

REPORT OF THE HEAD OF PLANNING SERVICES

SECTION 1: Planning Applications

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

1. PLANNING APPLICATIONS

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

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

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

12/12/2006

Item 1.1**Reg. No.** 9/2006/0320/M**Applicant:**Consolidated Property Group
C/O Agent**Agent:**Savills Commercial Planning
68 Fountain Court
Manchester
M2 2FE

Proposal: Outline application (all matters reserved) for the construction of two non-food retail warehouse units, associated garden centre, car parking, landscaping and service arrangements at South Derbyshire District Council Council Depot Darklands Road Swadlincote

Ward: Swadlincote

Valid Date: 17/03/2006

Reason for committee determination

The site is owned by South Derbyshire District Council.

Site Description

The application site encompasses the Council's depot and car park in front of it. The land is generally flat but lies significantly lower than the adjoining road to the south (William Nadin Way).

Houses adjoin the site to the east and there is open land to the north and west, part of which is used as allotments. To the south, across a primary route into the town centre, are Sainsburys and a large electrical goods shop.

Proposal

It is proposed to construct two new retail units on the site. As originally submitted the proposal indicated one DIY unit of 25,000 sq ft, towards the rear of the site and the other smaller retail unit close to the junction of Darklands Road and Darklands Lane. It is suggested that intended occupiers would be a DIY store with ancillary garden centre and a non-food retail warehouse. Access to a car park for 173 cars and to the service area was shown off an improved Darklands Lane and improved pedestrian access to Darklands Road and William Nadin Way were also proposed. However the County Highways Authority objected to the level of detail of the scheme and insufficient information was provided to demonstrate that access and servicing arrangements would be satisfied whilst at the same time providing a satisfactory streetscape along William Nadin Way.

9/2006/0320/M SDDC Council Depot
Darklands Road
Swadlincote



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

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Date Plotted 1/12/2006
Scale 1:2000

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In order to progress the application siting and access have been removed from formal consideration at this time but the details remain on file as an indicative scheme.

Applicants' supporting information

The applicants have submitted a substantial amount of supporting information including a retail statement and a transportation assessment. These are summarised below (full copies are available on the planning register):

Conclusions of the transport assessment

- The site is within easy walking distance of a wide surrounding catchment area.
- The proposed development will not have a material effect on the surrounding highway network.
- The site's existing access is poorly located in relation to the pedestrian crossing on Darklands road. Darklands Lane is in a poor condition at the present time. The development will result in the improvement of Darklands Lane and the closure of the existing access resulting in improvements for all classes of highway users.
- The site has good public transport connections to surrounding area with a number of services passing the site and the town centre bus and rail stations both within easy walking distance.
- The Swadlincote Cycle Network directly passes the site. Within the site secure and covered cycle parking facilities will be provided to encourage this mode of transport for small shopping trips and staff will be further encouraged to use cycles as an alternative to the car.
- There is a vast area of predominantly residential development within easy cycling distance of the development site. The site is clearly accessible by this mode of transport and the development will encourage this mode for shopping and employment trips.
- Parking facilities will be provided in line with PPG 13.
- It is assumed that the development will operate a Green Travel Plan and a skeleton document is proposed at the present time. This will be worked up with the ultimate occupier as the scheme progresses.
- It is concluded that the site is accessible by a choice of modes of transport and there are no highways / traffic related reasons why the proposed development should not be approved, with positive benefits for all highway users to be derived from the development.

Retail statement summary and conclusions

- The proposed development includes a large DIY store with ancillary garden centre and additional non-food retail warehouse unit together with car parking, service arrangements and extensive landscaping arrangements.
- The application site is located at the edge of Swadlincote town centre on land off Darklands Road, which is currently occupied by a council depot. Additional proposals are being submitted to the Council for the relocation of the council depot facility.

- The site is located within 300m of the Swadlincote's primary shopping frontage and accordingly can be described as edge-of-centre for the purpose of PPS 6. The site is located adjacent to the busy A514 (William Nadin Way) and in close proximity to other town centre uses such as a Sainsbury's supermarket, civic offices and a leisure centre. It therefore forms part of an important gateway into Swadlincote town centre.
- The estimated turnover of the proposed development, £6.7m, could be supported nearly four times over by estimated increases in available comparison goods expenditure. Furthermore, it is estimated that approximately £107m of the available expenditure is currently being lost outside the catchment area identified at Appendix 3.
- Total capacity at current market share is estimated to be £31.2m by 2011. This is sufficient to support the proposed floorspace nearly four times over.
- At present, Swadlincote is served by only one DIY store, R Massey & Son, which operates from a small retail unit in the town centre. The closest large format DIY retail warehouses are located outside the District in Burton-on-Trent. This lack of competitive retail offer within Swadlincote and the wider District is one of the reasons why approximately £107m currently leaks outside the catchment area.
- This proximity to existing town centre businesses means that the town centre overall will stand to benefit considerably through 'spin off trade' associated with the replacement foodstore. (In this regard, empirical data indicate that on average 46% of these new or reclaimed visitors to the store will go on to visit other town centre businesses).
- Given the above, the evidence suggests that there is clear and demonstrable need in both quantitative and qualitative terms for development of the type proposed.
- In terms of the sequential approach to site selection, an assessment of all vacant and other potential sites, including those identified in the now defunct Draft Replacement Local Plan, has been undertaken. The assessment concluded that there is only one vacant unit available in the town centre which is neither suitable or viable for the proposed development and that there are no alternative sites in or adjacent to the primary shopping centre that are available, suitable and viable for the proposed development. Accordingly, the application site is the most sequentially preferable site for the proposed development.
- In assessing the impact of the proposed development on Swadlincote town centre, it has been shown that the comparison goods turnover of the town centre will increase as a direct result of the development, resulting from significant levels of trade 'clawed-back' from outside the catchment area.
- Given the significant increase in the level of turnover of town centre retailers, it is not anticipated that this low level of impact will result in additional vacancies within the town centre. In the unlikely event that units will become vacant, the town has a very low vacancy rate (0.7% compared to the national average of 13%), which would easily absorb any adverse impact.
- The proposed redevelopment of the application site represents a significant improvement to an important gateway route into Swadlincote, and as such is likely to help encourage further investment in the town.
- Given the above it is clear that the proposed development would not impact adversely on the vitality and viability of Swadlincote town centre.

- The conclusion arising from this analysis is that the proposed development is compliant with national and local planning policies on the location and scale of new retail development. There are no tenable reasons to withhold planning permission on such grounds.

It is stated that compliance with Shopping Policy 1 of the Local Plan is evidenced by:

- The units are in scale and keeping with the shopping centre, being only a marginal increase to the total retail floor area in Swadlincote
- The transport assessment submitted demonstrates that any additional traffic generated is within acceptable levels and the amount of car parking meets standards (these conclusions are supported by a detailed analysis)
- The submitted retail statement shows, by way of a sequential approach, why there are no more suitable sites within the town centre (this conclusion is supported by a detailed analysis)
- The site is not required for industrial development because it is no longer suitable for the Council's depot. A replacement depot will be the subject of a separate application. No allocation was proposed in the adopted Local Plan or its now withdrawn replacement
- Acceptable pedestrian and disabled access is to be provided, including 10 disabled car parking spaces.

Compliance with Transport Policy 6 of the Local Plan is evidenced by:

- The transport assessment shows that the proposal is served by an appropriate level of highway
- Adequate access, parking and servicing provision is proposed.

Deeper soft landscaping/screening and additional planting on the land to the south along William Nadin Way will ensure compliance with Environment Policy 10 (National Forest planting).

Planning History

Previous applications on this site are confined to works of improvement to the depot.

Responses to Consultations

The County Planning Authority raises no objection on the basis of broad conformity with the Structure Plan. However, it considers that the District Council should be satisfied that:

- No other sites in the sequential test undertaken at the time of the withdrawn Local Plan would be more suitable, available and viable to accommodate one or both of the proposed units
- The smaller unit can be protected from being used for food or related retailing by the imposition of a condition
- New and improved pedestrian linkage to the town centre would be provided.

The Planning Policy Manager has assessed the submitted retail statement and comments that the site is edge of centre and is divided from the town centre by Civic Way. He states that there is a need for the development, there are no sequentially preferable sites available and it will not have a significantly detrimental effect on the town centre. As such, the proposed development meets the tests in PPS6.

The County Highways Authority has no objection subject to conditions on the basis of siting and access being now reserved for subsequent approval and Severn Trent Water also has no objection subject to the inclusion of a condition to deal with both foul sewage and surface water.

The Environmental Protection Manager recommends conditions governing hours of operation, shielding for generators/compressors, oil interceptors on surface water drainage and site investigation and mitigation measures to deal with any previous pollution.

North West Leicestershire District Council and the County Archaeologist have no objection.

The Crime Prevention Officer recommends various crime prevention measures that may be covered by conditions recommended below. However, he also remarks that the main access is not easily covered by surveillance and access off William Nadin Way would be preferable.

Responses to Publicity

On behalf of the potential developer of the Hepworth land to the rear of the new Morrisons store, an agent objects on the following grounds:

Location

Planning Policy Statement 6: Planning for Town Centres (PPS6) comments that a site is edge of centre only if it is "well connected to and within easy walking distance of the primary shopping area". This is not the case with regard to the application site. Whilst it is located within 50m of the town centre boundary (as defined in the Swadlincote Town Centre Master Plan), it is nevertheless some 200m (as the crow flies) from the centre's primary shopping area defined by High Street, Market Street and West Street. Furthermore, the site is separated from the town centre by the heavily used A514 and the traffic island onto which the application site adjoins.

PPS6 further comments that "linkages need to be convenient and safe", but the location of the application proposal does not satisfy these key requirements. In terms of convenience, the route that pedestrians will need to take is not direct. They will have to negotiate round the traffic island and then access one of the crossing points either to the south or east of the island to enter the town centre boundary where the Council offices are located. In terms of safety, it is worth pointing out that the Darklands Road/A514 junction has recorded 5 personal injury accidents over the last three years, 2 of which have been serious. Factors such as distance, convenience and safety are therefore likely to deter visitors to the proposed retail development from using the town centre and as a consequence significantly reduce the incidence of shared shopping trips – a key objective of Government guidance.

Quantitative Need

The anticipated level of retail headroom (comparison goods) for 2011 that is identified in the Donaldson Capacity Study is 95,000 sq ft net. This equates to 137,000 sq ft gross retail floor space (assuming a 65/35% sales/storage split for High Street goods and 75/25% for Bulky goods). The Darklands Lane development proposes 39,800 sq ft gross, which falls well within the headroom or capacity identified in the Study. However, the location of any new retail floor space should enhance a town centre's vitality and viability by contributing to its range and quality of retail offer, recapturing lost trade and strengthening linkages to ensure a high incidence of multi-purpose shopping trips. The benefits to the town from development of the Darklands Lane site would be very limited.

A further key point to note is that retail development on the Darklands Lane site could prejudice the implementation of a significant regeneration scheme for Swadlincote town centre that is being assembled for the Hepworth Works site adjacent to the new Morrisons foodstore. The scheme would comprise a mixed retail and leisure development.

This alternative edge of centre site immediately abuts the town centre boundary and is within 100m of the primary shopping area of Market Street with no barriers to pedestrian movement. Indeed there will be enhanced linkages to the town centre and the realistic prospect of multi-purpose shopping trips. Importantly, the proposal will secure significantly wider benefits for Swadlincote than the provision of retail floor space alone. The leisure component is to comprise inter alia, a local independent cinema which would not be able to come forward independently of a larger development scheme. The proposed regeneration scheme secures a critical mass which would allow it to function as a specific shopper attraction, capable of recapturing consumer expenditure that is currently going to competing centres and facilities. Crucially, the proposed retail floor space would act as "enabling" development to secure the successful implementation of the cinema facility.

The Council, when making its decision on the proposed Darklands Road scheme will need to have due regard to the Donaldsons retail and leisure study and the conclusions therein. The question is would development on the Darklands Road site meet the quantitative and qualitative retail and leisure needs of the town or would those needs be better met from development on the Hepworth's site adjacent to the Morrisons food store.

Conclusion

Objection is raised to the redevelopment of the Darklands Road site for retail development purposes in that the proposal whilst being edge of centre is nevertheless poorly related to the primary shopping area of Swadlincote and as a consequence there is likely to be a very low incidence of linked shopping trips. The proposal would trade independently of the shopping centre rather than as an integral part of it. Of particular concern, is that development may prejudice the implementation of a key regeneration scheme that is being assembled with the encouragement of the Council on a site immediately adjoining the new Morrisons food store and in their clients' ownership.

The Council is therefore strongly urged to refuse planning permission for retail development on the Darklands Lane site on the grounds that there are more sequentially preferable sites available to meet the quantitative and qualitative retail and leisure needs identified in the Swadlincote study undertaken by Donaldsons.

- The proposal conflicts with Planning Policy Statement 6 in that it is not “well connected and within easy walking distance of the primary shopping area”; some 200m from High Street, Market Street and West Street and is separated by the A514 roundabout which is difficult to cross. 5 injury accidents have occurred on the junction in the last 3 years, 2 of which have been serious. Therefore linkages are neither convenient nor safe as required by the policy and shoppers at this site would be deterred from using the town centre shops.
- Despite the fact that there is sufficient headroom to introduce more comparison shopping into Swadlincote, the proposal could prejudice a significant regeneration proposal on the Hepworths Works, which immediately abuts the town centre boundary. This has been encouraged by the Council. The proposals there incorporate inter alia a cinema. Such facilities could not come forward on their own unsupported by the retail element which would need to reach a critical mass to allow it to function as a specific shopper attraction.

A neighbour objects to:

- Increased noise and disturbance to neighbouring dwellings from vehicles, particularly HGVs passing along Darklands Lane, with potential for this to occur night and day seven days a week;
- Loss of privacy/overlooking from passing vehicles and from the warehouse;
- Highway danger from the additional traffic on Darklands Road, particularly to passing school children and pedestrians on the heavily used Darklands Lane where there would be no dedicated pedestrian refuge;
- Increased traffic congestion.

Development Plan Policies

The relevant policies are:

RSS8: P1, 2, 3, 5, 6, 23, 45 and 47.

Joint Structure Plan: GDSP1, 2 and 3, TC+SP12 and 3, TP1, 4, 8, 9, 10, 11 and 15

Local Plan: SP1, TP6, 7 and 8, and ENVP10

Planning Considerations

The main issues central to the determination of this application are highway safety and whether the proposal would undermine the viability and vitality of the town centre.

Planning Assessment

Highway safety

The County Highway Authority has had lengthy discussions with the applicant's highways consultants. Sufficient information has now been submitted to demonstrate that the proposal would not result in a materially adverse impact on the road network.

As to matters of detail relating to servicing of the units and pedestrian/cycle links, the County Highway Authority is not satisfied with the detail originally submitted with the application. However, the application is now to be dealt with in outline with all matters reserved and this enables consideration of outstanding issues of servicing arrangements and pedestrian/cycle access to take place at a subsequent stage.

On this basis there are no highway objections to the granting of planning permission subject to conditions.

Viability and vitality of the town centre

The application site is classified as an edge-of-centre location. In accordance with PPS6, applicants need to demonstrate the following: (a) the need for development; (b) that the development is of an appropriate scale; (c) that there are no more central sites for the development; (d) that there are no unacceptable impacts on existing centres and (e) that locations are accessible.

The applicant's submitted Retail Statement addresses these issues and it has been assessed as follows:

Location and Accessibility

The applicant considers that Swadlincote's primary shopping area is readily accessible via pedestrian-friendly routes from the application site and is well within 300 metres walking distance from it. The applicant argues that the proposal would generate linked trips, because a number of visitors to the town centre already carry shopping back to outlying car parks.

Whilst it is true that the application site may be edge-of-centre, it is not particularly well related to the town centre. Customers parking at the application site would need to cross two busy roads in order to walk in to the town centre. The cursory survey carried out by the applicants regarding shoppers returning to outlying car parks is not strictly comparable because these car parks involve either crossing no main roads or just one. In summary, whilst there is potential for linked trips, it is not considered that the primary shopping area is very readily accessible via pedestrian-friendly routes.

Need and Appropriateness of Scale

Need and appropriateness of scale is considered from a quantitative and a qualitative point of view.

From a quantitative aspect the applicants state that the catchment area corresponds with the Primary Catchment Area and the Secondary Catchment area as set out in the Swadlincote Retail and Leisure Study (the Donaldsons Study - the Donaldsons Study was commissioned by the Council and is a report on retail and leisure facilities in Swadlincote Town Centre). The applicants' statement concludes that the two catchment areas would generate £154.7m spending in 2006, rising to £200.8m by 2011. The applicants state that therefore, on the face of it, this increase in spending of £46.1m supports the proposed development's turnover of £6.7m more than 6 times over.

In applying the market shares of each zone (as set out in Table 3.1 in the Donaldsons Study), the applicants conclude that having deducted floorspace efficiency, the increased capacity for Swadlincote Town Centre, due to expenditure growth until 2011, would be £11.4m. The turnover of the proposal is expected to be £7.2m by 2011, leaving a surplus capacity of £4.2m.

The Planning Policy Manager's assessment of these statements concludes that there is adequate capacity because the market share applied is based on Table 3.1 of the Donaldsons Study, which records the percentage of respondents who regard Swadlincote as their main comparison shopping centre.

The Donaldson's Study summarises the comparison goods market share in paragraph 5.12 as 29% for the primary catchment area and 6% for the secondary for non-bulky goods and similarly 23% and 7% for bulky goods. Applying these percentages would reduce the comparison goods expenditure for Swadlincote from that in the applicants' statement. However, the Donaldsons Study concludes the assessment of comparison floorspace by stating that 3,252 sq m of net comparison High Street floorspace would be required by 2006 together with 2,136 sq m of net bulky goods floorspace. Given that the estimated net floorspace of the proposal would be 1,993 sq m for the DIY store and garden centre and 453 sq m for the smaller store, as stated above it is concluded that there is adequate capacity.

As to the qualitative need, the applicants argue that Swadlincote captures at best £4 in every £10 of local residents' expenditure on non-food retail and that this fact alone indicates a qualitative deficiency. Swadlincote has one specialist DIY store with a sales area of approximately 55 sq metres. The applicants state that this store does not sell any appreciable lines of electrical goods, self-assembly furniture or 'heavy goods'. None of the major DIY retailers is represented and having such a store in Swadlincote would reduce the need to travel for such items.

The applicants conclude that there is a quantitative and qualitative need for the proposed development. Given this assessment together with the advice in the Donaldsons Study, it is considered that there is a need for the proposed development and that this test in PPS6 is met.

Sequential Approach

Regarding the sequential approach to site selection, the applicants have carried out the sequential test on the basis that the development could be provided over two or more floors and without car parking. They have been assessed for suitability, viability and availability, in accordance with PPS6. Sites and vacant properties within both the primary and secondary shopping areas, together with other potential town centre development sites were considered in turn. The applicants conclude that there is only one vacant unit available in the town centre and it is neither suitable nor viable. No other sites that are likely to come forward over the next 5 years are available, suitable and viable for the proposed development. They conclude that the application site accords with the sequential approach in PPS6.

It is considered that the applicants have looked at all the relevant alternative sites and that there is no sequentially preferable site that is also suitable, available and viable.

Impact on existing centres

Finally, the applicants' statement considers the trading implications of the proposal. They state that it complies with Policy 23 of RSS8 in that the proposal is meeting an identified need and would generate linked trips to support the town centre. They state that development would not affect proposals for private sector investment or the commercial basis for further development, as there would still be demand for additional floorspace. The impact of the development would be felt most by the three existing out-of-centre DIY stores at Burton-upon-Trent, from which the DIY store is expected to draw 50% of its trade. All of these stores are outside of the Swadlincote catchment area. The applicants also anticipate that the town centre businesses would benefit from spin-off trade.

The proposed development would increase the total non-food turnover of the town centre retailers by clawing back trade from outside the catchment area. This, they argue, would improve the town centre's vitality and viability. With regard to vacancy rates, the applicants state that no vacancies are expected as a result of the development and that even if a vacancy did occur, it would still leave Swadlincote with a vacancy rate far lower than the national average.

As already discussed above, it is the Planning Policy Manager's view that the likelihood of the proposed development generating linked trips is limited. Whilst it is considered that the DIY store would draw most of its trade from existing DIY stores outside of the District, the smaller store would draw to a larger degree from the town centre. However, there is no evidence to suggest that the trade impact would cause unacceptable harm to the vitality and viability of the town centre as a whole.

Conclusion

Although the 1998 adopted Local Plan does not indicate limits for the town centre, in February 2001 the boundary shown in the Vision & Strategy for Swadlincote Town Centre (which is adopted supplementary planning guidance) was adopted for the purposes of Shopping Policies 1 & 2 of that plan. There is also a physical barrier on the northern side of the town that is formed by a busy main road and the application site lies beyond this. There is however an existing food store and electrical shop that are also beyond the town centre limits and which lie opposite to the application site.

The Donaldson report that was commissioned by this Council to establish the capacity for retail growth for the town centre identified leakage to other centres close-by and it suggested the amount of additional floor space required to seek to redress this situation whilst at the same time continuing to support the town centre in terms of its vitality and viability. The amount of floor space shown on the indicative scheme is within the tolerances suggested in their report and therefore the proposal is acceptable from this angle as a matter of principle.

Whilst, the Donaldson report went on to consider alternative sites that might be suitable to provide additional floorspace within the town centre the Depot site was not considered as one of them because it is not within the town centre. In spite of the objection made on behalf of the owners of another site (which also was not considered by Donaldson for the same reason i.e. that it lies beyond the recognised town centre) wherein they assert that their site is preferable in terms of location and pedestrian links, no application on this land has been submitted. Other sites that are within the town centre and which were considered for redevelopment have not come forward either and therefore it is concluded that the applicant's assertion that there is no site preferable to the application site is accepted.

Although the application site is edge-of-centre and divided from the town centre by Civic Way, there is a need for the development, there are no sequentially preferable sites available and the proposal would not have a significantly detrimental effect on the town centre. Although it is recognised that crossing Civic Way (A514) is a barrier to the town centre, despite the pedestrian crossings it is accepted that the proposed development meets the tests in PPS6.

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

Subject to any necessary referral to the Secretary of State under the Town and Country Planning (Shopping Development) (England and Wales) (No 2) Direction 1993, GRANT permission subject to the following conditions:

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

(b) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.

2. Notwithstanding the originally submitted details, this permission shall relate to the amended details as outlined in your email to the local planning authority dated 8 November 2006.

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

3. Approval of the details of the siting, design and external appearance of the buildings the means of access thereto and the landscaping and means of enclosure of the site shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.

4. Unless otherwise agreed in writing with the Local Planning Authority no development shall be commenced until access to the site has been provided as follows, in accordance with a detailed scheme to be submitted to and approved by the Local Planning Authority at reserved matters or full application stage.

- (i) The improvement of Darklands Lane for a distance of 120 m from the junction with Darklands Road to comprise a 7.3 m wide carriageway with a continuous 1.8 m wide footway on the southern side. The Darklands Road junction shall be provided with a minimum 10 m radius on its southern side. On the northern side a section of footway shall be provided in order to allow minimum visibility of 50 m for pedestrians crossing the junction from north to south of eastbound traffic on Darklands Lane. The carriageway and footways shall be constructed to binder course level prior to any other development being commenced and surfaced prior to the development being taken into use.

- (ii) A visibility splay shall be provided extending from a point 4.5 m back from the Darklands Road carriageway edge, measured along the centreline of Darklands Lane, for a distance of 70 m to the south measured along the nearside carriageway edge of Darklands Road. The land in advance of the splay shall be cleared of all obstructions above ground level prior to any other development taking place and constructed as footway prior to the development being taken into use.
- (iii) A turning head shall be provided at the western end of the Darklands Lane frontage, to be constructed to binder course level prior to any other development being commenced and surfaced prior to the development being taken into use.
- (iv) The existing access to Darklands Road shall be permanently closed to traffic and a continuous footway provided.

Reason: In the interests of highway safety.

- 5. Unless otherwise agreed in writing by the Local Planning Authority no development shall take place, other than in connection with the highway works to Darklands Lane and Darklands Road, until space has been provided within the curtilage for site accommodation, materials storage, lorry loading/unloading, parking and manoeuvring and construction staff/visitor vehicle parking and manoeuvring in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. The facilities shall be maintained available throughout the construction period.

Reason: In the interests of highway safety.

- 6. No development shall take place, other than in connection with the highway works to Darklands Lane and Darklands Road, until facilities have been provided in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority to prevent the deposit of extraneous material on the public highway. The approved facilities shall be maintained and utilised throughout the construction period.

Reason: In the interests of highway safety.

- 7. Notwithstanding the submitted plans details submitted at reserved matters or full application stage shall include access for vehicles, pedestrians and cyclists between the site and the highway network, secure cycle facilities within the site, service vehicle access, loading and unloading and manoeuvring space.

Reason: To ensure that adequate facilities for a choice of transport methods to the site is catered for.

- 8. The reserved matters application shall be accompanied by plans showing the finished floor levels of the development hereby approved and of the ground levels of the site relative to adjoining land levels. Thereafter, the development shall be constructed in accordance with the agreed level(s).

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

9. The site shall accommodate a maximum of two retail units and each unit shall be occupied by a single operator and shall not be subdivided or sub-let.

Reason: To protect the vitality and viability of the town centre.

10. 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.

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

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

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

12. The premises hereby permitted shall not be open to customers and no deliveries shall be taken at or despatched from the site outside the following times:

0600hrs - 2000hrs Mondays to Saturdays and

1030hrs to 1730hrs on Sundays, Bank or Public Holidays

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

Informatives:

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

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.

Pursuant to Sections 149 & 151 of the 1980 Highways Act the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited onto the public highway. Should such deposits occur it is the applicant's responsibility to ensure that steps are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

The works to be undertaken on Darklands Lane and Darklands Road will require the developer to enter into an Agreement under Highways Act 1980 Section 278. The developer is advised to allow a minimum of 12 weeks in any programme of works to allow completion of the Agreement. No works may be commenced within the highway in advance of the Agreement being entered into.

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

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

Further guidance can be obtained from the following:

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

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

Under these circumstances, you should undertake a site investigation and submit the results and remediation proposals as part of the planning application.

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

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

12/12/2006

Item 1.2**Reg. No.** 9/2006/0669/F**Applicant:**

Mr K Middleton
42 Wood Street
Church Gresley
Swadlincote
Derbyshire
DE11 9QB

Agent:

David Raybould
Newton Fallowell
Bretby Villa
Midland Road
Swadlincote
Derbyshire
DE11 OAJ

Proposal: The demolition of an existing garage and the erection of a detached dwelling at Garage Site Adjacent To 2A Weston Street Swadlincote

Ward: Swadlincote

Valid Date: 05/06/2006

Reason for committee determination

This application is brought before the Committee having regard to Members' previously expressed concerns relating to parking and highway conditions on and around Weston Street.

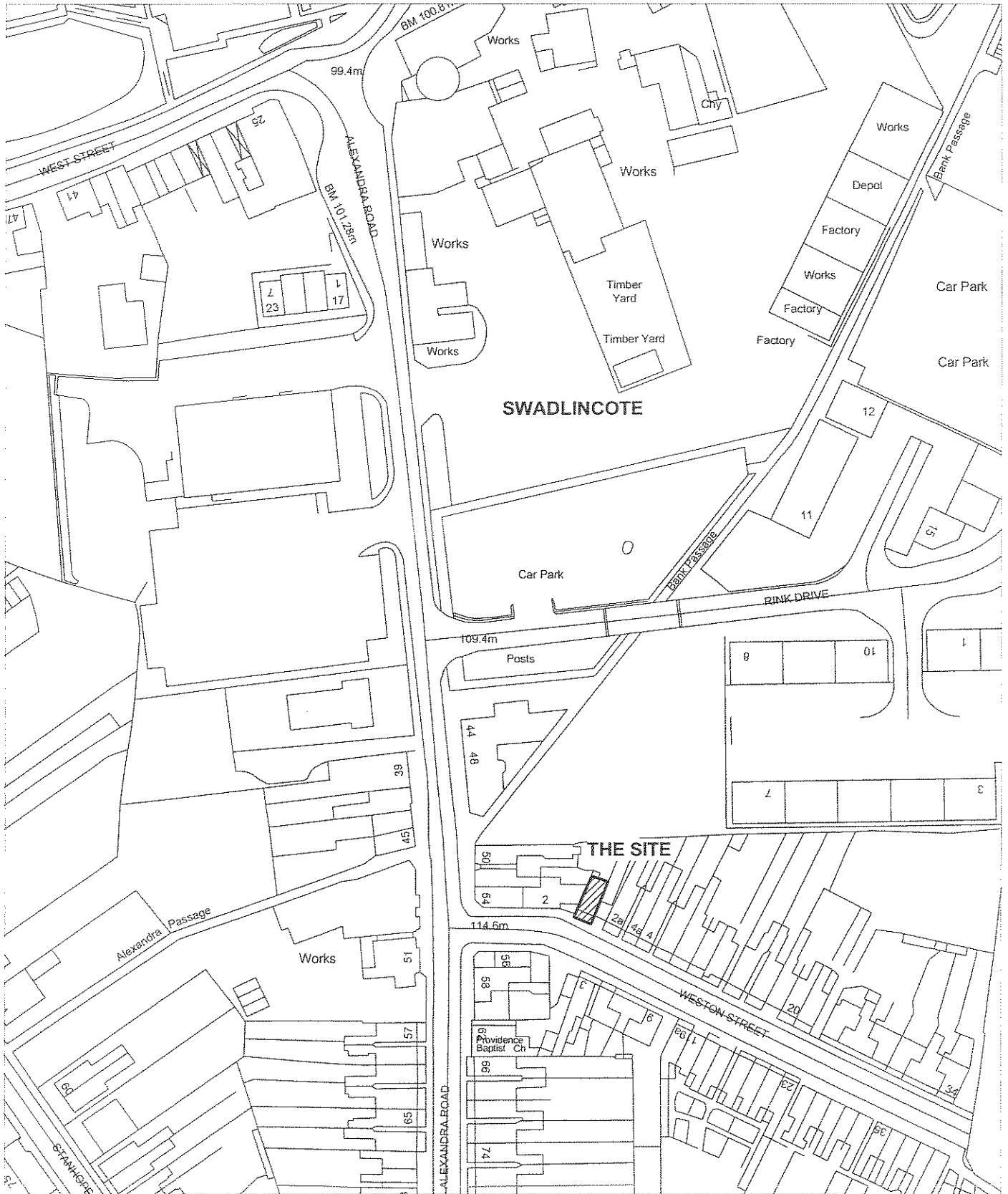
Site Description

The character of the locality is predominantly residential with existing housing to the north, south and east. To the west the housing is interspersed with a range of commercial uses and immediately adjoining the western boundary of the application site is a dentist surgery. The site itself comprises a single storey building that appears to have been used as a lock up garage. The building is in a poor state of repair.

Proposal

It is proposed to demolish the existing building and in its place to construct a one bedroom two storey dwelling.

The building would have a lounge/kitchen and toilet on the ground floor and a bedroom and bathroom on the first floor. Bin storage is accommodated within the design to the front of the house and to the rear would be a very small yard to the rear. The proposal makes no provision for any off street parking.



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

9/2006/0669/F Garage Site adjacent to 2A Weston Street
Swadlincote

Date Plotted 1/12/2006

NORTH ↑

Plot centred at 429848 319438 Scale 1:1250

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Responses to Consultations

The County Highways Authority comments that the proposal would result in the loss of existing parking space as well as establishing a new residential use without off-street parking facilities. However, the site is located relatively near to town centre facilities and Weston Street is already subject to extensive on-street parking. It is considered that the need for additional vehicles to be accommodated, whilst increasing competition for spaces, is unlikely to materially alter existing highway conditions to an extent where refusal of planning permission could realistically be justified. In view of this there are no highway objections to the granting of planning permission.

Both Severn Trent Water and the Pollution Control Officer have no objection in principle subject to conditions to deal with drainage and a contaminated land survey.

Responses to Publicity

Two letters of objection have been received raising the following objections:

- Will add to parking problems
- Site area includes land outside applicant's ownership
- Lack of rear access could cause fire/emergency problem
- No room for the erection of scaffolding
- Loss of privacy

Development Plan Policies

The relevant policies are:

RSS8: P2, P20

Joint Structure Plan/Local Plan:

H3(SP)

H4(LP)

T4(SP)

T6(LP)

Planning Considerations

The main issues central to the determination of this application are amenity and highway safety

Planning Assessment

The site is previously developed land within the urban area and is well related to services. There is therefore no objection to the principle of development.

In terms of design, the scheme was amended during pre application discussion and the proposed dwelling would be well related to the buildings either side. It would result in an acceptable streetscape.

With regard to the impact that development of this very compact plot would have on occupants of nearby existing dwellings, the following buildings adjoin the site.

To the east there is a dentists surgery whose car park lies between the surgery and the proposed dwelling. To the west there is a single storey garage adjoining the site and beyond that a dwelling, number 2a Weston Street. There are side windows in both of these properties which are not automatically afforded protection in the Council's SPG. The building would be some 3.5m from the side walls of the aforementioned buildings and it is considered that this distance is acceptable. With regard to number 50 Alexandra Road the proposed building would fall outside of the 45° zone of protection for the window in the end wall of the single storey extension.

As to the new dwellings to the rear known as Potters Mews, these dwellings are around 2m lower than the application site. There are no rear facing windows in the proposed dwelling and therefore the proposal falls only to be considered in terms of overbearance. SPG requires a minimum of 12m from the ground floor sitting room of the dwellings on Potters Mews to the new building. An addition of 20% for the difference in levels equals 14.4m. There would be some 19m between the rear wall of the closest dwelling and the new building and therefore this distance is satisfied. A condition is appropriate to prevent the insertion of new openings once the proposed dwelling is occupied.

As to highway matters, it is acknowledged that Western Street is subject to much on-street parking and the introduction of an additional dwelling would be likely to bring additional vehicles to the locality whilst at the same time there would be a loss of existing off street parking facilities. The County Highways Authority is, however, satisfied that the additional traffic would not amount to a significant increase above the existing situation and considers therefore that the proposal cannot be resisted on highway grounds.

With regard to the representation about ownership, this matter was drawn to the applicant's attention and it has been confirmed that the original plans contained errors. The site boundary has been redrawn to exclude land outside the control of the applicant and the rear door that was shown on the floor plans but not on the elevation is now included on both. The question about scaffolding is a private matter between owners

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 site plan received on 10 August 2006 and the plan showing an amended rear elevation received on 27 October 2006.

Reason: For the avoidance of doubt.

3. 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 building other than as approved under this permission.

Reason: In the interests of protecting the amenities of occupiers of adjoining properties.

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

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

5. No development shall take place until a site investigation to determine whether the land is contaminated and any associated remedial works have been carried out to the satisfaction of the Local Planning Authority. This will include:
 - A. A desktop study of the area of the proposed development.
 - B. An intrusive site investigation, its scope to be confirmed with the Local Planning Authority, prior to its commencement. The report should contain recommendations for any remedial or further works at the site.
 - C. A remediation method statement, to be agreed with the Local Planning Authority, prior to its commencement at site.
 - D. A remediation validation report along with a signed copy of the attached certificate. This should be supplied prior to the occupation of any buildings at site.

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

6. 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.

Informatives:

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

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- 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:

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- 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.

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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.

There are public sewers adjacent to this site. The Public Health Act requires that there shall be no building over any public sewer crossing the site without the express consent of the Regional Water Authority and there are protected zones alongside the sewers.

You should contact Severn Trent about this matter prior to any work commencing on site alternatively you may wish to apply to Severn Trent to divert the sewer in accordance with Section 185 of the Water Industry Act 1991.

12/12/2006

Item 1.3**Reg. No.** 9/2006/1205/MR**Applicant:**

West Brothers And T H Archer Ltd
 Woodville
 Swadlincote
 Derbyshire
 DE11 8DF

Agent:

J V H Town Planning Consultants
 Houndhill Courtyard
 Houndhill, Marchington
 Uttoxeter
 Staffordshire
 ST14 8LN

Proposal: Outline application (all matters to be reserved except for means of access) for a residential development at Rose Hill Works Rose Hill Woodville Swadlincote

Ward: Woodville

Valid Date: 13/10/2006

Reason for committee determination

The application is brought to the committee because a decision made earlier this year on an application for a similar proposal on the site was refused (under delegated powers) and the current application is now recommended for permission.

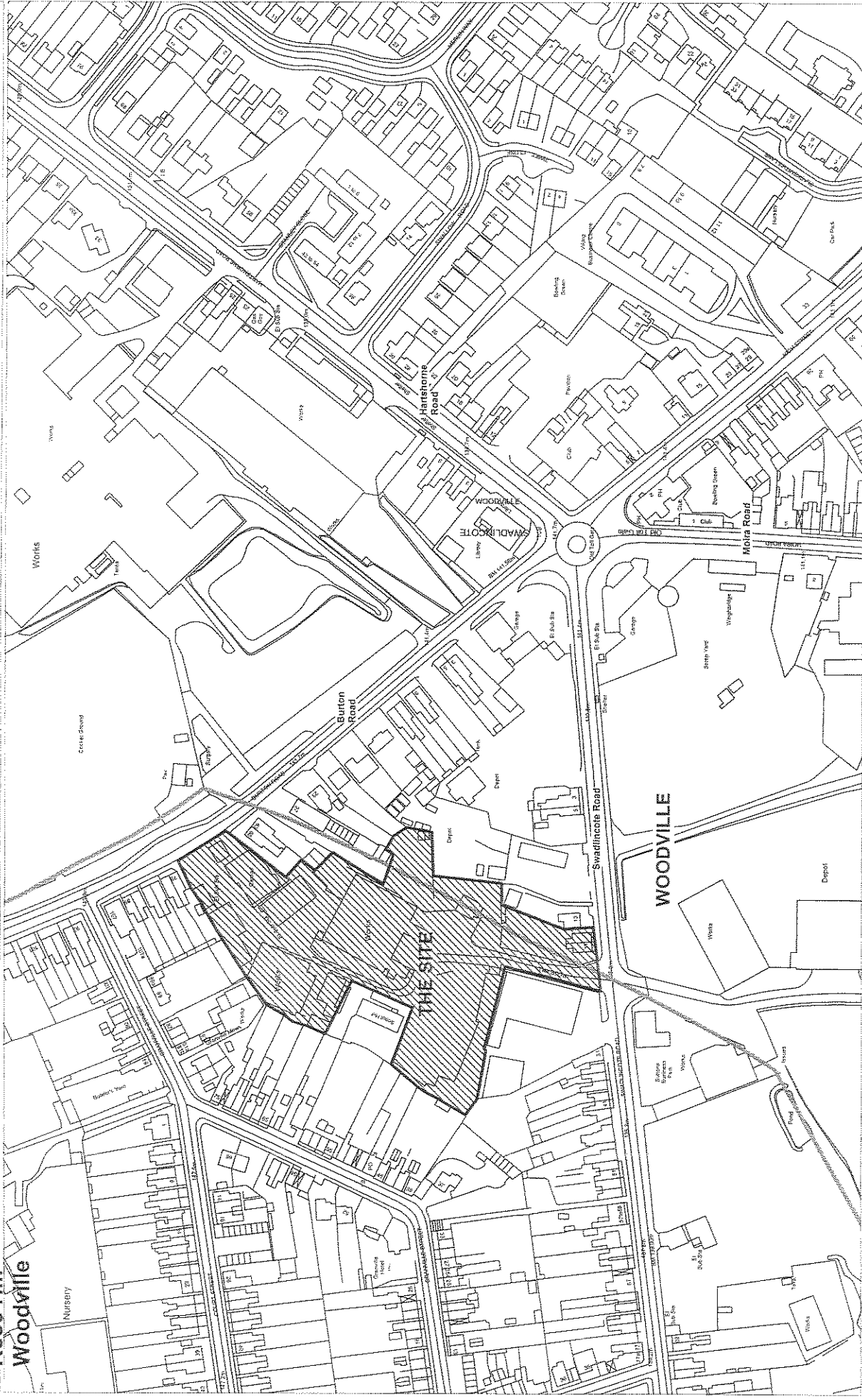
Site Description

This irregular shaped site measures 1.27ha in total, the majority of which comprises vacant industrial buildings and unused open storage areas. T H Archer (car sales and repairs) and Bowest (manufacturers of rubber and plastic products for the auto industry) occupy units at the northern end of the site.

The site has an access connection to Burton Road at its northern end and Swadlincote Road at the southern end. Definitive Public Footpath number 20 runs through the site from Burton Road to Swadlincote Road.

On its western side the site is abutted mainly by existing terraced housing apart from the southwest corner where it abuts Masseys shop and half way up the western side where the site is indented by the Woodville Scout Group building and curtilage land. On the eastern side is a greater presence of commercial premises abutting the site (Harvey and Clarke builders yard and Premium Fuels), interspersed with housing.

1205
9/2006/0299/M Rose Hill Works
Rose Hill
Woodville



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

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Date Plotted 1/12/2006
Scale 1:2500

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Proposal

The proposal is to redevelop the site for housing. The application is in outline with layout, scale, appearance and landscaping reserved for subsequent approval.

An indicative layout has been submitted showing vehicular access off Swadlincote Road and access off Burton Road reduced to a footpath into the site. The layout shows a capacity for 53 units consisting of a mix of 1, 2, 3 and 4 bedrooms, including dwelling heights of 2, 2½ and a limited number of three storey properties. A strong built form is proposed and care will be taken to minimise the number of cars that are visible in the street scene by introducing rear parking courts particularly for apartments. The layout retains and improves the footpath link between Burton Road and Swadlincote Road.

Applicants' supporting information

Summarised as follows:

- It is a sustainable site for housing being in the centre of Woodville and conveniently placed for shops, jobs, public services and transport thus promoting the Government's objective of reducing car dependency and encouraging walking and cycling.
- With the exception of one freestanding warehouse built to more modern standards, the buildings are of a poor layout and quality, lacking insulation and providing poor staff facilities. In addition, they would not comply with current Health and Safety requirements.
- The marketing report submitted with the application demonstrates that there is little demand for such premises. No offers were made during the marketing period which commenced on 17th August 2005 either for a re-use or for redevelopment for employment purposes
- The lack of offers can be attributed to the following reasons: There is no interest in the site for B1 office development, as its location is not considered prestigious or attractive for office development. It is considered that a reuse for B2 general industry on the site is prohibited by the condition of the existing buildings; this is supported by no offers for the site. It is unlikely that an investor would redevelop the site for a B2 use due to the location and number of purpose built design and build opportunities on nearby industrial estates. The location is considered unsuitable for a B8 distribution use given its distance from major road junctions and the constraints and size of the site including its proximity to existing residents.
- Provides an opportunity for reusing a brown field site
- The development will help sustain the viability of local businesses and maintain the need for services within the Woodville area, thus benefiting the local community
- Would result in the removal of a non-conforming use, which will benefit neighbouring residents.
- The premises do not fulfil the requirements of the existing occupiers due to rising maintenance costs and unsuitability and layout of the site are not conducive to the long-term success of the company. The applicant indicates that the premises occupied by Bowest are obsolescent for industrial uses and that the company wishes to relocate to more suitable accommodation in the Swadlincote area. It is indicated that T H Archer would also wish to relocate.

Planning History

Planning permission was refused in May 2006 for the following reason:

“The proposal would lead to a qualitative and quantitative deficiency of business, general industrial and distribution land in the Swadlincote Sub Area and therefore does not accord with Economy Policy 1 of the Derby and Derbyshire Joint Structure Plan. The evidence submitted by the applicant does not satisfy the Council that the site is no longer needed for industrial and business purposes as the marketing period has been too short to expose the property correctly and the signage erected on site to advertise the property provides insufficient information to effectively fulfil its purpose.”

Responses to Consultations

The Woodville Parish Council objects to the proposal on grounds that industrial land should be safeguarded for the long term sustainability of the community. The Scout group is still active on the site and therefore it cannot be classed as brown field. It will add to congestion on Swadlincote Road and the Clock Garage Island which is grid locked at times. Marketing of the land has not been long enough. Industry should be promoted over housing.

Formal comment from the Environment Agency was not available at the time of writing this report, but a verbal indication was that there would be no objection in line with comments on the previous application.

The Environmental Protection Manager has indicated verbally that the levels of noise likely to be experienced by future residents from adjoining businesses has been found to be acceptable subject to a noise mitigation scheme to be approved by condition. His formal comments are awaited.

The County Highway Authority raises no objections to the proposal subject to standard highway safety conditions.

Severn Trent Water raises no objections.

Derbyshire Education Authority seeks a contribution of £3,962 per dwelling.

Comments from the Primary Care Trust were not available at the time of writing this report.

Responses to Publicity

The comments of the 1st Woodville (St Stephen's) Scout Group are summarised as follows:

- Being on an industrial site and abutting long rear gardens they do not cause inconvenience to neighbours with normal scouting activities such as cooking on wood fires, noisy games and fundraising functions outside in the summer.
- The indicative layout will impose restrictions on their activities due to houses being built up to their boundary and may have implications with regards to loss of privacy and child safety. It could also result in loss of light to their site.
- Screening or space around the boundaries will be required.

- Loss of HGV access could result in loading heavy camping equipment on either of the busy main roads. Restricting access to Burton Road to pedestrian only could breach their deeds, which gives them right of access for all vehicles from Burton Road.
- Parking at drop off and pick up times whilst not a problem at the moment is likely to be a problem once developed for housing. Provision would need to be made for this.
- Concern over safety of members during construction period and ground disturbance unearthing contaminants, which could be hazardous to public health.

A resident on Burton Road would welcome rear access to his property being provided as part of the development, further congestion would be caused on the Tollgate Island, a crossing should be provided on the A511 financed by the developer and a ghost island for traffic turning right into the doctors' surgery car park.

Another resident is concerned about the large number of housing developments occurring in Woodville and that it is no longer an enjoyable village to live in and the land could be put to better use. They live adjacent to the doctor's surgery where there is congestion and cannot envisage a further junction at this location or adjacent to Massey's shop. They also say they own a private right of way over the land to Swadlincote Road.

Development Plan Policies

The relevant policies are:

RSS8: Policy 2 and 3

Joint Structure Plan: Housing Policy 3, Economy Policy 1, Transport Policy 4

Local Plan: Housing Policy 4, Recreation and Services Policy 4, Environment Policy 10

Planning Considerations

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

- Loss of industrial land
- Whether residential development on the site is appropriate
- Other issues

Planning Assessment

Loss of industrial land

The majority of the site comprises vacant industrial buildings and unused open storage areas whilst the remainder is occupied by Bowest Precision Ltd, a rubber and plastics parts manufacturer, and TH Archer, a car sales and repairs business. The floor area occupied by Bowest Engineering measures some 1108 sq m whilst that occupied by T H Archer measures 812 sq m. The floor area of the vacant buildings measures some 1378 sq m.

The applicant indicates that the premises occupied by Bowest are obsolescent for industrial uses and that the company wishes to relocate to more suitable

accommodation in the Swadlincote area. It is indicated that T H Archer would also wish to relocate.

Derby and Derbyshire Joint Structure Plan Economy Policy 1 addresses this type of proposal indicating that such redevelopment should be permitted where it would not lead to a qualitative or quantitative deficiency of land for such uses in the sub-area.

There is currently a shortfall of some 9ha of industrial and business land in the Swadlincote Sub Area in relation to the strategic requirement set out in the Derby and Derbyshire Joint Structure Plan Economy Policy 17. However, in order to determine whether the loss of the site would itself lead to a deficiency of land for industrial and businesses uses in the area, it is necessary to establish whether the site remains viable for such purposes. The applicant was therefore requested to undertake a marketing exercise over a minimum period of twelve months. The site was accordingly marketed for sale on a freehold basis over the sixteen-month period from August 2005 to the present. This exercise comprised the mailing of sales particulars to commercial property agents in the Midlands region including the Council's Economic Regeneration Unit, the erection of a sign board at the site and advertising in the local and national press and on the agent's website. The applicant's agent states that the campaign resulted in ninety-six requests for sales particulars but that no offers for purchase of the site were received. Details of the enquirers have been provided.

The Council has sought independent advice from Donaldsons on best practice in the marketing of industrial and commercial land and premises and the campaign appears to have been broadly satisfactory in relation to this.

Officers have made contact with a number of the enquirers identified on the list supplied by the applicant's agent to ask why they had decided not to pursue their initial enquiries further. Of these the majority were interested in redeveloping the site for non-industrial purposes such as housing, care homes and retail uses. Some established businesses had requested details but had found the premises to be unsuitable for their requirements.

In conclusion, the marketing campaign represented the test by which the need for the site would be determined and it appears not to have succeeded in attracting new industrial or business occupants or enquirers interested in redeveloping the site to meet modern industrial or business requirements. Since the site has not been shown to be of interest to potential business users it would be difficult to argue that its loss would be likely to lead to a qualitative or quantitative deficiency of land for such uses. It is considered therefore that a sustainable objection to the proposal in relation to the issue of the loss of an established employment site would not be possible.

Whether residential development on the site is appropriate

This is previously developed land within the Swadlincote development boundary and therefore residential development is acceptable in principle with convenient access to shops, jobs, public services and transport.

Given the comments of the Environmental Protection Manager an objection on environmental grounds would be unsustainable.

The indicative layout shows no public open space on the site, which is considered to be unacceptable.

Green space is regarded as an essential component of higher density urban living and there is little provision in the immediate vicinity. In addition, the needs of the Scout Group should be considered and on-site green space provision could also serve as a buffer strip between the Scout hut and existing dwellings. Parking and larger vehicle manoeuvring requirements should also be provided for in the interests of safeguarding the amenities of future residents.

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

Recommendation

A. Subject to the applicant entering into a Section 106 Agreement for the provision of affordable housing and financial contributions towards National Forest planting, outdoor facilities and built facilities and open space maintenance, education and medical facilities and any requirements of the Environment Agency and the Environmental Protection Manager; then **GRANT** permission subject to the following conditions:

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
 (b) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.

2. Approval of the details of the layout, scale, appearance and landscaping shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.

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

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

4. No development shall take place until 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.

5. Further to condition 2 above, soft landscape details shall include planting plans; written specifications including cultivation and other operations associated with plant and grass establishment; schedules of plants (noting species, plant sizes and proposed numbers/densities where appropriate) and the implementation programme.

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. No development shall commence on site in connection with this approval until samples of materials for the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved samples.

Reason: To ensure the materials are appropriate to enhance the appearance of the area.

8. No development shall commence on site in connection with this approval until details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed in accordance with the agreed levels.

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

9. Open space (including an equipped play area to the standard of a LEAP), excluding areas of incidental landscaping and highway verges, shall be provided to a standard of 2.4square metres per bedroom unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure an adequate standard of provision, in the interests of amenity including providing a meaningful buffer between the Scout premises and proposed dwellings.

10. Before any other operations are commenced on site in connection with this approval, a new estate street junction shall be formed onto Swadlincote Road as shown on the submitted drawing 3769/01, laid out and constructed in accordance with a detailed scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

11. No dwelling approved by the reserved matters approval shall be occupied until the proposed new estate street within the application site has been designed and laid out in accordance with the County Council's 'Roads in Housing' design guide and constructed to base level to adoptable standard, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

12. Before any other operations are commenced on site in connection with this approval, 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, all laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local planning Authority, and retained throughout the construction period in accordance with the approved designs, free of any impediment to the designated use.

Reason: In the interests of highway safety

13. No development shall commence on site in connection with this approval until details of parking and vehicle manoeuvring for the needs of the Scout Group have been submitted to and approved in writing by the Local Planning Authority and the new dwellings closest to these facilities shall not be occupied until the said facilities have been provided in accordance with the approved details and shall be retained for the use of the Scout Group thereafter.

Reason: To safeguard the amenities of neighbouring residents.

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

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

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

Informatives:

There are public sewers , which cross the site. No building shall be erected or trees planted within 2.5metres of the 225mm public combined and within 2.5metres of the public surface water sewers. The applcaint may wish to apply to Severn Trent Water to divert the sewer in accordance with Section 195 of the Water Industry Act 1991.

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

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

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

Further guidance can be obtained from the following:

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

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

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

The developer will also be required to sign a completion certificate confirming that the works of reclamation have been carried out in accordance with the agreed strategy. That detailed plans of road levels, surface water drainage arrangements and the construction of the new street should be submitted to the County Surveyor, Derbyshire County Council, County Offices, Matlock, Derbyshire, DE4 3AG, prior to the commencement of the work.

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.

To note and act upon as necessary the comments of Severn Trent Water (see attached letter).

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

12/12/2006

Item 2.1**Reg. No.** 9/2006/0955/F**Applicant:**

Cooper Bros Property Ltd
 Northside Business Park
 Hawkins Lane
 Burton Upon Trent
 Staffordshire
 DE14 1DB

Agent:

Steve D Pearce
 Pant Glas
 Manordeilo
 Llandeilo
 Carmarthenshire
 SA19 7BL

Proposal: The erection of a replacement building Unit 3 Aults
 Industrial Estate Midland Road Swadlincote

Ward: Swadlincote

Valid Date: 09/08/2006

Reason for committee determination

This application is brought before this committee at the request of Cllr Joan Lane in order that the committee can debate finely balance issues in this case relating to the personal circumstances of the applicant and the unusual site circumstances.

Site Description

The site is currently vacant, the building that formerly occupied the land having been demolished. The land is level with the adjacent units within the industrial estate but lies lower than the residential properties to the north by approximately 2m.

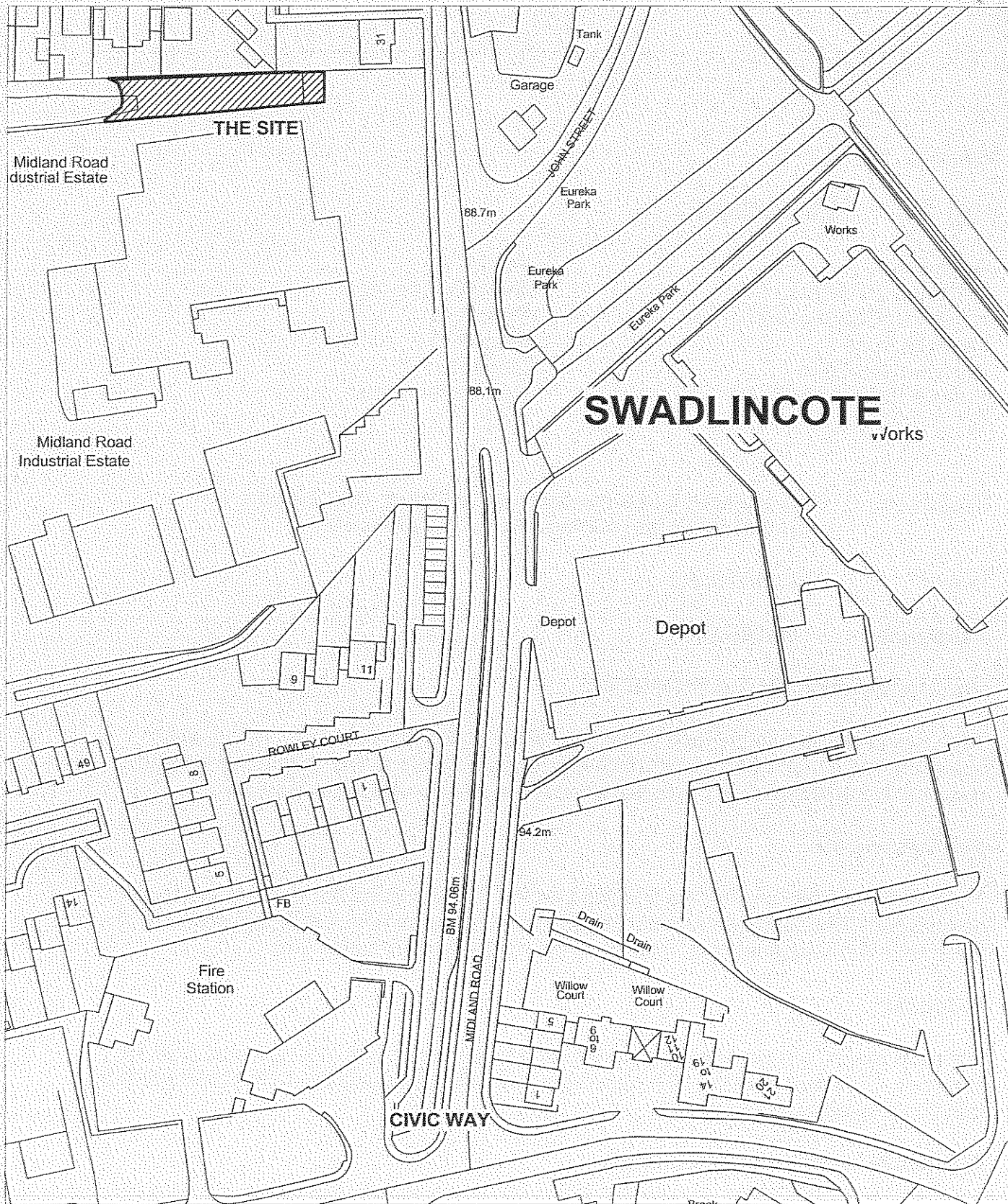
Proposal

It is proposed to erect a new building 6m wide by just over 30m in length and 5.5m to the ridge. The design of the new building would reflect the building on the adjacent site that is occupied by the applicant.

Applicants' supporting information

The applicant has submitted a lengthy document of supporting information, (the full copy of which is available on the application file). It makes an argument in favour of development based on the policies in the Structure Plan and the Local Plan and summarises the trading arrangements on the existing site. In conclusion it says:

- 1) Garden supply retailers are normally found outside town centres
- 2) No retail unit of an appropriate size with good service and collection facilities is available to let within Swadlincote town centre



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

9/2006/0955/F Unit 3
Aults Industrial Estate
Midland Road
Swadlincote

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Date Plotted 1/12/2006

NORTH ↑

Plot centred at 429976 319918

Scale 1:1250

- 3) Town centre rents are considered to be too high for normal garden supply operators
- 4) The closest location away from the central part of the town is an edge of town location and the application site fulfils all of these requirements
- 5) Notwithstanding the above noted matters, the garden supplies facility provides an associated service to the aquatics and pet supplies, to split the business means joint purchasing would not take place, it will weaken the economic base of the company and will not assist in promoting the town centre

He also concludes that whilst an isolated A1 use outside of the town centre would be contrary to policy that a personal permission linked to the existing business would not undermine the existing retail outlets in the town centre. Although the site is within an industrial estate, because the proposal is for B1, B2, B8 and limited A1 use the development adds to the economic base of the town. The retail use introduces more customers to the business which is likely to attract more users to the town centre. The site is an edge of centre site with good access to the town centre. It has good public transport accessibility. The site is sustainable. It meets sequential testing and adds to the broad retail base of the town centre. It complies with Policy requirements. It will result in additional employment. The overall development positively adds to the town centre. On these grounds the report concludes that the proposal should be permitted.

Planning History

Relevant to the current application are the recent application on the adjoining unit that is occupied by the applicant and the previous applications on this site.

Taking the adjoining site first, in 2002 planning permission was granted for the change of use (of Units 8 & 9 Aults Industrial Estate). It was proposed to provide industrial use (Classes B1 and B8) together with an Auction room (unit 8) and A1 Use to be limited to aquatic and pet wholesale. This application was granted on the sole basis of the particular circumstances whereby bulky quantities of specialist goods are sold, not normally in competition with High Street shops. As such the permission has a condition restricting the permission to SCS Aquatics and Pet wholesale only.

In granting this permission it was considered that although the scheme proposed an additional A1 retail use for the site, much of the company's business would still be storage and distribution for which the buildings already had an established consent.

In 2004 a further application for Units 8 and 9 was considered. The application in effect proposed to replace the word 'wholesale' in the earlier planning permission with the words 'garden supplies' and the description of the proposal reads - Industrial use (Classes B1 and B8) and use as an Auction room (unit 8) and A1 Use (to be limited to aquatic, pet, and garden supplies). This application was also granted. A condition limits the use to it being for the sole benefit of SCS Aquatics and Pet wholesale only and that the sale of garden supplies is limited to no more than 10% of the retail showroom area, to ensure that it remained ancillary to the pet and aquatic specialist sales.

At the time of this application, the applicant had stated that the garden equipment sales were to enable customers to purchase pond making equipment in association with the

aquatics side of the business and that less than 5% of the showroom would be taken up by such goods.

Insofar as the current application site is concerned, in 2001 permission was granted for the demolition of an existing building and for the erection of a replacement building. This permission restricts the use of the new building to B1 and also limits it in terms of operating times. In spite of the original building having been demolished the new building has not yet been erected and an application to extend the time period of the permission was granted in April this year.

The approved replacement building was proposed to be some 15m in length, 6m wide and would have a ridge height of 5.5m. As can be seen, the current application, in addition to changing its intended use, would also double its floor space from the original permission.

Responses to Consultations

The Planning Policy Manager recommends refusal because the proposal would introduce new shopping floor space on a well established industrial estate and at the same time result in the loss of industrial land contrary to policies for its protection.

The Environmental Protection Manager and the County Highway Authority have no comments.

Responses to Publicity

There has been no response to publicity

Development Plan Policies

The relevant policies are:

RSS8:

Joint Structure Plan: E1, TC4, T6

Local Plan: S2, T4

Planning Considerations

The main issues central to the determination of this application are the impact of the proposal on the vitality and viability of the town centre, the loss of employment land and the impact of the building on the occupiers of adjacent dwellings.

Planning Assessment

The application site is in an out-of-centre location as defined by Table 2 in PPS6: Planning for Town Centres. PPS6 states that retail uses should be located within town centres or failing that in edge-of-centre locations, where need has been demonstrated, in accordance with the sequential approach or the proposal relates to the sale of bulky goods.

Shopping Policy 2C of the adopted Local Plan indicates that new shopping development on industrial estates will not be permitted.

The supporting text states that the purpose of this is to avoid the loss of industrial land. The original consent for A1 use of the applicants established premises was granted on the basis of the building having previously been used as auction rooms, which was judged to represent a retail type sui generis use, rather than B1, B2 or B8, use. This policy reflects Town Centre and Shopping Policy 4 of the Joint Structure Plan.

With regard to the question of location for the proposed additional retail floor space, the application is for an extension to the existing Garden and Pet Warehouse, which would facilitate the relocation of the garden supplies into a separate unit. The current planning permission for the existing use restricts the sale of garden supplies to no more than 10% of the retail showroom area. At the time that this application was considered the applicant stated that garden equipment sales were to enable customers to purchase pond making equipment in association with the aquatics side of the business and that such goods would take up less than 5% of the showroom. Nevertheless the permission was granted, as already stated, with a restriction of no more than 10% of floor space to be used for garden supplies (which at that time amounted to 70 sq.m.). The sale of gardening goods was deliberately limited to ensure that it remained ancillary to the pet and aquatic specialist sales. The applicant now states that the combined gross floor space of units 8 and 9 is 700 sq.m. and the current application would provide some 183 sq.m. of additional floor space which would be wholly used for the sale of garden supplies and would result in 20% of the combined floor area to be used for garden sales. It is clear that the retail element of the use has grown from the original 5% stated only two years ago and has reached the level where there is a desire to locate it in a separate building.

Whilst the applicant has stated that the garden supplies part of the business is linked to the pets and aquatics side of the business and it needs to be located in an area capable of being serviced by articulated lorries and other HGV's, an assessment of need (as required by PPS6) has not been provided to demonstrate why more floor space is required. Instead it only states that garden supply facilities are infrequently located within town centres because they generally require good car access because of the collection of bulky goods.

As to the loss of employment land, Economy Policy 1 of the Structure Plan indicates that development that would lead to a reduction in the supply of industrial/business land and buildings should only be permitted where it would not lead to a qualitative or quantitative deficiency of land for such uses in the sub area. As a fact it should be noted that there is an overall general shortage of industrial/business land and premises. The current shortfall is some 9 ha. in the employment land supply in the Swadlincote area in relation to the strategic requirement as set out in the Structure Plan. Whilst small in itself, acceptance of the principle of redevelopment for other purposes could set a precedent for further erosion of the stock of established employment premises on the Aults estate.

Against this background there is no indication that the current application site is surplus to industrial requirements and no evidence has been provided that any attempt has been made to market the site to show that there is no demand for an industrial building in this location. Indeed the Council's Economic Regeneration Service has identified small units as having been in short supply in the district for some time. Small sites such as this cater to a different market to that addressed by larger estates such as Tetron Point.

The larger sites are constrained by the design and build requirements of the landowners/developers. Furthermore, the owners of the larger business parks often do not want to deal with smaller users whose premises requirements add complexity and cost. This advice from the Council's Economic Regeneration Service adds to the argument that the site is still needed and that it further demonstrates that its loss would lead to a qualitative deficiency in employment land in the sub-area, contrary to Structure Plan Economy Policy 1 and the proposal is therefore unacceptable.

In terms of amenity, the applicant has provided historical information to demonstrate that the height of the proposed building would be similar to the previous building that occupied this site. Although this building no longer exists, taking into account the difference in levels and the conifer screen, it is considered that the proposal would not be significantly harmful the amenities of occupants of the adjoining dwellings.

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

Recommendation

A. Subject to the consideration of any representations received by 21 December 2006 being delegated to the Head of Planning Services;

B. REFUSE permission for the following reason:

Economy Policy 1 of the Structure Plan indicates that development that would lead to a reduction in the supply of industrial/business land and buildings should only be permitted where it would not lead to a qualitative or quantitative deficiency of land for such uses in the sub area. Similarly, Shopping Policy 2C of the adopted Local Plan indicates that new shopping development on industrial estates will not be permitted to avoid the loss of industrial land. There is a current shortfall of some 9 ha. in the employment land supply in the Swadlincote area in relation to the strategic requirement as set out in the Structure Plan. Against this background there is no indication that the current application site is surplus to industrial requirements and no evidence has been provided to demonstrate that it is no longer needed. To permit the proposal would therefore be contrary to Economy Policy 1 and Shopping Policy 2C. Whilst Shopping Policy 3 in the Structure Plan supports edge of centre retail sites subject to certain criteria, the weight attributed to the fact that the application site is currently available to support industrial uses in an area where there is a recognised shortfall, is sufficient to safeguard it from loss.

12/12/2006

Item 2.2**Reg. No.** 9/2006/1089/F**Applicant:**
Barracuda Group Limited**Agent:**
D2 Planning Ltd
The Annex
2 Oakhurst Road
Stoke Bishop
Bristol
BS9 3TQ**Proposal:** The provision of an external seating area at 21 West Street Swadlincote**Ward:** Swadlincote**Valid Date:** 25/10/2006**Reason for committee determination**

This application is brought before the Committee at the request of Cllr R Lane because local concern has been expressed about a particular issue.

Site Description

The site comprises a former cinema that has most recently been operated as an indoor children's play area, an amusement arcade and an antiques shop. The building has the distinctive style of a cinema and is located within the Swadlincote Conservation Area amongst a variety of commercial uses.

Proposal

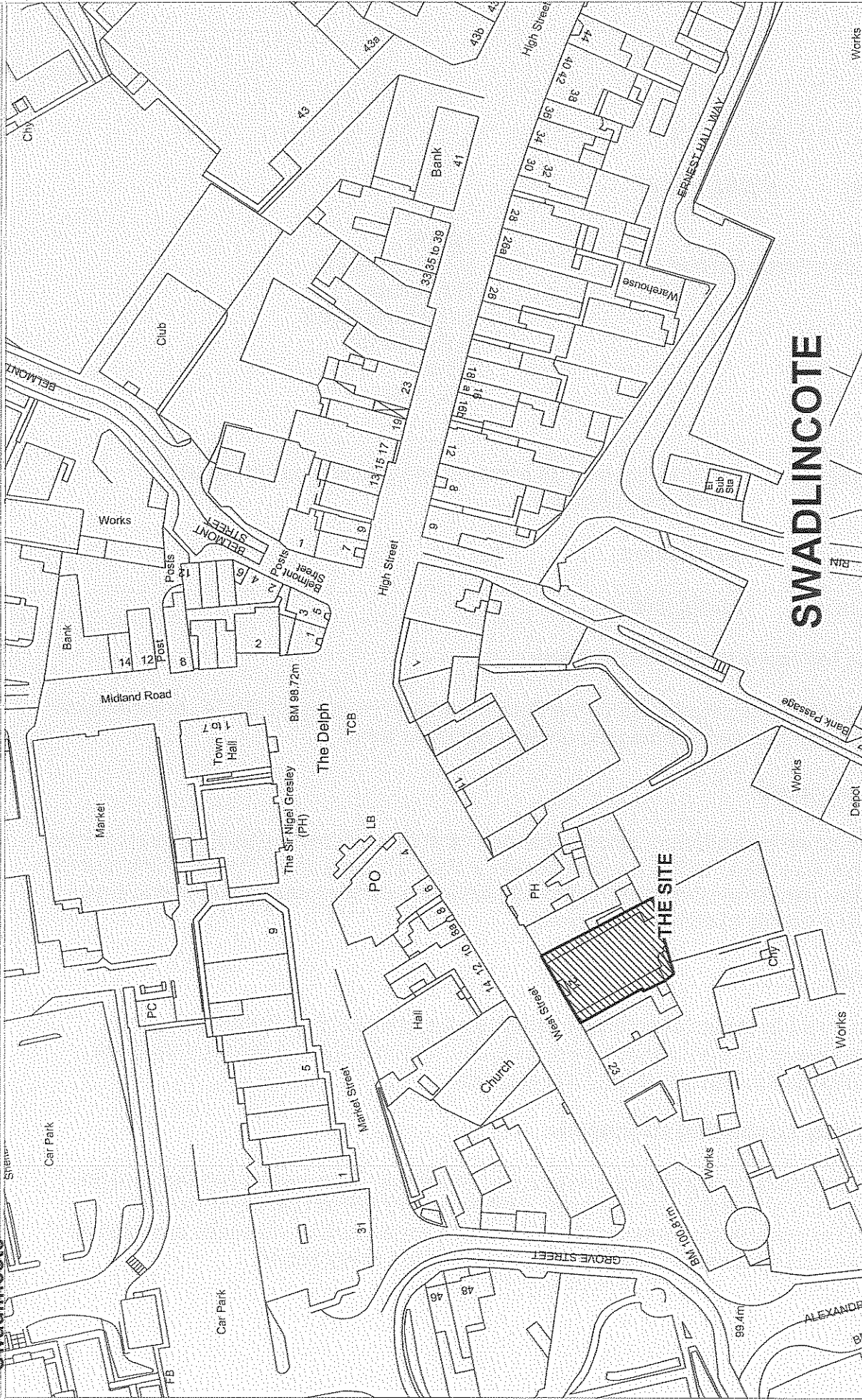
It is proposed to construct an outside seating area comprising a timber deck to the western side of the premise some 2m wide and 15m in length. A timber balustrade approximately 1m high would enclose the deck.

Applicants' supporting information

The applicants have submitted a supporting statement. In summary it states that the company is a national group operating establishments within Use Class A4. It is intended to operate a bar/restaurant within these premises that will make provision for inclusive public access and add to the vibrancy of the street scene.

9/2006/1089/F 21 West Street

Swadlincote



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Planning History

There are a substantial number of previous applications relating to former uses that have operated within this building. None is individually relevant to the current application but collectively they show a history of occupation by various uses in the leisure industry.

Earlier this year an application was received for change of use of the premises to a public house. The original application included the outdoor seating area that is the subject of the current application but that element of the scheme was withdrawn before the application was determined. With the inclusion of amendments requested by the Design and Conservation Officer, planning permission for change of use of the building to a public house was granted in May.

Responses to Consultations

At the time of drafting this report a response to the consultations with the Police is outstanding. Any information that is submitted will be reported verbally to the meeting.

The Environmental Protection Manager recommends refusal on grounds that noise nuisance from users of the facility would be detrimental to occupants of the adjacent solicitors premises.

The Conservation and Design Officer comments that, subject to agreement of the finish, the proposal is welcomed and it is considered that it will add to the vitality of the town centre.

Responses to Publicity

Three letters have been received. One supports the application and the two others are from the same premises. One is neither in support nor objecting but comments on the alcohol licence application, the other objects for the following reasons:

- The site is too narrow and would result in overlooking
- Security
- Noise and disturbance
- Safety
- Fire hazard
- Nuisance from deposit of waste

Development Plan Policies

The relevant policies are:

RSS8: N/A

Joint Structure Plan: Env 12, TCS 2

Local Plan: Env9

Planning Considerations

The main issues central to the determination of this application are the impact of the proposal on the amenity of occupants of adjoining properties and the impact of the works on the streetscape which is part of the Swadlincote Conservation Area.

Planning Assessment

The building lies within the town centre. PPS6 states that having regard to the need to encourage diversification of uses in town centres as a whole, primary frontages should contain a high proportion of retail uses, while secondary frontages provide greater opportunities for flexibility and a diversity of uses. In the context of measuring the health of a town centre a key indicator is its diversity and PPS6 refers to pubs as a main town centre use. Whilst the adopted Local Plan does not define primary and secondary frontages, it is considered that West Street is a secondary frontage and within such areas public houses are acceptable. Given the advice in PPS6, permission has already been granted for the change of use of the existing building and there is no objection, as a matter of principle, to the expansion of businesses.

The decking is proposed to be located within a narrow strip of land to the side of the existing building. It is considered that it would have minimal impact on the streetscape and the Design and Conservation Officer is satisfied with its impact on the conservation area subject to an acceptable colour for the finish. In terms of its impact on the neighbours, a letter has been received from occupants of the adjoining property raising objections and the Environmental Protection Manager recommends refusal on the grounds of noise nuisance.

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

Recommendation

REFUSE permission for the following reason:

PPG24 urges local authorities to consider carefully in each case whether proposals for new noise-sensitive development would be incompatible with existing activities. It goes on to say, amongst other things, that commercial developments such as public houses pose particular difficulties and that local planning authorities will wish to bear in mind not only the noise that is generated within the premises but also the attendant problems of noise that may be made by customers in the vicinity. Use of the proposed outside seating area would be likely to result in noise nuisance from customers using the facility to the detriment of occupiers' enjoyment of nearby property. To permit the proposal would thus be contrary to PPG24.

12/12/2006

Item 2.3**Reg. No.** 9/2006/1238/F**Applicant:**

Mr Mrs A Bridgen
 The Willow Clifton Road
 Netherseal
 Swadlincote
 Derbyshire
 DE12 8BT

Agent:

Mr. D. Granger
 David Granger Architectural Design Ltd
 The Old Dairy Mill Street
 Packington
 Ashby De La Zouch
 Leicestershire
 LE65 1WN

Proposal: The erection of a replacement dwelling at The Willows
 Clifton Road Netherseal Swadlincote

Ward: Seales

Valid Date: 23/10/2006

Reason for committee determination

This application is brought before this Committee because the site lies outside limits to development and in an area where policies for the protection of the countryside apply. The previous application for a new dwelling on this site was on the agenda for the meeting of this Committee held on 10 October 2006 and was recommended for refusal but was withdrawn before it was determined.

Site Description

The site comprises a detached two storey dwelling known as The Willows that has an attached double garage. To the rear of the house is a fenced garden and beyond the enclosed garden is an uncultivated grassed area surrounded by hedges that are interspersed with trees. The site rises gently from the road to the north.

The existing dwelling lies in open countryside to the west of the village of Netherseal. Nearby are six dwellings, five of which replaced a mushroom and potato processing plant that has relocated to an industrial estate and the sixth was a replacement for the former farmhouse. This group of dwellings is known as Woolstitch Park.

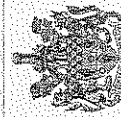
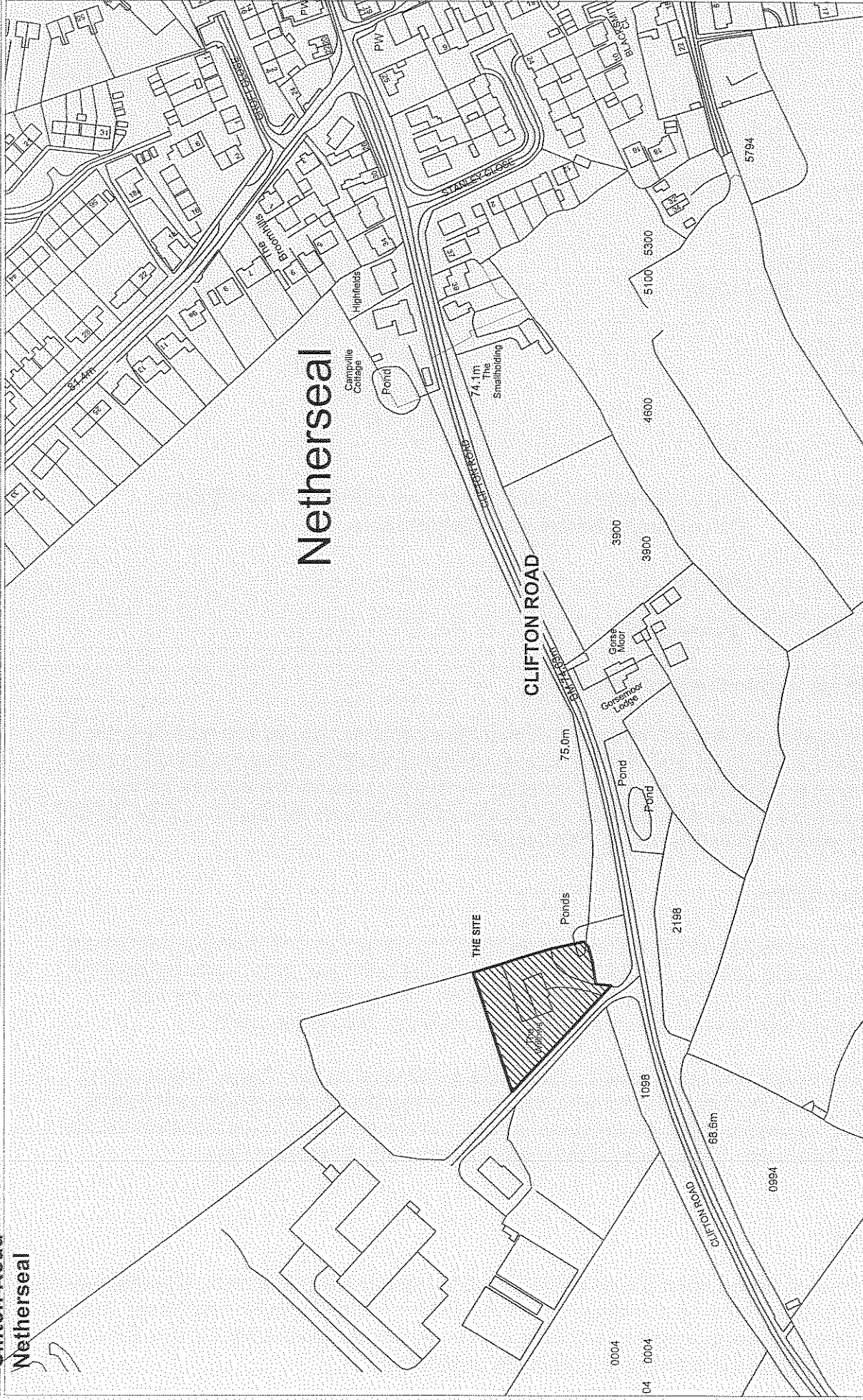
Proposal

It is proposed to construct a new dwelling and to demolish The Willows. The majority of the new house would be contained within the existing fenced garden area to the rear of The Willows although a small part of the new house would extend into land to the side of the existing dwelling that is not presently cultivated.

9/2006/1238/F The Willows

Clifton Road

Netherseal



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The proposed garden would extend into this area too. The majority of the gardens to be associated with the new property are to be located to the front and sides of the proposed house with limited garden to the rear which varies between 2m and 10m in depth.

The new dwelling has been moved forward from the position previously sought by about a metre but to all intents and purposes its position is not materially different from the scheme that has been withdrawn. Its size is also unaltered and it would occupy a footprint that would be a little over twice the size of the existing house.

Planning History

There is a complex planning history to the area now known as Woolstitch Park. Woolstitch Farm comprised a farmhouse that was not the subject of an agricultural occupancy condition, a farmworker's dwelling permitted under reference 9/189/1049 that had an agricultural occupancy condition attached and a number of farm buildings. The farm buildings came about as a result of numerous planning applications over a number of years. The operation of the outbuildings for processing potatoes and mushrooms led to considerable nuisance to occupants of houses in Netherseal. In 2000 an application was submitted to replace the farmhouse and farm buildings with 11 dwellings. Following a Public Inquiry the application was refused. A scaled down proposal for five new dwellings, a replacement dwelling for the farmhouse and the removal of the agricultural occupancy condition on the farmworker's dwelling was submitted and approved under reference 9/2001/0740 subject to a Section 106 agreement concerning the maintenance of the roadways and landscaping areas and restricting the use of the communal landscaped area to the rear of the house to persons residing in the dwellings and their visitors.

An application for the replacement of the former farmworker's dwelling with a new house was submitted earlier this year and was due to be considered by this Committee on 10 October. It was recommended for refusal for the following reason:

The provision of new housing in the countryside is only acceptable in special circumstances. This position is supported nationally and locally and in particular is set out in Housing Policy 6 of the Derby and Derbyshire Joint Structure Plan and Housing Policy 8 of the South Derbyshire Local Plan. Housing Policy 8 in the adopted Local Plan sets out four criteria that replacement dwellings in the countryside should meet. The proposal fails to meet two of these criteria which state that the new dwelling should not substantially exceed the form and bulk of the original and that the new dwelling should be substantially on the same site as the old. Furthermore, the proposal only partially meets the third criterion that states that the design and materials should be in keeping with the character of the surroundings. Therefore to permit the proposal would be contrary to the above mentioned policies.

The application was, however, withdrawn before the decision was made and the current proposal is for the same dwelling but the garage and studio building that formed part of the earlier scheme is not included in the current application.

Responses to Consultations

Netherseal Parish Council continue to object to the proposal because the design is not in keeping with its rural location and would prefer a design and materials that reflect the buildings erected on Woolstitch Park. The Parish Council notes that the garage and studio is not part of the current application but since siting of the dwelling would not preclude the additional building it questions whether the garage and studio will be the subject of a further application. The Parish Council would also prefer a hedge to mark to boundary of the domestic curtilage with the paddock to help prevent encroachment and suggest that access to the paddock should be from the drive to the west of the site.

The County Highways Authority has no objections subject to a condition.

Responses to Publicity

There has been no response to publicity

Development Plan Policies

The relevant policies are:

RSS8: P2

Joint Structure Plan: H6

Local Plan: Env 1, H8

Planning Considerations

The main issues central to the determination remain the same as the previously withdrawn application and are:

- Policy
- The design and size of the dwelling
- Its position in relation to the existing dwelling
- Its impact of the character of the locality
- Amenity of neighbours

Planning Assessment

Policy

National and local policies protect the countryside from unwarranted development. However, the Council's adopted Local Plan states in Housing Policy 8 that replacement dwellings are acceptable providing they meet four criteria.

- The bulk and form must not substantially exceed the existing
- The design and materials are in keeping with the character of the surroundings
- The new dwelling is on substantially the same site as the old and
- There is no increase in the number of dwellings

The design and size of the dwelling

The design of the existing house is weak and is more akin to properties in urban areas. It is a conventional four bedroom two storey property with a single storey double garage attached alongside. In terms of its size it has a footprint of some 142 sq m.

The proposed dwelling is by contrast much improved in design terms albeit that it is not entirely sympathetic to the rural character of the area. If all other matters are acceptable further improvements could be made by use of sympathetic materials which is a standard condition that would be applied to a permission.

The new dwelling would be twice the footprint of the existing one and it would be substantially larger in terms of cubic capacity. It is difficult to calculate the exact volume of the new dwelling because of the intricate design but the ground floor of the new house appears to be roughly equivalent to the whole of the existing two storey structure, house and double garage. Much of the mass of the proposed dwelling is reduced by use of wings to the main building and by utilising low eaves lines which serve to accommodate some of the first floor within the roof space.

Solely in design terms the proposed house is considered to be of such improved design that it would be acceptable to replace the existing dwelling with it.

Its impact of the character of the locality

The intrusion into the countryside results from two main issues, namely the mass and layout of the new building.

With regard to layout, the curtilage of the plot is around a third bigger than the size of the plot that was approved when The Willows was permitted in 1989. Virtually all of the new house would be on land that does not benefit from any permission to use it for residential purposes albeit that a substantial part of the building would be on the area currently fenced as garden to the existing house. The applicant has commented that use of this land is either authorised for garden use or has been so used for ten years. There is no record of planning permission having been granted for a change of use, no evidence has been submitted to support this claim and no application for a certificate of lawfulness has been submitted either.

As to the impact of the new building on the countryside, as stated above the mass of the house is mitigated by the design.

Both local and national policies seek to safeguard the open character and appearance of the countryside from development unless there are compelling reasons why a development needs to be located on a particular site within the rural area. In the absence of any evidence to the contrary, the proposal would include the change the use of land within the open countryside from agriculture to domestic garden and as such does not fall to be considered under any development exceptions listed in Environment Policy 1. Whilst on occasion the Council has granted permission for small garden extensions, notwithstanding the applicant's comments that the land is already used as a garden, the current scheme would represent an incursion into the rural landscape.

Its position in relation to the existing dwelling

It is proposed to erect the new dwelling some 4m behind the existing one and therefore it does not meet the criterion in Housing Policy 8 which requires the new dwelling to be on substantially the same site as the old one.

Amenity of neighbours

It is considered that the proposal would not cause detriment to amenity of occupants of nearby dwellings as all minimum distances of separation adopted in the Council's guidelines are significantly exceeded.

Conclusion

The design of the new dwelling would be an improvement on the existing dwelling. However, assessing the proposal against the four criteria set out in Policy H8 the situation described in the report to this Committee on 10 October remains unchanged inasmuch as the proposal only fully meets one part in that the number of dwellings is not increased and it partially meets the criteria that considers design. It wholly fails to meet two of the criteria inasmuch as the bulk and form of the new dwelling would significantly exceed the existing and the new dwelling would not be substantially on the same site as the old. Planning decisions must be made in accordance with the development plan unless material considerations determine otherwise. It is a material consideration that the proposed house would result in the demolition of the existing one which is completely out of character with the rural landscape. Had the new house been on the site of the existing one it is considered that there would be sufficient justification to recommend approval of the proposal. However, its position leaves a question as to how garaging will be accommodated. The building has not moved sufficiently on the plot to preclude a subsequent application for the garage block that formed part of the previous application, it continues to incorporate a large amount of hard surfacing to the front of the house which would be detrimental to the rural character of the locality and it is unrealistic to expect that occupants of a house of this size would be satisfied with a rear garden of a minimum depth of two metres from the closest part of the building to the boundary and at best ten metres from the boundary. The proposal is therefore unacceptable.

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

Recommendation

REFUSE permission for the following reason:

The provision of new housing in the countryside is only acceptable in special circumstances. This position is supported nationally and locally and in particular is set out in Housing Policy 6 of the Derby and Derbyshire Joint Structure Plan and Housing Policy 8 of the South Derbyshire Local Plan. Housing Policy 8 in the adopted Local Plan sets out four criteria that replacement dwellings in the countryside should meet. The proposal fails to meet two of these criteria which state that the new dwelling should not substantially exceed the form and bulk of the original and that the new dwelling should be substantially on the same site as the old. Furthermore, the proposal only partially meets the third criterion that states that the design and materials should be in keeping with the character of the surroundings. Therefore to permit the proposal would be contrary to the above mentioned policies.