved in writing by the Local Planning Authority. The agreed materials shall then be used in the development hereby approved.  
Reason: To safeguard the appearance of the existing building and the locality generally.
4. Large scale drawings, including horizontal and vertical sections, to a minimum scale of 1:10 of railings, steps, porches, eaves, verges chimney stacks, boundary walls and copings, external joinery, precise construction method of opening and cill and lintel details shall be submitted to and approved in writing by the Local Planning Authority before building work starts. The details shall be constructed in accordance with the approved drawings.  
Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.
5. The precise type and size of the proposed rooflights shall be submitted to and approved in writing by the Local Planning Authority. The approved rooflights shall be fitted such that their outer faces are flush with the plane of the roof, unless otherwise agreed in writing with the Local Planning Authority.

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

6. 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.

7. No part of the development shall be carried out until precise details including paving patterns, specifications and samples of the materials to be used in the hard landscaping works have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the Local Planning Authority.

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

8. External joinery shall be in timber and painted to a colour and specification which shall have been previously agreed in writing by the Local Planning Authority. The joinery shall be painted in accordance with the agreed details within three months of the date of completion of the development unless otherwise agreed in writing by the Local Planning Authority.

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

9. All plumbing and service pipework, soil and vent pipes, electricity and gas meter cupboards and heating flues shall be located inside the building unless specifically agreed in writing by the Local Planning Authority. The type, number, position and finish of heating and ventilation flue outlets shall be agreed in writing with the Local Planning Authority before development is commenced.

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

10. Gutters shall be cast metal (with cast metal fall pipes) and shall be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

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

11. Pointing of the existing/ proposed building(s) shall be carried out using a lime mortar no stronger than 1:1:6 (cement:lime:yellow sand). The finished joint shall be slightly recessed with a brushed finish.

Reason: In the interests of the appearance of the building(s).

12. A sample panel of pointed brickwork and stonework 1 metre square or such other area as may be agreed by the Local Planning Authority shall be prepared for inspection and approval in writing by the Local Planning Authority before the work is generally executed.

Reason: In the interests of the appearance of the building(s) and the locality generally.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, the dwellings hereby permitted shall not be altered, enlarged or extended, no satellite dishes shall be affixed to the dwelling and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the application site (shown edged red on the submitted plan) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.  
Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the site area and effect upon neighbouring properties and/or the street scene.
14. Before any other operations are commenced (excluding demolition/site clearance), 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 detailed designs to be submitted to and approved in writing by the Local Planning Authority and maintained throughout the contract period in accordance with the approved designs free of any impediment to its designated use.  
Reason: In the interests of highway safety.
15. Before any other operations are commenced (excluding Condition 14 above) the existing access to Narrow Lane shall be modified, and the new vehicular access shall be created to Narrow Lane, laid out and constructed in accordance with the application drawings, and thereafter maintained in perpetuity.  
Reason: In the interests of highway safety.
16. Before any other operations are commenced (excluding Conditions 14 and 15 above) the verge fronting onto Narrow Lane shall be cleared of any objects greater than 1m in height (0.6m in the case of vegetation), for a minimum distance of 2m back from the carriageway edge, and thereafter maintained throughout the life of the development.  
Reason: In the interests of highway safety.
17. The proposed access drive to Narrow Lane shall be no steeper than 1 in 15 for the first 5m from the nearside highway boundary.  
Reason: In the interests of highway safety.
18. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the application drawings for the parking and manoeuvring of residents' vehicles, laid out, surfaced and maintained throughout the life of the development free of any impediment to its designated use.  
Reason: In the interests of highway safety.
19. No development shall take place until such time as an application has been made, and granted, to the Secretary of State for an appropriate stopping-up Order (under Section 247 of the Town and Country Planning Act 1990) for the area of 'highway' verge along the northern boundary of the site fronting Narrow Lane. The application should include the retention of a 1.8m width as 'highway' alongside the Narrow Lane carriageway.

Reason: The proposal affects an area of 'highway' land and a stopping-up Order is required to implement development.

20. No development shall take place, until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the Local Planning Authority in writing. The scheme shall include on-site work, and off-site work such as the analysis, publication, and archiving of the results. All works shall be carried out and completed as approved, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To enable items of archaeological interest to be recorded/and or preserved where possible.

21. 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.

22. 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.

23. Notwithstanding the submitted details, prior to the commencement of building operations on adjoining areas, the boundary with the area of the two Corsican pines protected under Tree Preservation Order No. 77 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 from undue disturbance

24. There shall be no tipping or deposition of materials within the area fenced under Condition 23 above without the prior written authorisation of the local planning authority.

Reason: To protect the trees from undue disturbance

25. 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.

26. 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.

27. 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.

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

Reason: In the interests of flood protection.

29. The scheme for the disposal of foul drainage shall be carried out in accordance with the details as shown on the submitted plan 210-01.02 rev A before the development is first brought into use.

Reason: In the interests of pollution control.

30. No development shall take place until details of earthworks have been submitted to and approved in writing by the Local Planning Authority. These details shall

include the proposed grading and mounding of land areas including the existing and proposed levels and contours to be formed, showing the relationship of the proposed mounding to existing vegetation and surrounding landform.

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

#### Informatives:

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

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.

Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway, measures should 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 dished channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

Pursuant to Section 149 and 151 of the Highways Act 1980, the applicant/developer must take all necessary action 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/developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

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](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](mailto:pollution.control@south-derbys.gov.uk).

**Item** 1.3

**Reg. No.** 9/2010/0153/NO

**Applicant:**

Mr Katsunori Kojima  
Toyota Motor Manufacturing UK Ltd  
Burnaston  
Derby  
DE1 9TA

**Agent:**

Mr Katsunori Kojima  
Toyota Motor Manufacturing UK Ltd  
Burnaston  
Derby  
DE1 9TA

**Proposal:** THE ERECTION OF A TEMPORARY 60M WIND  
MONITORING MAST FOR TWELVE MONTHS AT  
TOYOTA MOTOR MANUFACTURING UK LTD  
BURNASTON DERBY

**Ward:** ETWALL

**Valid Date:** 23/02/2010

**Reason for committee determination**

Councillor Brown requested the application be determined by committee as local concern has been expressed about a particular issue and there are unusual site circumstances that should be considered by the Committee.

**Site Description**

The proposed structure would occupy part of a field to the rear of the Toyota complex. Hedges interspersed by trees enclose the field but given the nature of the structure the screening effect of these would be minimal. [For an impression of what the mast may look like there is a radio mast on Findern Lane at Burnaston that is supported in the same way as the proposed structure on the Toyota site.]

**Proposal**

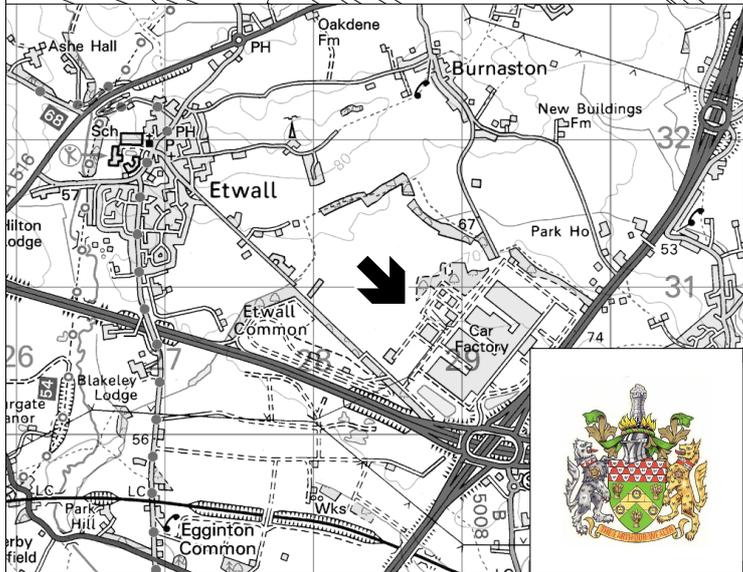
The proposal is to erect a temporary 60m high wind monitoring mast for a temporary period in a location that has been amended following receipt of responses to publicity. The changes are described in the Planning Assessment below together with the applicants supporting information in relation to the Aerodrome Traffic Zone (ATZ) for the Derby Aerodrome.

**Applicants' supporting information**

Permission is sought for a temporary period expiring on 30 June 2011 to allow time for the mast and wind gauge to be erected on the site.



THE SITE



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. South Derbyshire District Council. LA 100019461. 2010

## **Planning History**

The mast is proposed on land within the control of Toyota. Planning permission for the development of the Toyota site was granted in 1989. The land on which the mast is located has had no development proposed on it previously.

Derby Airfield was granted planning permission in 1992. In recent years, the airfield has operated without complaint to the Planning Authority.

## **Responses to Consultations**

Burnaston and Etwall Parish Council's have no objections.

The Environmental Protection Manager has no comment.

East Midlands Airport has no safeguarding objection but would wish to ensure that aviation lighting is installed on the mast as near to the top as is possible. It is also recommended that the applicants contact EMA before drawing up any proposals for wind turbines as the site lies within an operationally sensitive area defined within ODPM Circular 01/2003 as lying within 30Km of the affected airport.

## **Responses to Publicity**

5 letters have been received from the operator and users of the Derby airfield at Egginton who object for the following reasons:

- a) The wind gauge is situated directly beneath the 230 degrees runway that is mainly used for take offs and landings. Its position in this location represents a hazard to aircraft safety. Its top would be at about 240ft above airfield level and in this position planes would be at between 350ft and 600ft on approach. Taking off, aircraft may be at a lower height. A collision between a plane and a fixed object would inevitably be fatal.
- b) The airfield enjoys a national reputation for the quality of its training activities.
- c) The airfield enjoys an official ATZ that extends to a height of 1500ft (normally 2000ft but restricted because of the proximity of EMA) this constricts activities at the airfield. The Toyota site lies within the ATZ.
- d) The agreed route for air traffic entering and leaving the airfield is designed to minimise over flying of nearby villages and has worked well over the years. There would be a reluctance to alter this to the detriment of residents.
- e) There is concern that a subsequent wind turbine would have a hub height at 60 metres with the blade tip extending up to 75 metres. This would aggravate the problem identified earlier of plane/structure conflict. The agents are stating in their promotional material [on its web site] that it is investigating the feasibility and business case for a multi turbine on site wind farm for a major large UK manufacturing plant. There is concern that the wind gauge is the thin end of the wedge.
- f) If the CAA had been consulted it would have provided a related comment. The airfield operators are committed to resisting this and any subsequent application for wind turbines.
- g) Should there be an accident then the operators will hold the Council, Toyota and their consultants culpable in any litigation that may be pursued.

Other users of the airfield comment as follows in addition to the objections raised above:

- h) Alternative circuits for approach to the airfield are inevitable if the application were approved even with the agreement of the airfield
- i) Toyota should consult with the CAA and others before submitting an application as advised in CAA publications prior to submitting a planning application. The application penetrates the ATZ and may infringe the Air Navigation Order.
- j) Photovoltaic cells would provide a more reliable source of power than wind turbines without the visual intrusion.
- k) This application will lead to applications for wind turbines for which this location is inappropriate.

## **National Guidance**

PPS 1, 7 & 22

## **Development Plan Policies**

The relevant policies are:

EMRP: Policies 1,2, 12 & 40

Saved Local Plan: Environment Policy 1

## **Planning Considerations**

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

- The Development Plan.
- Visual impact.
- Objection from the Derby Airfield operators and its users.

## **Planning Assessment**

In terms of the Development Plan the main policy is 40 in the EMRP. Whilst mainly dealing with major sites, it recognises the need for alternative power generation sites of a smaller scale. However, this is not an application for a wind turbine; but is for a wind gauge on top of a 60metre (196ft) post to assess whether the site as a whole is suitable for the erection of wind turbines.

The other issue is the visual intrusion arising from the proposal that is considered under EMRP Policies 1, 2, & 12 and Local Plan Environment Policy 1. The slender nature of the mast and gauge and its temporary nature would not result in an unacceptable visual intrusion in the countryside.

The applicants have considered the objections from the Derby Aero Club and have assessed the proposal in terms of the ATZ and the protection afforded by the CAA designation of the airfield. The applicants are satisfied that the original position of the mast would have avoided the protected zones around the airfield. However, the amended siting is proposed in recognition of the concerns of users of the airfield. The 250-metre movement of the mast is the furthest east that the mast could be sited to effectively measure the wind speeds without being adversely affected by wind shear off

the main buildings. The aero clubs views on the amendment have been sought and will be reported at the meeting if available.

Following amendment the supporting pole and wind gauge would be sited some 500 metres off the line for the approach of aircraft landing on runway 23 or taking off from runway 05. It is considered that the wind gauge with its warning light, required by EMA, would be visible for the limited period the it and the pole would be in place.

On the basis that the proposed wind gauge is now sited some 500 metres east of the centre line of the Derby Airfield approach, the fact that it is to be lit to meet East Midlands Airport requirements and that permission is sought only for a temporary period, it is considered that the temporary wind gauge is acceptable under the provisions of the above policies.

The bulk of the objections above relate to the future should an application be submitted for wind turbines. CAA rules are such that extensive consultation with the CAA, ministry of defence and local airfields is required before an application is submitted. There is nothing in the rules that suggest such consultation is necessary for a wind gauge. However the applicants are aware that the consultation rules referred to above would be required before submitting an application for a wind turbine(s).

## **Recommendation**

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

1. This permission shall be for a limited period only, expiring on 30 June 2011 on or before which date the structure shall be removed and the site reinstated to the satisfaction of the Local Planning Authority unless, prior to that date, an application has been made and permission has been granted for an extended period.

Reason: The application was for a temporary 12-month period to allow monitoring of wind speeds at the factory site. Permission is therefore granted for a 14 month period to allow for the mast to be erected and monitoring to be undertaken over a full 12 month period allowing for construction and de-commissioning and in order to remove the structure at the earliest opportunity from the vicinity of the Derby Airfield Air Traffic Control Zone.

2. Prior to the erection of the supporting structure on the site aviation lighting shall be installed as near to the top of the structure as is reasonably practicable as set out in Civil Aviation Authority publication 168.

Reason: In order to alert aircraft in the vicinity of the wind gauge and support structure that there is a tall structure on the land in the interests of aviation safety.

Informatives:

East Midland Airport advises that if it is decided to proceed with an application for wind turbines there is a requirement to consult with the airport prior to the submission of the application. In addition consultations with the Ministry of Defence and operators of local airfields would also be necessary again prior to making a planning application.

**Item**            1.4

**Reg. No.**        9/2010/0171/U

**Applicant:**

Mr Michael White  
Trent Lane  
East Bridgeford  
Nottingham  
NG13 8PS

**Agent:**

Mrs Amanda Sutherland  
Sutherland PLS  
6 Goss Barton  
Nailsea  
North Somerset  
BS48 2XD

**Proposal:**        **THE CHANGE OF USE OF AGRICULTURAL LAND TO  
CARAVAN SITE FOR HOLIDAY USE AT WESTONHILL  
CHALET PARK BRIDGE LANE WESTON ON TRENT  
DERBY**

**Ward:**            **ASTON**

**Valid Date:**      **26/02/2010**

**Reason for committee determination**

The application is reported to Committee because the Head of Planning Services considers it to be contentious in view of the site history.

**Site Description**

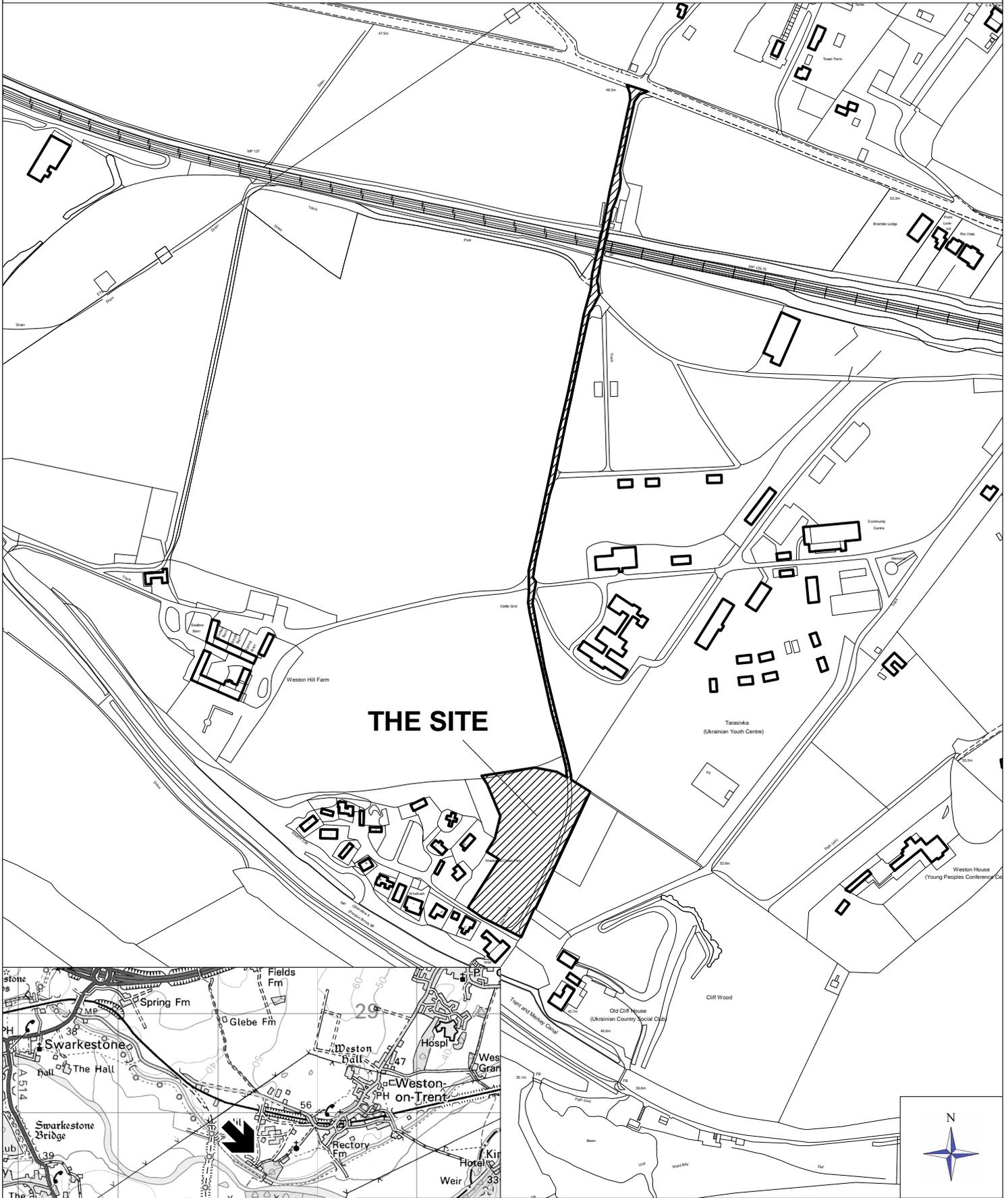
Weston Hill Chalet Park lies about 550 m to the south of Swarkestone Road and is accessed by a private highway, in the ownership of the Applicant. This highway also enables access to several dwellings at Hill Farm and adjoining farmland. The site, known as The Paddock, is visually separated by existing chalets and mature woodland from the Trent and Mersey Canal and the River Trent to the south. The Ukrainian Youth Centre lies to the east and contains part of public Bridleway No 3. Mature hedging and trees define the eastern boundary. The site slopes downward in a southerly direction.

The application site lies immediately adjacent to Weston Hills Chalet Park, a caravan site, owned by the applicant and which is occupied by a variety of mobile homes and small chalets.

**Proposal**

The applicant seeks permission to use the land for the siting of caravans. The application specifies that the proposed use would be for holiday purposes. The application also includes alterations to the access at its junction with the classified road in reliance on comments from the Highway Authority. These have already been partly implemented.

**9/2010/0171 - Westonhill Chalet Park, Bridge Lane, Weston on Trent  
DE72 2BU**



**THE SITE**



**This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. South Derbyshire District Council. LA 100019461. 2010**

## **Applicants' supporting information**

- The proposed use is complementary to the existing use of the neighbouring land and makes good use of low value agricultural land. There would be a positive economic benefit to the area in line with local economic policies and much needed rural employment would be provided.
- The use has previously been permitted at the site, but permission lapsed.
- The site benefits from an existing access, which serves the chalet park and other properties. There are no recorded accidents or significant traffic build up issues. The proposal includes access improvements to meet the requirements of the Highway Authority and the requisite visibility splays are already in place and protected by condition. The improvements would benefit all users of the access.
- The applicant is not aware of any contaminated land on the site but would accept relevant conditions.
- A waste treatment plant is proposed to serve the site and recycling and waste collection points are proposed. The waste treatment plant would have sufficient capacity to improve the facilities at the existing site pursuant to DCLG (Good Practice Guide on Tourism).
- There would be no interference with the canal.
- The applicant controls the land affected by the access improvements.
- The proposal is within policy and should be approved.
- Neighbours would not be directly affected by the proposal in terms of loss of privacy, overlooking or overbearing impacts and the additional number of holidaymakers would be insignificant in the overall scheme.
- There are no identified ecological interests for protection purposes despite allegations from objectors that this may be the case.
- Covenants, views from existing chalets and property value are not planning issues.
- The council would be able to ensure by condition that the holiday caravans did not become permanent accommodation.
- Given the existence of the present site and the Youth Centre, along with proposed landscaping, there would be no adverse visual impact

## **Planning History**

9/0394/1082 -Application for the siting of 12 mobile homes for holiday purposes – granted but not implemented.

9/1296/0679 – Conversion of barns to dwellings at Hill Farm. Permission implemented. Condition 14 requires 4.5m x 215 m visibility splays to be maintained in perpetuity.

9/2008/1123 Application for certificate of lawfulness for use of The Paddock for the siting of caravans. The application was refused on the basis that there was insufficient evidence to support the applicant's contention that it had been used for such purpose for a period of more than 10 years.

9/2009/0466 Application for certificate of lawfulness for the existing chalet park site. This was granted and authorises the use of the existing site for caravans.

9/2009/0785 – 4 metre wide access drive. Granted.

9/2009/1033 – Use of land for caravan site for holiday use – withdrawn pending consideration of highways matters.

## **Responses to Consultations**

The Parish Council objects because they believe there would be increased traffic in the village. It considers the narrowness of Bridge Lane makes it unsuitable for caravans and associated vehicles and that the bridge over the railway may not be strong enough.

The Highway Authority has no objection provided that the access improvements shown on the submitted plan can be implemented and maintained.

The Contaminated Land Officer, Development Control Archaeologist, Private Sector Housing Manager, British Waterways and the Environment Agency have no objection in principle.

## **Responses to Publicity**

7 letters of objection have been received as follows:

- a) Objections raised in a petition of residents submitted in respect the previous withdrawn application still apply. These were:
  - Government policy allowing limited development in rural settlements/ green belt land
  - Development should be in keeping with the character of the village
  - Holiday homes in such close proximity to residential homes have a negative impact
  - Inadequate roads
  - No public transport serving Westonhill Farm/Chalets so is contrary to both paragraph 47 of PPG3 and 26 of PPG13
  - Environmental issues
  - Sewage system which is already inadequate
  - Visual impact
  - No demand for holiday homes with Shardlow and Willington so near.
  - Holiday homes do not meet government's commitment to supply affordable homes.
- b) The proposal would detract from the tranquillity of the area and there would be adverse impact on residents.
- c) The visibility splay may be interrupted by crops grown in the field.
- d) The widening that has been undertaken is not to an appropriate standard.
- e) The access has been the scene of near accidents.
- f) The applicant may not own the land where the widening has taken place. As such the application is flawed.
- g) A covenant precludes the siting of caravans on the land.
- h) The land may contain protected species and an ecological survey should be undertaken. (Officer Comment: Whereas bats have been reported elsewhere on the Chalet Park site the application land contains no mature trees that would be affected and is regularly mown. It is therefore unlikely to be host to protected species in its own right and in these circumstances it would not be reasonable to require an ecological survey).

- i) No prior consultation with residents has taken place.
- j) A Tree Preservation Order is in place.
- k) Bridge Lane is too narrow to accommodate more traffic and there would be increased risk to pedestrians. The lane is also unlit which would increase risk.
- l) The lane is not capable of accommodating heavy vehicles.
- m) Nearby properties would be devalued and their outlook would be spoilt.
- n) There have been instances of dumping of chemical waste and burning of hazardous waste, which is of concern to residents.
- o) The proposal would lead to increased fears for residents.
- p) Only one person would be employed at the site.
- q) The use is not complementary because the existing site is in permanent occupation.
- r) It is likely that the proposed caravans would become permanently occupied.
- s) The site contains contaminants from previous farm related tipping.
- t) The drainage system to the existing site is not properly maintained.
- u) The proposed soakaways for surface water would not function. The site has already failed soakaway tests.
- v) The site would be visible from a public footpath and the use would result in harm to the landscape.
- w) Existing residents would be overlooked, resulting in loss of privacy.

## **National Guidance**

PPS7 and Good Practice Guide on Tourism

## **Development Plan Policies**

The relevant policies are:

EMRP: Policies 3, 24 & 42

South Derbyshire Local Plan: Saved Environment Policy 1, Recreation and Tourism Policy 1 and Transport Policy 6

## **Planning Considerations**

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

- The principle.
- Impact on the countryside.
- Highway safety.
- Pollution control.

## **Planning Assessment**

PPS7 and the associated Good Practice Guide on Tourism prefer tourist accommodation to be located in, or adjacent to, existing towns and villages but advocate a positive approach to proposed extensions to existing tourist accommodation where the scale of the extension is appropriate to its location and where the extension may help to ensure the future viability of such businesses. PPS7 seeks to ensure that new or expanded caravan sites are not prominent in the landscape and that any visual intrusion is minimised by effective, high-quality screening. Although the existing chalet park is now mainly in permanent occupation by its residents, it still retains the informal

character of its original function as a group of holiday homes. Therefore its extension for more holiday accommodation, in a location reasonably close to neighbouring villages and an urban population, is in accord with the thrust of the relevant policies. Furthermore the local planning authority has previously accepted the use of the site for the proposed purpose, albeit with a voluntary limit of 12 caravans.

The main visual impact of the development would be views of the highest (northern) part of the site from Swarkestone Road. The submitted plan indicates a combination of earth banking and planting to the northern boundary. An appropriate condition would require a detailed effective scheme to be submitted for approval. The existing screening to the eastern and southern boundaries would prevent the site from being unacceptably visually intrusive to other vantage points.

There is a difference of opinion between the applicant and objectors as to whether there is sufficient land to implement the access improvements. However the applicant has certified ownership by way of a statutory declaration and provided Land Registry plans indicating ownership. This is sufficient for the purposes of considering this application. An appropriately worded condition would safeguard the highway safety issues in perpetuity. Condition 14 of 9/1296/0679 protects a larger visibility splay and it would therefore not be reasonable to require this applicant to take on separate responsibility for its maintenance.

The proposed sewage treatment plant would be capable of dealing with foul drainage arising from the proposed use.

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. The use shall be confined to the siting of static caravans and shall not be used as a touring caravan park.  
Reason: In the interests of highway safety.
3. The siting of caravans shall be restricted to the area outlined in red on the submitted application drawing No WHITE/130/PL/1009/00, subject to the constraints imposed by conditions 4 & 5 below.  
Reason: In the interests of the appearance of the area.
4. No caravans shall be sited on that part of the application site lying to the east of the existing site access road.  
Reason: In the interests of the appearance of the area.

5. Notwithstanding the submitted drawings the permitted use shall not begin until details of earthworks have been submitted to and approved in writing by the local planning authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform and a schedule for implementation. Development shall be carried out in accordance with the approved details.

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

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

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

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the commencement of the use; and any trees or plants which within a period of five years thereafter 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. The use hereby permitted shall not be commenced until such time as a scheme to dispose of foul drainage to a package treatment plant has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before any caravans are occupied.

Reason: In the interests of pollution control.

9. Prior to the commencement of the use hereby permitted the access onto the classified road shall be modified in accordance with the application drawing, having a minimum width of 6m for the first 10m into the site from the highway boundary and provided with 10m radii on each side. The improved access shall be retained in a condition that enables it to be used by vehicles and in the event of the modifications not being so retained, the use of the application site for the siting of caravans shall cease until such time as the modifications have been reinstated.

Reason: In the interests of highway safety.

10. Each caravan shall be provided with a parking space for one vehicle prior to being occupied. The parking spaces shall thereafter be retained available for use by the occupants of the caravans.

Reason: To ensure that adequate parking provision is available.

11. 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.

12. 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.

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

Reason: In the interests of flood protection.

14. Notwithstanding the provisions of Part C, Class 3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, (or any Order revoking or re-enacting that Order), the use hereby permitted shall be for the purpose of holiday accommodation only and for no other purpose, including any other purpose within Class C3 of the Order without the prior grant of planning permission by the Local Planning Authority. The associated caravans shall be occupied for holiday purposes only; shall not be occupied as a person's sole, or main place of residence; and the applicant and any subsequent owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of individual apartments on the site, and of their main home addresses, and shall make this information available at all reasonable times to the Local Planning Authority.

Reason: The Local Planning Authority is only prepared to grant permission for holiday accommodation because new permanent residential accommodation in

this location would be contrary to the development plan and the objectives of sustainable development.

Informatives:

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

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](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](mailto:pollution.control@south-derbys.gov.uk).

British Waterway advises that the applicant should contact third party works engineers team at the Fazeley Office on 01827 252000, in order to ensure that any necessary consents are obtained and that the works are compliant with the current British Waterways "Code of Practice for Works affecting British Waterways."

To note the attached advice and requirements of the Environment Agency.

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.

**Item** 1.5

**Reg. No.** 9/2010/0193/RX

**Applicant:**  
P P Developments  
273 Woodville Road  
Hartshorne  
Swadlincote

**Agent:**  
P P Developments  
273 Woodville Road  
Hartshorne  
Swadlincote

**Proposal:** APPROVAL OF RESERVED MATTERS OF APPLICATION 9/2007/1065 FOR APPEARANCE, LANDSCAPING AND SCALE 273 WOODVILLE ROAD HARTSHORNE SWADLINCOTE

**Ward:** HARTSHORNE AND TICKNALL

**Valid Date:** 23/03/2010

#### **Reason for committee determination**

The application is brought before Committee at the request of Councillor Taylor because local concern has been raised about a particular issue, which should be considered by the Committee.

#### **Site Description**

This 0.3 Ha site is triangular in shape and is located to the south of 273 Woodville Road on The Cutting. There is established 4m high hedging on the front and rear boundaries of the site which is currently in use as a garden area of 273 Woodville Road. The site is on average 900mm higher than the road level and the site levels increase to the south and east. Opposite over The Cutting there is a woodland area with a 1m high post and rail fence and 8-10m high trees beyond.

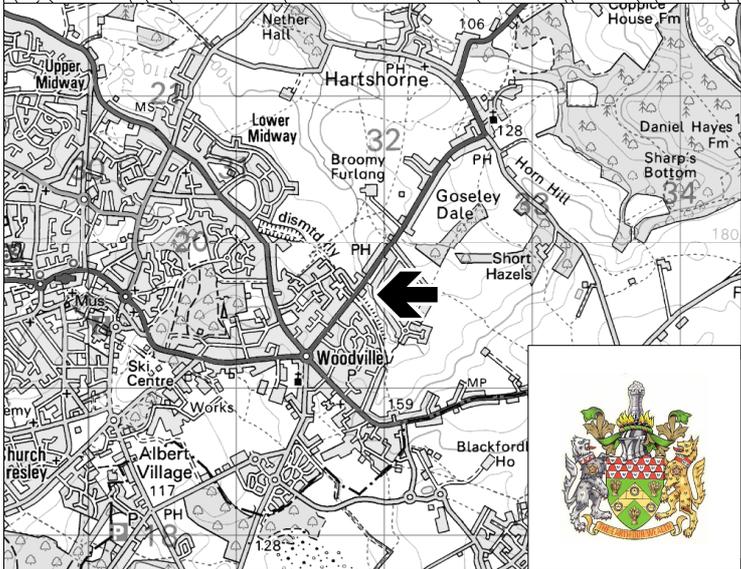
#### **Proposal**

Reserved Matters permission is sought for scale, appearance and landscaping in respect of an outline application for six dwellings (9/2007/1065) including layout and access, which was granted in November 2007.

Six semi - detached 2 ½ storey properties (three x 3 bedroom and three x 4 bedroom) with direct access off The Cutting are proposed. The four bedroom properties would have attached garages to the side with a bedroom above set back 3.5m from the front of the dwellings. The properties would have gable roofs with flat roof porches and pitched roof dormers. Each dwelling would have 2 car parking spaces including garages. A row of three garages are proposed attached to the southern most plot to provide parking for the two 3 bedroom dwellings where direct access is not possible.



**THE SITE**



**This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. South Derbyshire District Council. LA 100019461. 2010**

## **Applicants' supporting information**

None other than the required Design & Access Statement that accompanied the application.

## **Planning History**

9/2007/1065 – Outline application (all matters to be reserved except for layout and means of access) for the erection of 6 dwellings and the demolition of outbuildings, granted 21/11/07

## **Responses to Consultations**

Hartshorne Parish Council has not responded to consultation.

Woodville Parish Council states that it is a cross border application and consequently has an adverse effect on the housing in the Woodville area. They wish the application to be delayed until after their meeting in May.

The County Highways Authority has no objection as the outline conditions relating to car parking and visibility can be secured. The usual Informatives are recommended relating to works within the highway.

Severn Trent Water has no objection subject to a condition regarding public sewers that cross the site. A drainage scheme condition and informative regarding the public sewer are attached to the outline permission.

## **Responses to Publicity**

Three letters of objection have been received and their reasons are summarised below:-

- a) The elevation of the proposed development is on higher ground than their property and the two and half storey properties would overlook their property, reducing their privacy.
- b) Two and half storey properties are not in keeping with the area which is mainly two storey properties and they would appear incongruous with the dormers in the roof spaces.
- c) Access and egress to and from The Cutting onto the A514 is already difficult and an increase of 12 vehicles would increase the hazard.
- d) A boundary fence at least 1.8m in height should be proposed adjacent to 52 Brookdale Road.
- e) The six dwellings would be imposing being over 6m high and just over 30 m from their property.
- f) School children walk past the site to get two and from school and would have a 6 further driveways to negotiate.
- g) The submitted plans do not show 130 Hartshorne Road which is misleading.

## **National Guidance**

PPS 1 & 3

## **Development Plan Policies**

The relevant policies are:

EMRP: Policies 3, 12 and 48

Saved Local Plan: Housing Policies 4 and 11, Environment Policy 10 and Transport Policy 6

## **Other Supplementary Planning Guidance**

Housing Design and Layout

## **Planning Considerations**

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

- Principle of development
- Scale, appearance and landscaping
- Residential amenity
- Highways issues

## **Planning Assessment**

The principle of development was established in the granting of outline consent in 2007, which included layout and access. The site is on the edge of the built up area of Woodville, but within the Hartshorne Parish. The layout submitted matches that submitted at outline.

As originally submitted the scale of the dwellings at 9.6 - 9.7m in height to the ridges and 5.6m to the eaves were excessive in relation to the existing properties to the north as two storey properties have on average a ridge height of 8m. Due to the land level of the site being 0.9m higher than the road the proposed dwellings would therefore have appeared dominant and intrusive in the streetscene.

However, the principle of two and half storey dwellings is acceptable with an improved design. Amended plans have been submitted that:- indicate the finished floor levels of the dwellings to be significantly lower than the existing land levels, the heights of the dwellings reduced to 9m, reduction in the number of dormers to one central dormer per dwelling and the inclusion of pitched roof porches. All of the amendments provide an appearance more in keeping with the surrounding properties.

No. 273 Woodville Road has a single storey extension to the side that would be removed for Plot 1 and there would be only two small non-habitable room windows on the southern elevation. The adjacent proposed property would have a small stairway window on the side elevation which does not cause an overlooking concern. Overshadowing of this property would not be significant as the proposed properties would not cut the 45 degree angle taken from the nearest front windows.

Properties on Brookdale Road to the east have a 1m higher land level and there would be a distance of 24 -38 metres from window to windows which is in excess of the Council's SPG space standards.

Properties on Woodville Road to the west would be in excess of 40 metres from the front of the dwelling and there are 8 -10 m trees in between. Overlooking or overshadowing of existing properties to the east and west is therefore not considered significant.

Access has been agreed at outline stage and outline conditions 9, 10 and 11, secure the visibility sightlines and provision of parking of two cars for each dwelling. The proposed layout indicates two parking spaces per dwelling and the existing hedging on the frontage would have to be removed in order to achieve the visibility required.

The submitted landscaping plan is not considered sufficient however a more detailed plan can be secured through condition 4 on the outline permission that remains applicable. Retention of the hedge on the eastern boundary shall be secured by condition to retain privacy for properties on Brookdale Road.

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 permission shall relate to the amended drawings WB01/1, WB01/2 Rev A, WB/03 Rev A, WB/04 Rev A, WB/05 Rev A received on the 29th April 2010 and proposed second floor plans shall be submitted to indicate one central dormer for all plots.

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

2. The existing hedge on the eastern boundary shall be retained in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

Reason : To protect the privacy of existing residential properties and character of the area.

3. Prior to the development hereby approved commencing, details of the finished floor levels of the dwellings 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 levels.

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

**Item**            1.6

**Reg. No.**        9/2010/0238/RSD

**Applicant:**

David Wilson Homes East Midlands  
Forest Business Park  
Cartwright Way  
Bardon Hill  
Leicestershire  
LE67 1GL

**Agent:**

Mr Jim Toothhill  
David Wilson Homes East Midlands  
Forest Business Park  
Cartwright Way  
Bardon Hill  
Leicestershire  
LE67 1GL

**Proposal:**        **APPROVAL OF RESERVED MATTERS OF  
APPLICATION 9/0890/0515 FOR THE ERECTION OF 53  
DWELLINGS AT PHASE 6 CASTLETON PARK LAND  
OFF SWADLINCOTE LANE CASTLE GRESLEY  
SWADLINCOTE**

**Ward:**            **CHURCH GRESLEY**

**Valid Date:**     **17/03/2010**

**Reason for committee determination**

It is a major application with a significant number of 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. When entering the area from the north, after going straight over the first roundabout it is the field on the right hand side in between existing dwellings. Phase 5 of the development, which was decided at committee in August last year, adjoins part of the site to the south west.

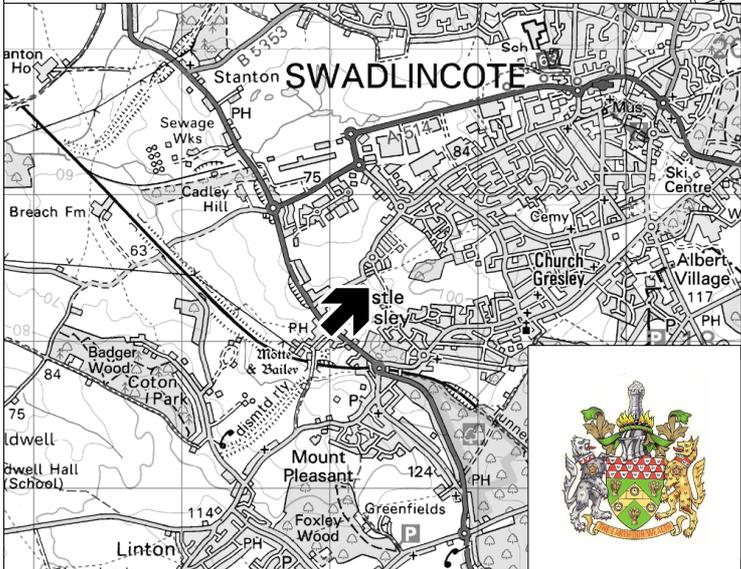
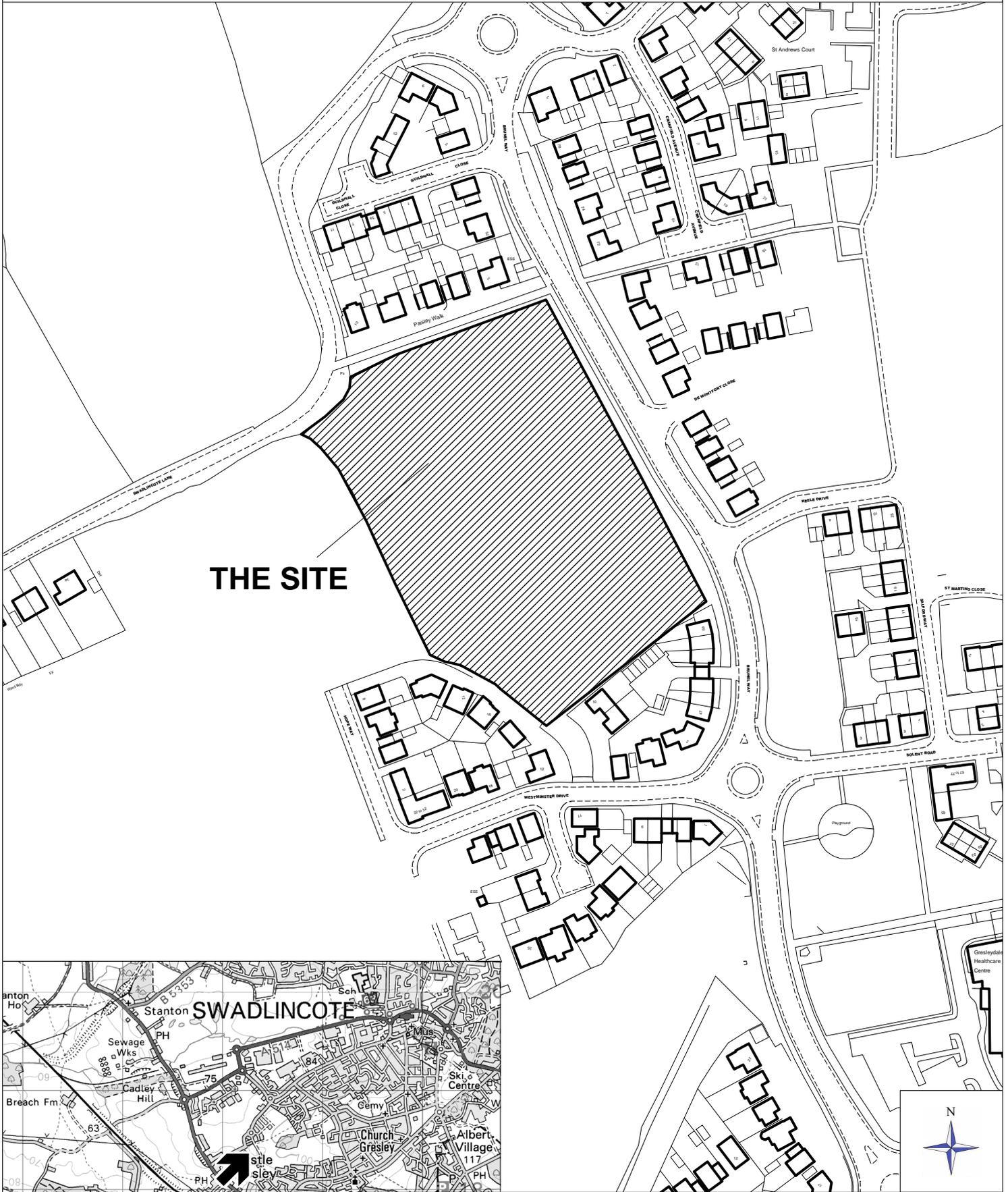
The site is relatively flat and there are existing hedgerows along the south western and south eastern boundaries with sections of hedging in places on the eastern and north western boundaries. There are three trees on the south western and north western boundaries of the site. There are completed dwellings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

**Proposal**

This reserved matters application proposes the erection of 53 dwellings on Phase 6 part of the Castleton Park development. The reserved matters are appearance, layout and scale.

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 a mix of semi-detached and detached

**9/2010/0238 - Phase 6 Castleton Park, Land off Swadlincote Lane, Castle  
Gresley, Swadlincote (DE11 9BL)**



**This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. South Derbyshire District Council. LA 100019461. 2010**

properties. The tree lined boulevard is retained along Brunel Way as with the previous phases and 8 plots on the frontage would be served by a private drive running parallel with Brunel Way, similar to the earlier phase opposite. Curved 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 450m<sup>3</sup> and it would have a base level of 87.0m and finished floor levels of the proposed properties would be 600mm higher.

Detached houses with detached garages to the sides and rear parking courtyards 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 9m in height, then a curved pair of semis either side of the access road, a 2 ½ storey pair of semis, two detached properties and a property in the north eastern corner with a side elevation facing the road with an active frontage. Five 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 a large tree is retained and open space is proposed adjacent to it.

The properties range in size from a 1 bed apartment to a 5 bed detached house.

### **Applicants' supporting information**

None as it is a Reserved Matters application

### **Planning History**

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

### **Responses to Consultations**

The County Highways Authority requested amendments to the proposed layout in respect of visibility splays for the access, the access for Plot 19 being through a drive-under and housetypes P332 and P451 having carports with gates requiring car standing areas to be increased.

The comments on the amended layout are as follows:-

The Highways Authority still has reservations regarding the dwelling that can only be accessed through a drive through as it can only be accessed by a car; however the surveillance reasoning is noted. Conditions are recommended that secure two car parking spaces for dwellings with carports and the sufficient visibility splays for the access.

The Environment Agency has no objection to the proposed layout including the balancing pond subject to there being no increase in surface-water run-off from this section when compared with the original outline layout. A condition relating to surface water drainage and an informative advising about drainage design are recommended.

Severn Trent Water has no objection subject conditions relating to the submission of a drainage scheme and a public pressurised sewer that crosses the site being attached to any permission.

The Police Crime Prevention Design Advisor considers the grassed lagoon area has adequate surveillance and 2 m boundary treatment is required with prickly landscape planting. It is advised that the area be left as a wildlife area to deter anti social behaviour. Parking courts offer a poor solution to parking and some plots would not be able to see their vehicles. Lockable gates are required for all rear accesses. The scheme fully complies with Secure By Design.

The Contaminated Land Officer states that as this is a further phase of a larger development site and extensive information has been submitted previously which concludes no significant concerns with respect to contaminated land, only a condition for if contamination is found during development is recommended.

## **Responses to Publicity**

Nine letters of objection were received from four separate households and are summarised as follows:

- The proposed layout would reduce their privacy.
- The proposed properties would block out a substantial amount of light to their property.
- Five semi-detached properties would increase noise and traffic.
- Two bedroomed dwellings do not usually overlook 4 bedroom dwellings.
- An access road is proposed adjacent to their driveway and would cause a safety concern for their child.
- The lagoon area should be revised to be adjacent to 16, 14 and 12 Westminster Drive as there is already a water run-off problem with heavy rainfall which floods their driveways from the field.
- Plots 36 and 37 would overlook the bedroom windows of 12 Hope Way.
- The appearance and size of Plots 31 -35 are not in keeping with properties on Westminster Drive and should be detached properties.
- Plots 31- 35 would overlook their property (14 Westminster Drive) and would have a higher land level.
- The car parking proposed for Plot 31 – 35 is not sufficient.
- When they purchased their house they were told that the land in front of their property would not be developed and was not owned by David Wilson Homes.
- The proposed properties would overlook 2 Paisley Walk and change their outlook.
- Developing this area would mean additional traffic and loss of green space and devaluation of their property.

## **National Guidance**

PPS 1, 3, 13 & 17.

## **Development Plan Policies**

The relevant policies are:

EMRP: 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.

## **Other Supplementary Planning Guidance**

Housing Design and Layout

## **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 mentioned 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). This is the final phase of the overall development and only details in terms of the appearance, layout and scale can be considered at this stage. The access and landscaping were agreed as part of the outline permission.

### 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. Plots 31 to 35 met the Council's SPG space standards between windows for overlooking and overshadowing. Plot 36 however was substandard as the distance between its living room window and that of 12 Hope Way was below the 21m guideline. That has been overcome by the substitution of a different housetype that has only a kitchen window on the ground floor front elevation and the required distance of 18 m between a kitchen and living room would be met. Distances between the bedroom windows accord the SPG guidelines.

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 88.6m Existing properties adjacent have slab levels between 88.10 – 88.55m. Taking this level information into account, the space standards between dwellings are considered acceptable.

Plot 47's relationship with the existing property No. 59 Brunel Way was below the SPG guidelines, however, amendments have been made to improve this relationship by setting the terrace of plots 45, 46 and 47 further forward. 59 Brunel Way is a three storey property with its rear elevation facing west. The proposed property on Plot 47 is two and half storeys with rooflights in its rear elevation that would face south. Ground floor living room and kitchen windows would be screened by the existing 2 m high hedge on the southern boundary and the amended plan received indicates more planting to the rear of plot 47. Therefore due to improvements made, the position of properties and the screening on the boundary; the distances between windows are considered acceptable in this case.

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.

The distances between properties within the proposed development and that of phase 5 are considered acceptable as they accord with distances previously approved on previous phases.

#### 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 housetypes are the same as previously approved in earlier phases of the development built by the applicant. The streetscene along Brunel Way will continue a strong tree lined street with properties set 8 – 12 m from the existing pavement. There are two and half storey properties adjacent to the existing properties to the north and south as these are 3 – 2 ½ storey properties. Two storey curved 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 and thus the layout, appearance and scale are considered to be acceptable.

#### 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. Existing trees and hedging on the boundaries are shown to be retained and this shall be secured by a condition. The balancing lagoon is a strong landscaping feature of the development as it has the opportunity to become a wildlife area.

#### Highways issues

The highways issues in relation to the access visibility have been addressed and can be secured by condition. The issue in relation to the dwelling that would be accessed through a drive under was discussed at length in respect of Phase 5 and advice from Building Regulations and the Fire Service was obtained which concluded that this was not a major concern.

## Other issues mentioned by objectors

The site was included in the outline masterplan for development and thus the principle of development has been established. However, the applicant does not currently own the site and as such they have served the relevant notice on the owner. Planning permission does not override legal issues in respect of land ownership. Loss of view and devaluation of property are not material planning matters.

The type of properties in respect of plots 31 -35 are considered acceptable in the proposed location. The overall development of Castleton Park has a large mix of properties and these housetypes have been approved within Phase 5. An assessment of their relationship with the existing properties adjacent has been undertaken and is considered to be acceptable. The access road to these properties would be separated from the existing properties by the existing hedging so this is not considered a safety concern. In respect of the flooding, the balancing pond has been designed to ensure adequate drainage for the site and the Environment Agency has no objections to the application.

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. S0000\_100\_01 Rev F and 20025-02-01.

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. Before any of the operations hereby approved are commenced, facilities shall be provided as agreed in writing with the Local Planning Authority 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. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority.

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

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 (including the retention of the hedge on the frontage of Burton Road), together with measures for their protection in the course of development.

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

8. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.

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. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008, the dwellings on plots 32, 33, 34 and 35 hereby permitted shall not be enlarged or extended without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.

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

13. Existing hedges and trees on the western, southern and northern boundaries shall be retained.

Reason: To protect the privacy of existing residential properties and the character and appearance of the area.

14. 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 each 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.

15. 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 18, 31, 32, 33, 34 and 35) 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.

16. 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:

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 PPS25 Development and Flood Risk, 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 sites 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.

**Item** 1.7

**Reg. No.** 9/2010/0324/FM

**Applicant:**

Mr Jack Twomey  
12 Helston Close  
Linton  
Swadlincote  
Derbyshire  
DE12 6PN

**Agent:**

Mr Jack Twomey  
12 Helston Close  
Linton  
Swadlincote  
Derbyshire  
DE12 6PN

**Proposal:** **DEMOLITION OF EXISTING PROPERTY AND REPLACEMENT WITH A DETACHED TWO-STOREY DWELLING, DETACHED DOUBLE GARAGE, ERECTION OF A SINGLE STOREY BUNGALOW AND CREATION OF A NEW VEHICULAR ACCESS TO SERVE BOTH PROPERTIES AT COPPICE FARM GREEN LANE OVERSEAL SWADLINCOTE**

**Ward:** SEALES

**Valid Date:** 06/04/2010

**Reason for committee determination**

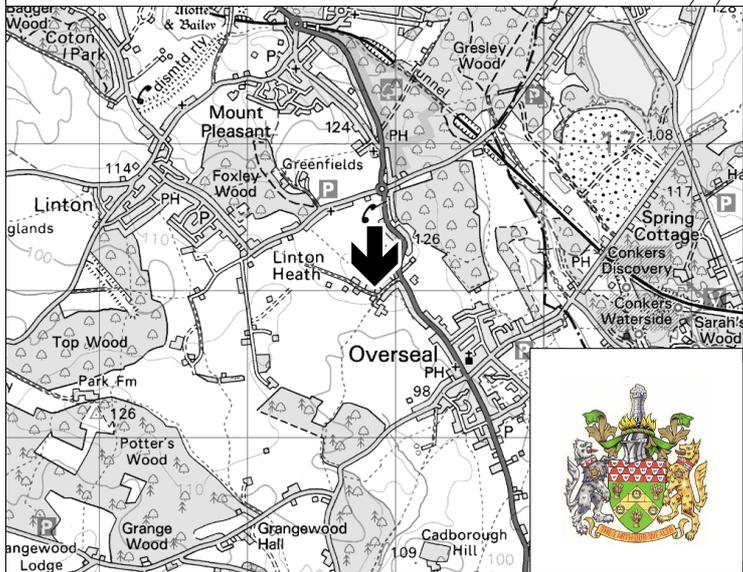
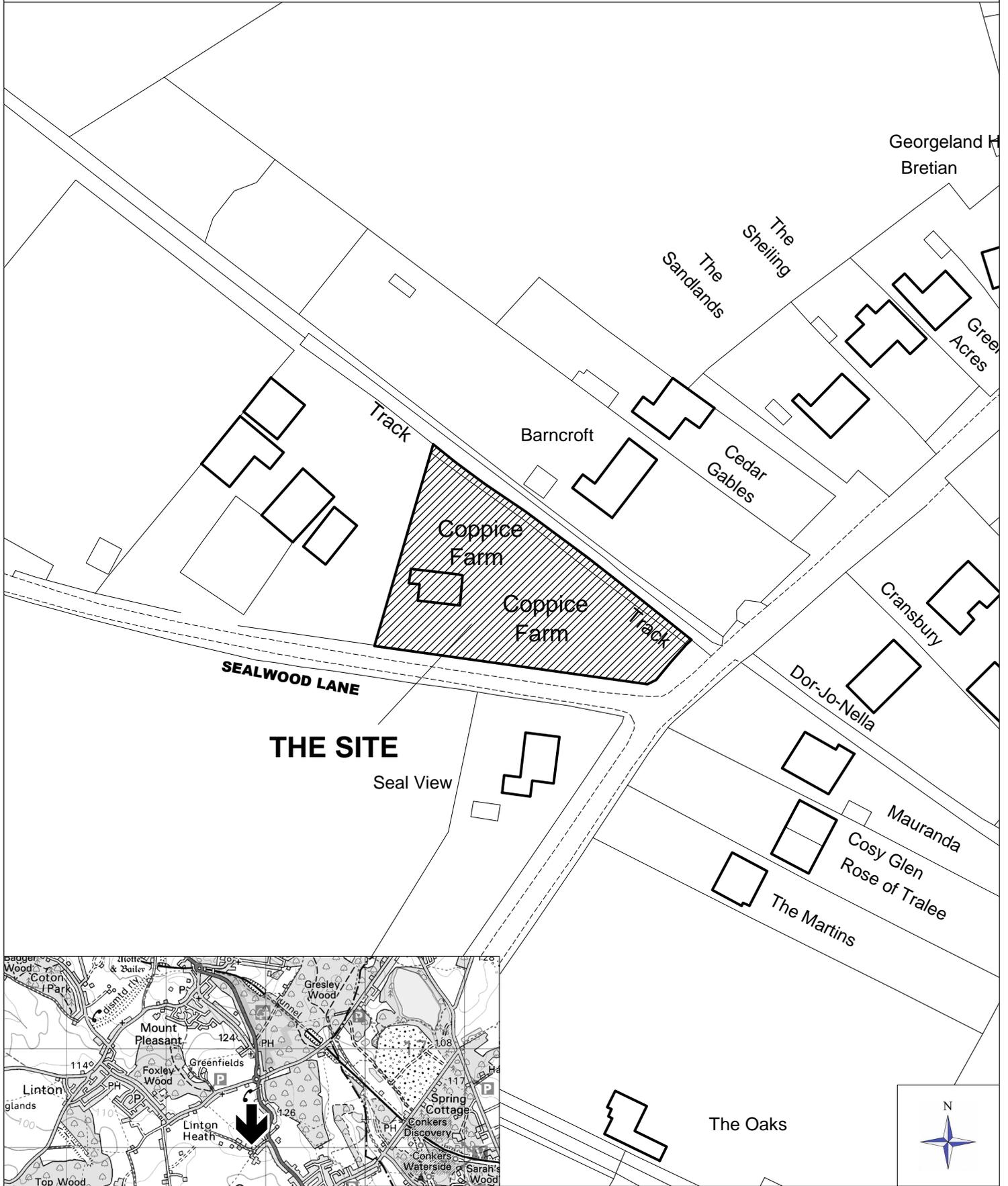
The applicant is employed by the District Council.

**Site Description**

The application site is located on a corner plot at the junction of Green Lane and Sealwood Lane, Overseal. Currently a dilapidated, vandalised three bedroomed two-storey dwelling occupies the site fronting Green Lane. It is set back approximately 42m from the highway behind a large front garden which is mainly laid to lawn with hedging forming the boundaries. The properties in the surrounding area are a mixture of two storey and single storey bungalows being sporadic and often set within large plots. The site is outside the village confine of Overseal but is considered to be part of a ribbon development extending from it into the countryside. Currently access is obtained to the property from Sealwood Lane.

**Proposal**

The proposal is to demolish the existing property on the site, to replace the existing property with a two storey, 3 bedroomed detached property in roughly the same location as the existing, erect a double detached garage to serve this replacement dwelling adjacent to Sealwood Lane and to erect a further detached single storey two bedroomed bungalow with attached garage on the existing front garden. Access to the properties would be from Sealwood Lane, being two separate accesses adjacent to each other. The properties have been designed to comply with the Council's space



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. South Derbyshire District Council. LA 100019461. 2010

about dwelling standards and the new bungalow would be set behind the prevailing building line with a large front/side garden fronting Green Lane. The bungalow at this location is shown to have a gable end containing windows with segmental arches, a roof pitch of 35degrees and materials, which are characteristic of the design guidance provided by the District Council.

### **Applicants' supporting information**

In support of the application are the following related documents:

- Design and access statement
- A Planning Policy Statement
- A confirmation e-mail from Severn Trent Water that the Overseal Sewage Treatment Works has sufficient capacity to accommodate the additional domestic foul flows

### **Responses to Consultations**

The County Highway Authority has commented that they do not wish to raise any highway objections to the application subject to conditions regarding access, visibility splays, and parking and manoeuvring.

The Environment Agency has not raised any objections to the application having reviewed the correspondence from Severn Trent Water with regard to the capacity at Overseal Sewage Treatment works.

Severn Trent Water does not raise any objections the application.

The Environmental Protection Officer has not raised any objections to the application subject to a condition being applied re potential for contamination.

### **Responses to Publicity**

One letter has been received from a neighbour who raises concern about the number of vehicles that will now be using Green Lane, which is a single lane with passing points. If the proposals are approved vehicles will add to those generated by a recent permission for a dwelling at Cranbury and use of the lane by tractors towing loads. He requests two sleeping policemen. He is however pleased to see that the proposal keeps the existing building line and thanks the Council for ensuring this. He also points out that an extension to his property was not shown on the plans however as the extension was single storey and located on the opposite side to the proposed application site the omission is not a material consideration that would affect the outcome of the proposal.

### **National Guidance**

PPS 1 & 3.

### **Development Plan Policies**

The relevant policies are:

EMRP: Policies 2, 3 and 12

Saved Local Plan: Housing Polices 6, 8 & 11, Transport Policy 6

## **Other Supplementary Planning Guidance**

Housing Design and Layout

### **Planning Considerations**

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

- Development plan policy and national guidance and advice
- The impact of the proposal on both the countryside and neighbours.

### **Planning Assessment**

The proposal to replace an existing dwelling with a new dwelling is in accordance with the principles laid out in Planning Policy Statement 3 and Saved Local Plan Housing Policy 8. The site is a Brownfield site currently having a residential use being located in a sustainable location within walking distance of a regular bus service, other services and facilities. Housing Policy 8 amongst other things states that the replacement dwellings should be in a form and bulk that does not substantially exceed that of the original, the design and materials should be in character with the area, there should be no increase in number of dwelling units and the proposal should be located substantially on the same site. The proposed replacement property is two storeys in design, consists of three bedrooms and is essentially on the same footprint and site as the existing property. The only addition of any size is the detached double garage but had this been sited away from the nearest part of the existing dwelling to the highway, it could have been built under permitted development rights - therefore it is not seen that the size of the existing dwelling has been substantially exceeded. The design is a vast improvement on the existing property having segmental arches; materials to be used are characteristic of South Derbyshire, and it has a low-pitched roof windows being set under the eaves.

The proposed new dwelling, being single storey in construction, located on the same building line as the existing properties with a gable facing Green Lane, has been designed to be in keeping with existing properties in the area. It is set back from the lane and is traditional in its features. It represents a small infill within the existing groups of houses and makes use of a large underused garden area without altering the character of the surrounding area and properties. Infilling of this type and design is encouraged by national guidance provided in Planning Policy Statement 3. Furthermore planning permission was recently given in 2009 for a property of a similar scale to be built less than 100m from the site in the rear garden of 181 and 183 Burton Road.

The dwellings both the replacement and the new dwelling have been designed to accord with the Council's supplementary design guidance and conform to the adopted space about dwelling standards. No objections subject to conditions have been raised by the County Highways and accordingly the proposals are in line with national and local policies.

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

## Recommendation

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

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
  
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.  
  
Reason: To safeguard the appearance of the existing building and the locality generally.
3. 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. 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.
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. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar

size and species, unless the Local Planning Authority gives written consent to any variation.

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

7. 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.

8. Before any other operations are commenced, the new vehicular accesses shall be created to Sealwood Lane in accordance with the application drawings, laid out, constructed and provided with 2m x 25m visibility splays in either direction, the area in advance of the sightlines being maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.

Reason: In the interest of highway safety.

9. Before any other operations are commenced (excluding creation of the new accesses, the subject of condition 8), the existing vehicular access to Sealwood Lane shall be permanently closed with a physical barrier and the existing vehicle crossover reinstated as verge in a manner to be agreed in writing with the Local Planning Authority.

Reason: In the interest of highway safety.

10. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the application drawings for parking and manoeuvring of resident's vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interest of highway safety.

11. Notwithstanding the drawings submitted and the cill details shown, precise details shall be submitted and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

#### Informatives:

The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include: Collapse of shallow coal mine workings; Collapse of, or risk of entry into, mine entries (shafts and adits); Gas emissions from coal mines including methane and carbon dioxide; Spontaneous combustion or ignition of coal which may lead to underground heatings and production of carbon monoxide; Transmission of gases into adjacent properties from underground sources through ground fractures; Coal mining subsidence; Water emissions from coal mine workings.

Applicants must take account of these hazards which could affect stability, health & safety, or cause adverse environmental impacts during the carrying out their proposals and must seek specialist advice where required. Additional hazards or stability issues may arise from development on or adjacent to restored opencast sites or quarries and former colliery spoil tips. Potential hazards or impacts may not necessarily be confined to the development site, and Applicants must take advice and introduce appropriate measures to address risks both within and beyond the development site. As an example the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas. In coal mining areas there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling alone has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted. Any intrusive activities which intersect, disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. In the interests of public safety the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated.

The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in order to make an assessment of the risks. This can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com).

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](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](mailto:pollution.control@south-derbys.gov.uk).

Severn Trent advises that before any connections are made to the public sewerage system, direct or indirect, you will need to formally apply via the Section 106 Sewer Connection Application route, further information can be found on the Severn Trent website [stwater.co.uk](http://stwater.co.uk) or by calling the New Connections Team on 0800 7076600. Please note that no surface water must be discharged to the public foul sewerage system.

**Item**            1.8

**Reg. No.**        9/2010/0329/FH

**Applicant:**  
MR K S ATWAL  
THE HILL BUNGALOW  
SINFIN LANE  
BARROW ON TRENT  
DERBY  
DE74 7HH

**Agent:**  
MR MICHAEL HARRISON MCIAT,  
ACIOB  
7 HALL PARK  
BARROW-UPON-TRENT  
DERBY  
DE74 7HH

**Proposal:**        **RETROSPECTIVE APPLICATION FOR THE ERECTION  
OF EXTENSION AND CONSERVATORY (AMENDED  
SCHEME OF PREVIOUSLY APPROVED PLANNING  
APPLICATION 9/2008/0393/FH) AT THE HILL  
BUNGALOW SINFIN LANE BARROW ON TRENT DERBY**

**Ward:**            **ASTON**

**Valid Date:**     **07/04/2010**

**Reason for committee determination**

A similar application was refused by Members at the meeting on 23 March 2010.

**Site Description**

The building is situated within the extensive grounds of The Hill. The closest public vantage point is the top of Moor Lane, at a distance of about 350 metres.

**Proposal**

Work on the extension is well underway. It differs from a previously approved application (9/2008/0393) by being wider and slightly higher. There are also some changes to the windows, along with a single storey projection.

The application has been amended since the Committee's refusal of permission, to take account of further changes that were made during the course of the building operation, as follows:

- Ridgeline of conservatory 250 mm higher.
- Single storey extension on the northern side 300 mm longer.
- Different window pattern on the ground floor north elevation.
- Brick pillars on south elevation 440 mm square compared with previous 325 mm.



There is a separate concrete base to the north of the building. The applicant has indicated this will be a building compliant with permitted development criteria. It does not form a part of this application.

### **Planning History**

9/0198/0833 - convert building to dependant relative unit - granted

9/2002/1075 - single storey extension - granted

9/2006/1033 - remove occupancy condition - granted

9/2008/0393 - two-storey extension – granted

9/2010/0048 – two-storey extension (amended scheme) – refused because:

“The drawings submitted with regard to this planning application contain inaccurate or no detail consistent with that in the course of construction on the site as at 23 March 2010. Plans submitted with applications should comply with government guidance most recently as described in the 'Guidance on information requirements and validation' (March 2010). Although the application was validated in good faith it is now clear that amendments have been made to the scheme, the drawings for which have not been submitted by the time the application was considered by the Council's Development Control Committee. As such the Local planning authority is unable to grant permission.”

### **Responses to Consultations**

The Parish Council reiterates its previous objection relating to the retrospective nature of the application and considers that there would be increased traffic over the narrow railway and canal bridges and Deepdale Lane. A site visit is requested.

### **Responses to Publicity**

None received.

### **National Guidance**

PPS7

### **Development Plan Policies**

The relevant policy is:

South Derbyshire Local Plan Saved Housing Policy 13

### **Planning Considerations**

The main issue central to the determination of this application is:

- Impact on the character and appearance of the countryside.

### **Planning Assessment**

The application is a revised submission. The extension would be wider and higher, with some detail changes, but its impact on the general character of the area would be about the same. As such there would be no increased harm to the countryside as a result of the development.

No neighbours would be affected and no additional traffic would be generated.

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

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

**Item** 1.9

**Reg. No.** 9/2010/0332/U

**Applicant:**  
South Derbyshire District Council  
Civic Way  
Swadlincote

**Agent:**  
Mr Stuart Batchelor  
South Derbyshire District Council  
Civic Offices  
Civic Way  
Swadlincote

**Proposal:** **TEMPORARY PERMISSION FOR RELOCATION OF  
MARKET STALLS FROM MAY TO DECEMBER 2010 AT  
HIGH STREET SWADLINCOTE**

**Ward:** **SWADLINCOTE**

**Valid Date:** **09/04/2010**

**Reason for committee determination**

The applicant is South Derbyshire District Council.

**Site Description**

The application relates to a 180 m stretch of the High Street from in front of the Select building and the British Heart Foundation to the wider section in front of Swinton Insurance and Alliance and Leicester Building Society.

**Proposal**

Temporary planning permission is sought to relocate the market stalls that are currently on The Delph for a temporary period whilst the Town Centre Masterplan works to create a new square are under construction. It is expected that the market would be located on the High Street between May and December 2010.

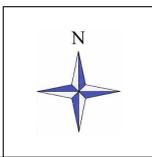
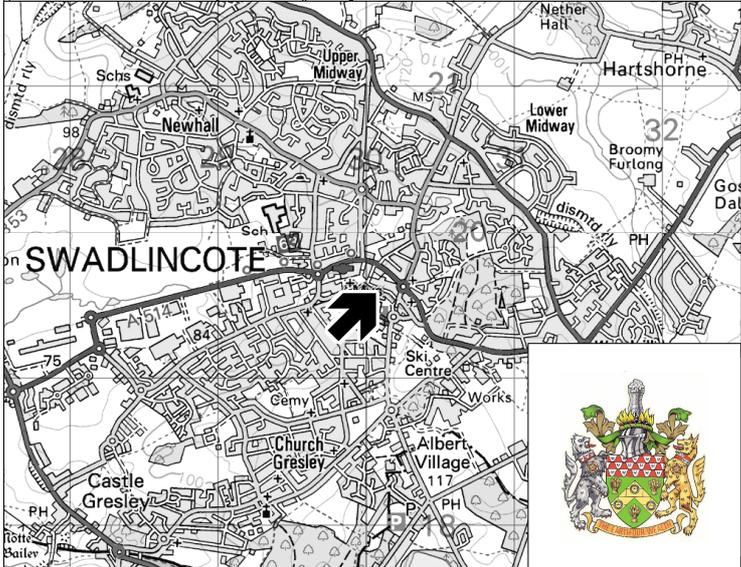
The 'zone' outlined on the red line plan of the application is proposed as specific stall locations would be subject to change as stallholders and business owners adapt to the new arrangement and there are likely to be temporary changes to traffic arrangements.

The market stalls measure 3m x 3m of a height of 3.3m and are open on all sides with a white canopy for the roof. Smaller 2m x 3 m stalls are also being considered.

**Applicants' supporting information**

A supporting statement has been supplied to outline why the relocation is required and what other locations have been considered. It states:-

9/2010/0332 - High Street, Swadlincote DE11 8JE



**This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. South Derbyshire District Council. LA 100019461. 2010**

Major improvement works are being made to Swadlincote Town Centre as part of the Swadlincote Town Centre Masterplan. The next phase of the works to be completed will be the new public square in the Delph. This new square will be larger than the present one and it is hoped that the high quality materials, extra seating and attractive landscaping will attract many more people to the town centre.

Other locations for the market have been considered such as public car parks and the old indoor market. Using public car parks was not considered an option as it would reduce visitors to the town centre and the old market hall is no longer suitable due to health and safety reasons. Every effort would be made to ensure that the market functions in harmony with High Street Businesses and stalls would be sensitively located and changed if conflicts arise. Once the new public square has been completed, the market would return to its original location on the Delph.

### **Planning History**

9/1999/1031 – The establishment of a 20 stall outdoor market at The Delph, granted 26/5/99

### **Responses to Consultations**

The County Highways Authority comments have yet to be received and shall be reported verbally at committee.

### **Responses to Publicity**

One letter of objection has been received from Birds and is summarised below:-

They are concerned regarding the proximity to the shop and whether there would be any detrimental impact on access. At all times they would insist on all their customers and staff having a clear and safe access in and out of the shop and would not want the visibility of their shop affected by the market. They wish their comments to be taken into account when relocating the market stalls and wish to be consulted further when locations are known.

### **National Guidance**

PPS1 & 4

### **Development Plan Policies**

The relevant policies are:

EMRP: Policy 12

Saved Local Plan: Environment Policies 10 & 12, Shopping Policy 1

### **Planning Considerations**

The main issues central to the determination of this application are:  
Impacts on High Street business in terms of access and visibility

## **Planning Assessment**

The proposed relocation of the market stalls for an eight month temporary period whilst the new square at the Delph is being constructed would not have a significant impact on the existing businesses on the High Street as the market is only open Tuesdays, Fridays and Saturdays between 9am to 3.30pm. The established market is essential to the viability and vitality of the town centre and trade is increased to existing business on the days when it is open.

The concern regarding the location of stalls is noted and clear access and sufficient spacing between the stalls and the existing shopfronts would be required for the safety of pedestrians. The appearance of the stalls are temporary in nature and would thus not have a significant impact on the character and appearance of the Conservation Area. The Town Centre Masterplan works currently completed on West Street are high quality and the works to the Delph will have large benefits to the town in terms of increasing visitor numbers and greatly improving the appearance and feel of the area. Thus, the possible disruption to businesses on High Street for a short period is outweighed by the long term benefits to the town centre as a whole.

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. This permission shall be for a limited period only, expiring on 31st December 2010 on or before which date the use shall be discontinued, unless, prior to that date, an application has been made and permission has been granted for an extended period.

Reason: Only temporary permission has been applied for.

**2. PLANNING AND OTHER APPEALS**

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

<b>Reference</b>	<b>Place</b>	<b>Ward</b>	<b>Result</b>	<b>Cttee/delegated</b>
9/2009/0993	Swadlincote	Swadlincote	Dismissed	Delegated
9/2008/1029	Hilton	Hilton	Dismissed	Delegated



# Appeal Decision

Site visit made on 13 April 2010

by **Gary Deane BSc(Hons) DipTP MRTPI**

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email:enquiries@pins.gsi.gov.uk

**Decision date:**  
**19 April 2010**

---

## Appeal Ref: APP/F1040/D/10/2123059

### 32A Hearthcote Road, Swadlincote, Derbyshire DE11 9DU

- 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 David Hodgkinson against the decision of South Derbyshire District Council.
- The application Ref 9/2009/0993/FH, dated 23 November 2009, was refused by notice dated 29 January 2010.
- The development proposed is the erection of fence and gate on front of property.

---

## Decision

1. I dismiss the appeal.

## Procedural matter

2. The proposed development is complete. The fence and gate that have been constructed appear to broadly reflect the dimensions provided in the appellant's photographic evidence and set out on the application forms.

## Main issues

3. The main issues are the effect of the development on the character and appearance of the local street scene and on highway safety for users of Hearthcote Road.

## Reasons

### *Character and Appearance*

4. The timber fence and gate that are the subject of this appeal demarcate the highway frontage of the appeal property, 32A Hearthcote Road, a semi-detached dwelling which fronts Hearthcote Road. A mix of vegetation, including hedgerows, broadly characterise the highway boundaries of properties along the southern side of Hearthcote Road, close to No 32A. These boundary features visually blend in with the local street scene and create a relatively informal feel along the southern side of the highway. In contrast, the industrial units along the northern side of the road, opposite the site, establish a different, more commercial character, to this side of Hearthcote Road.
  5. The fence adjoins the footway on the southern side of Hearthcote Road. This position, coupled with the considerable height and extensive length of the fence cause it to appear as a prominent feature when viewed from both directions along Hearthcote Road. It appears as a stark, solid, formal barrier that contrasts with the more informal vegetation that predominates along this part
-

of the southern side of Hearthcote Road. Equally, it visually contrasts with the post and wire fencing on the northern side of Hearthcote Road, opposite the site, which offers views through to the industrial units. In that context, the fence is an abrupt, obtrusive feature that is out of keeping with the broad character of the local street scene.

6. I therefore conclude that the fence significantly harms the character and appearance of the local street scene. It conflicts with national guidance primarily contained in Planning Policy Statement 1, *Delivering Sustainable Development*, (PPS 1) which places considerable emphasis on good design to improve the character and quality of an area and to contribute positively to making places better. Moreover, PPS 1 states at paragraph 34 that "design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted."

#### *Highway Safety*

7. The considerable height, length and position of the fence along the back edge of the footway cause it to severely restrict the view from the drive of No 32A, of users of Hearthcote Road, approaching from the east. These users include motorists, cyclist and pedestrians. Given the significant level of traffic and the speed of vehicles traveling past the site, which from my observations travel at considerable speed, I consider that a vehicle exiting the site with such limited visibility of oncoming users of Hearthcote Road would pose a significant risk to highway safety.
8. The appellant's argument that the fence and gate offer improved visibility compared with that which previously occupied the highway frontage of No 32A does not, in my opinion, justify a development that is manifestly inadequate in terms of visibility. For the same reason, I do not accept that the examples of nearby properties, to which the appellant refers, where the frontage boundaries also obscure visibility between their drives and the approaching users of Hearthcote Road, lend significant support to this case.
9. I note that the post nearest the gate can be removed and the fence panel is hinged so that it can swing into the site thereby creating a wider vehicular entrance to No 32A. Whilst this arrangement assists with the reversing manoeuvre to park the caravan in front of the appeal property, I doubt that such an arrangement would improve visibility at this location to such an extent that all vehicle movements out of the drive and onto the adjacent highway would be safe.
10. I therefore conclude that the development is unacceptable in terms of highway safety for the users of Hearthcote Road. It would conflict with national guidance contained within Planning Policy Guidance 13, *Transport*, in that it would not provide for a safe and adequate access.

#### *Other matters*

11. The fence and gate would improve security for the occupiers of No 32A primarily by preventing people from trespassing onto the appeal property. Whilst I have some sympathy for the appellant's reasons for erecting the fence

and gate, these circumstances do not outweigh the harm to the character and appearance of the local street scene and highway safety that I have identified.

12. I note the appellant's comments regarding the recovery of monies in connection with the lamp post which, I understand, was relocated at the appellant's expense. This is not a planning matter and cannot be considered as a part of the appeal before me.

### **Conclusion**

13. I have had regard to all other matters raised. However, these matters are not sufficient to outweigh the harm that I have identified. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

*Gary Deane*

INSPECTOR



# Appeal Decision

Hearing held on 30 March 2010  
Site visit made on 30 March 2010

by **Andrew Jeyes BSc DipTP MRTPI**

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

**Decision date:**  
**16 April 2010**

---

## Appeal Ref: APP/F1040/A/09/2119430

### Land south of Eggington Road, Hilton, Derbyshire DE65 5FJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Persimmon Homes [North Midlands] against the decision of South Derbyshire District Council.
- The application Ref 9/2008/1029/OSD, dated 30 September 2008, was refused by notice dated 30 June 2009.
- The development proposed is an outline application for Phase 2 of residential development of some 80 dwellings.

---

### Decision

1. I dismiss the appeal.

### Procedural Matter

2. The application is for outline planning permission with all matters reserved. A 'Concept Plan' accompanied the application, but I have treated this as advisory only.

### Main Issues

3. I consider the main issues to be whether the proposal complies with development plan policies relating to the distribution and use of land for housing and for employment.

### Reasons

#### *Background*

4. The site, of around 2.3 hectares [Ha], is on the southern side of Hilton, a village that has substantial recent housing and employment development, mainly on a former Ministry of Defence vehicle depot. This site is part of the development included within the proposals of the South Derbyshire Local Plan 1998 [LP] where saved Employment Policy 2 allocates some 38.7 Ha's for B1, B2 and B8 [now B10] use. The site, along with adjoining land, is previously developed land. The application was accompanied by reports that concluded there were no sensitive ecological features and that the site was not subject to flooding. The site is partly covered by a tree preservation order [TPO].
  5. The application site includes an extension to connect across a stream to a new housing estate road to the north-east, where the appellant is building a mixed housing scheme, the phase 1 site. To the west of the site is a further housing area with industrial development to the south and a large active caravan and motor caravan dealership to the east and south-east. The appellant has indicated that
-

the phase 1 site is a successfully development and that they wish to provide a smooth transition to phase 2 on this site.

### *Housing*

6. The proposal is for a housing development on land designated for employment purposes. The site is separated from the appellant's phase 1 site by a stream and bank of trees subject to a TPO, with a marked change in level at the end of the phase 1 site down to the stream. In a similar way, it is also separated from the housing area under development to the west by a swathe of trees that are also subject to a TPO. However, the site is level with the adjoining caravan dealership, and formed an active part of the dealership operations in the past. It has a short boundary with the new employment development to the south. In terms of landform and physical appearance, the existing boundary to the adjoining residential parts of Hilton is well defined by natural features. The use of the site for housing would breach this natural barrier and give a closer relationship between the housing and commercial uses than currently exists.
7. The adopted East Midlands Regional Plan 2009 [EMRP] indicates at Policy 1 the Core Objectives for plans and strategies for the region. EMRP Policy 12 relates to development within the three cities area to promote a more sustainable pattern of development. It indicates that outside of the three main cities, employment and housing development should be located within and adjoining settlements. Whilst the appellant seeks to identify elements of these policies that would support housing on the site, equally they would also support its use for employment purposes.
8. EMRP Policy 3 provides for the distribution of new development and indicates the broad pattern of development priorities and that the development needs of other settlements and rural areas should also be provided for. This policy indicates that such local development should contribute to shortening journeys and facilitating access to jobs and services. However, by changing the balance, which is set out as adopted policy, between employment and housing, the scope to provide the close working relationship between jobs and homes is reduced, leading to a potential increase in commuting. Whilst Hilton is regarded as a sustainable community, this would only be maintained by ensuring this balance of uses in the future.
9. In relation to land supply, it was agreed that for the district outside of the Derby principle urban area [PUA], there was a land supply of 6.4 years for year 2009/10 and 5.9 years for 2010/11. After this, there was a degree of degradation as new sites are still in the process of being identified within an emerging Core Strategy, which is currently out for consultation. For the whole district, including the Derby PUA, the supply stood at 5.48 years for 2010/11, which reduced to 5.08 years if none of the three sites within the PUA area come on-stream this year as suggested by the appellant. Whilst windfall sites are not included within the projections, the Council indicate a substantial number of such completions for the current year that would reduce future requirements.
10. PPS3<sup>1</sup> indicated that the district should have a five-year supply of housing land. In the context of this appeal, I am of the view that considering the position in the non-PUA part of the district is reasonable as EMRP Policy Three Cities SRS3 indicates 600 dwellings per annum [dpa] for the district as a whole, with at least 320 dpa within the Derby PUA. It further states that housing in the rest of the district would be located mainly at Swadlincote. To meet the objectives of the

---

<sup>1</sup> Planning Policy Statement 3: *Housing*

EMRP, any shortfall arising in the PUA area should not therefore be met by development elsewhere within the rest of the district. As a five-year supply currently exists, there is no overriding policy reason to justify using the land for housing as opposed to its designated employment use.

11. There has been some change in designation over part of the employment site, with some 5.9 Ha's released for housing and some 3.39 Ha's added to the southern end. This was in response to a lack of a five-year housing availability giving a severe shortage at that time; this does not justify the release from employment use under present day circumstances. An appeal decision<sup>2</sup> elsewhere on a site not allocated in the local plan indicated that even where a 5-year land supply existed, this was not a reason demanding the refusal of permission. In that case, very significant weight was given to the demonstrated pressing need for affordable housing. Such a pressing need has not been demonstrated in this case.
12. In respect of this issue and for the reasons given, I conclude that the proposal would not accord with EMRP Policies 1, 3, 12 and Three Cities SRS 3 or with saved LP Housing Policy 1 and Employment Policy 2 that allocates this site for employment purposes.

### *Employment*

13. The site is considered unsuitable by the appellant for B2 and B10 use because of its relationship with the adjoining residential development and because access to the employment area would be via a residential access road. As I have already indicated, the existing boundary to the adjoining residential parts of Hilton is well defined by natural features. The Council are of the view that a suitable form of commercial development could take place on the site without detriment to adjoining occupiers subject to controlling conditions and, from my inspection of the site, I agree.
14. The existing residential access road serving the phase 1 housing has a future connection to the caravan dealership built in, which will replace their existing access onto Eggington Road. The size of the dealership would indicate to me that a substantial amount of traffic including commercial vehicles would use this road and connection. In addition, the highway authority has indicated that technically, access could be provided to this site from the roundabout serving the entrance to the Hilton Business Park, thus avoiding use of the residential access and bridging of the stream and wildlife corridor. I do not therefore consider that there is any site-specific reason why this site cannot be used for employment purposes.
15. The appellant's view is that the site is only suitable for B1 use, with a strong preference for offices. Based on this, it is considered that the site has a poor profile as a backwater site with no good road frontage and that there is low demand at Hilton. Any demand for BI offices could be more effectively met elsewhere within the area using existing sites. The lack of demand is compounded by the current downturn in the economy and the uncertain prospects for recovery.
16. The EMRP in supporting text to Policies 19 and 20 indicates that demand for additional employment land is likely to be broadly static and that the quality and location of existing employment land designations may not be consistent with market demands or sustainability principles. Applying these criteria, the appellant considers that the site would not be suitable for its designated use and should be considered for other purposes.

---

<sup>2</sup> APP/P3040/A/07/2050213: Land at Gotham Road, East Leake, Nottinghamshire.

17. PPS4<sup>3</sup> indicates at Policy EC2 that where necessary to safeguard land from other uses such designations should not be carried forward without evidence of need and the reasonable prospect of take up. Policy EC6 shows that housing and economic development can sustain rural communities at identified local service centres through edge of settlement development. The appellant has no long-term view of the need for employment land in the area.
18. The Derby Housing Market Area Employment Land Review 2008 [ELR], whilst concluding that there was an oversupply in the area as a whole, clearly indicated that South Derbyshire had an undersupply of 80.32 Ha's on top of the allocated employment sites of some 56.68 Ha's. A previous independent review<sup>4</sup> had assessed the site as part of the overall land allocation at Hilton and recommended that the site allocation should be retained. The information from this review was included within the ELR where the site was assessed as of 'good' quality. Options for future provision are included within the Core Strategy consultation.
19. In my view, options for development of this site are not restricted to B1 offices and other uses, especially smaller units that do not need a significant profile, would be possible subject to controlling conditions. The site has not been marketed for employment purposes and I do not therefore consider that the economic reality of the designation or evidence of take up has been tested. There is evidence of a shortage of land in the district for employment purposes that is required to meet sustainability objectives.
20. As I have already indicated, the change from employment to housing would reduce the scope to provide the close working relationship between jobs and homes, so leading to an increase in commuting, which would breach sustainability objectives. The current designation would fulfil the aims of PPS4. I do not therefore find any overriding reasons for this site not to stay within its employment allocation and its loss would lead to consideration of designating a similar area elsewhere if the employment objectives of the EMRP are to be met.
21. For these reasons, I conclude that there are no justifiable reasons to release this site from employment allocation and that use of the site for housing purposes would not accord with saved LP Employment Policy 2 that allocates this site for employment purposes.

#### *Unilateral Undertaking*

22. A planning obligation in the form of a Unilateral Undertaking has been submitted in support of the proposals and the Council find this satisfactory. The Council has an advice note 'Section 106 Agreements - A Guide for Developers', but I give this little weight as it has not been through a full process of public consultation and had not been adopted as guidance.
23. The affordable housing element is supported by saved LP Housing Policy 10 and by the Hilton Housing Needs Survey 2006 and would provide a positive benefit to the area. However, based on the information before me, I do not consider that the Council has established a need for the various contributions required that is related directly to the impact of the proposed development, other than in the matter of affordable housing. Obligations should not be used to secure contributions to the achievement of wider planning objectives that are not necessary to allow a particular development to proceed. I therefore conclude that there is no justification in the evidence before me for requiring an obligation in this case

---

<sup>3</sup> Planning Policy Statement 4: *Planning for Sustainable Economic Growth*

<sup>4</sup> South Derbyshire Employment Land Review 2007

relating to open space, the village action plan, primary care trust and education contributions. The obligation submitted also seeks to impose a requirement on other parties that are not signatories to the undertaking.

24. The submitted Unilateral Undertaking therefore carries little weight, especially when allied to my conclusion that a need for contributions has not been established in the evidence before me, other than for affordable housing provision.

**Conclusions**

25. I have concluded that the proposal would not accord with EMRP Policies 1, 3, 12 and Three Cities SRS 3 or with saved LP Housing Policy 1 and Employment Policy 2 that allocates this site for employment purposes. There is no justifiable reason to release this site from its employment allocation and no evidence to justify the release of this site for housing. Whilst the provision of affordable housing would be of benefit, the obligation submitted does not provide weight to overcome my principal concerns. I therefore conclude that the appeal should be dismissed.

*Andrew Jeyes*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Nigel Harris BA[Hons] DipTP MRTPI	Partner, Pegasus Planning Group.
Peter Milner FRICS	Director, Milner McCrea Chartered Surveyors.
Nigel Hainsworth MRTPI	Strategic Land Director, Persimmon Homes [North Midland].

### FOR THE LOCAL PLANNING AUTHORITY:

Tim Dening DipURP MRTPI	Area Planning Officer, South Derbyshire District Council.
Russell Crow MA MRTPI	Assistant Planning Policy Officer, South Derbyshire District Council.
Richard Groves BA[Hons] MRTPI	Planning Policy Officer, South Derbyshire District Council.

## **DOCUMENTS AND PLANS**

- 1 List of persons attending the Hearing.
- 2 Press notice; submitted by the Council.
- 3 Policy Three Cities SRS 2 and Policy Three Cities SRS3 of the East Midlands Regional Plan 2009; submitted by the Council.
- 4 South Derbyshire Local Plan 1998 Proposals Map: submitted by the Council.
- 5 Supporting text to Policy 20 of the East Midlands Regional Plan 2009; submitted by the appellant.
- 6 Unilateral Undertaking; submitted by the appellant.
- 7 Note on progress on housing in Phase 1; submitted by the appellant.
- 8 Planning appeal decision Ref APP/P1045/A/09/2112943 at former Darley Dale Business park, Dale Road North, Darley Dale, Derbyshire; submitted by the Council.
- 9 Schedule of Structure Plan policies replaced by policies in the East Midlands Regional Plan 2009; submitted by the Council.
- 10 Copy of e-mail from Barton Willmore re housing site at Boulton Moor; submitted by the Council.
- 11 Housing Policy 9 of the South Derbyshire Local Plan 1998; submitted by the Council.

## **DOCUMENT SUBMITTED AFTER CLOSING OF THE HEARING**

- 12 Amended Unilateral Undertaking and covering letter; submitted by the appellant.